



Sherrill F. Norman, CPA  
Auditor General

# AUDITOR GENERAL STATE OF FLORIDA

Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450



Phone: (850) 412-2722  
Fax: (850) 488-6975

September 19, 2023

Honorable Kevin McCann  
Mayor, City of Winter Springs  
1126 East State Road 434  
Winter Springs, Florida 32708

Dear Mayor:

Enclosed is a list of 8 preliminary and tentative audit findings and recommendations that may be included in a report to be prepared on our operational audit of the City of Winter Springs.

Pursuant to Section 11.45(4)(d), Florida Statutes, you are required to submit within 30 days after receipt of this list a written statement of explanation concerning all of the findings, including therein your actual or proposed corrective actions. If within the 30-day period you have questions or desire further discussion on any of the preliminary and tentative audit findings and recommendations, please contact this Office.

Your written explanation should be submitted electronically in source format (e.g., Word) and should be accompanied by a cover letter with your digitized signature. For quality reproduction purposes, if you are not submitting your response in source format, please convert your response to PDF and not scan to PDF. If technical issues make an electronic response not possible, a hard copy (paper) response will be acceptable.

Please e-mail this Office at [flaudgen\\_audrpt\\_lg@aud.state.fl.us](mailto:flaudgen_audrpt_lg@aud.state.fl.us) to indicate receipt of the list of preliminary and tentative audit findings and recommendations. Absent such receipt, delivery of the enclosed list is presumed, by law, to be made when it is delivered to your office.

Sincerely,

A handwritten signature in blue ink that reads "Sherrill F. Norman".

Sherrill F. Norman

SFN/bk

Enclosure

c: City Commission  
Philip Hursh - Interim City Manager

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## **SUMMARY**

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This operational audit of the City of Winter Springs (City) focused on selected City processes and administrative activities. Our audit disclosed the following:

**Finding 1:** The City continues to incur fines and penalties for wastewater treatment violations.

**Finding 2:** The City should improve its water utility contract monitoring processes.

**Finding 3:** The City's use of consent agendas to revise the project list provided to the public in advance of the voter referendum approving the local government infrastructure sales surtax reduced transparency by depriving the opportunity for public information and discussion. In addition, the City did not provide for separate accountability of transferred sales surtax moneys.

**Finding 4:** Contrary to State law, the City did not estimate fees assessed to fulfill public records requests requiring extensive information technology resources or clerical or supervisory assistance based on actual costs. In addition, the City did not always promptly respond to public records requests.

**Finding 5:** Contrary to City ordinances, the City Manager had not established written uniform purchasing policies and procedures, and the City did not always competitively procure goods and services in accordance with City ordinances.

**Finding 6:** Although the City's cardholder agreement requires purchase card (P-card) expenditures be pre-approved by supervisory personnel, City records did not demonstrate that pre-approval was obtained. In addition, the City had not established comprehensive P-card policies and procedures to provide effective controls over the accountability and use of the cards.

**Finding 7:** The City experienced significant turnover in key management positions from April 2019 through February 2023.

**Finding 8:** The City needs to establish policies and procedures for communicating, investigating, and reporting known or suspected fraud.

## **BACKGROUND**

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The City of Winter Springs (City) was originally incorporated in 1959 as the Village of North Orlando. In 1972, the Village of North Orlando was abolished, and the City of Winter Springs was established. The City, located in Seminole County (County), had an estimated population of 39,038 as of April 1, 2022.<sup>1</sup> The City Commission, composed of five elected Commissioners and a separately elected Mayor, govern the City. The Mayor is recognized as the head of City government but does not vote except in cases of

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<sup>1</sup> *Florida Estimates of Population 2022*, Bureau of Economic and Business Research, College of Liberal Arts and Sciences, University of Florida.

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a City Commission tie vote.<sup>2</sup> The City Commission is responsible for enacting ordinances, resolutions, and policies governing the City, as well as appointing the City Manager. The City Manager serves as the Chief Administrative and Executive Officer and is responsible for the administration of all City affairs.

The City provides a full range of services including public safety, sanitation, recreational and cultural activities, public improvements, planning, zoning, highways and streets, and general administrative services. In addition, the City provides water, wastewater, reclaimed and stormwater utilities.<sup>3</sup> In October 2019, the City outsourced its water operations to a water utility contractor through execution of a 5-year contract with an unspecified number of optional 1-year renewals.

