



CITY OF COLLEGE STATION
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PURCHASING MANUAL

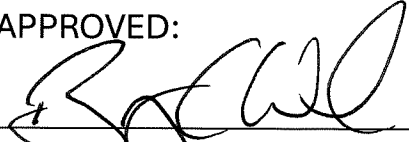


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THE CITY OF COLLEGE STATION PURCHASING MANUAL

EFFECTIVE DATE: 2/2/26

APPROVED:



City Manager

City of College Station Purchasing Manual

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PURCHASING MANUAL VERSION HISTORY

Policy Chapter	Section	Title	Purpose/Change Description	Effective Date
3. Ethical Standards	3.02	City Charter Article XII "Personal Interest" Section 116	Updated to fully reflect the most recent version of this section in the City Charter.	2.2.2026
	3.04	Employee Handbook "Code of Ethics" Section 2.00	Updated to fully reflect the most recent version of this section in the HR Employee Handbook	2.2.2026
	3.04	Employee Handbook "Ethics Hotline" Section 2.02	Updated to fully reflect the most recent version of this section in the HR Employee Handbook	2.2.2026
	3.05	Vendor Rewards Program	Added to safeguard against improprieties or the appearance thereof.	2.2.2026
	3.06	Nepotism and Purchasing	Added to safeguard against improprieties or the appearance thereof.	2.2.2026
5. Statutory and Legal Requirements	5.04	Public and Private Facilities and Infrastructure Act	Added to give reference to Appendix B - Public Private Partnership Program Guidelines.	2.2.2026
6. Procurement Card Policies and Procedures	6.02	Eligible Employees	Updated to further clarify who is not eligible to use a P-Card.	2.2.2026
	6.03	Departmental Cards	Updated to indicate who is not eligible to use D-Cards.	2.2.2026
	6.09	Using the Card	Updated to address technology purchases.	2.2.2026
	6.16	Personal Misuse	Updated to address the notification requirement for accidental misuse of the P-Card.	2.2.2026
	6.18	Use of Personal Credit Card	Added to restrict use of personal credit cards to pay for business-related expenses.	2.2.2026
7. Purchases \$100,000 or Less	Mult.	Mult.	Updated all references to the purchasing threshold that determines when a competitive bid or competitive proposal process is required.	2.2.2026
8. Purchases Exceeding \$100,000	Mult.	Mult.	Updated all references to the purchasing threshold that determines when a competitive bid or competitive proposal is required.	2.2.2026
	8.06	Authority to Reject Bids and Proposals	Added to reflect statute that authorizes Council to reject any and all bids.	2.2.2026
	8.07	Exceptions to Competitive Procurement Procedures	Expanded this section section to address sole source purchases in detail.	2.2.2026
9. Procurement of Personal, Professional, or Planning Services	9.04	Request for Qualifications	Updated threshold that determines when an RFQ process is required.	2.2.2026
	9.04	Request for Qualifications	Added new paragraph to address conflict of interest prevention and ensure fair competition.	2.2.2026
	9.05	Exceptions to Architectural or Engineering Requirements	Expanded to give reference to Section 1001.407 of the Texas Occupations Code.	2.2.2026

Policy Chapter	Section	Title	Purpose/Change Description	Effective Date
	9.09	Authority to Reject Proposals and Statements of Qualifications	Added to address the methods for which proposals or statements of qualifications solicited under Texas Government Code 2254 shall be rejected.	2.2.2026
10. Procurement of Construction Services	10.01	General	Updated threshold amount that determines when a competitive bid or competitive proposal process is required.	2.2.2026
11. Alternative Procurement Methods for Construction Services	11.03	Facilities Construction	Updated to include additional language from Texas Government Code 2269 in regard to weighted criteria, delegated authority and deadline to make scores public.	2.2.2026
13. Change Orders and Change Order Routing Procedures	13.02	Changes to Materials, Equipment, Supplies, other Commodities, and General Services	Updated references to certain contract amounts to align with the new threshold that determines when a competitive bid or competitive proposal process is required. Deleted portions of this section that no longer applies.	2.2.2026
15. Contract Routing Procedures	15.02	Delegation of Authority - City Council	Updated to include Vendor and Sponsorship agreements	2.2.2026
	15.03	Manual Routing	Updated to remove and replace outdated procedure.	2.2.2026
17. Other General Purchasing Policies and Procedures	17.02	Advertisement	Updated to reflect the use of the online bidding system as and additional method for advertising formal solicitations.	2.2.2026

CHAPTER 1: INTRODUCTION

1.01 General

This manual has been prepared to inform and instruct each department, division, and their staff of the many methods of procurement and duties and responsibilities of all those involved in the purchasing process.

1.02 Policy Statement

The City shall make expenditures to promote the best interests of the citizens of College Station. The City shall encourage free and unrestricted competition on all purchases, ensuring the taxpayers the best possible return on and use of their tax dollars. It shall be the policy of the City to fully comply with and make purchases or expenditures pursuant to this manual which includes policies, rules, regulations, procedures, state and federal law.

1.03 Goals and Objectives of Public Purchasing

The goals of public purchasing:

- Purchase quality goods and services.
- Obtain the best possible price for goods and services.
- Encourage and promote interlocal cooperation among area agencies.
- Accept delivery of goods and services when and where needed.
- Assure a continuing supply of needed goods and services.
- Guard against any misappropriation of any assets procured.

Additionally, we are committed to ensuring that:

- Responsible bidders are given a fair opportunity to compete for the City's business. This is done partially by the statutory requirements for competitive bids and proposals, and partially by the City's own purchasing procedures.
- Public funds are safeguarded. Although the Purchasing division does not usually designate the types of purchases to be made, it should see that the best value is received for the public dollar.

1.04 Centralized Purchasing

The Purchasing division, a division of Fiscal Services, is the central authority for all purchasing activity \$3,000 and greater. Some benefits of centralized purchasing include:

- A professional staff of buyers that are knowledgeable on the statutory requirements of public purchasing.
- Purchasing division personnel accumulate a solid foundation of knowledge and experience about public purchasing trends, prices and vendors.
- Allows for the consolidation of smaller expenditures by individual departments into larger purchases for the entire City, resulting in lower unit prices and savings.
- Existing and potential vendors have a single, central link to the City procurement process to facilitate consistent communication and understanding.
- Promotes a more efficient procurement process which will inspire public confidence in the public expenditures made by the City.

1.05 Conclusion

This manual cannot address every situation. User departments are strongly encouraged to consult with the Purchasing division for needs or situations that may not be explicitly addressed in this manual. When an unusual situation occurs or a difficult legal problem arises, the City Manager, or his designee, may approve exceptions to this Policy, when in the best interests of the City, so long as the proposed exceptions are consistent with local, state, and federal laws. The *final* authority for City purchasing procedures is the law itself.

CHAPTER 2: DEFINITIONS

2.01 General

The following definitions are intended to assist you in understanding the language used throughout this manual. When using this manual, if you find a word or words that you may not clearly understand and it is not defined in this section, please do not hesitate to contact someone in the Purchasing division for clarification and/or interpretation.

2.02 Definitions

Addendum - a formal written modification or clarification to an invitation to bid or request for proposal. An addendum amending the solicitation may be issued after the solicitation is released but prior to the deadline for receipt of bids/proposals.

Award - approval by the City Council, City Manager, Assistant City Manager or their designee, under whose authority a grant, purchase order or contract is executed.

Best Value (LGC 252.043) - if the sealed competitive bidding requirement applies to the contract for goods or services, the contract may be awarded to the lowest responsible bidder (see definition or to bidder who provides goods or services at the best value for the City. In determining the best value for the City, we may consider:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the City's needs;
- the bidder's past relationship with the City;
- the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities;
- the total long-term cost to the City to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

Bid Advertisement - a public notice put in a newspaper of general circulation or posted to the City's online bidding portal, containing basic information about the solicitation including the time and place the bids/proposals will be opened and acknowledged.

Bid List - a list of contractors who have registered at the City's online bidding portal, indicating an interest in submitting bids for particular categories of goods and services.

Bonds

- **bid bond** - a bond required of a contractor that ensures that the general contractor will enter into the contract for which a formal written or electronic bid and/or proposal has been submitted.
- **payment bond** (GC 2253) - a bond required that ensures that all suppliers and subcontractors of the contractor will be paid for work and/or material supplied during the contract.
- **performance bond** (GC 2253) - a bond required that guarantees contractor performance during the execution of the contract.

Capital Equipment - property with a useful life of three years and a purchase cost of at least \$5,000.

City Council - the government body of the City of College Station, Texas, given the authority to exercise such powers as conferred by the City Charter and State of Texas Constitution and Laws.

CityHUB – the City’s intranet (internal website).

Commodity Code - a specific group of goods or services categorized into distinct classes that have been assigned a numerical reference number within the purchasing and inventory system.

Competitive Bidding - the process wherein a contractor openly competes with other contractors, through a formal or informal process, for the City’s business.

Component Purchases - purchases of component parts, that in normal purchasing practices would be purchased in one purchase.

Consulting Services - the service of studying or advising the City under a contract that does not involve the traditional relationship of employer and employee.

Contract - an agreement between the City and a Contractor to furnish supplies and/or services over a designated period of time, during which purchases are made of the commodity or scope of work specified.

Contract Routing Form - when routing contracts, renewals, change orders, interlocal agreements, etc., a contract routing form is required. The contract routing form should include the following information: contract number, solicitation number (if applicable), contract description, name of contractor, contract value, grant information (if applicable), budgetary and financial information, contract review date (if applicable) and City Council approval date (if applicable).

