

RESPONSE TO PRELIMINARY AND TENTATIVE AUDIT FINDINGS AND RECOMMENDATIONS, AUDIT OF THE CITY OF PALM BAY

Construction Administration

Finding 1:

The City did not document efforts to secure contributions from other governmental entities and from developers for highway interchange and connector road projects. In addition, City personnel did not provide complete and accurate information to the City Council regarding anticipated funding needs for the projects.

Response:

The City acknowledges that the available historical records on this project have provided limited information to understand when and how decisions were made, and by whom. It also appears based on auditor review that City Council did not receive clear and complete written information from staff, leading to a lack of transparency to support informed decision making.

Corrective Action:

Building trust and confidence within our community, for our employees and City Council is a priority for City staff. As such, City Management recommends that City Council authorize a forensic audit on this project.

Management is committed to making sure Council is informed when making decisions by providing agenda reports that are comprehensive in nature and inclusive of all relevant historical detail and the information needed to make fully informed decisions and also providing individual briefings as desired by City Council. The documentation changes have already been implemented as evidenced by the materials provided at a Special Council Meeting on October 21, 2019 to discuss a proposed interlocal agreement with Brevard County for the St. Johns Heritage Parkway (SJHP) and Babcock Street intersection. To prepare for this meeting, the memo presented by staff included a detailed overview of the proposed agreement and a dozen attachments to provide a clear picture of the situation. It is the intention of current management to consistently provide complete and accurate information to City Council.

In addition, the City will ensure that developers pay their proportionate fair share for the costs of the expansion of capital and City services through impact fees as permitted under City ordinances.

Finding 2:

City controls over the competitive selection of design criteria and design-build professional services need enhancement to ensure compliance with State law and the City *Procurement Manual*, and to improve transparency.

Response regarding use of a design criteria professional:

The City acknowledges that the use of impact fee credit to purchase existing plans to use as a design criteria package was not in accordance with Procurement Manual procedures or Florida Statutes. Florida Statute 287.055 allows for the waiver of competitive solicitation for a design criteria professional in the event of an emergency as declared by the agency head. However, the City acknowledges that the use of emergency procurement in this instance does not appear to be warranted.

Corrective Action:

The City will use the existing Procurement Manual procedures for competitive solicitation of future design criteria professionals if the design criteria package cannot be prepared by a properly licensed employee per Florida Statutes. Additionally, the City will follow the existing Procurement Manual procedures for emergency purchases of services which includes provisions to document, explain and justify the necessity of emergency purchases.

City Management is committed to insuring full transparency and the provision of complete and accurate information for City Council on all agenda items.

Response regarding the procurement of design-build services:

The solicitation of design-build services was in accordance with the Procurement Ordinance and Manual, which satisfies the criteria of Florida Statute 287.055. Evaluation Team (E-Team) members were provided instructions on how to score the established criteria. All E-Team members completed Conflict of Interest acknowledgements. All recordings, notes and score sheets for the selection were collected by the E-Team chair (Procurement Chair). Notes were provided by E-team members for this solicitation. The extent and quantity of those notes must be left to the discretion of the individual E-Team members. E-Team members are advised in writing and during E-Team training that they cannot speak to each other outside of the public meeting regarding the solicitation and they acknowledge the prohibition of ex parte communication as part of their Conflict of Interest Statement.

Corrective Action:

The City proposes the following potential methods for improvement in order to enhance the procurement of design-build services: (1) A review and/or revision of the Procurement Ordinance and Manual; and (2) A modification of the Design Build section of the

Procurement Manual to more explicitly indicate the requirements for any City solicitations via competitive Request for Proposals (RFP); and (3) The City will develop a template Design-Build RFP document.

Response regarding the selection of the E-Team:

In evaluating whether there was a conflict, staff focused on whether an actual conflict existed. The City Attorney's Office and Procurement Department were both advised by the E-Team member that the previous employment issue had already been reviewed and deemed acceptable by the Florida Commission on Ethics prior to his appointment to the City; the Deputy City Attorney advised that there was not a conflict; and the E-Team member did not meet the statutory definition for conflict of interest in accordance with Chapter 112 of Florida Statutes, as indicated by the signed Conflict of Interest Statement. The audit report also notes that the E-Team member scored Respondent A higher on 3 of the 4 criteria in Phase 1. It should be noted that the other two E-Team members also score Respondent A either the same or higher than Respondent B in *all four* categories.

The City also acknowledges that a design criteria professional would have been an appropriate addition to the Evaluation Team and was requested by the Chief Procurement Officer at the time to be included.

Corrective Action:

The City will modify the Conflict of Interest form to have E-Team members acknowledge any conflict of interest, actual or perceived, with any member of the submitting firm's project team, including all subcontractors.

The City is committed to ensuring that procurement policies regarding the appointment of a design criteria professional to the Evaluation Team will be consistently implemented.

Response regarding scoring instructions:

The City's instructions to the E-Team members regarding scoring have been established to ensure a consistent review of submittals in each category. The adjective-based scoring system clearly defines a 0-5 score and associated meaning. Many procurement publications advise procurement agencies to use adjective based scoring to avoid the "public school" type grading that can occur with numerical scoring. In addition, numerical grading rarely results in lower scores (i.e. below 60%), even though that score may be warranted, as evaluators are concerned of the perception of giving a proposal that equates to an "F." Since evaluators tend to grade higher in numerical scores, the distinction between individual proposals is often blurred. Request for Proposal and Request for Qualification solicitation processes do have elements of subjectivity when compared to Invitations for Bid, thus the importance of having a well-defined scoring system and using a team of evaluators and open discussion in a public meeting versus

one individual. The City's current RFP Evaluation system adequately accounts for the subjectivity of the process while bringing a transparent, fair and competitive element of objectivity to the scoring.

