

2023

PROCUREMENT POLICY

CITY OF PEARLAND

PREPARED BY

City of Pearland
Finance Department



Forward

This manual contains the policies for purchasing and related activities. Its purpose is to provide guidance and instruction for all employees as well as a reference for staff and management.

The purpose of the Purchasing Division is to provide a systematic and efficient procurement and surplus disposition for all City operations, enabling staff to have the necessary equipment and supplies needed to be as efficient as possible in their service to the citizens of Pearland.

A variety of factors contribute to the manner in which the City purchases the supplies and materials, labor, equipment, general contractors, and other entities that provide services to the City. The source of funds, expenditure amount, resources being procured, and the intended use of the items being purchased can all play a role in which policies and procedures come into play when using government funds. This guide is designed to set the parameters for compliance with the rules, whether they be local, State, or Federal.

The durability of the purchasing policies and procedures is critical, but legal and organization changes, as well as operational improvements can bring about changes as revisions to this policy. Updates will be issued in each case to keep the policy up-to-date. If you are unable to find an answer to your questions(s) or need additional information not found in the policy, please contact the Finance-Purchasing Office directly for any technical assistance or training needed to comply with the applicable rules. When an unusual situation or a difficult legal problem occurs, the City Manager or his/her designee may approve exceptions to this Policy.

This policy replaces any prior policies in use and/or adopted by the City of Pearland regarding the procurement of goods and services.

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1.0 Introduction

This is the Purchasing Policy and Procedures Manual for the City of Pearland, Texas. The Texas Legislature has enacted laws regulating the purchase of goods and services by government entities. It is the policy of the City of Pearland to fully comply in all aspects with these laws as they may be amended from time to time. This manual does not address every purchasing situation. Should a City employee have questions, or when an unusual situation occurs, please consult the City's Purchasing Division, Risk Management, and/or the City Manager's Office. State law supersedes the City's policy in the event of a conflict.

The Finance-Purchasing Divisions, as well as officials, directors and employees of the City will strive to provide equitable and competitive access to the City's procurement process for all responsible vendors. Further, City procurement will be conducted in a manner that promotes and fosters public confidence in the integrity of the City.

The City's Purchasing Policies and Procedures provide the prevailing compliance parameters for making purchases with City funds. However, if and when the State of Texas and/or the U.S. Government provides funding for City activities, the purchases made for all aspects of a grant-funded project must comply with applicable statutory requirements found in the Texas Government Code and/or Texas Local Government Code, and/or the U.S. Code of Federal Regulations (CFR). References to applicable State of Texas and U.S. Government procurement regulations can be found in Chapters 252 and 783 of the Texas Government Code, and in 2 CFR 200 (Code of Federal Regulations). Others may apply, but in the event the City's policies and procedures are stricter and/or restrictive, the City's policies and procedures are to be used. This is also the case in the absence of any other contractually imposed rules or regulations associated with funds from outside sources.

1.01 Authority Limits

Section 1.01

Authority Limits

- To establish purchasing approval and authority limits for specific employees to enter into contractual and other obligations on behalf of the City of Pearland.

Background

- Pursuant to Section 8.17 of the City Charter, the City Council has conferred to the City Manager the general authority to contract for expenditure. The City Manager has delegated oversight responsibility and authority for all City purchase and contracting activities to the Finance/Purchasing Division.
- The City subscribes to the philosophy of decentralized purchasing, whereby most purchases of goods and services are the responsibility of the individual City departments. As such, authority and approval limit levels are established to ensure good fiscal management and internal controls. Levels are intended to recognize the scope of responsibility of City employees and control the creation of unauthorized or unintended liability.

Policy

- Authority levels are as follows:
 - Assistant Directors can have the same approval levels as Directors, with written approval of the appropriate Director.
 - Goods and Services
 - 0 - \$2,999: Department of origination, Department Director, Buyer
 - \$3,000 - \$49,999: Department of origination, Project Administrator City Manager/Assistant City Manager/Deputy City Manager Department Director, Buyer, Purchasing Officer
 - \$50,001 +: City Council, Department of origination, Project Administrator, Contract Administrator, Purchasing Officer, City Manager/Assistant City Manager/Deputy City Manager, Purchasing Officer
 - Land/ROW
 - 0 - \$30,000 Projects Director
 - \$30,001 - \$100,000 Assistant City Manager
 - \$100,001 + City Council Authorization by Budget Approval and City Manager
 - CIP Change Orders
 - Projects Director can approve CIP Change Orders up to \$30,000; ACM up to \$50,000. CIP Change Orders \$50,000 + require City Manager and City Council approval.

- Authority to sign contracts or agreements on behalf of the City is granted and delegated as shown above. This applies to all types of documents including but not limited to purchase orders, contracts for services, leases, rental agreements, service/maintenance agreements, facility use agreements, etc.
- Employees granted authority to make and approve purchases, will be held accountable for ensuring that each purchase is made in accordance with all applicable Federal, State, and local law, procedures, directions, and good business practice.
- City personnel should be aware that personal financial liability or disciplinary action, up to and including termination of employment, may result if an individual makes purchases without delegated authority as defined.

Procedure

- Authority levels for department designees and supervisors are authorized by Department Directors and maintained in the current ERP by Purchasing. To add or request a change in authority levels for a department, e-mail Purchasing and include:
 - Employee's Name.
 - Authority Level Requested.
 - Account Numbers to be Included.

2.0 Quick Reference Guide

Listed below are the types and amounts of insurances required. The City reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

CITY OF PEARLAND			
PURCHASING COMPLIANCE QUICK REFERENCE GUIDE			
Total Amount of Request	Compliance Requirement	Responsible Party	Approval Required
Contracts/Goods/Services Valued at \$50,000 or more	Competitive sealed bids opening at a public meeting. (RFQ,RFP,ITB) City funds shall be made by competitive sealed bidding or competitive sealed proposals, pursuant to Section 252.021, except those covered under General Exemption as specified in Chapter 252.022 of the Local Government Code or through cooperative agreements	Department of origination Project Administrator Contract Administrator Purchasing Officer	City Council City Manager/Assistant City Manager/Deputy City Manager Purchasing Officer
\$3,000 to \$49,999.99	A minimum of 3 competitive quotes based on like products, including contact for quote of at least one (1) Historically Underutilized Businesses (HUB) concerning the purchase, on a rotating basis, based on information pursuant to Chapter 2161, Government Code. If there is no applicable HUB located in Brazoria County or the expenditure is covered under General Exemption per Chapter 252.022 of the Local Government Code, this shall not apply. In cases of cooperative, sole source or single source purchases, the competitive bidding requirement is met. or proof of purchasing co-op pricing **Signed purchase order to serve as binding contract**	Department of origination Project Administrator	> \$29,999 City Manager/Assistant City Manager/Deputy City Manager Department Director Buyer Purchasing Officer
Up to \$2,999.99	Compare pricing and quality to obtain the best value for the City **Signed purchase order to serve as binding contract**	Department of origination	Department Director Buyer

2.0 Quick Reference Guide (continued)

- All bids, quotes and/or purchasing co-op documents must be obtained and uploaded to the purchase order request PRIOR to purchase.
- All purchase orders related to a Capital Improvement Project (CIP) require Finance, Budget and Purchasing approval.
- The City Manager or his designee may approve contracts for budgeted expenditures up to \$49,999.99 without prior Council Approval.
- The City Manager may approve contracts or purchases greater than \$50,000.00 without prior Council Approval in the event of a disaster declaration.
- **For purchasing compliance consideration, the amount is determined by the total amount of related purchases or total term value of a contract, not individual invoice.**
 - Consider this scenario: both the Police Department (PD) and the Public Works department are buying radios. PD places a purchase order (PO) for \$125,000, while Public Works submits a PO for \$20,000. In this case, PD needs to seek council approval since their request exceeds \$50,000, whereas Public Works' purchase falls within the \$3,000-\$49,000 range. It's worth noting that the threshold is determined by the PO amount, rather than the total expenditure with the vendor.
- Purchasers should refer to full policy for specific requirements related to the table above.
- It is the responsibility of each department, in partnership with the Purchasing Division, to maintain and actively monitor their department's agreements, schedule service calls under the agreements, and renew agreements as necessary.
- City of Pearland employees shall not intentionally or knowingly make or authorize separate, sequential, or component purchases to avoid the competitive bidding and/or Historically Underutilized Business (HUB) contact requirements listed in Chapter 252.021 of the Texas Local Government Code.