Contractor - the vendor(s) awarded a contract.

Cooperative Purchasing Contract(s) - the City participates in various local, state and national purchasing cooperative agreements. Generally, these contracts have satisfied the City’s requirement to solicit competitive bids or proposals and the City must be confident they have satisfied the statutory requirements for competitive bidding. However, the City Council must expressly authorize the expenditure of funds over \$100,000.00.

Delivery Date - the date by which goods or services are needed.

Emergency (LGC 252.022) - purchases that are made to meet a critical, unforeseen need of the City, where the City’s ability to serve the public would be impaired if purchase is not made immediately. Emergency

purchases are exempt from standard purchasing procedures and must qualify for exemption as outlined in Texas State law.

Encumbrance - the process wherein the City reserves funds for the purchase of supplies, goods, services, and equipment in one budgetary-accounting period, and pays for the purchase in another budgetary-accounting period.

Expedite - when the purchasing process is accelerated through normal procedures in order to prevent work stoppage or loss of the City's money.

FOB Destination - Free on Board (FOB); the contractor pays freight charges to the destination; title to goods passes to buyer at the City's receiving dock; freight claims must be filed and handled by the seller.

FOB Shipping - Free on Board (FOB); shipment becomes 'collect' from seller's shipping dock; freight charges may be prepaid and added to the invoice; City pays freight charges; title to goods passes to buyer at the shipping dock of seller; freight claims must be filed and handled by buyer.

Goods - a generic term that includes all types of personal property to be purchased by the City; equipment, supplies, materials, component and repair parts.

Grant - an award of financial assistance in the form of money or property that does not require repayment. Recipients must comply with program requirements and reporting obligations.

Invitation to Bid - this is a formal written document that requests from bidders a firm price and delivery details for specified merchandise listed in the terms, conditions and specification of the bid documents.

Lowest Responsible Bidder - this is the contractor who offers the lowest bid which meets all the specifications, requirements, terms and conditions of the Invitation to Bid. It is expressly understood that the lowest responsible bid includes any related costs to the City, using a long-term concept. The term "responsible" refers to the financial and practical ability of the bidder to perform the contract and being considered "responsible" in accordance with the City's debarment. The term includes the experience or safety record of the contractor.

MUNIS – the City's enterprise resource planning (ERP) software solution that integrates finances, payroll, human resources, purchasing, fixed assets, etc.

Online Bidding Portal – same as Brazos Valley e-Marketplace. A secure, web-based procurement platform utilized by the City to advertise solicitations and to manage and receive electronic bid or proposal submittals in compliance with procurement laws and regulations.

Personal Services - services provided to the City personally by a particular individual. Any contribution of machinery and equipment compared to total cost must be substantially less than the contribution of wages.

Planning Services - services primarily intended to guide the City to ensure the orderly and coordinated development of land areas.

Primary Vendor/Contractor – primary vendor is the vendor of first choice or first recourse which is awarded a contract to provide goods or services to the City when award is made to multiple vendors.

Procurement Card/Departmental Card - a City credit card that allows employees in each department to expedite the acquisition of goods and services that do not exceed \$2,999.99 (or cardholder's designated single purchase limit) and provides for the electronic payment of these departmental purchases. Procurement Card usage is the preferred payment method for qualified purchases that do not exceed \$2,999.99. A Procurement Card (P-Card) is issued in the name of an individual employee, and a Departmental Card (D-Card) is issued in the name of a department.

Professional Services - services rendered by a person or firm that require years of education and service for one to attain competence and which calls for high order of intelligence, skill and learning. (Mental or intellectual skills, rather than physical or manual).

Public Work Contract – a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

Purchase - an act that includes the acquisition of goods or services, to include the act of leasing personal or real property. Separate, sequential, and component purchases shall be treated as a single purchase.

Purchasing - the act, function, and responsibility for the acquisition of goods and services.

Purchasing Division - a division of Fiscal Services that is responsible for assisting all departments with the acquisition of goods and services to support their departmental mission.

Purchase Order - a purchase order is a formal, binding, legal agreement issued by the City's Purchasing Division and may be used in lieu of written contract for commodity purchases. A purchase order is requested by a departmental requisition that details the merchandise or services required. When accepted by a contractor without qualifications within a specified time period, the agreement becomes a contract. A Purchase Order grants the contractor the authority to deliver the goods or services and invoice for the same. It is the City's commitment to accept the goods or services and pay for them at the agreed price. A purchase order encumbers/reserves funds and is required for all expenditures of \$3,000 or more.

Request for Check- a Request for Check (RFC) is used at the department level as a means to expedite the acquisition of goods and services with a total cost not to exceed \$2,999.99 through issuance of a physical check or electronic payment.

Request for Proposal - a formal written document requesting that potential contractors make an offer (proposal) for goods or services to the City. Price is an essential evaluation criteria, but the RFP may stipulate other criteria and their relative importance. At least one of the following statutes must be followed when utilizing the RFP method of procurement:

- LGC 252.021(b) – goods and services
- LGC 252.043(d-1) – civil construction of \$1.5 million or less
- GC 2254.003 – professional services (other than A/E)
- GC 2269.151 – construction, rehabilitation, alteration, or repair of a facility. A “facility” means an improvement to real property.

Request for Qualification (Government Code 2254.004) - a formal written document used when soliciting providers of architectural, engineering or land surveying professional services. The City shall comply with Government Code 2254.004 in the procurement of these services. The City must first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications. After a firm has been selected based on qualifications and experience, then a fair and reasonable fee shall

be negotiated. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying professional services, the City shall formally end negotiations with that firm and select the next most highly qualified firm and begin negotiations with that provider for a fair and reasonable price.

Requisition - the source document for all purchasing activity. This form communicates a department's needs to the Purchasing Division and authorizes the Purchasing Division to enter into a contractual relationship for delivery of the goods and/or services. A requisition is for communicating internal requirements and should not be used by the departments for the order and delivery of goods and/or services. The department requisition must be approved in accordance with the department's approval hierarchy.

Reverse Auction - single or multiple-item, open, descending-price auction. The initiator specifies the opening bid price and bid decrement. Each bidder submits a successively lower bid. At the end of the auction, bidders with the lowest bids win. Each winning bidder sells at a price equal to the bid he/she made.

Secondary Vendor – vendor that only serves in a backup capacity if the Primary Vendor is unable to honor the terms and conditions of the contract when requested.

Separate Purchases - purchases made separately of items that in normal purchasing practices would be purchased in one purchase.

Sequential Purchases - purchases made over a period of time of items that in normal purchasing practices would be purchased in one purchase.

Services - a generic term to include all work or labor performed for the City on an independent contractor basis, including maintenance, construction, manual, clerical or professional services.

Sole Source (LGC 252.022) - purchases of goods or services that are available from only one source. There may be just one vendor because of patents, copyrights, secret processes, or natural monopolies. These purchases are exempt from the standard bidding requirement and must qualify as outlined in State or federal Law. Sole Source Exemption Form is required.

Specifications - statements containing a detailed description of the terms of the contract, as well as specific details for the goods and/or services. The details or specifications should be descriptive, but not restrictive.

Surplus - item(s) no longer needed by a department, regardless of its value or condition.

User Department – any City department/division requiring goods and/or services.

Vendor - a generic term applied to individuals and companies alike, who provide goods and services to the City.

CHAPTER 3: ETHICAL STANDARDS

3.01 General

Public employment is a public trust. Public employees must discharge their duties impartially so as to assure fair competitive access to City procurement by responsible contractors. Moreover, public employees should conduct themselves in such a manner that fosters public confidence in the integrity of the City of College Station procurement process. To achieve this purpose, it is essential that those doing business with the City of College Station also observe these ethical standards.

3.02 City Charter Article XII “Personal Interest” Section 116

Section 116, of the *City of College Station City Charter*, shall apply to all purchases or contracts entered into by any employee or officer of the City of College Station, and reads as follows:

“No member of the City Council shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the City, or be financially interested, directly or indirectly, in the sale to, or purchase from, the City of any land, materials, supplies or services except on behalf of the City; provided, however, that the provisions of this section shall only be applicable when the stock owned by the member of City Council exceeds one percent (1%) of the total capital stock of the corporation. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the City shall render the contract voidable by the City Council or City Manager.”

3.03 City Charter Article XII “No Officer or Employee to Accept Gifts” Section 117

Section 117, of the *City of College Station City Charter*, shall apply to all purchases or contracts entered into by any employee or officer of the City of College Station, and reads as follows:

“No officer or employee of the City of College Station shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying the grant of any franchise, privilege or easement from the City during the term of office of such officer, or during the employment of such employee, except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free services where the same if permitted by ordinance. Any officer or employee of the City who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense and shall forthwith be removed from office.”

3.04 Employee Handbook “Code of Ethics” Section 2.00

Section 2.01 Code of Ethics states that all employees of the City of College Station shall adhere to the following standards:

- *Uphold the Constitution and laws of the United States and State of Texas and the laws, ordinances and policies of the City of College Station.*
- *Be honest and trustworthy in all they say and write.*
- *Act in the service of the public interest, and never in ones’ own self-interest, and actively avoid even the appearance of conflict between the public interest and self-interest.*
- *Be dedicated to providing quality services.*
- *Be cooperative, constructive, and efficient in the use of all City resources.*
- *Be fair, considerate and respectful in the treatment of City employees and customers, addressing concerns and needs with equity, granting no special favors.*

- *Be committed to accomplishing all tasks with excellence, and refrain from behavior that may tarnish the City's image.*
- *Recognize that public and political decisions are ultimately the City Council's responsibility.*
- *Be dedicated to service to improve the quality of life in the City of College Station.*

The City specifically prohibits bribes, kickbacks, and other unlawful payments. Employees shall report to a supervisor, department director, the Human Resources Department, or any other management team member immediately any unlawful or unethical activities of employees, officers, vendors, contractors, suppliers or consultants, or employees may use the City's Ethics Hotline. The City will investigate complaints, and will protect from retaliation all employees who report violations or cooperate in investigations. Engaging in or failing to report unlawful or unethical activities will result in disciplinary action up to and including termination.