Corrective Action:

The Procurement Department will review E-Team Guidelines and individual criteria in our templates for opportunities to better explain the scoring of submittal requirements and oral presentations, and to provide guidance to E-Team members as to what constitutes an "excellent" score vs. a "poor" score. However, the Procurement Department maintains that the current instructions on how criteria and scoring should be applied to proposals is acceptable.

Response regarding scoring transparency:

The City already requires the E-Team to turn in any notes and the score sheets have a space for notes. The extent and length of the notes must remain at the discretion of the individual E-Team member.

Corrective Action:

The Procurement Department already has a tool to encourage the use of notes in an organized fashion called a "Review Matrix". The Procurement Department can include explanation of this tool and its purpose as part of its E-Team Guidelines and training and encourage use of it to document E-Team notes consistently. This would be in lieu of comments on the Score Sheet. However, the Procurement Department cannot compel an individual committee member to make notes nor dictate the extent or quantity of those notes. Since evaluation meetings are recorded, the Procurement staff member who serves as the E-Team chair will request clear articulation of each E-Team member's reasons and justifications for individual scores for the record.

Response regarding scoring methodology:

The City acknowledges that fractional scoring is inconsistent with the RFP-specified scoring methodology.

Corrective Action:

The City has already prohibited fractional scoring and updated the E-team Guidelines to prevent fractional scores.

Finding 3:

City personnel did not verify that the design-build firm for the St. Johns Heritage Parkway Interchange to Babcock Street Project used a competitive selection

process to select subcontractors; document comparisons of the subcontractor bid awards, contract amounts, and invoices with related design-build firm payment requests; or verify that subcontractors were appropriately licensed before they commenced work on the project.

Response:

The contract referenced in this finding is a design-build Guaranteed Maximum Price (GMP) with a total sum construction cost in which the contractor is controlled by the cost-plus fixed fee methodology per the itemized bid items. At the time of the contract award, the City did not have a policy in place to cover the tracking of subcontractors to ensure competitive bidding. The City does have a listing of the subcontractors for this project and has verified their licenses. Pricing is locked per itemized and quantified line item and verified with each payment request.

Corrective Action:

All subcontractors for this ongoing project have been identified and appropriate licensure has been verified. City staff will review procurement policies and procedures regarding subcontractor selection and competitive bidding for guaranteed maximum price contracts.

Procurement

Finding 4:

The City Council’s purchasing threshold of \$100,000 appeared excessive when compared to the purchasing thresholds at comparably sized municipalities, and the change in the purchasing threshold from \$25,000 to \$100,000 was not openly discussed at City Council workshops or other public meetings prior to the City Council’s approval of the \$100,000 threshold.

Response:

On July 7, 2016, Council approved Ordinance No. 2016-41, increasing the City Manager’s approval threshold to \$100,000, citing reasons like reducing repetitive actions and having the City be comparable to the Brevard County Board of County Commissioners and federal procurement thresholds. On July 13, 2016, the Procurement Department held a Workshop with City Council to discuss revisions to the Procurement Ordinance and Manual. At the workshop, a slide referencing “Current Procurement Challenges” also identified “Threshold amounts too low” as an issue that the newly adopted ordinance and updated Manual would resolve. The Ordinance was approved by Council at two public meetings, and the changes to the Manual were approved by Resolution. Thus, the

threshold increase was transparently and openly discussed and vetted and appropriately approved twice by City Council.

Corrective Action:

It is a best practice to periodically review and update the Procurement Ordinance and Manual. As part of an overall review of the Ordinance and Manual, Procurement will review the thresholds and provide to Council an analysis that reviews the current purchasing thresholds and will include a comparison of other government agencies. As with the most recent changes in 2016, any future changes to the purchasing thresholds will be openly discussed with and approved by Council.

Finding 5:

The City needs to enhance policies and procedures to ensure that records are maintained to justify procurement decisions that deviate from evaluation committee recommendations and that continuing professional services contracts are periodically subjected to competitive procurement.

Response:

Regarding retention of the solicitation file for the utilities continuing engineering contract, which includes documentation of the selection of the firm: as of October 1, 2019, all hard copy solicitation files are now retained for the retention period of the subsequent contract file.

Florida Statute 287.055(2)(g) specifically permits the use of continuing contracts with no time limit. Regarding re-solicitation to ensure “economical price commensurate with acceptable quality,” the current consultant engineering firm has agreed to keep their rates the same for over ten years. Long term contracts are a well-established best-practice to mitigate price increases. In addition, hourly rates cannot be considered in the selection of an engineering firm in accordance with F.S. 287.055. As such, the City anticipates that prices will go up on engineering services when they are resolicited.

Regarding the RFP for brokerage services, the RFP stated “The City Council will interview the shortlisted firms in the Special Council Meeting and make the final selection. The City Council’s decision will be final.” Council members did hold conversations following the presentations in a public special council meeting. The selection of the firm was made in accordance with the RFP. The City concurs that the documentation supporting the recommendation from Council can be enhanced. In addition, the Brokerage Services contract referenced was terminated and a replacement RFP is currently being evaluated by an Evaluation Team of City staff who will make a recommendation through the Chief Procurement Officer, Communication and Economic Development Department Director,

and City Manager for final consideration by City Council. City Council will not hear any presentations or rank proposals in this revised brokerage solicitation.