## ***FINDINGS AND RECOMMENDATIONS***

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### **Finding 1: Wastewater System Operations**

The City owns two wastewater reclamation facilities to treat sewage. The facilities are referred to as the East WRF and West WRF and, pursuant to an October 2019 contract, a contractor maintains the facilities and manages the day-to-day operations. The contractor's responsibilities include providing certified and qualified personnel to operate the facilities, performing preventative maintenance on the equipment and facilities, and conducting laboratory testing and sampling required by Federal and State laws and regulations. The City's contractual responsibilities include funding capital expenditures; maintaining all existing facility warranties, guarantees, easements and licenses; and retaining the services of an independent engineering firm to conduct period inspections and performance audits of the contractor's performance under the agreement. The contract contains liability clauses that specify that the City is liable, as the owner of the water system, for fines or civil penalties imposed by a regulatory or enforcement agency, except in the cases of the contractor's negligence or willful misconduct.

In March 2021, the Florida Department of Environmental Protection (FDEP) sent a warning letter to the City regarding the West WRF. The letter indicated that FDEP personnel noted numerous violations during several inspections conducted in January and February 2021, including:

- A fish kill attributed to an unauthorized wastewater discharge.
- Unknown treatment flows that bypassed filtration and disinfection systems.
- Inoperable wastewater treatment systems.

In April 2021, the FDEP sent a second warning letter delineating East WRF violations noted during an FDEP compliance evaluation in March 2021, including:

- Incomplete wastewater treatment calibration procedures.

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<sup>2</sup> Part 1, *Charter*, Article IV, *Governing Body*, Section 4.01, City of Winter Springs Code of Ordinances, *Composition; qualification of members; and commission districts*.

<sup>3</sup> The City has three water treatment plants and two wastewater reclamation facilities, all built in 1972 and 1973.

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- Excessive bacteria levels in wastewater.
- Malfunctions in the wastewater air distribution system.

In response to the warning letters, the City signed two consent orders with the FDEP in December 2021 agreeing to complete corrective actions related to the numerous violations of FDEP rules<sup>4</sup> regulating wastewater and reclaimed water systems. In addition, the consent orders required the City to either pay civil penalties of \$149,418 and \$20,396 associated with the West WRF and East WRF violations, respectively, or implement FDEP-approved pollution prevention projects in lieu of paying the civil penalties.

As of June 2023, the City had implemented several corrective actions to satisfy consent order requirements. For example, the City:

- Plugged a pipeline at the West WRF that had drained treated sewage into an abandoned golf course pond.
- Implemented a pollution prevention program modernizing the supervisory control and data acquisition system at the West WRF to be executed and funded by the City's contractor.
- Provided evaluations, design modifications, construction permits, and certificates of completion to remedy the excessive debris in a basin at the East WRF.
- Implemented a pollution prevention program at the City Center Stormwater Pond related to the East WRF to be executed and funded by the City's contractor.

Notwithstanding these actions, the FDEP issued two additional warning letters to the City regarding further potential wastewater-related violations of FDEP rules. Specifically:

- On June 9, 2022, the FDEP indicated that, on March 8, 2022, it received notice that the East WRF had an unpermitted sanitary sewer overflow of approximately 750 gallons, which was an unauthorized wastewater discharge caused by an electrical power outage. Although the FDEP did not require the City to take any corrective actions, the FDEP assessed, and the City's contractor paid, \$4,250 for civil penalties and investigative costs incurred by the FDEP to conduct its investigation.
- On May 26, 2023, the FDEP indicated that, in response to a complaint, it conducted an inspection on May 19, 2023, of the West WRF that disclosed four violations regarding wastewater and reclaimed water systems. The City responded to the warning letter on July 10, 2023, providing its explanations and corrective actions taken, and the FDEP indicated that the warning letter had been resolved as of July 28, 2023.

Since December 2021, total costs and civil penalties paid to the FDEP to resolve the consent orders and warning letters, including costs of projects in lieu of civil penalties, totaled \$318,372, of which the City incurred \$68,100 and the contractor incurred \$250,272.

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<sup>4</sup> Various Florida Department of Environmental Protection (FDEP), including FDEP Rules, Chapters 62-604, 610, and 620, Florida Administrative Code.

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As owner of the wastewater reclamation facilities, the City is ultimately responsible for ensuring that State regulations governing the operation of water facilities are followed and that water quality is protected. As discussed in Finding 2, the City's noncompliance with certain contract provisions and contract and contractor performance monitoring deficiencies may have contributed to the violations noted by the FDEP.

**Recommendation: The City should ensure that wastewater reclamation facilities operate in accordance with applicable FDEP rules.**

**Finding 2: Water Utility Contract Monitoring**

The City is responsible for monitoring and enforcing contractual terms and conditions to ensure that contract deliverables are appropriately provided, and any regulatory requirements are satisfactorily met. As indicated in Finding 1, in October 2019, the City entered into a contract for the operation, maintenance, and management of the City's water, wastewater, reclaimed and stormwater (water) utilities.