Section 2.02 Ethics Hotline

The City has established an Ethics Hotline and a strict non-retaliation policy to encourage and protect employees who report ethics violations and to promote a culture of legal and regulatory compliance. In addition to encouraging employees to report problems and concerns to their supervisors, departmental management, the Human Resources Director, or any other member of management, the Ethics Hotline provides a confidential process for reporting potential violations of laws, regulations, policies or procedures in a manner that protects the reporter's identity to the extent allowed by law.

The website address (cstx.ethicspoint.com) and telephone number (844-686-0991) are posted conspicuously in City building common areas. The Ethics Hotline is available to all employees 24 hours a day, 365 days a year.

The City will protect from retaliation employees who report ethics violations in good faith using the Ethics Hotline. The City's Ethics Hotline is not a law enforcement authority.

The City strongly encourages employees to report problems and concerns through their chain of command or to Human Resources. Employees should use the Ethics hotline when special circumstances exist, or if there is reason for concern when using normal reporting channels.

The Ethics Hotline is answered live 24 hours a day, 365 days a year, by a third-party vendor's employees. Vendor employees debrief callers and report all information they receive. City employees shall not use the Ethics Hotline to make frivolous reports, such as complaints about hurt feelings or bad coffee. Misuse of the Ethics Hotline to make malicious reports the City determines to be false may lead to disciplinary action up to and including termination.

Any City employee with knowledge of a potential violation of law, regulation, or policy has an affirmative duty to report that information through their chain of command, the Human Resources Director, or the Ethics Hotline. Failure to report a potential violation may result in disciplinary action. Employees should make claims of discrimination or harassment through the chain of command or directly to Human Resources.

An employee making a report will be assigned a confidential number and directed to contact the hotline in ten (10) business days for any required follow-up. At that time, the employee will receive information regarding the status of the investigation, and any additional requests for information.

3.05 Vendor Rewards Programs

Rewards offered from vendors based on purchases could reasonably be viewed as a means of influencing or rewarding a City official or employee in how they carry out their official duties for the City. To safeguard against improprieties or the appearance thereof, no officer or employee of the City shall participate in vendor rewards programs that offer cash, gifts, or other items of value based on City purchases.

3.06 Nepotism and Purchasing

To safeguard against improprieties or the appearance thereof, Purchasing staff shall not participate in procurement related activities for City departments in which an immediate family member is employed. Purchasing activities include but are not limited to: requisition entry, requisition conversion to purchase orders, conducting formal bid processes, and contract administration. Additionally, Purchasing staff who have an immediate family member employed in another City department are not permitted to make any changes to that family member's procurement card account, including but not limited to: adjusting credit limits, and requesting or issuing replacement cards.

3.07 Bidder Conduct

To ensure a fair, equitable and competitive bid process for all participating Bidders, during the No-Contact period, Bidders and individual(s) acting on a Bidder's behalf are prohibited from communicating with any City official, City employee or City agent other than the authorized contact person(s) in the Purchasing Division. This prohibition expressly includes any communication with any City Official, City employee or City agent that is intended to or that is reasonably likely to:

- Advance the interests of the Bidder;
- Discredit the bid of another Bidder;
- Encourage the City to cancel the Bid process;
- Encourage the City to reject all of the bids received; or
- Directly or indirectly ask, influence or persuade any City official, City employee, City agent or City board, committee or body to favor or oppose, recommend or not recommend, vote for or against, consider or not consider, or take action or refrain from taking action on any vote, decision or agenda item regarding the Bid.

Bidders may be disqualified and rejection of Bid may be recommended for violating this provision. Further, Bidders violating this section may be subject to the City's Vendor Suspension and Debarment Policy.

This prohibition does not prevent a Bidder from filing a formal bid protest in accordance with the City's policy and procedures, making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action or to a City Council committee convened to discuss a recommendation regarding the Bid.

CHAPTER 4: DUTIES AND RESPONSIBILITIES

4.01 Purchasing Division

The purpose of the Purchasing Division is to:

- Recommend to the City Council, City Manager and Assistant City Manager/CFO those policies and procedures needed to ensure that goods are acquired, stored, disbursed, utilized, and disposed of in a uniform and economical manner.

- Aid all departments and divisions in understanding established purchasing and warehousing policies and procedures in order to ensure that they are consistently followed.
- Assist all departments and divisions in any procurement needs.

Responsibilities of the Purchasing Division include:

- Coordination of all legal advertising, solicitations, pre-bid conferences, bid openings, and assist the departments in presentation of awards to City Council for all materials, supplies, and construction contracts.
- Assist City departments to develop quality and quantity specifications for goods and services to be purchased along with required delivery schedules.
- Encourage competition between vendors through negotiations, competitive bidding, and quantity buying by continuously monitoring requisitions by all departments to facilitate consolidation of purchases where possible.
- Solicit evaluation and recommendations from departments on bids received from suppliers.
- Explore the use of cooperative purchasing programs with the State of Texas and other local government units.

4.02 City Departments

The purpose of each City department is to:

Promote the safety, health and general well-being of the citizens of College Station within the bounds of fiscal responsibility, while preserving and advancing the quality of life for all its citizens.

Responsibilities of each City department include:

- Requisition items with a complete, clear, concise description of the item(s) or service(s) requested including estimated quantities.
- Assist the Purchasing Division with specifications that require an engineering or technical background.
- Supply Purchasing staff with a list of anticipated requirements in advance.
- Inform Purchasing of any abnormal or unusual demands.
- Allow sufficient time for the Purchasing Division to issue a purchase order and the vendor to make delivery.
- **Do not obligate the City without a Purchase Order, except for emergency or expedited purchases, as outlined in this manual.**
- Provide sufficient internal controls with separation of duties (where feasible) for requisition entry, requisition approval, and receiving for goods and services.

CHAPTER 5: STATUTORY AND LEGAL REQUIREMENTS

Below are summaries of the more commonly used statutes that govern the City's procurement processes:

5.01 Purchasing and Contracting Authority for Municipalities

Local Government Code, Chapter 252 has the competitive bidding requirements and the exceptions to competitive bidding. It also provides that certain municipal charter provisions prevail over the statute. It covers areas such as public notice requirements, awarding bids, time warrants, changes to plans and

specifications, *the alternative competitive proposal for goods, services and civil construction contracts for \$1.5 million or less*. This chapter also includes enforcement provisions including civil and criminal penalties for violations.

Government Code, Chapter 2269, governs the contracting and delivery procedures for facility construction contracts including alternative delivery methods for certain projects. When entering into a construction contract for a public facility, the City may use alternative methods that provide best value for the City. However, the City must, before advertising, first determine the method that provides best value.

5.02 Professional Services Procurement Act

Government Code, Chapter 2254 states that contracts for the procurement of defined professional services may not be awarded on the basis of bids. Instead, they must be awarded on the basis of demonstrated competence and qualifications, so long as the professional fees are consistent with, and not higher than the published recommended practices and fees of the various professional associations and do not exceed any maximums provided by law.

5.03 Bonding

Government Code, Chapter 2253 requires payment and performance bonds for contracts on certain public works projects and sets the standards for when the bonds are required and the amount of the bond.

5.04 Public and Private Facilities and Infrastructure Act

Government Code, Chapter 2267 allows for partnerships between public and private entities as an alternate method of procurement to expedite the timing and reduce the costs of such projects.

Refer to Appendix B for the City's adopted Public Private Partnership Program Guidelines.

5.05 Cooperative Purchasing

Government Code, Chapter 791, also known as the Interlocal Cooperation Act, authorizes local governments to enter into cooperative purchasing agreements and other agreements for government functions.

Local Government Code, Chapter 271, Subchapter D provides for the extension of state contract prices/bids to participating local governments when the General Services Commission considers it feasible.

Local Government Code, Chapter 271, Subchapter F allows the City to participate in a cooperative purchasing program with another local government or a local government organization.

Local Government Code, Chapter 271, Subchapter G allows the City to purchase goods or services available under Federal supply schedules of the United States General Services Administration (GSA) to the extent permitted by federal law.

See Chapter 18 – Interlocal Cooperative Purchasing Agreements for more information regarding cooperative purchasing.

5.06 Prompt Payment Act

Government Code, Chapter 2251 stipulates that the City shall pay all payments owed not later than 30 days after the goods or services are received, or the date that the invoice is received, whichever is later.

This act also requires that when payment is not made as required, the City shall automatically add interest to the payment at the rate of one percent per month.

5.07 Sale or Lease of Property

Local Government Code, Chapter 253 and 272 governs the terms, conditions and notice requirements which the City may convey, lease or sell real property owned by the City.

5.08 City Attorney Approval

In addition to the statutory requirements provided in this chapter, the following administrative legal requirements must be adhered to:

Review by the City Attorney

The City Attorney shall review all documents, contracts, and legal instruments in which the City may have an interest. Departments should allow at least ten (10) working days for the review of changes to standard contracts and at least thirty (30) working days for the review of all other non-standard documents.