Corrective Action:

The City will resolicit the Utilities Continuing Engineering Services in FY 2020.

As of October 1, 2019, the City has corrected the application of the retention schedule, and all solicitation records, including documentation to support firm selection, will be held based on the subsequent contract extension period, not the five-year period from the original inception of the contract.

Finding 6:

The City needs to periodically negotiate group health insurance administration services with multiple potential administrators to ensure that such services are obtained at the lowest cost consistent with desired quality. In addition, the City needs to ensure that all significant decisions impacting City operations, such as decisions to exclude insurance-related services from competitive procurement, are openly discussed at City Council workshops or public meetings, and the factors considered by decision makers documented.

Response:

Administrative Services Only (ASO's) are exempt from formal bidding; therefore, solicitation of bids was conducted via the City's Broker of Record in accordance with the City's Procurement Ordinance and Manual and Benefits Consultant contract.

Corrective Action:

Human Resources and Procurement Department have met to discuss strategies for creating transparency within the solicitation process and to establish criteria for when formal bidding is necessary. Once determined, this information will be discussed publicly with City Council to ensure transparency.

Finding 7:

Contrary to Government Finance Officers Association best practices, the City had not competitively selected the City financial advisor and bond counsel since April 2010 and September 2012, respectively.

Response:

The City understands that GFOA Best Practice recommends that financial advisors be selected as the result of an RFP or RFQ process. The City's current financial advisor was

recommended and approved by City Council based on their extensive history in the region for providing financial advisor services. The City has retained the services of its current financial advisor because of their in-depth knowledge of the City's specific debt issuance history and because of the level of service they have continued to provide.

Legal services are exempt from competitive solicitation requirements. Although there is no controlling law that requires competitive solicitation, the City recognizes the value in having a competitive process that examines the qualifications of providers of legal services.

Corrective Action:

To align with the GFOA's Best Practice recommendation, and to address the Auditor General's concern, the City will issue an RFP to solicit financial advisory services prior to the expiration of the current financial advisor's contract which ends April 5, 2020.

On October 17, 2019, City Council awarded request for proposal #72-0-2019/JM for underwriting services providers to be members of the City's underwriting team for future negotiated bond sales. A competitive request for proposals was issued and we received responses from seven (7) underwriting service providers.

In regard to bond counsel, the City will select professionals for legal services through a qualifications-based selection process and the contracts will be regularly reviewed.

Finding 8:

Controls over City-assigned purchasing cards (P-cards) need improvement to ensure that P-card assignments are properly approved, credit limits are periodically evaluated and appropriately adjusted, and P-cards and related accounts are promptly canceled upon a cardholder's separation from City employment.

Response regarding approvals of P-card assignments:

The City acknowledges that 6 of the 24 audited P-card request forms were missing. Most of those were long-term employees who were issued P-cards at the Purchasing Card program's inception. The City acknowledges that 2 of the 24 P-cards reviewed were missing Exhibit B, Purchasing Card Agreement. However, those 2 employees did receive the training and signed for acceptance of the card as evidenced by documentation furnished to the Auditor General. The City acknowledges that 2 P-card limits in the Bank of America system had different limits than what was listed on the P-card request form. Past practice did allow increase requests via email. The Procurement office would not

have increased limits without a department director's request and Purchasing authority approval.

Corrective Action:

P-Card Request Forms and Exhibit B – Purchasing Card Agreements are retained in hardcopy and the Procurement office will develop a process to retain these forms through our electronic filing system, Laserfiche, as an added retention safeguard. The entire P-Card request form has been enhanced to ensure that requested limits are accompanied by justification for their levels on the form, and that those forms are signed by the Department Director and the Chief Procurement Officer prior to making any change or issuing a new card. Additionally, no additions or changes to P-cards will occur without the completion of a properly approved request form.

Response regarding periodic examinations of P-card usage vs. limits:

The City is enhancing our process to include periodic audits of P-cards. For example, the Procurement Department recently audited the highest limits in the City and worked with Department Directors to lower the limits of the four of five staff members; for the fifth person, a detailed justification was provided to support maintaining the previously approved limit.

Corrective Action:

In addition, starting in Fiscal Year 2019, the City sent a report to each department director with every staff member in their office who held a P-card, listing their credit limits, who was authorized to enter GL accounts, who was authorized to approve transactions, and requesting whose card should be increased in the event of a declared emergency. This form was signed by each department director and is now part of the City's annual P-card review.

In addition, the Procurement department will work with our contracted P-card provider to develop a template report for departments to run so they can readily self-audit usage and expenditures vs. need for card and card limits.

Response regarding P-card cancellation of terminated employees:

The City acknowledges this finding and has taken the following steps to improve the process. There are two steps to cancelling a P-card. The first step is to close the account. This action now occurs *as soon as* the P-card Administrator is notified that an employee has separated City employment and *immediately* cancels the card and prevents any charges against that account number. In addition, in November 2018, Procurement created and implemented a P-card Cancellation Form for all departments to use. The second step is to remove the P-card user profile from the system. This is the step that is

done after all P-card charges have been reconciled. Removing the user from the system prior to reconciling the charges prevents the department reconciler from being able to assign the appropriate account number and the department approver from signing off on the charges, which equates to a loss of transparency and financial checks and balances. Thus, the user cannot be deleted out of the system until all charges are reconciled, which normally occurs at the end of the month.