**An authorized/ responsible party may assign a delegate to approve
PO's**

3.0 General Purchasing Information

Section 3.01

Purchasing Goals

- Ensure compliance with Federal, State, and local purchasing laws.
- Establish policies and procedures that maintain the integrity of the purchasing process encourage competition and achieve cost savings.
- Procure goods and services of the requested quality and quantity from responsible sources using the most efficient and economical means at the best possible price with availability when and where they are needed.

Section 3.02

Authorization

The City Manager, pursuant to the City's Charter and City of Pearland's approval of this manual, has delegated purchasing authority and responsibilities with respect to the purchasing of goods and services to certain City positions including members of the Finance-Purchasing Division with purchasing certifications and training, as well as Department Directors and their designees. City of Pearland Charter authorizes the City Manager or his designee to contract for budgeted expenditures below the thresholds for which explicit City Council approval is required. Official governing body action, in the form of a Council resolution, can authorize the City Manager and/or his/her designee to contract for purchases not exceeding the constitutional and statutory requirements for competitive bidding. Designees must be authorized in writing prior to making purchases above the generally allowable thresholds.

Section 3.03

Public Funds Agreements

The City receives public funding from various sources. The City Manager or the Deputy City Manager or the Assistant City Manager shall be the sole authorized signatory for any and all Federal and/or State awards to the City. No Department Directors, other senior staff, or other employees shall be authorized to receive Federal and/or State funds on behalf of the City, with the exception of the Chief of Police where the U.S. Department of Justice Equitable Sharing Program (Federal seizure program) is concerned. All other Federal and/or State awards shall be approved by the City Council, upon which an alternate authorized official can be identified, other than the City Manager or Deputy City Manager or Assistant City Manager.

In addition, the City of Pearland authorizes the City Manager to enter into agreements to grant public funds to various organizations as appropriated by the budget. Such grants include proceeds from occupancy tax and funding related to community support. Such agreements are limited to one (1) year. These are to be issued in the form of Subaward

Agreements or Subrecipient Agreements, and must contain the applicable contract clauses, as required by the City and/or the primary source of funding (Federal grant and/or State grant). Council action shall only be required to the extent the City's existing spending thresholds apply to subaward and/or subrecipient award amounts, but the City Manager and/or his/her designee are the only officials that may issue these agreements to outside entities.

Section 3.04

Tax Exempt Status

The City is exempt from Federal, State, and local taxes in most cases. An exemption certificate is available from the Finance Department to provide to City vendors or contractors.

Section 3.05

Historically Underutilized Disadvantaged, and/or Minority Business Enterprises (DBE, MWBE, HUB)

Section 252.0215 of the Texas Local Government Code (TLGC) requires Texas cities to contact at least one (1) historically underutilized businesses (HUB) on a rotating basis when making any expenditure of more than \$3,000 but less than \$50,000. A HUB vendor list may be obtained at: <https://mycpa.cpa.State.tx.us/tpasscmbsearch/>. Each applicable purchase MUST include a completed and executed HUB Compliance form when requesting a Purchase Order. This form may be found on the City's SharePoint drive at: <https://pearlandtx.sharepoint.com/sites/Purchasing>.

Certain Federal and/or State-issued grant programs may require compliance with regulations that encourage the City to meet goals for doing business with disadvantaged, minority, and/or women-owned businesses. Employees should be familiar with the applicable regulations in these areas and know how to calculate the proper goal-setting characteristics of DBE/MWBE programs. Please consult with the Grants Administrator.

Section 3.06

Contractors and any sub-contractors

Any contractors and sub-contractors employed by the City of Pearland shall ensure compliance with TGC section 2258 by using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act and subsequent amendments.

Section 3.07

Federal Grant-Funded Purchases and Compliance with Code of Federal Regulations

Uniform Administrative Requirements in 2 CFR 200.318 – 2 CFR 200.327 apply to all Federal grant purchases. The City's own procurement policies and procedures generally apply, provided full and open competition are also coupled with evaluation of costs and prices for reasonableness, allocability, and are allowable by Federal regulations. It is imperative that City staff consult with the Grants/Special Projects Administrator when embarking on purchases/procurement involving Federal grant funding, as there are critical compliance steps that must be adhered to before a method of procurement can be selected.

No vendor that has been debarred or suspended by the Federal government may be awarded a contract that is funded by a Federal grant, and all entities that receive such awards MUST be determined to be clear from such debarment/suspension with a documented and retained inspection of the entity's System for Award Management (SAM.gov) registration.

Labor and wage standards, anti-lobbying restrictions, prohibitions involving anti-collusion laws, and equal opportunity apply to most, if not all, Federal awards. Employees that fail to consult with the Grants Administrator and/or apply these regulations could place the City at risk of losing current and/or future grant funds, costing the City and its taxpayers severely. Employees should familiarize themselves with the regulations in 2 CFR 200 prior to using Federal funds in procurements involving grants. The City's Legal Department is also an important resource for staff if/when using Federal grant funds to meet specific objectives.

Separate Grants Policies and Procedures are in place for the City to utilize if and when Federal and/or State funding is involved in local government spending practices. Employees are strongly urged to seek consultation with the City's Grants Administrator towards compliance with applicable spending regulations. Failure to do so, again, can have substantive financial and other punitive outcomes.

Section 3.08

Vendor Registration

Any entity doing business with the City must be registered as a vendor. Employees overseeing projects and/or expenditures that require the City to pay a business or individual for services must secure the following, to be submitted to the Purchasing Office for the purposes of Vendor Registration:

1. IRS W9 Form (completed and signed); and
2. City of Pearland Vendor Registration Form (completed, signed and notarized).

Once processed and approved, the vendor will be issued a "vendor number," which remains with the assigned entity for the duration of its registration as a City vendor.

Vendors must be fully registered to bid on competitive solicitations and respond to requests for proposals and/or qualifications, but no registration is required for those that are simply providing quotes for costs.

If the vendor and/or employee is aware that Federal funding is being used to pay the vendor, a completed profile printout of the vendor's registration in the Federal System for Award Management (SAM.gov) can and should accompany the vendor's registration with the City.

Section 3.09

Debarment and Suspension

While there are no prohibitions for doing so herein, the City should avoid doing business with entities that have been debarred by the State of Texas. If and when Federal grant funding is involved in the completion of a project, the Code of Federal Regulations does not allow the City to do business with debarred/suspended entities. State funding imposes this same restriction on entities using State of Texas grant funds. In all other cases, employees are urged to use discretion to avoid engaging in business with debarred/suspended entities.