Previously Reviewed Terms and Conditions

Purchase orders, supply agreements and contracts containing only City of College Station standard terms and conditions, which have once been approved by the City Attorney, are considered to have been reviewed by the City Attorney.

Contract Review Committee

Modified standard contracts, non-standard contracts, or any agreement bearing any special terms and conditions, not previously approved by the City Attorney, shall be submitted for approval by a contract review committee. This committee consists of representatives from Legal, Risk Management, Purchasing and the contracting User Department.

CHAPTER 6: PROCUREMENT CARD POLICIES & PROCEDURES

6.01 General

The Procurement Card Program (Program) is designed to streamline and create efficiencies within the purchasing process for small dollar purchases as well as travel-related expenses. The Program is intended to give authorized City employees the power to procure business related goods or services directly from vendors, while at the same time reducing the time and effort normally associated with ordering and paying for these types of purchases. Cardholders are expected to comply with the policies and procedures contained in this chapter and with the City's Purchasing Manual.

The City utilizes two types of procurement cards: Individual procurement cards (P-Cards) and Departmental procurement cards (D-Cards). P-Cards are issued to specific employees and D-Cards are issued to a department and assigned to a custodian. This policy applies to both types of procurement cards unless otherwise noted.

6.02 Eligible Employees

Department directors and division managers may recommend full-time and part-time employees, whose responsibility includes routine purchases of business-related goods and services, to receive an individual procurement card (P-Card) embossed with that employee's name as well as *The City of College Station*. An individual should only be assigned a P-Card after completing the application form, attending a training

class, and signing a Cardholder Agreement Form. **Temporary hires, interns and volunteers are not eligible - No exceptions.**

The P-Card is issued to one employee only. Authorization to use this card is strictly limited to the employee whose name is embossed on the card. As a cardholder, the employee is responsible for the appropriate use of City funds. Although the P-Card is issued to the employee, it remains City property and may be rescinded at any time. The employee should use the P-Card only for the types of purchases described in this guide and approved by their supervisor.

6.03 Departmental Cards

A departmental card (D-Card) may be utilized by employees whose volume of purchases are so low that assigning individual procurement cards (P-Card) are not justifiable. Use of D-Cards may also be recommended for new employees during their probationary period. Department directors and division managers may request one or more D-Cards be issued to their department and assigned a custodian. **Temporary hires, interns and volunteers are not eligible to use D-Cards. No exceptions.**

Utilizing a sign-in/sign-out log provided by the Program Administrator, the custodian is responsible for controlling access to the D-Cards and authorizes employees to use them on an as-needed basis. Authorization to use a D-Card is restricted to the employee signing for the card. D-Cards shall not be signed out to employees who have not completed a training class and have not signed a Cardholder Agreement Form.

The employees who use a D-Card are responsible for all transactions made with the card while signed out to them or while otherwise in their custody and must return the card to the custodian no later than one (1) business day following completion of transaction(s). Authorization to make expenditures with a D-Card is strictly limited to the employee who has signed-out the D-Card. Employees who are issued an individual P-Card should not use D-Cards except in emergency situations with director approval.

6.04 Card Limits

Spending limits should be commensurate with the cardholder needs. The transaction limits and monthly credit card limits are dependent upon the requirements of the Cardholder's position and function. Limits vary according to levels or budget authority, discretion of the Director, and type of purchases required by the job.

Currently, the City offers four levels for procurement card limits:

Level	Monthly Credit	Single Transaction
1	\$10,000	\$2,999
2	\$ 5,000	\$1,500
3	\$ 3,000	\$1,000
4	\$ 1,000	\$ 500

Department directors may request a temporary or permanent change to a Cardholder's assigned level by submitting their request in writing to a Program Administrator. Under no circumstance shall the new single/monthly limits exceed the maximum allowable limit level available to Cardholders.

For exceptionally unique and/or emergency situations, and when in the City's best interest, a Department Director may request an increase to a Cardholder's level of single/monthly limits that exceeds the maximum allowable to Cardholders. Such requests, including detailed justification for the request, must be submitted in writing to the Fiscal Services Director for approval. If approved, the increase will be temporarily in effect for a defined period of time after which the Cardholder's limits will be immediately returned to their prior fixed amounts.

6.05 Program Administrator Responsibilities

The City has appointed Program Administrator(s) (PAs) who serve as the liaison between the cardholders and the Bank. Additionally, the PA's responsibilities include:

- Establishing cardholder accounts and authorization controls;
- Providing instructions, training and assistance to cardholders and approvers;
- Maintaining proper documentation and storage of imaged receipts, logs and approvals;
- Authorizing payment to JPMC in accordance with City policies, procedures and the Prompt Payment Act; and
- Immediately notifying the Finance Director of any suspected abuse or fraudulent activity.

6.06 Supervisor Responsibilities

The cardholder's supervisor, manager, or manager designee is responsible for approving transactions and verifying that related receipts and documentation are submitted. Transactions must be approved in MUNIS at least weekly, thus indicating the transaction is valid (see Segregation of Duties below).

The supervisor is also responsible for obtaining P-Cards from cardholders upon their exit from the City (resignation or termination) and destroying the cards. PA's shall be notified of exiting employees so their P-card accounts can be immediately closed.

6.07 Cardholder Responsibilities

The cardholder promises to comply with the program rules and regulations by signing a Cardholder Agreement Form. Additionally, the cardholder is responsible for:

- Upon receipt of the card, contacting JPMC to activate the card;
- Holding and securing the card;
- Ensuring sales tax is not charged;
- Receiving and inspecting all ordered materials for discrepancies (resolving discrepancies directly with the vendor first);
- For each transaction made, indicating the General Ledger account number(s) (Org/Obj) that will be used to pay for the purchase;
- Saving all itemized sale receipts and submitting them daily;
- Legibly signing/printing name on all itemized sales receipts for purchases made with a D-Card;
- Using the card for City related business only, in accordance with city, state and federal policies, procedures and laws; and
- Immediately reporting any fraudulent use as well as lost or stolen cards to JPMC and the City's PA.

6.08 Segregation of Duties

In order to ensure proper internal controls, each department must maintain a separation of duties for the electronic review and approval of all transactions in MUNIS including the following:

- Department-designated P-Card entry staff will “review” both P-Card and D-Card transactions in MUNIS by adding the General Ledger account number(s) (Org/Obj), purchase description (to include the first initial and last name of the purchaser if the purchase was made with a P-Card) and attach receipts to the appropriate transactions.;
- Cardholder supervisor(s), or designee, must electronically “approve” transactions in MUNIS;
- Under no circumstances should the same individual be the “reviewer” and the “approver”, and;
- Under no circumstances should anyone designated as an “approver” approve their own transactions.

6.09 Using the Card

The procurement card is a supplement to the purchasing process. Use of the card is not intended to replace effective procurement planning which enables volume discounts nor is it intended to preempt City policies and procedures or state law. The procurement card is intended for approved purchases that benefit the City of College Station. Examples of the type of purchases where the procurement card should be used include:

- Maintenance, repair and operational supplies;
- Newspaper and magazine subscriptions, books;
- Seminars, training, memberships, registration;
- Travel expenses and meals (transactions must also comply with the City’s Travel Policy)
- Some services purchased on an irregular or non-routine basis (consult with the Purchasing Division prior to acquiring services with a procurement card); and
- Office and food supplies.

Purchases **shall not be split** to circumvent other accounting and procurement regulations. Charging personal expenses, even if the intent is to reimburse the City later, is prohibited. Procurement cards shall not be used for:

- Cash advances and/or cash refunds;
- Alcoholic beverages;
- Electronic communications and technology resources as defined in the IT Handbook (Ex: desktops, laptops, tablets, monitors, software, printers, cellular phones, etc.)
- Charitable, civic, political or religious organizations;
- Court costs and fines;
- Capital equipment;
- Separate, sequential or component purchases; or
- Items for which the City has established annual purchasing agreements.

When placing an order, the employee should provide the vendor with the following information:

- Identify himself/herself as a City employee;
- Provide the City tax exemption number which is pre-printed on the card indicating the City is tax-exempt;
- Indicate that it is a procurement card purchase;
- Provide the cardholder name;
- Individual card number (point-of-sale (swiped) cards are the preferred method of presentation);
- Expiration date of card;
- Description of goods or services to be ordered;
- Complete delivery address including building and room number, if applicable;

- Billing information, if requested, is:
PO Box 9960
College Station, TX 77842
- Any other information necessary to make the purchase successfully.

6.10 Transaction Reconciliation

With the authority to purchase specific goods and services comes the responsibility to maintain adequate documentation at the source of the transaction. An **itemized** sales receipt shall be retained, scanned and attached to the transaction in MUNIS for supporting documentation.

Each Friday, the transactions of the previous week must be reviewed, edited, approved and all invoices/receipts or other documentation including travel expense reports must be scanned and attached to the individual transaction in MUNIS.

Because the end-of-month reconciliation may be abbreviated due to the timing of the JPMC billing cycle, transactions occurring at the end of a month must be reviewed and approved within five (5) business days of the following month.

6.11 Sales Tax

The City of College Station is tax exempt. The City's tax-exempt number is 74-6000534 and this number is printed on each card. The cardholder is responsible for ensuring compliance with this tax exemption and will be responsible for ensuring credit for any tax erroneously applied. When traveling, hotel charges, food charges and fuel charges will most likely be properly taxable.