The contract requires the City to retain the services of an independent engineering firm with expertise in water, sewer, reclaimed and stormwater utility operations maintenance and management to conduct periodic inspections and performance audits of the water utility contractor's performance under the contract. Such inspections and audits are to be scheduled by the City annually or as otherwise deemed warranted by the City.

In December 2020, the City issued a request for qualifications (RFQ) for civil engineering continuing services to be determined by the City on an individual task order basis. Such services included various aspects of the City's operations and services for its water utility, such as stormwater engineering, water quality studies and design, flood control, stormwater master planning, potable water treatment engineering, sewer and reclaimed water treatment engineering, and general site planning and design for municipal facilities. Effective June 4, 2021,<sup>5</sup> approximately 20 months after the effective date of the contract with the water utility contractor, the City entered into a contract with an engineering firm for civil engineering continuing services for projects related to its water utility on an as-needed, task-oriented basis.

Based on our discussions with City personnel and review of City records, the City's efforts to monitor the water utility contractor's performance included the receipt of monthly status reports, periodic meetings with the contractor, and the performance of periodic water quality testing that the FDEP reviewed to ensure that water quality consistently met State standards. In response to our requests for task orders made by the City to periodically evaluate and conduct performance audits of the contractor's

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<sup>5</sup> The City had previously contracted with the same engineering firm in September 2018, with a primary focus on water quality improvements, and the City contracted with the same firm in December 2020 pursuant to the RFQ process for a separate continuing services contract for engineering services.

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performance, City personnel indicated that the engineering firm had provided a scope of services<sup>6</sup> dated June 22, 2021, indicating that, upon receipt of a notice to proceed from the City, an operational audit<sup>7</sup> would be completed within 16 weeks. On July 12, 2021, the City approved the scope of services and issued a purchase order on July 21, 2021. The City received the audit report over 2 years later on August 25, 2023, and, according to City personnel, the delay was primarily caused by impacts on the City from hurricanes in September 2022 and November 2022. Our review of the audit report disclosed findings that may have contributed to the wastewater violations discussed in Finding 1. For example:

- Aging utility facilities led to unexpected maintenance projects, including emergency repairs.
- Communication protocols were not always followed when abnormal or emergency events occurred.
- Computer software used to monitor process performance and track maintenance events was not always functional due to program modifications. Additionally, the work order system used to schedule preventative maintenance tasks was not always utilized to document corrective maintenance procedures, and a spare parts inventory was not actively maintained, which led to delays in maintenance and repair projects.

According to the City's Director of Utilities, the audit findings would be discussed with the contractor to ensure the prompt correction of the deficiencies noted.

Although we requested, we were not provided evidence that the City scheduled any other periodic inspections or audits of the contractor's performance. In addition to the engineering firm's delay in providing the above-mentioned audit report, the City's delay in procuring independent engineering firm services may have contributed to the wastewater violations discussed in Finding 1. Absent effective contract monitoring, including periodic evaluations of contractor performance, the City has limited assurance that the water utility contractor is complying with State laws, State rules, and contract terms and that any noncompliance is timely detected.

**Recommendation: The City should develop policies and procedures to more effectively monitor contractor compliance with contract terms and applicable State laws and rules. Such policies and procedures should ensure that contractor performance is evaluated periodically, but no less frequently than annually. In addition, the City should ensure that its contracted engineer conducts periodic inspections of the water utility contractor's performance in accordance with the water utility contract requirements.**

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<sup>6</sup> The scope of services indicated that the audit was to evaluate permit and contractual compliance, work practices, communication protocols, procedures and documentation, and operation and maintenance practices compared to industry practices.

<sup>7</sup> The term "operational audit" was meant to be synonymous with the term "performance audit" included in the City's contract with the water utility contractor.

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**Finding 3: Infrastructure Sales Surtax**

Pursuant to State law,<sup>8</sup> Seminole County (County) enacted an ordinance<sup>9</sup> authorizing the imposition of a 1 percent local government infrastructure sales surtax (sales surtax) to provide acceptable levels of service for public transportation system infrastructure, pedestrian access and mobility facilities, trails, and stormwater management facilities, as well as other public infrastructure and other infrastructure uses as authorized by law. Seminole County, the School Board of Seminole County, and the seven County municipalities approved an interlocal agreement in March 2014 to govern the distribution of the infrastructure sales surtax collected during the period January 1, 2015, through December 31, 2024.