4.0 Competitive Bidding

Section 4.01

Legal Requirements-Expenditures Over \$50,000 (Require City council Approval)

Pursuant to State law, before the City may enter into a contract that requires expenditure greater than \$50,000 (including insurance and technology), the City must (Ch. 252, Subchapter. B, TX. Local Gov't Code):

- Comply with the procedure established by State law for competitive sealed bidding or competitive sealed proposals (where necessary);
- Use the reverse auction procedure as defined by Section 2155.062(d) of the Government Code for purchasing; or
- Comply with a method described by Chapter 2269 (Contracting and Delivery Procedures for Construction Projects) of the Government Code.

Section 4.02

Alternate Delivery Methods

The City may use the best-value competitive bidding process, competitive sealed proposal method, construction manager-agent method, construction manager-at-risk method, design-build method, and the job order contract method for public procurement in place of the standard competitive bidding method that is also allowed under Chapter 2269 of the Government Code or Chapters 252 and 271 of the TLGC. The City may use any of the alternative delivery methods for any project involving an improvement to real property.

Section 4.03

Requirements for Purchases greater than 3,000 but Under \$50,000 (\$3,000-\$49,999)

- At least (3) three written quotes for like items or services, proof of co-op pricing, or exemption information must be obtained PRIOR to placing order for, making purchase of, or entering into agreement for goods or services.
- Department purchasing approver, depending on the value of purchases, should review quotes prior to purchase.
- All quotes must be attached to purchase order along with other purchasing documentation (agreement, special information, etc.)
- Notes should be made to indicate why staff chose to purchase from a particular vendor, example, price, quality, availability, etc.
- In the event that every effort has been made to obtain at least (3) three quotes but are unable to do so, adequate documentation must be attached to the purchase order proving staff efforts to obtain minimum number of quotes.
- Department purchasing approver must review all documentation prior to approving; a signed Purchase Order may serve as the contract for purchases.

Section 4.04we

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Purchases of Goods or Services Under \$3,000 (\$.01-\$2,999.99)

- Assigned purchaser should compare pricing and quality to obtain the best value for the City.
- All purchasing documentation must be attached to the purchase order (invoice, quotes, special information, etc.)
- Department purchasing approver must review all documentation PRIOR to approval; a signed Purchase Order may serve as the contract for purchases.

Section 4.05

Other Considerations

- It is the responsibility of each staff member with purchasing authority to utilize all resources when expending funds belonging to the citizens of Pearland. The best value method should be used, regardless of how small the purchase.
- All purchases are subject to review during the City's annual audit by an external auditing firm to determine compliance with the City's policies along with State and Federal purchasing requirements.
- Purchases over the amount of \$3,000 are subject to capitalization, as part of the City's Fixed Asset Management process. Items purchased independently that are part of a project or product valued over \$3,000 should be reported to the Finance Department upon purchase.
- Finance purchasing staff has the responsibility to ensure compliance with the City's Purchasing Policy, up to and including reporting employees who repeatedly fail to meet the requirements of the Policy, which may lead to revocation of purchasing privileges and/or disciplinary action as appropriate.
- It is the responsibility of each department to obtain proper vendor information prior to doing business with vendor. The City vendor package is located on the City website. Vendor information can be submitted electronically to:
accountspayable@Pearlandtx.gov.
- All invoices should be directed to Accounts Payable staff electronically at:
accountspayable@Pearlandtx.gov.
- Purchase orders should be entered and approved timely by deadlines set by the Finance-Purchasing Division. Any questions regarding purchasing compliance should be directed to the Finance Department, Purchasing Officer, or the City Attorney's Office PRIOR to purchase.

5.0 Exemptions from Competitive Bidding

Section 5.01

Section 252.021 & 252.022 of the TLGC provides the following exemptions from competitive bidding:

- A procurement made because of a public calamity OR disaster declaration that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the property of the City.
- A procurement necessary to preserve or protect the public health or safety of the City's residents.
- A procurement necessary because of unforeseen damage to public machinery, equipment, or other property
- A procurement for personal, professional, or planning services.
- A procurement for work that is performed and paid for by the day as the work progresses.
- A purchase of land or a right-of-way.
- A procurement of items that are available from only one source (sole source), including:
 - Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies.
 - Films, manuscripts, or books.
 - Gas, water, and other utility services.
 - Captive replacement parts or components for equipment.
 - Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials.
 - Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.
- A purchase of rare books, papers, and other library materials for a public library.
- Paving drainage, street widening, and other public improvements, or related matters, if a least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from improvements.
- Personal property sold:
 - At an auction by a State licensed auctioneer.
 - At a going out of business sale held in compliance with Subchapter F, Chapter 17, and Business & Commerce Code.
 - By a political subdivision of this State, an City of this State, or an entity of the Federal government.
 - Under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391.

- A public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.
- A payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212 (Municipal Regulation of Subdivisions and Property Development).
- Services performed by blind or severely disabled persons.
- Goods purchased by a municipality for subsequent retail sale by the municipality.
- Advertising, other than legal notices.
- Purchases made through an existing State contract (Chapter 271, Subchapter D), Cooperative purchasing program (Chapter 274, Subchapter F), or inter-local cooperation (Interlocal Cooperation Act, Chapter 791 Government Code).

6.0 Bids/Proposals/Contracts

Section 6.01

Bid Authority

- The City Manager or his/her designee has administrative authority to contract for budgeted expenditures, not valued at more than \$49,999. The total value is determined by the aggregate value over the term of the contract or individual purchase within one (1) fiscal year.
- Only City Council has the authority to award bids, proposals, and contracts that exceed \$50,000 or contract for which the aggregate value exceeds \$50,000. State law (252.021, TLGC) provides that all purchases and contracts estimated at or greater than \$50,000 require advertising which requests sealed bids or proposals (subject to the 25% policy rule). The Department or Project Manager, with assistance from the Purchasing Division, when requested, is responsible for the advertisement and distribution of the requests for bids or proposals. The Department, Project Manager, and Purchasing Division is responsible for the advertisement and distribution of the requests for bids or proposals. Purchasing makes recommendations on qualified (RFP) request for proposals. The department is responsible for the selection of an awarded vendor, in accordance with State law. Criminal penalties may apply to those who fail to comply with competitive bidding requirements.

Section 6.02

Bid Process

- The Purchasing Division will prepare bid solicitation, bidder mailing lists, advertising dates, and schedule the bid opening date, time, and location based on specifications and bid line items provided by the department. Where appropriate, the City will utilize website notices for national advertising.
- The City must publish a notice indicating the time and place at which the bids or proposals will be publicly opened and read aloud. The notice must be published at least once a week for two consecutive weeks. The first publication must appear before the 14th day before the date that the bids or proposals are publicly opened and read aloud. The notice must be placed in the City's official newspaper of record.
- The City will accept bids in both paper and electronic formats.
- At the time of the bid opening, the City Secretary or designee will present all bids to the Purchasing Division or Project Manager for opening, review, and analysis. The City will reject any bid or proposal which is received after the due date and time. The time stamp in the City Secretary's Office will be the official time.
- The Purchasing Division or Project Manager will conduct the bid opening and read the bids aloud at the designated time and place. Bid openings are open to the public.