6.12 Discrepancies and Dispute Procedures

The cardholder is responsible for following up with a vendor for any erroneous charges, disputed items, or returns. A cardholder may dispute a charge that appears on their account. Disputed charges can result from failure to receive goods or services, fraud or misuse, altered charges, defective merchandise, incorrect amounts, duplicate charges, credits not processed, etc. ***The cardholder should contact the vendor first to resolve any outstanding issues. Most issues can be resolved this way.***

If the cardholder is unable to reach an agreement with the vendor, he/she should initiate a dispute by contacting JPMC by calling the 1-800 number on the back of the card. The cardholder's next statement will be reduced by the amount of the disputed charge until the issue is resolved. A resolution from JPMC will appear in 90 days. In the event of an audit, the cardholder must prove that a dispute is in process.

6.13 Lost or Stolen Procurement Cards

It is the responsibility of the cardholder to immediately report a lost or stolen procurement card directly to JPMC at 1-800-270-7760. The cardholder is also responsible for notifying their supervisor and a Program Administrator. During business hours, a Program Administrator may assist the employee with reporting the lost/stolen card to JPMC and deactivating the card. Fraudulent transactions that may occur before the card is cancelled will be disputed.

- The City is responsible for all transactions until the card is reported lost or stolen.
- Unauthorized use of the card may be reported to the College Station Police Department if criminal activity is suspected.
- ***The cardholder's quick response reduces the risk of fraud.***

6.14 Canceling Procurement Cards

An employee's supervisor may cancel a card for any employee at any time for any reason by destroying the card and notifying a PA.

6.15 Renewal of Existing Procurement Cards

Renewed procurement card(s) are sent automatically to a PA 30 days prior to the expiration date of the card. The PA will notify the appropriate cardholders when cards are available to be picked up. Cards must be picked up and signed for within 10 business days after notification. P-Cards may only be picked up by the cardholder whose name is embossed on the card. Only designated D-Card custodians are permitted to pick up renewed D-Cards.

6.16 Misuse of the Procurement Card

The procurement card represents the City's trust in the employee and his/her empowerment as a responsible employee of the City of College Station to safeguard and protect its assets. As a cardholder, each employee assumes the responsibility for the protection and proper use of the procurement card including timely reconciliation.

Cardholders suspected of fraud, theft or misuse will have their card(s) suspended or terminated. Further, appropriate disciplinary actions will be taken against the employee in accordance with City policies and procedures.

Personal Misuse

The following are a few examples of personal misuse of the procurement card:

- Purchases using the card for the sole benefit of the employee or the employee's family or friends;
- Purchases of clothing, food or entertainment not authorized by the employee's department;
- Assignment, transfer, or "loaning" of a procurement card to an unauthorized person;
- Use of a procurement card by a suspended or terminated employee.

These examples may indicate negligence on the part of the cardholder when no apparent fraudulent acts have been committed. Cardholders who recognize they have inadvertently used their City-issued P-Card or D-Card for a personal purchase must immediately notify their department supervisor and director, and a Program Administrator. Following the Fiscal Services Director's review of personal misuse, the cardholder may be subject to the following:

- Being required to reimburse the City for unauthorized purchases and provide documentation proving reimbursement within two weeks or other specified time period;
- Attending additional P-Card training;
- 1st Offense – Card suspended for 30 days; notice sent to cardholder, supervisor and department director;
- 2nd Offense – Card suspended permanently; and/or

Other disciplinary measures up to and including termination and subject to legal action.

Administrative Misuse

The following situations are examples of administrative misuse of a procurement card:

- Lack of proper documentation, e.g. lack of itemized receipts for each transaction;
- Lack of proper and timely reconciliation of cardholder account;
- Lack of properly safeguarding the card (repetitive lost cards);

- Card used in direct violation of the Purchasing Policies and Procedures (i.e.: split transactions to circumvent the single transaction limit; multiple transactions to circumvent the bidding process);

Administrative misuse should be handled promptly and consistently as applied to all cardholders. Following the PA's review of administrative misuse, the PA may implement the following punishment for the cardholder:

- 1st Offense – Warning sent to cardholder and supervisor;
- 2nd Offense – Card may be suspended permanently.

6.17 Records Management

Procurement card receipts and all related documentation supporting a procurement card purchase are considered an accounts payable transaction and should be maintained in accordance with established guidelines and policies for such documents. Once the original documents are scanned and uploaded as an attached image to the transaction in MUNIS, the department is responsible for keeping the originals for two (2) complete billing cycles.

6.18 Use of Personal Credit Cards

Employees shall not use personal credit cards to pay for business-related expenses with the intent to seek reimbursement, for the purpose of accumulating cash rebates, rewards points, etc. to redeem for personal use. Centralizing purchases through the procurement card streamlines workflows and reduces processing costs. Additionally, the City's procurement card program provides rebates to the City based on card usage and is utilized to reduce the overall costs related to administering the program. Therefore, when employees use personal credit cards to pay for business related expenses in lieu of the City's procurement card, the City's rebate amounts decrease.

CHAPTER 7: PURCHASES \$100,000 OR LESS

7.01 General

Unless expressly provided for otherwise in this manual, this chapter applies to all purchases \$100,000 or less. All contracts and purchases shall be made so as to obtain the best value for the City, with bids, proposals, or quotations solicited whenever appropriate.

Before making a purchase, the User Department must make sure that sufficient funds are unencumbered.

7.02 Purchasing Process

Generally, purchases \$100,000 or less follow this process:

1. Identify the business purpose/need;
2. Verify availability of funds based upon general understanding of costs for the item or service;
3. **Define and finalize purchasing requirements, purchasing specifications, and scope of work;**
4. **User Department to enter requisition in Munis;**
5. **When applicable, solicit informal bids, quotes, or proposals;**
6. **Prepare and process contracts, if applicable;**
7. **Purchasing Division to generate purchase orders and place orders with vendors;**
8. User department to accept delivery of goods and services, and verify completeness;

9. User department to acknowledge receipt of the goods or services electronically on the corresponding purchase order in Munis and submit original invoice to vendorinvoiceentry@cstx.gov if the invoice was not directly sent there;
10. User department to match the item or service received to the amount of the invoice; and
11. Accounting to disburse payment.

Nos. 3-7 are required only for purchases \$3,000 and over. Nos. 3, 4, 6 and 7 apply to purchases less than \$3,000 that require a contract and/or purchase order.

7.03 Procedures for Purchases Less Than \$3,000

Generally, purchases less than \$3,000 may be made by Department directors or their respective designees without approval from the Purchasing Division. However, the Purchasing Division is always available to assist when making purchases of any value and of all kinds. Departments must consult with their assigned Buyer before procuring services using the methods described below to determine if a contract and/or purchase order is the appropriate procurement method for the needed service.

Purchases under \$3,000 should be made using a City-issued Procurement Card or Departmental Card (P-Card or D-Card). Should the vendor be unable to accept a credit card as a form of payment, a Request for Check (RFC) shall be used as the secondary choice for payment.

Procurement Card (“P-Card”) or Departmental Card (“D-Card”) purchases

First, the User Department selects the desired vendor to make the purchase. To make a purchase under \$3,000 using the City’s P-Card or D-Card, the City’s Procurement Card Policy must be followed as set forth in Chapter Six of this Manual.

Request for Check (“RFC”) purchases

If a vendor is unable to accept a City-issued P-Card or D-Card, the Request for Check (RFC) process may be used.

7.04 Procedures for Purchases \$3,000 to \$100,000

All purchases greater than \$3,000 but less than \$100,000 should be processed in accordance with the following procedure and requires working with the Purchasing Division.

The User Department and the Purchasing Division shall coordinate to obtain three or more written quotes when feasible and practical. Depending on the requested product or service, these may be telephone quotes (must be documented using the Telephone Quote Sheet posted on CityHUB’s Forms page under Purchasing Forms), email quotes from the vendor, or vendor bids/proposals received in response to an informal solicitation process conducted by the Purchasing Division.

Per Local Government Code 252.0215, before making purchases of more than \$3,000 and less than \$100,000, the City must check the [Texas State Comptroller’s online Centralized Master Bidders List \(CMBL\)/HUB Directory](#) to determine if there are Historically Underutilized Businesses (HUBs) within Brazos County for goods or services being purchased. If so, the City is required to contact at least two HUBs on a rotating basis. If the list fails to identify a HUB in Brazos County, the City is exempt from this requirement. [Click here for CMBL/HUB Directory search tips.](#)

The User Department must fully complete a purchase requisition in MUNIS which will subsequently be approved by the User Department Director or his designee.

The purchase requisition must include all known information, including quantity, description, account number(s), unit price, total price, required delivery dates, freight, and vendor quotes, bids or proposals, if applicable.

Once the requisition is complete, it must be released for electronic approvals which are based on the User Department's approval hierarchy. Following the approval process, the Purchasing Division will process the requisition and issue a purchase order to the vendor, encumbering the funds from the User department.

The vendor should be informed of the correct "bill to" and "ship to" addresses and reminded to show the purchase order number on the invoice to avoid a delay in payment.

Under no circumstances should a vendor be instructed to send an invoice to the attention of anyone other than the Accounting Division. Should an invoice be received by anyone other than the Accounting Division, it should be immediately forwarded to the Accounting Division at vendorinvoiceentry@cstx.gov.

The User Department shall be responsible for the actual receipt of goods and services. After materials have been received, the User department will acknowledge the receipt of goods and services electronically in MUNIS. The User Department shall attach to the receiving record all receiving documentation (i.e.: delivery ticket, packing slip, freight bill, and invoice, if applicable) and immediately forward the same records to the Accounting Division at vendorinvoiceentry@cstx.gov.

The Accounting Division will match the receipt with the invoice and will be responsible for paying the vendor and for maintaining a record of same.