Corrective Action:

The City believes the concern identified in this finding is resolved by the processes described above. The Procurement Department has already developed a P-Card Cancellation Form which has been in use for over a year. In addition, the Procurement Department works closely with the Human Resources Department to ensure that Procurement is immediately notified when an employee permanently separates City employment.

Finding 9:

The City needs to enhance controls over the acquisition, assignment, and use of wireless communication devices.

Response:

The City acknowledges the need to enhance controls over wireless communication devices. The air cards identified for public safety were stored as inactive status in the event of a wireless failure, that impedes dispatch connectivity in public safety vehicles. In this operational manner, no technical staff is required to report on site for after-hours failures and restoration of connectivity of mobile users. A cost benefit analysis will be performed to determine the best use of public funds to ensure public safety needs are maintained.

The international cell phone charges were made by a former City Manager whose contract permitted “incidental use.” Four phone calls were received or originated from the international location, totaling \$159.20. However, for all other employees, Human Resources Administrative Code 1-31, subsection 31.1.8 specifies that the “City assigned phone equipment is for official use only” and “unauthorized use or abuse of City phone equipment will not be tolerated.”

Corrective Action:

The IT Director is in the process of updating the existing wireless communication device policy to address acquisition, assignment, and use of devices. A master list has been created and a regular review strategy is being developed. A form will be created and implemented to require justification for the need of devices as they are assigned.

Additionally, a process will be established to require Department Heads or delegated supervisors to review and verify charges and identify non-business use of wireless communications devices.

Payroll and Personnel Administration

Finding 10:

The City paid extra compensation of \$18,000 to the Deputy City Attorney contrary to State law.

Response:

The City acknowledges that it paid a lump sum payment to a Deputy City Attorney. The City Charter grants Council the authority to determine remuneration to the assistant attorneys. However, neither the Charter nor city ordinance created a bonus program. See Op. Att’y Gen., Fla. 2000-48 (August 29, 2000) (noting that the 1992 amendments to section 215.425 and other statutory provisions provide that extra compensation is permissible when paid pursuant to a pre-existing employment contract or when city council adopts a lump-sum bonus program to reward performance that exceeds standards). Moreover, because the City did not have a lump sum bonus program in place prior to 2011, the City was required to comply with the specific criteria for a bonus scheme found in section 215.425, Florida Statutes. See Op. Att’y Gen. Fla., 2016-14 (October 5, 2016) (recognizing that the 1992 statutory amendments permitted extra compensation to municipal employees, and when such policy is in place prior to the 2011 amendments it need not comply with the 2011 limitations).

Corrective Action:

The City will ensure that if extra compensation is provided that it complies with Florida law. In consultation with the City Attorney, the City will evaluate the legal claims, defenses and economics of pursuing recovery of the extra compensation payment

Finding 11:

The City had not established policies and procedures to ensure that severance pay amounts do not exceed the limits specified in State law and are supported by documentation evidencing the public purpose for such pay. In addition, the City needs to take appropriate action to amend the City Attorney Emeritus employment agreement severance pay provisions to comply with State law. The City also needs

to document the legal authority and public purpose for the severance payment to the Deputy City Manager or pursue recovery of the payment.

Response:

The City acknowledges the need to strengthen policies and procedures to ensure compliance with State law regarding severance pay. In addition, the City acknowledges that the City Attorney Emeritus' Employment Agreement dated December 18, 2015 and amended September 9, 2016 was subject to the severance pay provisions in §215.425, Fla. Stat.

The severance payment to the Deputy City Manager was made without any review by legal, there is no documentation regarding the purpose of the payment and those involved with the payment are no longer employed by the City. The lack of documentation by predecessor employees makes it difficult to determine whether the severance was to settle an employment dispute and therefore proper under law. See 215.425 (4)(b), Fla. Stat. (2019).

Corrective Action:

The City will amend or develop comprehensive and compliant policies and procedures to ensure that any severance payment or contract that includes severance pay complies with Florida law. The policy will include documentation requirements that identify the dispute, the necessity and public purpose served by severance to resolve the dispute, the allowable amount under law, and related factors. Moreover, the City will seek to amend the Employment Agreement to comply with state law. In addition, the City will consult with the City Attorney to evaluate the legal claims, defenses and economics of pursuing recovery of the severance payment.

Finding 12:

Supervisory approval of City employee time worked was not always appropriately documented.

Response:

The City's Payroll staff reviews and advises departments regarding any missing and or exceptions found on time records prior to processing of payroll. They also notify departments regarding missing signatures. The City acknowledges that there were times additional communications on missing signatures did not occur as staffing is limited to two employees for processing citywide payroll.

Corrective Action:

The responsibility for ensuring that time records are appropriately documented will be placed on the department supervisors authorized to sign off on timecards, rather than departments needing to rely on payroll staff to contact them. Payroll will provide a mandatory training for all supervisors authorized to approve timecards. All supervisors will be instructed on features in the timekeeping system they must use to confirm that all timekeeping records are properly and fully executed by the employee and supervisor, prior to the final processing of payroll. Staff will be instructed on the use of the employee time summary feature in the timekeeping system and how to generate an unapproved timecard report to identify time records not executed.

Payroll will also run a report of unapproved timecards prior to finalizing payroll. If the reports reveal time records that have not been executed, a high priority e-mail communication will be forwarded to the appropriate department head(s) with City Management copied. Department head(s) in receipt of the report will be responsible for the immediate review and approval of unapproved timecards by a specified date and time. Payroll will offer annual mandatory training to ensure that new supervisors are properly informed of the options available in the timekeeping system. To date, two training sessions were hosted on Friday, November 15, 2019, all department heads and supervisors were invited. All new hires will be required and assigned through the online document and policy distribution system for completion and review of the assigned policies and acknowledgement acceptance of the administrative codes.