In accordance with the interlocal agreement, the City submitted a list of 40 proposed projects for roadway infrastructure improvements, pedestrian trails, sidewalks, road resurfacing, bridge replacement and repair, stormwater improvements and pipe relining, with preliminary costs totaling \$19 million. The three categories of listed proposed projects with the largest dollar amounts were:

- Road resurfacing, \$5.2 million.
- Bridge replacement and repair, \$4.0 million.
- Roadway improvements (other than resurfacing), \$3.5 million.

To inform the public about the infrastructure sales surtax, the County maintained a Web site that included the interlocal agreement and the City's project list. As of December 31, 2022, City records indicated that the City had received and deposited into its Road Improvements Special Revenue Fund \$18.4 million of the sales surtax collections, and the City's investment earnings on those collections totaled approximately \$700,000, for a total of \$19.1 million available sales surtax collections and investments earnings. From this amount, the City had expended \$7.9 million and transferred an additional \$2 million to the Water and Sewer Utility Fund for infrastructure projects.

The interlocal agreement allows for the project list to be revised only after approval by the governmental entity controlling the project following a noticed public meeting. City Commission meeting agendas include consent agenda items that may be collectively approved by the City Commission in one motion and without individual discussion; however, any City Commissioner may request an item be removed from the consent agenda for individual discussion and action. Our examination of City Commission meeting minutes and City records disclosed that the City Commission approved the following revisions to the project list at publicly noticed meetings as part of the meeting consent agendas without individual discussion:

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<sup>8</sup> Section 212.055(2)(a)1, Florida Statutes.

<sup>9</sup> Seminole County Ordinance No. 2014-8. Seminole County voters approved the sales surtax referendum on May 20, 2014.

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- On July 13, 2020, the City Commission reallocated \$10 million from “bridge repairs/retrofits, residential road resurfacing, sidewalks, and new roadway projects” to “water/wastewater projects, parks and trails, patrol and fleet vehicles, equipment, and building rehabilitation projects.”
- On March 13, 2023, the City Commission reallocated \$2.8 million from “water/wastewater, parks and trails, patrol and fleet vehicles, and equipment projects” to “residential road resurfacing projects.”

From the \$12.8 million reallocated, the City expended \$7.2 million for projects that were not on the initial project list, including \$3.5 million for residential road resurfacing projects; \$2.3 million for patrol and fleet vehicles, equipment, and building rehabilitation projects; and approximately \$925,000 on the Central Winds parking lot and acquisition of land. As of December 2022, City records indicated that an additional \$3.5 million of the sales surtax collections were budgeted for a second City Hall generator and indoor gymnasium, which were also not included on any approved project lists, as amended.

In addition, although the \$2 million transferred from the Road Improvements Special Revenue Fund to the Water and Sewer Utility Fund was allocated to a utility fund that periodically incurs infrastructure expenses potentially allowable under State law,<sup>10</sup> as of August 2023, City Water and Sewer Utility Fund accounting records did not separately identify expenses financed from the sales surtax proceeds. Consequently, City records do not demonstrate that the \$2 million of transferred sales surtax moneys were used, or earmarked to be used, for specific projects included on the amended project lists or other allowable sales surtax purposes.

Insofar as the sales surtax project list was made available to the public in March 2014,<sup>11</sup> voters may have reasonably expected the sales surtax collections to be expended on project list items when they voted for the sales surtax referendum on May 20, 2014. Our examination of City records supporting 38 selected sales surtax expenditures totaling \$7.5 million incurred during the period January 1, 2015, through March 10, 2023, disclosed that the expenditures were generally consistent with State law. However, although the interlocal agreement allows the City and the other signatories to change the project list, the City’s decisions to expend sales surtax collections on alternate projects may erode public trust that the moneys will be expended in accordance with voter expectations at the time of the referendum.

In addition, the inclusion of significant sales surtax reallocations in the City Commission consent agenda reduced transparency by depriving the opportunity for public information and discussion. In May 2023, the County’s Inspector General issued an audit report<sup>12</sup> of the sales surtax allocations to the City with a similar finding. In response to that audit, the City indicated that its Mayor or Commissioners had the opportunity to remove consent items from the consent agenda for discussion, and that the public

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<sup>10</sup> Section 212.055(2)(d)1., Florida Statutes

<sup>11</sup> Seminole County Government Public Works Department Web page – *One Cent Tax 2014*.

<sup>12</sup> Seminole County Clerk of the Circuit Courts and Comptroller report No. 040323. *Audit of Inter-local 3<sup>rd</sup> Generation 1 Cent Tax Allocation, City of Winter Springs*.



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meetings have two opportunities for public comment on the consent agenda items. The City further indicated that future project list revisions may be excluded from the consent agenda.