Should a problem exist with goods received or services performed which would warrant a delay in payment, the User Department must notify the Accounting Division within two working days by email or other written notification. Such notification shall describe the problem and request a "hold" on the invoice until the problem is resolved. The Accounting Division shall be informed by the User Department as to any status changes.

***Exception:** It is standard policy that all purchases greater than \$3,000 shall require a purchase order; however, *in exceptionally unique and/or emergency situations*, and when in the City's best interest, a department Director may request the use of a City procurement card as the method of payment for purchases needed for the specific situation. Refer to Chapter 6 – Purchasing Card Policies and Procedures, Card Limits for the policy/procedure for requesting card limit increases greater than the maximum allowable limit level available to Cardholders.

CHAPTER 8: PURCHASES EXCEEDING \$100,000

8.01 General Information

Except as may be expressly provided pursuant to this manual and applicable law, purchases of more than \$100,000 shall be made in accordance with this Chapter.

Sometimes one or more departments may have similar purchasing needs that in the aggregate exceed \$100,000. In such cases, the Purchasing Division may combine these requests and use one procurement process.

In all cases, the User Department must have available funds for the procurement and work closely with the Purchasing Division so that the proper documentation, including specifications, can be prepared.

Generally, before a City may make a purchase of more than \$100,000, competitive sealed bids or competitive sealed proposals will be required.

If the City is considering using a method other than competitive sealed bidding, the City must determine before notice is given, the method of purchase that provides the best value to the City.

8.02 Procedures for Competitive Sealed Bids

The process for purchases exceeding \$100,000 is composed of several stages beginning with requisitioning the purchase and culminating with the receipt and payment for goods and services. For all purchases \$100,000 or greater, the User Department should segregate requisitioning, approving, and receiving functions where possible.

The Purchasing Division will work with the User Department in preparing and assembling all solicitation documents, including bid specifications, the bid schedule, drafting and placing legal advertisements in the newspaper (if applicable), and posting the solicitation to the City's online bidding portal, which auto-notifies registered vendors via email of the bid opportunity. **Note: This paragraph also applies to Procedures for Competitive Sealed Proposals.**

The invitation to bid shall include the following Best Value selection criteria:

- The purchase price;
- The reputation of the bidder and of the bidder's goods or services;
- The quality of the bidder's goods or services;
- The extent to which the goods or services meet the City's needs;
- The bidder's past relationship with the City;
- The impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses (HUBs) and non-profit organizations employing persons with disabilities;
- The total long-term cost to the City to acquire the bidder's goods or services; and
- Any relevant criteria specifically listed in the request for bids or proposals.

As manually submitted bids (hard copy) are received, the Purchasing Division will place them in a secure location until the date and time of the bid opening, at which point they will be publicly opened and read aloud. Electronically received bids are encrypted and will remain effectively locked in the online bidding portal until the date and time of the bid opening.

The Purchasing Division will prepare a tabulation for each item or group of items following the bid opening and will forward the results to the User Department.

Typically, the lowest responsible bidder will be recommended. In situations where the User Department does not recommend the lowest responsible bidder, a consultation with the following, as applicable, will be held to identify the bidder providing best value to the City: User Department Director and Division Manager, Purchasing Manager, Director of Fiscal Services, City Attorney's Office, and the City Manager (or designee). Ultimately, the City Manager will make the recommendation based upon the information provided.

After the recommended vendor has been determined, the Purchasing Division will be responsible for obtaining bonds and insurance certificates from the vendor, if applicable, and initiating the contract execution process.

8.03 Award of Bids

Unless falling under an exception, generally all bids, contracts, and other expenditures greater than \$100,000 for goods and general services must be presented to the City Council for approval. Generally, the User Department will prepare the Council agenda coversheet and other required agenda documentation as applicable. The only exception(s) to Council approval will be for purchases of those items expressly designated, approved, and appropriated in the Budget Ordinance for new and replacement equipment as set out in the Fiscal Year Fleet and Equipment Replacement Funds, and technology-related purchases as set out in Attachment "A" to the Budget Ordinance.. Generally, emergency purchases exceeding \$100,000 will be ratified by City Council.

Where the competitive sealed bidding requirement applies, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value to the city.

When considering bids, City Council is authorized to give local preference pursuant to Sections 271.905 and 271.9051 of the Texas Local Government Code (LGC). A recommendation to do this will be made on a case-by-case basis by the Purchasing Division working closely with the User Department. In such cases, the economic development opportunities created by a local preference award, including the employment of residents of the City and increased tax revenues to the City, should be presented to Council in writing.

Once the winning bid has been formally awarded, Purchasing will enter a contract and/or purchase order in MUNIS which will be released for electronic approvals. Following the approval process, Purchasing will provide the User Department and vendor with copies of the fully executed contract and/or purchase order.

8.04 Procedures for Competitive Sealed Proposals

When the competitive sealed proposal method is used, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

In determining the most advantageous proposal, the City shall consider the criteria used for establishing Best Value, as specified above.

Discussions may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain best and final offers, revisions may be permitted after submissions but before award of the contract.

8.05 Award of Proposals

Although cost is an essential part of determining best value in a request for proposal, the City is not obligated to award a contract solely on the basis of cost.

8.06 Authority to Reject Bids and Proposals

Per LGC 252.043 (f), City Council has the authority to reject any and all bids submitted in response to a solicitation subject to competitive bidding or competitive proposal requirements.

8.07 Exceptions to Competitive Procurement Procedures

Exemptions to the competitive bidding and the competitive sealed proposal processes are listed in LGC Section 252.022. A User Department making a purchase that may be exempt from the competitive procurement requirements should confer with the Purchasing Division which, in turn, will assist in making this determination.

Some commonly used exemptions specifically listed in LGC 252.022 include:

- a procurement made because of public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the City's property;
- 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 work progresses;
- a purchase of land or right-of-way;
- a procurement of items that are available from only one source (***Sole Source Procurement**);
- Goods purchased by the City for subsequent retail sale by the City.

***Sole Source Procurement** – Competitive bidding and competitive sealed proposal processes are exempt when the procurement is available from only one source as defined by Texas Local Government Code 252.022 (7):

- (A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
- (B) films, manuscripts, or books;
- (C) gas, water, and other utility services;
- (D) captive replacement parts or components for equipment;
- (E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
- (F) 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

Sole source purchases should only be made under exceptional and limited circumstances and shall not be used to circumvent City policy or statutorily required competitive solicitation processes. Purchases made using this exemption are subject to greater scrutiny by the City, vendors, and the public; therefore, sole source exemption requests shall be carefully documented and defensible at time of audit. A Sole Source Justification Form (available on CityHUB's Forms page under Purchasing Forms) must be fully completed by the User Department, approved by the Department's Director, and forwarded to the Purchasing Manager for review and approval. The Purchasing Manager may, depending on the nature of the purchase, consult with the City Attorney's Office and the City Manager (or designee) to aid in the final determination of the legitimacy of the request.

Scenarios where a sole source exemption may apply include but are not limited to:

- No alternatives exist for the product(s) or service(s) required and the identified source can be documented as the only source capable of fully satisfying the requirements;

- There is a significant functional difference between the product and other similar products on the market that is essential to the mission and in the operations of the requesting User Department;
- Only one source or product is available meeting the requirements for interface, interchangeability, or replacement parts or components with existing City machinery, equipment or property; and
- The supplier is the sole provider of factory authorized warranty service.

Scenarios where a sole source exemption may not apply include but are not limited to:

- Delay or lack of adequate advanced planning, resulting in urgency, exists on behalf of the requesting department;
- Personal preference for a product, brand, or vendor exists;
- Costs, vendor capability, and delivery are submitted as justification. Such determinations can only be made through a full and open competitive solicitation process; and
- Multiple sources can provide the same or comparable product.

CHAPTER 9: PROCUREMENT OF PERSONAL, PROFESSIONAL, OR PLANNING SERVICES

9.01 General

This chapter applies to all personal, professional and planning services hereinafter collectively referred to as “Professional Services.”

All Professional Services must be procured in accordance with Chapter 252 of the Texas Local Government Code, Chapters 2254 and 2269 of the Texas Government Code, and as well as other applicable law, as same may from time to time be amended. Chapter 2254 of the Texas Government Code is titled the Professional Services Procurement Act and is sometimes shortened to the “Act” in this chapter.

The method used to procure these services will vary according to the nature of the services, this manual, and State law requirements. Generally, the Request for Proposal(s) (“RFP”) or the Request for Qualification(s) (“RFQ”) process will be used as described in this chapter.

If unsure whether a procurement is considered a Professional Service subject to this chapter, or which process to use, consultation with the Purchasing Division may be necessary.

9.02 Procurement of Architectural, Engineering, or Land Surveying Services

Section 2254.004 of the Act requires that in procuring architectural, engineering, or land surveying services, or when any portion of the project includes these services, the City shall:

- First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- Then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider, the City shall:

- Formally end negotiations with that provider;
- Select the next most highly qualified provider; and
- Attempt to negotiate a contract with that provider at a fair and reasonable price.

The City shall continue this process until an agreement with a provider is reached.

9.03 Procurement of Testing and Inspection Services

Construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of constructed facilities must be either provided by or contracted for by the City independently of the contractor, construction manager-at-risk, or design/build firm pursuant to Section 2269.058 of the Texas Government Code. In procuring these services or when any portion of the project includes these services, the City must follow Section 2254.004 of the Act.