- Pursuant to State law, the City must award bids on the basis of the lowest, responsible bidder or the bid that provides the best value. As for “best value”, the City, pursuant to law, may consider:
 - Price.
 - Reputation of the bidder, including any safety record or financial culpability.
 - Reputation of the bidder’s goods or services, including personnel.
 - Extent to which the goods and services meet the needs of the City.
 - Bidder’s past relationship with the City.
 - Impact to the City’s ability to comply with HUB requirements.
 - Total longer-term cost to the City of acquiring goods or services.
 - Any other relevant criteria that the City listed in specifications. (252.043, TLGC)
- After reviewing the bids, the Department or Project Manager will prepare an agenda item request with staff recommendation for City Council consideration, approval, and award.
- The City has the option to reject any or all bids, even if only one bid is received. (252.043(f), 271.027(a), TLGC)

Section 6.03

General Contract Requirements

- Local Preference
 - City staff should apply the following preference to local bids (within City of Pearland) only when appropriate claim form has been submitted by bidder and approved by the CFO or designee:
 - Identical Bids- If the City accepts bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the City shall contract with only one of those bidders and must reject all other bids. If only one of the bidders submitting identical bids is a resident of the City, the City must select that bidder. If two or more of the bidders submitting identical bids are residents of the City, the City must select one of those bidders by the casting of lots. In all other cases, the City must select from the identical bids by the casting of lots (LGC 271.901).
 - LGC 271.905 (b); applies to the purchase of real or personal property not affixed to real property (not services).
 - If two or more bidders have bids that are identical in nature and amount, with one bidder being a resident of the City and the other bidder or bidders being non-residents, the City shall apply a three percent (3%) preference to a qualified local bidder on bids (construed herein to mean those bids other than competitive sealed bids). This will include purchases of \$3,000 to \$50,000.
 - LGC 9051 (b); applies to); applies to the purchase of real or personal property not affixed to real property and services. Applies to construction services less

than \$100,000.00 and contracts for real or personal property less than \$500,000. If the City receives one or more competitive bids or quotations from a bidder whose principal place of business is in the City and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City, the City may enter into a contract with the lowest bidder or the bidder whose principal place of business is in the City if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the City and increased tax revenues to the City.

- Geographic preference (local, State, or tribal territories) is prohibited when the procurement of a contractor involves Federal funds (2 CFR 200.319(c)).
- Bonding for Engineering & Public Works Projects
 - State law requires contractors to submit bonds to the City for bids, payment, and performance of contracts on certain public work projects. State law establishes standards for when the bonds are required and the amount of the bond. A corporate surety duly authorized and admitted to do business in the State of Texas must issue the bonds. Although the term “public work” is not defined by statute, it is generally understood to mean the construction, repair, or renovation of a structure, road, highway, utilities, or other improvement or addition to real property. Bonds are required in the following amounts:
 - Bid Bond/Bid Security: A bid bond, in the amount of (5%) percent of the proposed contract price, is required where a contract is in excess of \$100,000.
 - Performance Bond: A performance bond, in the total amount of the contract, is required if the contract is in excess of \$100,000.
 - Payment Bond: A payment bond is required if the contract is in excess of \$50,000, in the total amount of the contract. The bond is intended solely for the protection of all claimants supplying labor and material in the prosecution of the work provided for in the contract.
 - Maintenance Bond: In addition to the above statutorily required bonds, the City will require a Maintenance Bond for all public work projects for a minimum time of one (1) year. (Chapter 2253, TX. Gov’t Code)
- Bonds for Non-Public Work Projects Based upon good business practices, whenever the City enters a contract for purchases of a product system, or service in which the system or service will be of little value to the City until it is complete, the City may require performance and payment bonds.
- Change Orders Section 252.048 of the TLGC allows change orders as long as the contract price is not increased by more than 25 percent and the change order is

not being used to purchase new products or to create an entirely new project. Pursuant to this section, the City Manager or his/her designee has authority to approve such change orders that are less than \$50,000. Change orders over \$50,000 are subject to City Council approval.

- To clarify, this applies to CO's for which the original contract was required to be bid under 252.

Section 6.04

Insurance Requirements

- Insurance Requirements where the City contracts with an outside party (contractor, consultant, vendor, or concessionaire) for goods or services, the contract should include indemnity and hold harmless provisions that appropriately transfer the project risks from the City to the contractor. Because the contractor may or may not have the financial resources to account for the risks, the City requires the contractor to purchase and maintain valid insurance to help ensure the financial security required by the City.
- Contractors performing work on City property or public right-of-way for the City of Pearland shall provide the City a certificate of insurance or a copy of their insurance policy(s) evidencing the coverages and coverage provisions identified herein. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy.
- The insurance types and amounts are as follows:
 - Workers Compensation: Workers Compensation covering all employees per the State statutory requirement is required on all contracts.
 - All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of Pearland.
 - Employer's Liability of \$1,000,000
 - Comprehensive General Liability and Bodily Injury & Property Damage \$1,000,000, per occurrence and \$2,000,000 general aggregate
 - Business Automobile Liability covering owned vehicles, rented and non-owned vehicles, and employee non ownership Bodily Injury Property Damage \$1,000,000 (per occurrence and aggregate).
 - Reasonable Coverage: Although insurance coverage is not required for every project, and limits will vary by exposure, understanding insurance is important to assure that all the City's potential liabilities and exposures from a project are properly and reasonably protected. Where questions arise about the types of insurance or amounts the Department should contact the City's Department of Risk Management.

- Boycotting Israel House Bill 793 provides that contracts for goods and services must have written verification from the company that it:
 - Does not boycott Israel / will not boycott Israel during the term of the contract by providing that:
 - The company does not include a sole proprietorship.
 - The law applies only to a contract that:
 - Is between a governmental entity and a company with more than 10 full-time employees.
 - Has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the government entity.

6.04 Insurance Requirement Quick Reference Guide

CITY OF PEARLAND		
INSURANCE REQUIREMENT QUICK REFERENCE GUIDE		
Type of Insurance	Insurance Compliance Requirement	Provisions
Workers' Compensation Employers' Liability (WC)	Statutory Limits \$1,000,000 per occurrence	For Workers Compensation (WC), Commercial General Liability (CGL), and Business Auto Liability (BAL) the City is to be provided a WAIVER OF SUBROGATION.
Commercial General (Public) Liability (CGL) to include coverage for: <ul style="list-style-type: none"> • Premises/Operations • Products/Completed Operations • Independent Contractors • Personal Injury • Contractual Liability 	Personal Injury- \$1,000,000 per person Property Damage- \$1,000,000 per occurrence General Aggregate \$2,000,000	
Business Auto Liability (BAL) to include coverage for: <ul style="list-style-type: none"> • Owned/Leased vehicles • Non-owned vehicles • Hired vehicles 	Combined Single Limit \$1,000,000	Workers Compensation (WC), Commercial General Liability (CGL), and Business Auto Liability (BAL), the City shall be provided 30-day notice of cancellation or material change in coverage.
Professional Liability	\$1,000,000	Commercial General Liability (CGL) will include a non-contributory addendum.

If the contract involves a professional service, the contractor will also be required to provide the City with professional liability insurance in an amount of at least \$1,000,000.

City Staff shall determine the appropriate level of risk and assign the insurance requirements based on that risk. All Insurance Documents will be reviewed by Risk Management and Purchasing.

The nature/size of a contract/agreement may necessitate higher limits than shown above. These requirements are only meant as a guide, but in any event, should cover most situations.

7.0 Other Purchasing Agreements

Section 7.01

Warranties and Service Agreements

- A Department should include any requirement for warranties or service agreements in the purchase specifications documents. It is the responsibility of each Department to maintain and actively monitor their department's agreements, schedule service calls under the agreements, and renew agreements as necessary.

Section 7.02

Simple Leases (auto, office equipment, etc.)

- Competitive bidding or proposal requirements apply to any lease of personal property that will require an expenditure of \$50,000 or more in City funds, unless the expenditure is covered by a specific statutory exception that would relieve the City from the duty to bid or seek proposals on the item. For example, if the lease were for an item that was necessary to preserve or protect the public health or safety of the City's residents, the City would not be under a obligation to use competitive bidding or proposals for its acquisition.