Finding 13:

The City did not always timely conduct employee performance evaluations required by City administrative codes.

Response:

The City acknowledges this finding. Human Resources managers initiated the notification to all department heads when performance evaluations were upcoming and overdue. The process did not include any further actions or additional reminders communicated to departments.

Corrective Action:

An initial notification will continue to be sent to all department heads notifying them that performance evaluations are due. If the performance evaluations remain past due, as monitored by the Human Resources Department, a subsequent email will be sent to the department head along with a carbon copy to the City Manager. Supervisors who do not complete performance evaluations in a timely manner may be subject to discipline. City

Administrative Codes will be updated to reflect the importance of timely employee evaluations, the timeframes for completing the task, and the consequence of failure to perform the evaluation with the employee. Specifically, the Human Resources Administrative Code 1-31, Section 31.7.2 entitled Types of Performance Evaluations, Item B: Annual Evaluations:

“Once the probationary period is complete, a performance evaluation shall be completed annually on all employees within five working days prior to the anniversary date (normally this is the date they assumed their current position). With the exception of the Fire and Police Department; where Police Chief and Fire Chief may identify a different schedule for performance evaluations that best fit the needs of their departments.”

This section shall be amended to add an equitable notice timeframe for the Human Resources Department to initiate notice of upcoming evaluations as well as a reasonable completion timeframe regarding the current completion, five working days prior to anniversary date.

Finding 14:

City policies and procedures need enhancement to ensure that all pay increases are appropriately supported.

Response:

The City acknowledges this finding regarding two pay increases with no justification found in City records.

Corrective Action:

City staff will update Administrative Code 1-31 to require that a formal memorandum of explanation accompany all pay increases, and that documentation of approval or denial is included in the Human Resources personnel files. City Management and Human Resources have already instituted this process.

Finding 15:

Transfers from the City Stormwater Utility Fund to reimburse salary costs in other funds were not based upon documented employee time and effort expended on stormwater management activities for the applicable period.

Response:

The City acknowledges that through September 30, 2019, an estimated percentage of three Public Works General Fund positions were allocated to the Stormwater Fund for work these positions performed on behalf of the stormwater program.

Corrective Action:

As of October 1, 2019, the transfers from the City’s Stormwater Utility Fund to the General Fund to cover a portion of the Public Works Department salaries have been discontinued with the application of Cost Allocation Plan (CAP). In January 2019 an outside firm was engaged to prepare a Cost Allocation Plan (CAP) for the City. The CAP uses a double step-down allocation procedure to distribute costs among Central Services and to departments (Funds) that receive that benefit. Any future salary costs reimbursements, outside of the CAP data reported, will be completed via a “charge back” method through recording actual time spent working within each department/fund/project.

Accountability for Resources

Finding 16:

The City had not established controls to provide adequate accountability for special events and did not document the public purpose for such events.

Response:

The City acknowledges that it currently does not have any established policies or procedures regarding special events beyond a special events ordinance and an application form to process for approval or denial. The City further acknowledges that an expenditure of public funds is authorized when it is authorized by law or ordinance, reasonable in circumstances and necessary to accomplishing authorized purposes of the government entity, and in pursuit of a public, rather than a private purpose. Historically, because special events such as Cops & Friends Reindeer Run events were paid for from private donations given to the Police Donation Fund for that purpose, and were not taxpayer dollars, the transactions were not accounted for by the Accounting division.

Corrective Action:

The City will establish policies and procedures that will specify criteria for city sponsorship requests for any events that utilize public resources; some examples, city facility, employee resources, bleachers, stage, and or funding that provide a public benefit. Requests will be presented to City Council as a formal resolution and will include

documentation of the public purpose of the special event and other criteria necessary to comply with the recommendation made by the Auditor General.

This year's Reindeer Run is scheduled for December 19th, the recommended policies and procedures will not be in place in time for the event. However, eligibility criteria of participants for the event will be established and implemented. Staff will account for all incoming donations and participant receipt of the gift card donations for holiday shopping. Staff will work to address specific accountability and public purpose concerns for the upcoming event, with the adoption of appropriate policies and procedures to follow.

Finding 17:

The City had not established appropriate policies and procedures for making donations to external organizations and confirming the organizations' use of such donations for a public purpose.

Response:

The City acknowledges the need to establish policies and procedures regarding donations to external organizations to confirm and document the public purpose involved.

Corrective Action:

Effective immediately, City donations not approved in advance by City Council will not be authorized, even if funding is available in a Department's budget. The City will establish policies and procedures to be followed by all departments for the expenditure of cash donations to any external organizations. The new policy will be presented to City Council for approval by resolution and will meet the requirements outlined in the Auditor General recommendation. Existing agreements with external organizations will be reviewed for compliance with the new policy.

Capital Assets

Finding 18:

City surplus land disposal procedures need enhancement to evidence compliance with City administrative codes and demonstrate City Council approval of any offers below the land parcel listing price.

Response:

The City of Palm Bay acknowledges that Administrative Code 77: Sale of City Surplus Real Estate, last updated in 2017, can be further enhanced to ensure transparency and authorization from City Council.