Pursuant to Section 2254.004, when determining the “most highly qualified provider on the basis of demonstrated competence and qualifications” the City may determine this based on the following criteria:

- Responsiveness;
- Workload; and
- Familiarity with City’s previous works.

9.04 Request for Qualification(s) (RFQ)

A Request for Qualification(s) must be used when:

- The work involves a construction project that is valued at \$1,000,000 or more; or
- Any portion of the work includes architectural, engineering, or land surveying services, where the total contract is valued at \$100,000 or more.

A RFQ sets forth criteria by which the selection of these types of Professional Services will be made. Below are some of the evaluation criteria commonly used. The criteria may be customized to each RFQ solicited and need not include every listed criterion. Criteria-weighting factors may be utilized to identify the relative importance placed upon these items:

- Summary of prospective provider administration, organization and staffing;
- Demonstrated competence and qualifications of the individuals who will be directly responsible for the management and delivery of the proposed work;
- Demonstrated technical adequacy of the personnel and sub-consultants to be utilized for the proposed work;
- Demonstrated experience of the service provider based upon previous work similar to that of the type considered;
- Demonstrated success of the service provider based upon the record of performance on other projects (both City of College Station and projects for other entities);
- Demonstrated history of provider’s accuracy of cost estimates and ability to perform within budget constraints;
- Workload capacity and history of performing work within a specified schedule; and
- Proposed approach for the design project or study.

In response to the RFQ, the prospective provider of these Professional Services is asked to submit a sealed Statement of Qualifications.

At times, projects may be grouped in a single RFQ to be processed to hire multiple firms. At other times, a single firm may be hired for a group of projects. Any consultant selected from this process can only be used for projects identified in the original RFQ.

An RFQ may be dispensed in cases where a proposed project is the extension or expansion of a previous project.

However, in all instances, the ultimate selection of a provider of one or more of these services must be as set forth in the Act.

An awarded firm, its subsidiaries, parent entities, partners, other entities that share common ownership or control, and/or any subconsultant firms utilized for the project, are prohibited from bidding on the construction phase of the project.

9.05 Exceptions to Architectural or Engineering Requirements

The Professional Services of licensed engineers and architects are not always statutorily required for certain public works projects. In those instances, the City may determine it to be in its best interest to forgo using the services of such professionals. Such determinations should be specifically noted. Below are some common exceptions. Employees should consult with the Purchasing Division to determine the applicability of these exceptions, as same may, from time to time, change.

Under Section 1001.407 of the Texas Occupations Code, the City is exempt from hiring an engineer for certain projects not involving public health, welfare, or safety.

Section 1001.407 of the Texas Occupations Code states: *"The state or a political subdivision of the state may not construct a public work involving engineering in which the public health, welfare, or safety is involved unless: 1) the engineering plans, specifications, and estimates have been prepared by an engineer; and 2) the engineering construction is to be performed under the direct supervision of an engineer."*

Under Section 1001.053 (1)(2) of the Texas Occupations Code, the City is not required to hire an engineer for the construction of a public work if:

- Construction involves a total expenditure of \$8,000 or less, even if the work involves electrical or mechanical engineering; or
- If the contemplated cost will not exceed \$20,000, and the work does not involve electrical or mechanical engineering.

Under Section 1051.703 (a)(2)(A)(B) of the Texas Occupations Code, the City is not required to hire an architect to prepare the plans if the contemplated new building will not be used for education, assembly, or office occupancy, and the construction costs will not exceed \$100,000.

Under Section 1051.703 (a)(3)(A)(B) of the Texas Occupations Code, when proposed construction involves alteration or addition to an existing building, services of an architect are not required unless:

- The building is used or will be used for education, assembly, or office occupancy;
- Construction costs for the alteration or addition exceed \$50,000; and
- The alteration or addition requires the removal, relocation, or addition of any walls or partitions or requires the alteration or addition of an exit.

9.06 Procurement of Other Professional Services

“Other Professional Services” are personal services, planning services, plus other professional services identified in Section 2254.002 of the Act, with the exception of architectural, engineering, land surveying, and materials testing and inspection services.

All “other professional services” must be procured as set forth in Section 2254.003 of the Act. Services identified in Section 2254.002 of the Act are specifically prohibited from being selected using competitive bidding.

Section 2254.003 of the Act requires that in procuring these services the City shall make the selection and award:

- on the basis of demonstrated competence and qualifications to perform the services; and
- for a fair and reasonable price.

9.07 Request for Proposal(s) (RFP)

A Request for Proposal(s) must be used when the work includes planning, analysis, studies, or personal services and is valued at \$50,000 or more.

Weighted criteria must be used in the RFP process. The same criteria as set forth in the RFQ process may be used in the RFP process with the addition of pricing. Types of criteria regarding pricing include asking about the total proposed price, pricing methodology, estimated number of hours and hourly rate(s), and similar pricing information.

For personal services and planning services, the RFP must specify the relative importance of price and other evaluation factors.

Like the RFQ, each RFP may be customized based on the unique circumstances of each solicitation. In response to the RFP, the prospective provider submits Sealed Proposals.

Sealed Proposals will be evaluated using the following methodology:

- All firm(s) reasonably considered to be selected based on criteria set forth in the RFP may be given an opportunity to make a presentation and/or interview with the City;
- Proposals will be evaluated based on the weighted criteria published in the RFP;
- Proposals will be ranked in order based on the weighted scores; and
- Contract negotiations will begin with the top-ranked firm.

Should negotiations with the highest ranked firm fail to yield a contract, negotiations will formally end and will commence with the next highest ranked firm until an agreement is reached.

The City may, in its sole discretion, award a Professional Services contract without interviews or negotiations, and based solely on information supplied in the responses.

An RFP may be dispensed with in cases where a proposed project is the extension or expansion of a previous project.

However, in all instances, the ultimate selection of a provider of one or more of these services must be as set forth in the Act and consistent with other applicable laws.

9.08 Award of Contracts

Fees for Professional Services should be consistent with and not higher than the recommended practices and fees which may be published by the applicable professional associations and in no event may exceed any maximums provided by law.

Approval authority of Professional Services contracts is set by resolution. Currently, contracts for \$100,000 or less may be presented to the City Manager for approval, and contracts for more than \$100,000 must be presented to City Council for approval.

9.09 Authority to Reject Proposals and Statements of Qualifications

City Council shall reject any and all Proposals and Statements of Qualifications received in response to a Council directed process.

The City Manager shall reject any and all Proposals and Statements of Qualifications received in response to a City Manager directed process.

CHAPTER 10: PROCUREMENT OF CONSTRUCTION SERVICES

10.01 General

This Chapter applies to all construction contracts requiring the expenditure of more than \$100,000 which are competitively bid pursuant to Chapters 252, 271 and other applicable provisions in the Texas Local Government Code ("LGC") and pursuant to Chapter 2269 of the Texas Government Code ("GC").

All procedures relating to the budget process, design process and construction process shall be consistently and fairly applied to all capital improvement projects and other construction procurement, taking into consideration such relevant factors as cost, financing, prioritization, size of project and similar matters.

10.02 Bid Advertisement

The Purchasing Division posts the advertisement with the bid documents on the City's online bidding portal, which must include the following:

- Description of work;
- Location where the specifications, plans, and bidding forms are available;
- Time and place for submitting bids;
- Time and place of bid opening;

The date of the posting must be before the 14th day before the date set to publicly open the bids and read them aloud.

10.03 Bid Security

A bid security is required for all public works contracts. Bidders must submit with their bid a bid bond, cashier's check or certified check in the amount of five (5%) percent of the maximum amount bid, payable without recourse to the City of College Station.

The bid security will be retained by the City until the successful bidder has executed the Agreement and furnished all required insurance, bonds and other required certifications.

The City may retain the bid security of all bidders who may have a reasonable chance of receiving the award. The City will return all bid securities to bidders which are not competitive.

10.04 Pre-Bid/Proposal Conference

When necessary, a pre-bid conference is conducted to discuss the project. Bidders are highly encouraged to attend and participate in the conference. The Purchasing Division provides information about the bidding requirements and purchasing procedures and the User Department provides technical information to ensure that technical standards are complied with. The pre-bid conference is typically conducted in the following manner as may be determined to be relevant, helpful or appropriate by the department:

- All attendees sign an attendance roster;
- Provide a brief introduction of the project title, size, scope and construction time;
- Discuss bid process including bonding and insurance requirements;
- Establish the deadline for questions and requests for clarification;
- Consulting Engineer/Architect or Project Manager discusses the specifics of the project including a review of plans and specifications allowing time for questions and answers;
- Any other matters determined to be of importance to the department; and
- Record the minutes of the meeting.

10.05 Addenda

All questions about the meaning or intent of the Invitation to Bid or Contract Documents should be submitted in writing via the online bidding portal's Q&A feature. Purchasing will consult with the Project Manager for all technical interpretations or clarifications. Purchasing will issue any addenda required to modify or clarify the bidding documents to all known interested parties.

Such addenda and letters of clarification may be labeled as official "Addendums" to the contract and if so, shall become part of the executed contract and modify the contract documents accordingly.

No oral or other interpretation or clarification will be considered official or binding.

10.06 Qualifications of Bidders

The City may conduct such investigations as deemed necessary and as may be allowed by law to determine the responsibility of prospective bidders.

To determine which bidders are responsible, the City may require prospective bidders to submit one or more of the following:

- Bidder's financial records;
- Information relating to whether bidder has paid or settled all claims for payment promptly;
- Bidder's previous experience;
- Description of bidder's present commitments;
- Where bidder maintains a permanent place of business;
- Whether bidder has adequate facilities available to it to do the work properly and expeditiously;
- Description of bidder's technical experience related to the project;

- References for work similar in size and scope to the project under bid;
- Listing of proposed subcontractors;
- Listing of proposed suppliers of materials; and
- Bidder's safety record.