Section 7.03

Lease Purchase Agreements

- Normal statutory procurement requirements generally apply to these lease purchase agreements. That is, a lease purchase agreement for personal property shall be competitively procured unless the type of item purchased is covered by a specific exception to the statutory procurement requirements. Competitive bidding requirements do not apply to the lease of real property.

Section 7.04

Change Purchase Orders

- When any of the following items occur, it is necessary to a complete change order:
 - Price
 - Quantity
 - Scope of Work
 - General Ledger Account Number
- Pursuant to State law, the following considerations apply to change orders for goods and services procured in accordance with Chapter 252 of the Texas Local Government Code (LGC):
 - Change order amounts in excess of \$50,000 require City Council approval.
 - The original contract amount may not be increased by more than 25%.
 - The original contract amount may not be decreased by more than 25% without consent of the contractor.

- Funding must be available/appropriated to the requesting department before a change order request is approved.

Unit Price Contracts

- For unit-price contracts (supplies or services), the contract or quote pricing shall be the table of unit prices contained in the successful bid response. In no event shall the table of unit prices contained in the successful bid response be modified except in accordance with the terms of the contract and all applicable purchasing procedures related to contract amendments.
- The total Base Contract Amount represents the estimated expenditure for the quantity of supplies or services identified in the contract, and/or shall be the amount reflected in the "Expenditure Required" field of the authorizing Agenda Request (AR).
- Unit-price contracts exceeding \$50,000 shall require City Council approval.
- Cumulative increase(s) to the total Base Contract Amount in aggregate up to 25% may be approved administratively pursuant to Section 2.01, Authority Limits, without additional City Council action; except that any individual increase in excess of \$50,000 shall require City Council approval.
- **For contracts that initially exceed \$50,000, Cumulative increase(s) to the total Base Contract Amount, greater than 25%, shall require City Council approval with such approval establishing a new Base Contract Amount which shall be used when considering subsequent increases.**
- In the event the initial Base Contract Amount is less than \$50,000, any individual increase or combination of increases that result in the Base Contract Amount exceeding \$50,000 shall require City Council approval.
- The Requesting Department shall NOT authorize additional work orders under the original unit-price contract award until the requested Base Contract Amount increase is approved by City Council or pursuant to Section 1.01 of this Policy, and not until the affected purchase order has been increased in a commensurate amount.

Professional Services Contracts

- Pursuant to Texas Government Code, Chapter 2254 (Professional Services Procurement Act), professional service contract awards are not based on competitive bids but must be based on the demonstrated competence and qualifications of respondents; such contracts shall be subject to the limits and provisions herein.
- Individual professional service contracts or amended contracts exceeding \$50,000 require City Council approval.
- Contract amendments less than \$50,000 may be approved pursuant to section 1.01 of this Policy.
- For contracts that initially exceed \$50,000, Cumulative increase(s) to the Base Contract Amount, greater than 25%, shall require City Council approval with such

approval establishing a new Base Contract Amount which shall be used when considering subsequent increases.

- In the event the initial Base Contract Amount is less than \$50,000, any individual increase or combination of increases that result in the Base Contract Amount exceeding \$50,000 shall require City Council approval.
- The Requesting Department shall NOT authorize additional work orders under the original professional service contract until the requested Base Contract Amount increase is approved by City Council or pursuant to Section 1.01 of this Policy, and not until the affected purchase order has been increased in a commensurate amount.

Capital Project Construction Contracts

- Capital Project Construction contracts shall be subject to the following limits:
 - Any contract exceeding \$50,000 shall require City Council approval.
 - Any change order to a contract in excess of \$50,000 shall require City Council Approval.
 - Any change order less than \$50,000 and not exceeding 25% of Original Contract Amount may be approved pursuant to Section 1.01 of this Policy.
 - Under no circumstances may change orders to a contract cumulatively exceed 25% of the Original Contract Amount.

Procedure

- If changes in plans or specifications are necessary after the performance of the contract has begun or if it is necessary to decrease or increase the quantity of work to be performed, or of materials, equipment or supplies to be furnished, the following shall apply.
 - The total Base Contract Amount or Original Contract Price may not be increased unless sufficient budgeted funds for increased costs are available for that purpose, and all provisions outlined in “Policy” section herein are met.
 - Changes to existing purchase orders that are not CIP related shall be facilitated through the current ERP system.
- Requests for changes to existing purchase orders shall require the entry of a change purchase order request in the current ERP in the amount of the increase, decrease, or account number change, and justification for the requested change in the Change/Correct Reason (with the exception of Projects change orders, which are executed via formal written change order with appropriate approvals).
- Change Orders – CIP
 - CIP related change orders are to use the change order form and process as outlined in the Project Delivery Model.
 - Budget will review and check availability of project funding prior to approval. If funds are not available, Budget will contact Projects for funding options and prepare appropriate budget transfer of funds so long as scopes of projects will not be changed.

- Upon approval by Budget and Finance, the change should be entered in the current ERP and a copy of the change order form attached.
- Change Orders in the current ERP will require an approval process just as new purchase orders follow.
- Council approved change orders will be processed upon receipt of signed/approved change order form.
- NOTE: Sound judgment should be exercised to avoid separating change orders for work, which would typically be performed as a single work item, into smaller work items, to avoid the statutory threshold that triggers City Council approval.

8.0 Purchasing Methods

Section 8.01

Purchase Order

- Most purchases are made using a purchase order that is processed through the current ERP. The purchase orders prepared and approved by the department requesting the purchase or other necessary approver. The purchase order is completed and submitted electronically along with all supporting documentation (invoice, receipt, bids or quotes (if necessary), sole source or emergency justification forms (if necessary)). Appropriate staff must approve purchase orders for payment. Accounts Payable must have a completed vendor packet on file for all vendors in order to make payment. Accounts Payable processes payments for approved purchase orders weekly.
- With the exception of Texas Department of Transportation (TxDOT) funded capital improvements for road projects, and grant-funded loans provided by the Texas Water Development Board (TWDB) for water/wastewater capital projects, all purchase orders for grant-funded projects are to be entered by the Grants Administrator. Departments implementing projects funded with other Federal and/or State resources must complete a Grant Purchase Order Requisition (GPOR) for a PO to be created using grant funds.

Section 8.02

Purchasing Card (P-card) Overview:

- The City issues and authorizes the use of Purchasing Cards (P-card) to efficiently purchase goods or services needed for City business that require immediate payment. The P-card is designed to delegate the authority and capability to purchase limited items directly to an authorized employee. A P-card will enable authorized employees to purchase non-restricted goods directly from vendors without the issuance of a purchase order. Authorized employees may use a P-card with vendors that accept VISA. P-cards are ordered through the Finance-Purchasing Division.

Section 8.03

Responsibilities & Administration:

- The Deputy Director of Finance and Purchasing Officer are the administrators for the P-card program.
- Cardholders shall use only his/her assigned card. Cards shall not be loaned to another employee for his/her use with no exceptions. A supervisor may use his/her card to pay for an allowable expense incurred by a subordinate. On a limited basis, temporary cards will be available to checkout from the party to whom the responsibility has been delegated.