Corrective Action:

The City will revise the City surplus land disposal requirements to require: any contract for real estate professionals includes a requirement that the professional provide documentation to support the use of the comparable sales method; City Council approval of all land parcels regardless of acreage; and provisions that prohibit real estate professionals, and the family members of those professionals, involved in the valuation of City-owned property, from purchasing or having an interest in acquiring land parcels being offered by the City for sale. City staff will monitor all sales to make sure that real estate professionals are abiding by the land disposal requirements.

Finding 19:

The City needs to amend the City ordinances to assign responsibility for overall oversight of tangible personal property (TPP) records to a City employee and update the City *Accounting Manual* to ensure that appropriate accountability for TPP is achieved consistent with City ordinances.

Response:

The City acknowledges that Administrative Codes, Ordinances, and the City Accounting Manual must be updated to ensure consistency in policy and procedure.

Corrective Action:

The City will update City Ordinances, Administrative Code 24 and the Accounting Manual so they are aligned to reflect current practices and applicable Florida State Statute references. A designated employee will be assigned oversight responsibilities for tangible personal property (TPP). In addition, the City will enforce departmental compliance over TPP in accordance with policy and GFOA guidelines. A standardized inventory form will be used to capture all pertinent data relative to identification and maintenance of TPP to ensure that inventoried items, subsequent validations and reconciliations articulate with control records. Identification tags will be affixed where possible or otherwise manually marked to maintain accountability in compliance with updated City policy.

Motor Vehicles

Finding 20:

The City provided a motor vehicle for the Mayor's use without documenting the specific authority for providing the Mayor a take-home vehicle, reducing the Mayor's monthly incidental expense allowance amount by an amount proportional to the mileage-related expenses, or requiring the Mayor to document the official purpose for all trips made in the City-owned vehicle. In addition, the City needs to enhance budgetary controls to ensure that authorizations for new vehicle acquisitions are accomplished through the annual budget process in accordance with City procedures.

Response:

The City Charter addresses compensation for the Mayor and City Council. However, the benefits of the Mayor and City Council are established by resolution or through the adoption of Council Policy and Procedures. The City acknowledges the need for Council to adopt specific policies related to vehicles and to ensure that those policies are followed. Moreover, the City acknowledges that existing policies and procedures for purchases were not followed in this instance. City procedures allow for purchases outside of the annual budget process, if the appropriation of funds is approved by the City Council prior to encumbering funds or making the purchase.

Corrective Action:

The City Manager has reinforced compliance with the procedures under Admin Code 1-4, Reports for City Council Agenda. Admin Code 1-4 requires a City Council Memorandum be provided to City Council with complete and adequate information for all matters brought before them on the Council agenda. The City Manager and Finance Department now require that any request for the expenditure of unbudgeted funds be submitted on an Agenda Memorandum to the City Manager for City Council consideration and authorization. The City Manager's authorization in the Code of Ordinances and the Procurement Manual to approve non-emergency purchases without initial Council approval will be reviewed and updated and presented to City Council for discussion and consideration.

City staff will bring forth for City Council's consideration the auditor's recommendations so that Council can make policy determinations regarding: providing a take-home vehicle for the Mayor's use; specific authority for providing the Mayor a take-home vehicle; the Mayor's monthly incidental expense allowance (whether it should be reduced by an amount proportional to the mileage-related expenses); and documentation requirements providing the purpose for all uses of and trips made in the City-owned vehicle.

Finding 21:

The City provided automobile allowances to employees without determining the cost-effectiveness of providing such allowances or the reasonableness of the allowance amounts.

Response:

Automobile allowances were added as part of the revised pay plan for employees in 2006 by City Council Resolution 2006-51. A review of resolution 2006-51 provides no reference to a fixed dollar amount for the automobile allowance benefit for General 1 (G1) group employees but shows as an expense budgeted as a personnel expenditure. The automobile allowance was provided to consolidate and reduce benefit differences between the general employee groups, G1, G2, and G3. The automobile allowance falls under the category of a non-accountable plan that does not separate business and personal vehicle usage and is considered as taxable supplemental wages for employees. This pertains to G1 employees composed of the City Manager, Deputy City Manager, City Attorney, Deputy City Attorney II, City Clerk, Deputy City Clerk and City Department Heads. Currently, three charter officers have automobile allowances as part of their employment contracts which were approved by City Council.

Current Human Resources Administrative Code 1-31, Section 31.12.13 Incentive Pay, item 4 as adopted states:

“Group 1 employees who do not have a take home vehicle shall receive an automobile allowance. The amount is indexed to the GSA increase/decrease in mileage reimbursement each January. Minimum rate is \$275 per month.”

Corrective Action:

The City will conduct during the annual budget process a review documenting the cost of providing a City owned vehicle compared to the automobile allowance in place at the time to ensure the most cost-effective option is in place with appropriate justification.

Finding 22:

Take-home vehicle assignments were not always supported by a properly completed *Take Home Vehicle Program Agreement* signed by the employee, applicable department head, and the City Manager or designee as required by City administrative codes.

Response:

The City acknowledges that agreements were not completed by all employees assigned a take home vehicle.

Corrective Action:

Administrative Code 50, Personal Usage of City-Owned Motor Vehicles, will be reviewed and updated in its entirety. Specific to this finding, all departments are responsible for having employees assigned a vehicle sign the agreement, which is then approved by the Department Head and City Manager. The executed agreement will be filed and retained as a permanent record in Human Resources with the proper documentation submitted to Finance, payroll division, to compute the value of the personal use and report as employee compensation on a quarterly basis.