Excluding infrastructure sales surtax reallocations from the City Commission consent agenda would increase the opportunity for public discussion of the City's intent and rationale for revising the project list and improve transparency of City decisions involving the expenditure of sales surtax moneys.

**Recommendation: The City should establish policies and procedures that:**

- **To provide for City Commission and public discussion, require and ensure that items with significant financial impacts or high public interest, such as the infrastructure sales surtax, are included in the agenda as discussion items, rather than consent agenda items.**
- **To the extent practical, ensure that sales surtax collections be expended in accordance with public expectations.**
- **Provide separate accountability for the expenditure of sales surtax collections transferred from the Road Improvements Special Revenue Fund to other City funds.**

**Finding 4: Public Records Requests**

Except as otherwise provided in the Constitution of the State of Florida, pursuant to the State's Sunshine Law,<sup>13</sup> the City is required to provide public records for inspection upon request. State law<sup>14</sup> authorizes the City to charge a reasonable fee based on costs incurred if the nature or volume of public records requested to be inspected or copied requires extensive use of information technology (IT) resources or extensive clerical or supervisory assistance. In addition, a City resolution<sup>15</sup> allows a fee, based on the labor costs actually incurred or attributed to City personnel, to be charged if fulfillment of the request is estimated to require more than 30 minutes of labor.

According to City personnel, upon receipt of a request for public records, the City Clerk meets with appropriate City personnel, such as department heads, to discuss where the requested records are stored and to estimate the time required to collect, duplicate, and review the records prior to releasing them to the requestor. If it is determined that the request will involve extensive City personnel effort,<sup>16</sup> the City Clerk will invoice the requestor for the estimated cost to provide the requested public records and require a prepaid deposit for half the cost. If the request does not require extensive resources, the City will complete the request free of charge. For requests received by e-mail, City personnel send an e-mail to the requestor confirming receipt of the request but do not provide an estimated completion date for fulfillment of the request.

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<sup>13</sup> Section 286.011(1) and (2), Florida Statutes.

<sup>14</sup> Section 119.07(4)(d), Florida Statutes.

<sup>15</sup> City of Winter Springs Resolution No. 2013-07.

<sup>16</sup> According to City personnel, in practice, the term "extensive" means that more than 30 minutes of employee effort will be required to fulfill a request. City of Winter Springs Resolution No. 2013-07 indicates that public records requests requiring 30 minutes or less of response time will be fulfilled at no cost to the requestor.

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According to City records, the City received 217 public records requests during the period October 1, 2021, through December 31, 2022. For 211 of the requests, City personnel determined that extensive resources would not be required, and no costs were estimated and assessed to the requestors. However, our examination of City records documenting these public records requests noted that 38 requests were completed 11 to 87 business days, or an average of 29 business days after receipt of the requests. In response to our requests for explanations for the lengthy response times, City personnel identified the need to conduct official City business, staff work schedules, vacations, employee turnover, and training as factors contributing to the number of days needed to complete a public records request. Although the City has written procedures addressing request fulfillment, the procedures do not specify a time frame for completing public records requests or that requestors be notified when delays occur. In addition, the City did not have records showing actual employee time spent responding to the public records requests because the City does not have policies and procedures requiring the tracking of actual time spent fulfilling public records requests.

For the remaining 6 requests, City personnel invoiced the requestors amounts ranging from \$21 to \$3,895 based upon estimated costs for the time anticipated to be incurred by the City Manager, Public Works Director, various clerks, and IT personnel to satisfy the requests. None of the 6 requests were satisfied as the requestors did not pay the required deposits. In response to our request to review documentation to support the invoiced amounts, City personnel indicated that records demonstrating how the estimated costs were calculated did not exist and that the City does not have any policies or procedures requiring records to be maintained to support the cost estimates.

Prompt responses to public records requests promote good governance and without such, transparency and public trust may be compromised. In the absence of effective policies and procedures to require timely responses to public records requests and to document estimated and actual costs for processing public records requests, City records do not demonstrate City compliance with State law requiring public records be provided upon request and that any amount charged to produce the records was reasonable based on the costs incurred.

**Recommendation: The City should enhance its policies and procedures to specify a standard time frame for completion of public records requests and to require requestors be notified when delays will occur. Further, City policies and procedures should require supporting documentation be retained to support the calculation of the estimated and actual costs of responding to public records requests requiring extensive effort.**

#### **Finding 5: Procurement**

City ordinances<sup>17</sup> require that all City purchases be made pursuant to written uniform purchasing policies and procedures established by the City Manager, permit the City Manager to authorize commodities and services purchases of \$50,000 or less, and require City Commission authorization for purchases in

<sup>17</sup> Chapter 2, *Administration*, Article VI, *Finance*, Division 2, City of Winter Springs Code of Ordinances – *Purchasing*.