- An employee authorized to use a P-card must sign a Purchasing Card Cardholder Agreement and complete the P-card training located on Local Gov U, prior to being issued a P-card. The employee is responsible for not only protecting the card but is also responsible and accountable for all purchases made using the P- card. The employee will assume responsibility that all purchases made with the P-card adhere to this policy and will ensure that no unauthorized purchases are made. The City will consider unauthorized purchases to be misappropriation of City funds that violates City policy and potentially State law. The employee authorized to use the P-card and the Department Director are responsible for the integrity and accuracy of P-card purchases and as such, are responsible for receipts for all P-card purchases and transactions. All purchases processed against a P-card must be made by, or under the immediate direction of, the employee to whom the card is issued. P-card receipts must specify all purchased items. Receipts that show only a total amount without any itemized details are unacceptable. The employee must inform the merchant of the City's tax-exempt status. The City may hold the employee personally responsible for items purchased without the supporting documentation.
- P-card holders who do not retain acceptable receipts for P-Card purchases may have their authority for using the P-card revoked.
- Reconciliation: All Cardholders will be provided access to the reconciliation system. The Cardholder will use this access to reconcile his/her cycle transactions timely each month. Each Cardholder is provided a card with a unique card number, and a user ID/password to access the reconciliation system. The Cardholder shall be responsible for reconciling transactions, preserving receipts, and uploading receipts with the card's cycle expense report following the Statement review process.
- Monthly, each Cardholder will follow the electronic reconciliation/approval process described herein which shall include review of all transactions and uploading of all itemized receipts and approval by account group manager for each monthly cycle. If no transactions occurred during a cycle no reconciliation is required. Cardholders shall reconcile each transaction electronically via the reconciliation system. Each transaction must contain an accurate description of the purchase, general ledger account number and project code (only if required). Cardholder shall mark each transaction reviewed in system and upload ALL supporting documentation in the reconciliation system. The departments assigned Buyer will proceed with transaction review for approval or disapproval.
- Disputed Charges: An authorized employee who is issued a P-card is responsible for attempting to resolve any dispute with a vendor. If a resolution is not possible, the employee must immediately notify the bank of the disputed item and follow the bank's dispute process. The employee shall keep the Finance Department informed of any such charge.
- Termination or Transfer of an Employee: When an employee who has been issued a P-card terminates from City employment or transfers from a Department, the Department Director or supervisor should notify the Purchasing Officer of the

change immediately. The employee's P-card approver will be responsible for a final reconciliation of the employee's P-card account.

- Loss of P-Card: A P-card holder must report a lost P-card to their supervisor and buyer immediately but in any event, within one business day of discovered loss. The City may hold an employee liable for any losses not covered by the protection plan. The City may also hold an employee responsible for the cost of a replacement card.

Section 8.04

Usage:

The City will issue cards to authorized employees, via the issuing bank, for the following types of City related expenditures:

- Retail items available for purchase from a retailer either at a storefront, by mail, or on the internet unless the retailer has a contract with the City, in which case a Purchase Order (PO) should be utilized.
- Travel related purchases must be in compliance with City of Pearland Travel Policy. Meals during travel should not be charged to a city P-Card, instead travelers should request per diem. All travel expenses paid for using a P-card must be documented in accordance with the City's Travel Policy.
- Costs related to conferences or seminars, including lodging, airfare and car rental, can be paid for with a city purchasing card.
- Purchasing meals is allowable when the meal is:
 - Part of a business meeting or training involving one or more external consultants, customers, or stakeholders.
 - Provided at meal time to allow employees to participate in trainings.
 - Purchased for employees who, because of work assignment, are unable to leave their duty stations to eat at mealtime.
 - The Cardholder must note on the itemized receipt for the meal the names of all persons for whom food was purchased, along with the justification for the expense.
- Training, Education, Professional Memberships, and Subscriptions consistent with Policy spending limitations purchasing card or PO requirement.
- An off-contract purchase from a vendor not exceeding \$3,000.00, or a Cardholder's card limit, whichever is less.
- Emergency purchases necessary to protect the public health, safety, or city property.
- Purchases for any IT related equipment will require prior approval from the IT department. Please contact IT@, it@pearlandtx.gov, or extension 1800.

Purchases made on a purchasing card will be for City business only. The card is not a personal line of credit. When in doubt as to whether a purchase is allowable under City policy, the Cardholder should contact their assigned Buyer prior to making the purchase.

Section 8.05

Sales Tax Exemption:

As a tax-exempt government City, the City of Pearland is not required to pay State or local sales tax on most purchases. The card will have the City's logo and Federal ID printed on the front of the card.

- Cardholders are responsible for ensuring that merchants do not include sales tax on any transaction as the card does not automatically alert the merchant of the sales tax exemption status.
- Receipts should be checked to determine if sales taxes were included in the transaction. If sales tax is included, the Cardholder shall have the merchant issue a credit to their account at that time.
- The City is not exempt from hotel occupancy tax. See Travel Policy ([Section 3.06 Travel and Meetings Employee Manual](#)).
- City of Pearland [Sales Tax Exemption](#) signed form can be found on SharePoint.

Section 8.06

Restrictions:

Employees shall not use a purchasing card to pay for any of the following:

- Any purchases of items or services for personal use/purposes. **Only City** business expenses are allowable.
- Cash advances or the purchase of a cash equivalent, such as gift cards for employees, prepaid cards, vouchers redeemable for goods or services, or negotiable instruments.
- Any purchase of goods/services at an establishment at which a reasonable and prudent employee exercising good judgment would not utilize the City card to render payment, considering the interests of protecting the City's public trust, ensuring proper expenditure of tax dollars, and avoiding even the appearance of impropriety. Examples may include, but are not limited to, adult-themed or sexually oriented businesses and establishments that derive income from activities such as gambling.
- The purchase of goods for celebrations or any purpose shall never be allowed. i.e. Holiday parties, birthdays, décor & etc. Employee engagement purchases must be approved by the City Manager's Office.
- Any pre-boarding or preferred seating selection advantages. (i.e. early bird check-in), Inflight Wi-Fi H, the purchase of travel insurance.
- Meals during travel – Per Diem must be requested through Accounting Dept.
- The purchase of spouse/family expenses incurred while traveling. Only city business expenses are allowable. The Cardholder shall pay personal expenses separately.
- Any transaction amount greater than the Cardholder's transaction limit is subject Chief Financial Officer approval for temporary increase.

- Items under existing or pre-negotiated purchasing contracts wherein the City has already committed to specific vendors at pre-set prices unless an emergency exception is granted by the Purchasing division.
- Alcoholic beverage of any kind. The purchasing card shall not be utilized at any bar, drinking establishment, or package liquor stores.
- Separate, sequential, and component purchases, or any transaction made with the intent to or effect of circumventing the City's purchasing policy or State law.
- Invoices are to be paid through the Purchase Order process. Exemptions are subject to approval from the Purchasing Division and limited to annual subscriptions, memberships dues, annual certification, monthly/quarterly meetings for associations.
- The purchasing card shall not be used to purchase items to be used as gifts to be distributed to another employee. When such gifts are part of an incentive or rewards program approved by Administration or a City-sponsored function, they shall be purchased via purchase order so that the items may be tracked and accounted for.
- Any other purchase specifically excluded in the City's Purchasing Policy.

Section 8.07

Returns/Cancelations:

- Each Cardholder shall be responsible for coordinating returns with the vendor and making sure proper credit is obtained in a timely manner.
- Cash refunds or credit to the Cardholder's reward program is not allowed.
- If a Cardholder cancels a flight that was booked using the Cardholder's reward program but will not be rescheduling a flight for City of Pearland business with the airline, the Cardholder must secure a refund from the airline. A copy of the request must be saved with the Cardholder's reconciliation at the time of cancellation.
- If a Cardholder receives a travel credit for personal use, the Cardholder should refer to City Travel Policy.