Finding 23:

The City did not always include the value of personal use of City vehicles in the gross income reported to the Internal Revenue Service for applicable City officials and employees.

Response:

The City acknowledges there has been inadequate communication and inconsistent use of forms. The Auditor General’s report counted 146 Police Department vehicles as take home vehicles. Under AC-50 many of these vehicles fall under “Qualified Non-Personal Use Vehicles”, which are City provided vehicles unlikely to be used for personal travel because of their design. Use of this type of vehicle by an employee is excluded from income, if clearly marked with insignia or words that identify the vehicle as police or fire vehicles.

Corrective Action:

The City will be confirming with all departments the names of all employees utilizing city owned take home vehicles subject to being taxed as a fringe benefit. All employees will be required to submit a new or updated Take Home Vehicle Program Agreement as required under Administrative Code (AC) 50. The City will implement several measures regarding this finding to include updating AC-50 to reflect current practices in accordance with IRS rules and other authoritative guidelines. In addition, the provisions of AC-50 will be reviewed with each department to promote policy comprehension in order to achieve and maintain compliance.

Finding 24:

The City had not established procedures that required the retention of electronic communications, such as e-mails and text messages. In addition, the City did not always comply with State records retention requirements and did not archive text messages sent or received using wireless communication devices.

Response:

The City acknowledges the need to establish procedures to retain text messages for public record purposes. Email records are currently being archived.

Corrective Action:

Although the City does not have a policy that specifically addresses emails and text messages, the City's Public Records Policy states that each employee is responsible for the records he/she receives or creates in connection with the transaction of official City business. Employees are advised to be familiar with the records series titles and retention periods established by the state for the particular records housed and maintained by the employee. However, as of May 2017, all emails have been archived with our current cloud solution. The existing email policy will be reviewed and updated to include procedures for text messages as well. The Information Technology Department is developing a text message policy to address the audit recommendations as well as identifying a text message archiving solution for retention. As an unbudgeted expense for an automated solution, an agenda item will be prepared for city council consideration. Administrative Code 1-9, entitled Public Records Request, outlines the statutory duty of the State of Florida for all record custodians.

Alternatively, if the solution is not desired as an expense by City Council, the City will cease communications via text messaging on all City-issued cellular devices. This alternate decision would prevent and protect employees from any perceived or real intentions to violate the public records law. The cellular device feature of text messaging is currently unmanaged and left to the user's responsibility to backup and retain any public record communication.

Finding 25:

Contrary to State law, City Council meeting minutes were not always promptly prepared, reviewed, approved, and made available to the public.

Response:

During the period of March 2017 to June 2018, there was an increased number of meetings and extended time for many of those meetings which caused a delay in the submission of certain Council meeting minutes for approval.

Corrective Action:

In the Fiscal Year 2018-2019 budget, the City Clerk had requested a part-time position whose primary responsibility would be to transcribe Council meeting minutes. However, this request was denied by the City Manager at that time. The City Clerk will continue to pursue the additional staffing for the Legislative Department. To date, there have been no delays in the approval of meeting minutes.

Administration and Management

Finding 26:

The City needs to establish policies and procedures for communicating, investigating, and reporting known or suspected fraud.

Response:

The City is committed to preventing and addressing fraud. The City acknowledges the existing ordinances and Code of Ethics policy should be augmented to clearly identify what constitutes fraud and the process and procedures for communicating, investigating and reporting known or suspected fraud.

Corrective Action:

The City will establish a policy through ordinance amendments and administrative procedures detailing: the process to disclose violations or suspected fraud violations; the procedure for investigating disclosures; the requirement to make any criminal or regulatory referrals deemed necessary as a result of the investigation; protections of the identity of anyone disclosing information (to the extent permitted by law); and maintenance of appropriate records of fraud complaints.

Finding 27:

City controls over the budgetary process need enhancement to ensure that expenditures are limited to approved budgeted amounts.

Response:

The City acknowledges that process enhancements can be useful in decreasing end-of-year expenditure and revenue budget variances.

Corrective Action:

For the fiscal year ending September 30, 2019, City staff have reviewed all general ledger accounts, including those where budgets have not historically been adjusted to include revenue and/or expenditure budgets for accounts such as donations, unanticipated grant activity, unanticipated recoveries and/or estimated risk claims accruals, and other variable sources, and included the required budget appropriations on the final budget amendment submitted for City Council approval in November. For budget amendments to be included on the final Budgeted Amendment Ordinance for City Council consideration in November, the amounts to be adjusted must be known or identifiable by mid-October. Staff identified and submitted known adjustments required even though transactions will still be accrued back to the fiscal year as late as November. Efforts will be made by Accounting to have accruals that impact expenditures posted to the general ledger by mid-October.

Starting the first quarter in FY 2020, the Finance Department, in coordination with the Budget Office, will complete quarterly budget revenue and expenditure reviews of all citywide departmental budgets and Funds. The analysis will include actual revenues received in comparison to projections and actual expenditures in comparison to approved budget amounts. These quarterly budget reviews will serve two primary purposes: (1) maintain an increased oversight of current spending trends and identify incorrectly charged expenditures, and (2) assist in developing fluid year-end estimates that better align to the observed spending trends. Quarterly budget reviews will be recorded in a report format and presented to Senior Management and/or City Council.

Finding 28:

The City did not always prepare and submit to the City Council sufficiently detailed monthly reports of receipts and disbursements as required by City ordinances.