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excess of \$50,000. The ordinance also specifies that competitive prices for purchases of commodities and services shall be obtained by written bid, quote, or proposal with the purchase or contract awarded to the lowest and best bidder, including for the acquisition of professional services pursuant to direct negotiation, with certain exemptions, for example, emergency and sole source situations.

Although we requested in April 2023, as of August 2023, City personnel had not provided to us the City's written uniform purchasing policies and procedures required by City ordinance. However, we were provided a *Purchasing Policy Summary*,<sup>18</sup> that refers to the purchasing policies and procedures City personnel were unable to locate. Although the *Purchasing Policy Summary* did indicate that purchases of commodities and services in excess of \$50,000 were required to be procured pursuant to a publicly solicited competitive selection process using formal sealed bids or responses to requests for proposal (RFP),<sup>19</sup> and any bid or RFP solicitation is to be awarded to the lowest and best responsive bidder or respondent, City personnel indicated that the *Purchasing Policy Summary* is a guide of recommendations rather than a list of requirements. The lack of the uniform purchasing policies and procedures required by City ordinance may have contributed to the deficiencies discussed below.

During the period October 1, 2021, through September 30, 2022, 59 vendors each received one or more payments collectively exceeding \$50,000 and totaling \$15.7 million. Our review of City records supporting the purchases of goods or services from 14 of those vendors, with payments totaling \$4.9 million, disclosed that:

- The City did not use a competitive selection process to procure temporary labor services for concrete, landscape, and generalized services totaling \$67,339. City personnel indicated that temporary labor, such as concrete laborers and landscape and general helpers obtained from a temporary employment agency, qualifies as professional services and is exempted from competitive selection by City ordinance.<sup>20</sup> Notwithstanding, insofar as City ordinances do not define the term "professional services," and the City also lacks policies and procedures that define the term, the basis for concluding that temporary manual labor services constitute professional services and, therefore, are exempt from competitive solicitation, is not apparent.
- At its July 12, 2021, meeting, the City Commission approved the purchase of an irrigation pump for \$67,404 based on three written quotes included in the meeting agenda packet. Although City personnel obtained the three quotes, sealed bids were not solicited as recommended by the City's *Purchasing Policy Summary*.
- In connection with an RFP for communication and branding services, City personnel sought additional guidance from the City Commission during its December 13, 2021, meeting because three proposals, with associated costs ranging from approximately \$48,000 to \$197,000, met the minimum requirements of the RFP but differed in the description of services to be provided. In public debate at that meeting, the City Commission noted that the competing proposals contained

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<sup>18</sup> City of Winter Springs *Purchasing Policy Summary*, dated October 11, 2018.

<sup>19</sup> City personnel indicated that, in practice, a formal sealed bid process is utilized when a specific good or service and method of delivery is known; otherwise, an RFP process is initiated to obtain and evaluate variable options to best meet the City's needs.

<sup>20</sup> Chapter 2, *Administration*, Article VI, *Finance*, Division 2, *Purchasing*, Section 2-152, City of Winter Springs Code of Ordinances – *When written bids are required; waiver; small purchases*.

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significant scope and cost differences but did not direct City personnel to seek additional information from the respondents or attempt to obtain comparable proposals by revising the criteria and reissuing the RFP. Instead, the City Commission instructed City personnel to engage in contract negotiations with a respondent selected based on criteria not specified in the RFP. For example, although the RFP did not include a local preference criterion, one proposal was rejected because a City Commissioner expressed a desire to keep the City's dollars local and noted that the proposal originated from an out-of-State respondent. To ensure that the selection process is fair and transparent, City personnel and the City Commission should only evaluate proposals based on the criteria included in the RFP.

- The City issued a request for qualifications (RFQ) in July 2019 for firms to submit their qualifications to operate the City's water systems. As part of the competitive selection process, the City convened a committee to evaluate the two proposals received based upon the qualifications criteria contained in the RFQ. On October 14, 2019, the Commission selected a vendor<sup>21</sup> without using one of the City-ordinance-prescribed competitive selection methods (i.e., a sealed bid or an RFP). As the scope of services was clearly defined, the City should have used an RFP, which would have included a pricing component, to solicit proposals to operate the water systems. During the period November 2019 through June 6, 2023, the City paid \$10.6 million to the vendor. In response to our inquiries, City personnel indicated that:
  - The City was motivated to select the most qualified vendor.
  - The price for the services was not a consideration in selecting the vendor.
  - Insofar as the City previously provided these services to its residents, the City was well positioned to select a vendor based on both qualifications and cost.