<u>Cardholder Class</u>	<u>Limits</u>
Administration (CM, DCM & ACM)	\$10,000
Emergency Management (During Active IMT Only)	\$10,000
Directors/Asst. Directors	\$5,000
Division Heads and Supervisors	\$3,000
All Other Employees (Temporary Card limit up to)	\$2,500

For lost or stolen cards:

Lighthouse Services, the City's Fraud Hotline, reporting methods are available 24 hours a day, 7 days a week. Toll-Free Telephone: English speaking: (844)990-0000; Spanish speaking: (800)-216-1288; Fax: 215.689.3885
 Website: www.lighthouse-services.com/pearlandtxE-mail: reports@lighthouse-services.com

9.0 Petty Cash

Section 9.01

Purpose:

- Petty cash funds are for the purpose of infrequent, small dollar, non-travel departmental purchases when an employee does not have access to a p-card, a p-card cannot be used for payment, or there is a reason, approved by CFO or designee, why the purchase cannot go through the accounts payable process.

Section 9.02

Requesting Petty Cash:

- Requests for petty cash or requests for reimbursement from petty cash should be submitted to the Accounting Division.
 - The request may not exceed \$100.
 - All petty cash slips must be signed, approved by the Department Director, include the amount, reason for expenditure, date and the account number to be charged.
 - Cash will only be reimbursed when accompanied by itemized receipts.
 - In the event that petty cash is requested in order to make a purchase on the City's behalf, a petty cash voucher will be issued, and a signature of the person given cash will be required. An itemized receipt and unspent cash must be returned the same day that the petty cash was given.

Section 9.03

Maintaining Petty Cash:

- Petty cash vouchers, receipts, and cash on hand should equal the total amount authorized for the petty cash fund. The itemized sales receipt must be attached to the petty cash voucher after the purchase. The petty cash voucher should include the amount and description of the expenditure, the expense account number, and be signed and dated by the recipient.

Section 9.04

Replenishing Petty Cash Fund:

- If a department maintains a departmental petty cash fund, the department should turn in petty cash vouchers with receipts to the Accounting Division to exchange for cash to reimburse the departmental petty cash. Petty cash should be replenished by departments monthly. It is **CRITICAL** that all petty cash vouchers are redeemed, and petty cash is replenished no later than **September 30th** of each year.

Section 9.05

Performing Petty Cash Audits:

- The Finance Department will periodically audit petty cash funds at least twice each year to verify compliance with the petty cash policies and procedures.

Section 9.06

Travel:

- Travel advances, meals, mileage, or other travel-related expenditures will not be reimbursed using a petty cash fund under any circumstance. All travel expenses must be recorded on the appropriate travel form and be submitted through Accounts Payable.

10.0 Disposal of Surplus Property

Section 10.01

- All departments shall review their assets and supplies annually and determine whether any items are no longer needed. A department may submit a list of any surplus, obsolete, or unused supplies, materials, or equipment to the Purchasing Officer, including a description, make, model, and serial number, if applicable. Finance, in coordination with a department and the Purchasing Officer, may transfer items between departments based upon needs. Where equipment or durable goods are deemed to be surplus, obsolete, or unused, the City may attempt to sell the property using an online auction, competitive bid, or in any other legal way that provides value and a public benefit to the City. In addition, property can be traded in toward the purchase of new property. Proceeds received will be credited to the fund that owned the property.

Section 10.02

- Real property, equipment, and/or other capital assets purchased with Federal funds cannot be disposed of without the express written consent of the original Federal awarding City. No Federally grant-funded items should be sold, auctioned, disposed of, or reverted to other uses from those originally intended without such written consent, as repayment of funds may be required by the City should non-compliance with this rule occur (2 CFR 200 Subpart D; 2 CFR 200.311; 2 CFR 200.313).

11.0 Ethics Requirements

Section 11.01

City Policies

The City demands the highest ethical standards of conduct from its employees and from vendors or contractors dealing with the City. City employees engaged in purchasing shall comply with the following ethical standards:

Section 11.02

Gratuities:

- Certain kinds of conduct such as offering gifts, gratuities, or discounts to City employees to influence their decisions in the purchasing process are expressly prohibited. The City may reject a bid or cancel a contract without liability if it is determined by the City that gratuities were offered or given by a vendor or contractor, or an agent or representative of the vendor or contractor, to any officer or employee of the City with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of such a contract.

Section 11.03

Confidential Information:

- It is a violation of City policy for any employee to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

Section 11.04

Purchase of materials, equipment, and supplies for personal use:

- Employees may only purchase City property for personal use, using personal funds, if purchased through the City's normal disposal of surplus property procedures including public or online auction. Such purchases are subject to City Manager or his/her designee approval.

Section 11.05

Purchases for personal, private use:

- Employees may not use the purchasing power of the City to make purchases for personal, private use.

Section 11.06

Travel, meals, and other expenses paid by vendor or contractor:

- Travel costs to a vendor's or Contractor's site shall be paid by the vendor or contractor only if the bid or proposal solicitation States that such visits would be at the vendor's or contractor's expense. The City will pay all other travel costs.

Section 11.07

State Requirements

City officials and employees shall comply with various State laws with respect to purchasing. The following provides a summary and the general requirements of the laws:

- Chapter 171, Texas Local Gov't Code: Chapter 171 regulates a local public official's conflicts of interest. The law defines "local public official" as an elected official, such as a Council member, or an appointed official (paid or unpaid) who exercises responsibilities that are more than advisory in nature.
- The law prohibits a local public official from voting or participating in any matter involving a business entity or real property in which the official has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public or, in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.
 - A local public official who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with City Secretary, stating the nature and extent of the interest.
 - A local public official is required to abstain from participating in the matter.
 - A local public official who is required to file an affidavit is not required to abstain from participating in the matter if a majority of the members of the governing body have a substantial interest and file affidavits of similar interests on the same official matter.
- Chapter 176, Texas Local Gov't Code: Chapter 176 is a related ethics law.
 - Chapter 176 is applicable to the City. The law also applies to a local government corporation, board, commission, district, or authority whose members are appointed by City Council and local government officers. Local government officers include (1) a mayor or City Council member, (2) a director, superintendent, administrator, president, or any other person who is designated as the executive officer of the local government entity; and (3) an agent (including an employee) of the local government entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.
 - An officer is required to file a conflicts disclosure Statement if:

- The officer or officer's family member has an employment or other business relationship with a vendor that results in the officer or officer's family member receiving taxable income of more than \$2,500 in the preceding twelve months.
 - The officer or officer's family member accepts one or more gifts from a vendor with an aggregate value of more than \$100 in the preceding 12 months.
 - An officer has a family relationship with a vendor.
 - Anyone meeting this condition or circumstance should consult with the Finance Department and/or the Legal Department with respect to this law.
- Chapter 252, Texas Local Government Code: Chapter 252 contains laws related to competitive bidding. If a person fails to comply with the competitive bidding or competitive proposal procedures required by Chapter 252 that person may be convicted of a Class B or C misdemeanor, removed from office or employment and made ineligible to hold office in the State or to be employed by the City for four years after the conviction. This includes a situation in which a person makes or authorizes separate, sequential, or component purchases in an attempt to avoid competitive bidding requirements.
 - Section 2252.908, Texas Local Government Code: Section 2252.908 relates to interested party disclosures and applies to contracts entered into after January 1, 2016. The law provides that:
 - The City is prohibited from contracting with a business entity unless the business entity submits a disclosure of interested parties (i.e., discloses a person who has a controlling interest in the business or who actively participates in facilitating the contract for the business) if the contract requires an action OR vote by the City Council before the contract may be signed.
 - The disclosure must be on a form prescribed by the Texas Ethics Commission.
 - The City must, not later than 30 days after receiving a disclosure, submit a copy to the Texas Ethics Commission.