Response:

The City Code 35.001(E)(5), requiring a monthly statement of all receipts and disbursement in sufficient detail to show the exact financial conditions was adopted under Ordinance 76-3, and passed on April 1, 1976, 43 years ago, when the City had only a few funds, mostly likely only a General Fund and Utility Fund. In preparing the monthly reports, the Finance Department has, without any dissent from Management or City Council, historically focused on the General Fund, other major funds and funds that are of major interest at the time, i.e., Building, Solid Waste, and Stormwater Funds. At City Council

direction, monthly presentations before City Council were suspended and redirected as monthly reports placed as an item within City the Council Agenda packet. The reports were also posted to the City's public website under Financial Reports.

Because the current design of the monthly reports are cumulative and the timing of year end activities with the inclusion of closing out the monthly accounting reports, specifically September, posting final revenue and expenditure accruals for the end of the fiscal year, and related delays in closing out October and November reports, staff decided not to include these reports in the agenda packet because of the stale information.

Regarding the 7 monthly reports identified by the auditors as an omitted City Council agenda item, the financial information for the months of October, November, and December 2016 was consolidated and included in a quarterly report submitted for review and approval to City Council at the February 2, 2017 meeting. Likewise, financial information for the months of October and November 2017 was consolidated and included in a quarterly report submitted for review and approval to City Council at the February 15, 2018 meeting. City acknowledges that the April and May 2017 monthly reports, though completed by a staff member, were not forwarded to management for inclusion in the June and July 2017 Council Agenda packets. All individual monthly reports were placed on the City's web site on schedule for public access.

Corrective Action:

After learning of the Auditor General's opinion regarding the submittal of monthly reports, regardless of the age of the information, staff ensured both the October and November 2018 reports were placed on the January 17, 2019 agenda and the December 2018 report was placed on the February 21, 2019 agenda. All reports since February 2018 have been placed on the Council Agendas at staff completion. The monthly reports have been added to the City Manager's rolling agenda for upcoming City Council meetings, a tool used to further ensure accountability for timely and relevant data submittals to each monthly meeting.

The Finance Department will revamp the monthly financial reports to City Council. Workshop(s) will be conducted in conjunction with Management, Finance Department and City Council to discuss the desirable content of financial reports. City staff will make suggestions for reporting periods, relevant fund types, comparisons of projected trends and current conditions with relevant written explanation for recommendation and approval from City Council. City Council, as a body, will have the opportunity to engage in a public venue for discussion and public input. Staff will review and amend the City Code of Ordinances Chapter 35 entitled the Finance Department with City Council's intent regarding reporting requirements for adoption in a public meeting.

Management will continue to explore options to better provide information to Council and the public in a manner that is accessible.

Finding 29:

The Mayor and another City Council member interacted with City employees without following City Charter provisions and giving reasonable notice to the City Manager.

Response:

The City acknowledges the importance of following the City Charter in these matters.

Corrective Action:

The City Manager commits to working with City Council to uphold the City Charter and will actively discuss and maintain an awareness of the soundness of consistently abiding by Section 3.052 of the City of Palm Bay Charter which prohibits interference with administration. In addition, the City of Palm Bay is a member of the Florida League of Cities (FLC). This organization offers courses and curriculum for Municipal Officials, including the Institute for Elected Municipals Officials Course Curriculum. Members of Palm Bay's City Council may consider attending the course entitled Structure and Function of Cities in Florida, a 3-hour session which includes: Constitutional and statutory authority of cities; city charter contents and similarities/differences within FL; roles of elected officials; forms of municipal government; municipal services and service delivery; current challenges facing Florida municipalities.

Information Technology

Finding 30:

To ensure that user information technology (IT) user access privileges are limited to those necessary for the users' assigned job responsibilities and enforce an appropriate separation of duties, the City needs to implement an effective process for documented, periodic evaluations of user access privileges and promptly remove any inappropriate or unnecessary access privileges detected.

Response:

The City acknowledges the need to develop an effective process to limit user access privileges.

Corrective Action:

The Information Technology Department reviewed all active user's access levels of the financial system with department heads and system module access granting authorities of Finance, Human Resources, and Procurement. An identified user with elevated access deemed as a non-function or role-related to the current employee's roles and duties was removed. The Information Technology Director, Chief Procurement Officer, and the Finance Director will develop a process that supports the industry standard of least restrictive assignment of user level of access permission(s), request provided authority and delegated authority for elevated permission requests with substantive justification based on job function and duties, and establish reasonable review periods of system wide user access permissions by system module authority. During the review process from a system module level, operational department directors and or designees will review the user access list annually to ensure that appropriate permissions are current and there is a separation of duties.

Finding 31:

The City had not established an IT disaster recovery plan detailing the procedures to be followed to recover and restore financial records and other critical City applications in the event of a major hardware or software failure.

Response:

The City acknowledges the need for an IT disaster recovery plan and confirms that although the funds needed to establish and implement a plan were requested in the past five budget cycles, funding was prioritized to other City needs.

Corrective Action:

The Information Technology Department will review the current disaster recovery (DR) needs and create a new proposal to request funding approval in Fiscal Year 2021. A DR plan will also be created to govern the DR site. An alternative solution was formed in fiscal year 2019 upon City Council funding the upgrade of the Computer Aided Dispatch software system that will use a new hardware and software platform from the current platform, which is the same as the financial system. The city will repurpose the platform and has the capacity to purchase minor modifications to place this surplus technology platform into a productive disaster recovery or redundant financial system at a hardened facility.

End of Preliminary and Tentative Audit Findings