Notwithstanding, City records did not demonstrate that the City selected the water utility contractor in accordance with City ordinances and at the lowest price consistent with desired quality.

**Recommendation: The City Manager should establish written uniform purchasing policies and procedures as required by City ordinance. Such policies and procedures should ensure that purchases are made in accordance with City Commission intent, applicable City ordinances are consistently followed, the purchasing process is fair and transparent, and that commodities and services are obtained at the lowest cost consistent with desired quality.**

**Finding 6: Purchase Cards**

The City established a purchase card (P-card) program<sup>22</sup> to expedite the purchase of certain goods and services. P-cards<sup>23</sup> can provide a cost effective, convenient, and decentralized method for designated employees to make business purchases on behalf of an entity. However, as P-cards are vulnerable to

<sup>21</sup> The vendor selected by the City was the same vendor referred to in Findings 1 and 2.

<sup>22</sup> Chapter 2, *Administration*, Article VI, *Finance*, Division 2, *Purchasing*, Section 2-152, City of Winter Springs Code of Ordinances – *When written bids are required; waiver; small purchases*.

<sup>23</sup> Chapter 2, *Administration*, Article VI, *Finance*, Division 2, *Purchasing*, Section 2-152 of the Code of Ordinances uses the term "purchase card," City Resolution No. 2004-11 uses the term "credit card," and the City cardholder agreement uses the term "corporate credit card." In practice, City personnel use these terms interchangeably, with "P-card" being the most commonly used.

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fraud and misuse, it is essential that City policies and procedures provide effective controls over the accountability and use of the cards.

In response to our request for the City's P-card policies and procedures, City personnel indicated that no such policies and procedures had been established and that P-card guidelines were limited to the requirements included on the cardholder agreement, which all cardholders must sign prior to being issued a P-card. The cardholder agreement provides that the cardholder understands and agrees to abide by the following requirements:

- The cardholder bears ultimate responsibility for the card.
- The P-card will not be used for personal expenses and will only be used for official business on behalf of the City.
- The cardholder will ensure that applicable budget is available, and expenses are pre-approved through their manager or supervisor.
- The cardholder will reconcile P-card expenditures and submit original receipts to the Finance Department within 5 business days of the statement date.
- The cardholder will report lost or stolen P-cards immediately to the Finance Department.
- Upon separation from City employment, the cardholder will return the P-card with a final reconciliation of all expenditures prior to departure.

Subsequently, City personnel provided a City Commission resolution<sup>24</sup> from 2004 that contained certain elements of a P-card policy. Although the requirements included in the cardholder agreement and the resolution provide some basic guidance on P-card usage, comprehensive written procedures would provide guidelines for staff to reference. Such guidelines could include acceptable uses, allowable vendor types, single purchase limits and restrictions on attempts to evade those limits such as split-invoice or multiple similar purchases, daily and monthly limits, restrictions on sharing P-cards, the process for disputing incorrect charges, the monthly reconciliation process, and supervisory approval and review responsibilities.

During the period October 1, 2021, through December 31, 2022, P-card expenditures by 36 City employees totaled \$347,590. Our examination of City records supporting 30 selected P-card expenditures totaling \$56,233 disclosed that, contrary to the cardholder agreement and resolution, City records did not demonstrate that any of the P-card expenditures had been pre-approved by supervisory personnel. In response to our inquiry, City personnel indicated that pre-approval of an employee's assigned P-card use is verbal and that Finance Department personnel is instructed to identify any questionable charges.

While our examination did not disclose any questionable P-card expenditures, absent comprehensive written policies and procedures to provide effective controls over the accountability and use of the cards and documented supervisory pre-approval of expenditures and supervisory review after the expenditures,

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<sup>24</sup> City of Winter Springs Resolution No. 2004-11.

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there is increased risk that unauthorized or inappropriate P-card expenditures could occur without being timely detected.

**Recommendation:** The City should establish comprehensive written P-card policies and procedures governing all significant aspects of the P-card program. In addition, the City should document the required supervisory pre-approval of P-card expenditures specified in the cardholder agreement.

**Finding 7: Management Turnover**

The City Manager, department heads, and other key management positions in the City are responsible for designing and implementing effective internal controls and ensuring consistent application of City policies and procedures. The implementation and consistent application of policies and procedures can be particularly challenging when significant turnover in key management positions is experienced.

As illustrated in Table 1, our examination of City records and discussions with City personnel disclosed that the City experienced significant turnover in certain key management positions during the period April 2019 through February 2023.