12.0 Additional Purchasing Information

Section 12.01

Professional Services

- Section 252.022 of the TLGC specifically exempts contracts for professional services from the competitive bidding requirements. The Professional Services Procurement Act States that a City may not use traditional competitive bidding procedures to obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists or State certified real estate appraisers. If the professional services desired by the City do not fall under the Professional Services Procurement Act, State law permits the services to be obtained with or without the use of competitive bidding, as the City desires.
- Fees must be fair and reasonable, consistent with and not in excess of published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law.
- The Professional Services Procurement Act specifies that when obtaining architectural, engineering, or land surveying services, the City must first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and then attempt to negotiate a contract with that provider at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the City must formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate and attempt to negotiate a contract with that provider at a fair and reasonable price. The City must continue this process to select and negotiate with providers until a contract is entered. The Professional Services Procurement Act does not specify the exact process by which a City may procure accounting, medical, optometrist, interior design, or real estate appraisal services. The law merely prohibits obtaining these services through competitive bidding and requires that such services be selected on the basis of demonstrated competence and qualifications.

Section 12.02

Emergency Purchases

In the event the City is under a disaster declaration, the emergency purchasing policies shall be implemented and remain in effect until the declaration has ceased.

- Emergency purchases occur when a situation arises that is unforeseen and must be remedied immediately. Pursuant to State law, emergency purchases are exempt from the bidding process. An emergency is described as follows:
 - Acts of God (e.g., flood damage, tornado).
 - Machinery that is critical to the operation of the City and essential to protect the health and safety of the municipalities' residents.

- Procurement necessary because of unforeseen damage to public machinery, equipment, or other property (252.022(a) (1-3) TLGC.
- Where an emergency exists and a purchase estimated over \$3,000.00 is required, the following procedure will be used:
 - The Department should notify Finance of the purchase and attach an approved emergency justification form signed by the Department Director and the City Manager or his/her designee and attach to the Purchase Order.
 - If the emergency purchase causes a department to exceed their annual budget, the Department Director will work with the Finance Department and City Manager or his/her designee to secure funding needed for the purchase.

Section 12.03

Sole Source Purchases

- According to Section 252.022 TLGC, competitive bidding requirements do not apply to items that are available from only one source due to patents, copyrights, secret processes, or natural monopolies. Items such as captive replacement parts or components may be considered as sole source items.
 - Sole source purchases greater than \$3,000
 - The Department must contact the vendor or manufacturer for verification and justification as to why the procurement is sole source. Documentation on vendor letterhead or on the sole source should be attached to the purchase order.
 - Sole source purchases greater than \$50,000. Sole source purchases greater than \$50,000 must be reviewed by the City Manager or his/her designee and approved by City Council. Documentation on vendor letterhead or on the sole source form (see Exhibit A) should be attached to the purchase order. Sole source documentation is valid for two years.

Section 12.04

Insurance

- All purchases of insurance related products are processed through the Department of Risk Management. Cities must seek competitive bids or proposals when purchasing insurance that will cost more than \$50,000. Chapter 252 of the TLGC does not specifically address the need to use a competitive bidding or proposals if a City's liability coverage is gained through participation in a group risk pool. Under State law, the coverage provided by risk pools is not considered to be insurance or subject to the traditional requirements applicable to insurance policies. Therefore, most risk pools take the position that statutory procurement requirements do not apply. (252.021, TLGC)

Section 12.05

Purchasing Cooperatives

- The City works with many purchasing cooperatives whose sole purpose is to source vendors for purchasers with the goal of offering a variety of goods and/or services with competitive pricing.
- A purchaser may use a vendor's co-op membership as purchasing compliance in lieu of obtaining quotes as long as:
 - The vendor's membership with co-op is current.
 - The quote AND invoice clearly notate co-op pricing along with the vendor's co-op contract number.
 - The City has a current relationship with the co-op.

13.0 Appendix

Section 13.01

PROCUREMENT CARDHOLDER AGREEMENT

Cardholder agrees to accept responsibility for the protection and proper use of the Procurement Card (P-Card) in accordance with the terms and conditions below:

Name of Cardholder:	Cardholder Business Address:
Cardholder Social Security Number:	Cardholder Business Phone Number:
Department Name & Number	
Supervisor's Name & Title	Supervisor's Phone Number:

1. Cardholder agrees to provide the supporting receipts from the vendor and a transaction log for each transaction as designated by the P-Card user under the City policies and procedures. Failure to report or document any purchase may be deemed an improper use of the P-Card.
2. If the card is lost or stolen, Cardholder shall notify the P-Card Coordinator immediately.
3. Cardholder's City shall be responsible for all charges, including fees and interest, incurred from the proper use of the Card.
4. **THE CARDHOLDER MAY NOT MAKE PERSONAL PURCHASES ON THE CARD.**
5. Cardholder understands that he/she shall be personally liable for any improper use of the P-Card and agrees to pay to the issuer of the card such use (such issuer shall be a third-party beneficiary under this agreement), other than improper use as the result of a lost or stolen card which was immediately reported, including fees and interest assessed against the improper purchase. Cardholder understands that his/her improper use of the P-Card may be cause for disciplinary action by the City including termination and that improper use of the P-Card may subject Cardholder to criminal prosecution. Cardholder understands that the City may withhold amounts attributable to improper use by Cardholder from any paycheck or other State of Texas warrant which may be payable to Cardholder.
6. Cardholder understands that this P-Card is authorized for the purchase of:

- a. P-Card- Commodities, capital outlay items and contractual service items limited to \$3,000 per purchase.
 - b. Basic P-Card with Travel Expense Option - Most travel expenses (in addition to commodities, capital outlay items and contractual services) limited to \$3,000 per purchase. Meals are prohibited P-Card transactions.
 - c. Automotive P-Card - Vehicle Fuel and minor vehicle repairs limited to 3,000 per purchase.
7. Cardholder understands that should his/her employment with the City terminate for any reason, the P-Card must be returned to the departments designated Buyer. Cardholder understands that the City may withhold his /her final paycheck until the P-Card is returned. Cardholder also understands that the City may withdraw authorization to use the P-Card and require the return of the P-Card at any time for any reason.
8. Cardholder understands that use of the P-Card is subject to individual card limitations on expenditures for use in official State business. All purchases must comply with State accounting and purchasing statutes, regulations and policies including all policies the City implements in the use of the Card. Items on State contracts may be acquired from the contract vendor with the P-Card. The following items **may not** be purchased with the P-Card; however, the list is not all inclusive:
- a. Alcoholic beverages
 - b. Business cards
 - c. Cash advances
 - d. Construction, renovation, or installation
 - e. Food/Meals
 - f. Hospitality or entertainment
 - g. Honorariums (including reimbursement of travel expenses) Incentive earnings (ward or inmate)
 - h. Personal items
 - i. Recruitment expenses
 - j. Weapons and ammunition (except for law enforcement purposes)
 - k. Any charges not considered reimbursable under the State Travel Expense guidelines.

If in doubt that a purchase is authorized under this agreement using the P-Card, Cardholder understands that he/she should seek prior approval from the City P-Card Coordinator. Such approval assumes proper use of the P-Card.

Cardholder acknowledges by his /her signature to this agreement, that he/she has received training in the proper use of the card; has received, read, and understands the City ' s P-Card Manual; and has read and understands this agreement.

Cardholders Signature: _____

Date: _____