**Table 1  
Turnover in Key Management Positions  
For the Period April 2019 Through February 2023**

Position	Number of Resignations	Number of Times Position Was Vacant	Number of Days Position Was Vacant
City Manager	2	-	-
Finance Director	3	1	24
Chief of Police	2	-	-
Director of Public Works	3	2	100
Director of Community Development	3	3	321

Source: City records.

Our examination of City personnel records associated with some resignations disclosed instances of allegations of a negative workplace environment. For example, in December 2019 a former City Clerk cited accusations by Commissioners questioning her loyalty and in July 2022 a former Director of Community Development referred to the “hostile nature” of the working environment at the City. Additionally, in response to our inquiries, City personnel indicated that there were prior instances of Commission interference with City staff and that training regarding City Charter prohibitions against City Commission interference with administration<sup>25</sup> is now provided to City Commissioners during their

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<sup>25</sup> Part I, *Charter*, Article IV, *Governing Body*, Section 4.07(c), City of Winter Springs Code of Ordinances – *Interference with Administration*, prohibits the Mayor and City Commissioners from giving orders to City staff subject to the direction and supervision of the City Manager.

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onboarding process. In addition, City personnel indicated higher pay, lifestyle changes, and retirement as common reasons for key management turnover in recent years.

During the course of the audit, we also noted that the City's 2021-22 fiscal year financial statement audit, which was due to be filed with the Auditor General and Florida Department of Financial Services on June 30, 2022, had not been completed. As of September 2023, the audit was ongoing and was delayed, in part, because the City Controller was also performing Finance Director duties on an interim basis. Additionally, the City's water contractor sent the City a Notice of Default letter dated August 14, 2023, indicating that the City had not paid \$1.2 million for various invoices, the oldest of which had been unpaid since November 2022. The invoices included \$339,467 related to contractual maintenance and repair, and electricity cost refunds associated with water and sewer utility operations<sup>26</sup> and two monthly contract payments totaling \$640,018. According to City personnel, the delays in paying the invoices were, in part, caused by staffing shortages.

Significant turnover in key management positions results in the loss of institutional knowledge and impacts the oversight and consistent application of City policies and procedures and may lead to inefficient operations and reduced service quality. The turnover in key City management positions may have contributed to the control deficiencies and instances of noncompliance disclosed in this report.

**Recommendation: To promote efficient operations, deliver high-quality services to residents, and consistently apply City policies and procedures, the City should continue its efforts to train City Commissioners and develop policies and programs that foster a positive work environment and promote stability in key management positions.**

**Finding 8: Anti-Fraud Policy**

Effective policies and procedures for communicating, investigating, and reporting known or suspected fraud are essential to aid in the mitigation, detection, and prevention of fraud. Such policies and procedures serve to establish the responsibilities for investigating potential incidents of fraud and taking appropriate action, reporting evidence of such investigations and actions to the appropriate authorities, and protecting the reputation of persons suspected but determined not guilty of fraud.

Our audit procedures found that the City did implement some elements of a fraud policy, in a related policy,<sup>27</sup> essential to aid in the mitigation, detection, and prevention of fraud; however, the policy did not:

- Provide examples of actions constituting fraud.
- Require individuals to communicate and report known or suspected fraud.
- Provide for anonymous reporting of known or suspected fraud.

<sup>26</sup> Section 8 of the Agreement for Utilities Operations, Maintenance, and Management Services provides that the contractor will be paid for certain maintenance and repair costs and, when applicable, be provided partial electricity cost refunds for utility costs deducted from the contractor's monthly installment payments.

<sup>27</sup> Section 50, City of Winter Springs Personnel Manual – *Code of Conduct*.

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- Require officials to keep accurate records of reported fraud or suspected fraud.
- Assign responsibility for investigating potential incidents of fraud and taking appropriate action.
- Provide guidance for investigating potential and actual incidents of fraud; reporting evidence obtained by the investigation to the appropriate authorities, which may be City Commission members or the City legal counsel if an incident involves City management; or protecting the reputations of persons suspected but determined not guilty of fraud.

The lack of a comprehensive fraud policy that includes, for all employees, adequate training on how to recognize potential acts of fraud, as well as a well-defined method for reporting those acts, increases the risk that fraud will go undetected or unreported. In addition, the lack of procedures assigning responsibility for investigating acts of fraud, as well as for the conduct of the investigation, increases the risk that fraud allegations will not be properly investigated.

**Recommendation: The City should establish a comprehensive policy and procedures for detecting, communicating, and investigating known or suspected fraud.**

**End of Preliminary and Tentative Audit Findings.**