10.07 Contract Documents

The bidding and contract documents and their priority, most important to least are as follows:

1. City's Standard Form of Construction Agreement;
2. Addendum to the Agreement;
3. General Conditions;
4. Special Conditions;
5. Technical Specifications;
6. Drawings;
7. Instructions to bidders and any other notices to bidders or Contractor;
8. Performance Bond, Payment bond, Bid Bond and other Bonds as applicable; and
9. Contractor's Bid Proposal.

Where possible, provisions shall be harmonized so as to be non-conflictive. In cases of direct conflict the resolution of such conflict shall be determined in order of priority of the documents listed above.

10.08 Performance Bond

Per GC, Chapter 2253, all contracts in excess of \$100,000 for the constructing, altering or repairing a public building or carrying out or completing any public work, before commencing work, the vendor must execute a performance bond in the full amount of the contract, in a form prescribed by the City. Note: The City reserves the right to require performance bonds for such contracts of a lesser amount.

A performance bond provides a guarantee of the faithful performance of the work in accordance with the plans, specifications and contract documents.

10.09 Payment Bond

Per GC, Chapter 2253, all contracts in excess of \$50,000 for the constructing, altering or repairing a public building or carrying out or completing any public work, before commencing work, the vendor must execute a performance bond in the full amount of the contract, in a form prescribed by the City.

A Payment Bond is required solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply labor or material for the public work project.

10.10 Award of Contract

If the contract is to be awarded, it will be awarded to the lowest responsible bidder.

Additionally, in determining the award of a contract for construction, the governmental entity may consider:

- The price;
- The offeror's experience and reputation;

- The quality of the offeror's goods or services;
- The impact on the ability of the governmental entity to comply with the rules relating to historically underutilized businesses;
- The offeror's safety record;
- The offeror's proposed personnel;
- Whether the offeror's financial capability is appropriate to the size and scope of the project; and
- Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

The City reserves the right to reject any and all bids, to waive any and all informalities and irregularities not involving price, time or changes in the work and to disregard all non-conforming, non-responsive, unbalanced or conditional bids.

10.11 Inspection and Testing Services

For testing and inspection services on construction contracts, please see Chapter 9 for Professional Services.

CHAPTER 11: ALTERNATIVE PROCUREMENT METHODS FOR CONSTRUCTION SERVICES

11.01 General

The alternative purchasing methods in this section are not intended to replace the traditional competitive bidding procedures in Chapter 252 of the Local Government Code or Chapter 10 of the Purchasing Manual, but rather offer additional options for contracting and delivery of construction services. The City Council may determine that various alternative procurement methods under Chapter 2269 of the Texas Government Code ("GC") provides a better value for a procurement. Additionally, the City Council has delegated its authority to the City Manager to determine which procurement method provides the best value for the City pursuant to Resolution No. 11-10-11-2c approved on November 10, 2011. In either case, the City Manager or the City Council must make this determination before the procurement process begins including prior to advertising for bids, proposals, requests for qualifications and so on.

The following recites the main alternative procurement methods available to the City. Alternative procurement processes typically require special coordination with the Purchasing Division.

(See Appendix "A" for Resolution No. 11-10-11-2c)

11.02 Alternative for all Goods and Services

Competitive Sealed Bidding/Best Value (LGC Sect. 252.043) The City is not required to award a contract for goods or services to the "lowest responsible bidder" if it chooses to award to the lowest responsible bidder who provides same at the best value pursuant to LGC Sect. 252.043. The City may, in its discretion, develop best value criteria that will be used in the evaluation of bids received. These weighted criteria must be published in the request for bids, proposals, etc. The City may consider the established criteria found in LGC Sect. 252.043 and might include:

- the purchase price;
- the experience and reputation of the vendor;
- the quality of the vendor's goods or services;
- the extent to which the goods or services meet the City's needs;

- the vendor's past relationship with the City;
- the safety record of the vendor;
- the vendor's proposed personnel;
- the financial capability of the vendor is appropriate for the size and scope of the project;
- the impact on the ability of the City to comply with rules relating to historically underutilized businesses;
- the total long-term cost of the City to acquire the vendor's goods or services; and
- any other relevant factor(s) specifically listed in the request for bids or proposals and as allowed by law.

Note, however, that the contract must be awarded at the bid amount offered by the bidder who is considered to offer the best value.

11.03 Facilities Construction

The following alternative procurement methods are available for certain public work contracts as set forth in Chapter 2269 Texas Government Code ("GC").

For all alternative procurement methods under Chapter 2269, the following additional criteria as set forth in Sect. 2269.055, can be considered by City Council in determining the award of contract:

- Price;
- offeror's experience and reputation;
- the quality of offeror's goods or services;
- impact on the City to comply with rules relating to historically underutilized businesses;
- offeror's safety record;
- offeror's proposed personnel;
- offeror's financial capability given size and scope of Project; and
- other relevant factors specifically listed in the request.

Competitive Sealed Proposals (Subchapter D, Chapter 2269 GC) - In the competitive sealed proposal method, the City must first hire an architect or engineer to prepare construction documents. The City prepares a Request for Competitive Sealed Proposals (RFCSP), which includes construction documents, estimated budget, project scope, schedule, and other information contractors may need to respond to the request. The City must also state the selection criteria and relative weighting of the criteria that will be used to select the successful offeror. *For civil works projects, the weighted value assigned to price must be at least 50 percent of the total weighted value of all selection criteria. The City Manager has delegated authority to assign a lower weighted value to price if in the public interest; however, the weighted value shall not be less than 36.9 percent of the total weighted value of all selection criteria. The City must publicly open and read aloud the proposals, including price information if such was required, and evaluate and rank the proposals in relation to the published selection criteria within 45 days after the opening. The City negotiates first with the highest ranked offeror. If the two parties are unable to reach an agreement, the City must inform the offeror in writing that negotiations have ended, and negotiations may begin with the next ranked offeror. Evaluations, including any scores, shall be made public and provided to all offerors not later than the seventh business day after the date the contract is awarded.

**The City's standard weighted value assigned to price is 80 percent of the total weighted value of all selection criteria. Written City Manager approval is required to assign a lower value.*

Construction Manager Agent (Subchapter E, Chapter 2269 GC) - A construction manager agent (CMA) procurement method is where the CMA provides consultation or administrative services to the City regarding construction, both during and after the design of the facility. A CMA acts as an overseer on behalf of the City, when the City may not have the in-house expertise and/or sufficient staff and/or sufficient time to effectively oversee a construction project. A CMA is intended to represent the City in a fiduciary capacity and may not self-perform nor be a party for the performance of any portion of the actual design or construction of the project. Responsibilities of the CMA may include on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials. Prior to or concurrent with the selection of a CMA, the City must hire an architect or engineer to design the project. Both the CMA and the architect/engineer must be selected on the same professional services procurement rules provided for in the Professional Services Procurement Act GC 2254.004. Under the CMA method, the City would be responsible for contracting with trade contractors and subcontractors.

Construction Manager at Risk (Government Code 2269.251) - A construction manager-at-risk (CMAR) procurement method is where the construction manager assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price in the same manner as a general contractor; but also provides consultation to the City regarding construction during and after the design of the facility. The City may select a CMAR utilizing a one-step process or a two-step process. In both processes, no later than the 45th day after the date on which the proposals are opened, the City must evaluate and rank the offers according to the published selection criteria. The one-step process allows you to consider both qualifications and pricing in the request for proposal. In the two-step process, the City issues a Request for Qualifications, which may be identical to the RFP, except that no cost or price information may be requested initially. In the second step, the City would select no more than five (5) offerors to provide additional information, which may include proposed fees and prices for completion of the terms of the agreement. The CMAR contracts directly with the selected trade contractors and subcontractors and is required to advertise bids in the same manner that the City would be required to if the City was contracting directly with the subcontractors.

Design-Build (Subchapter G, Chapter 2269 GC) – The Design-Build alternative procurement method is where the City contracts with a single entity to provide both design and construction services. Available only for construction relating to a building or associated structure, once the City has decided that the Design-Build method is the best procurement method to use, a request for qualifications and a design criteria package is required. The procedure for the selection of a Design-Builder is always a two-step process: Phase One - evaluate statements of qualification; Phase Two - selection process whereby firms are ranked on the basis of criteria established in the RFQ and contract negotiations begin with the top ranked firm. Under this type of construction contract procurement, the City must award a single contract to a firm who both designs and constructs the facility. The Design-Build firm selected in turn contracts directly with the trade contractors or subcontractors and assumes complete responsibility for both the design and construction of the project.

Job Order Contracting (Subchapter I, Chapter 2269 GC)

The job order procurement method is a method that may be used when the contract is for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility that is a building; and if the work called for by the contract is of a recurring nature, but delivery times and quantities are indefinite. The City must publish the aggregate contract price when advertising. The City Council must approve any individual work orders or purchase orders that exceed \$500,000.

When establishing the contract pricing, the City must specify one or more published construction unit price books; or provide a list of work items and require contractors to propose one or more coefficients or multipliers to be applied to the price book or pre-priced work items in the cost proposal.

The City must properly advertise for and publicly open sealed proposals for job order contracts. The City may award job order contracts to one or more of the offerors in the same solicitation. The City is not required to award the contract to whoever submits the lowest rates. Instead, the City may award on the basis of a combination of price and other factors including: experience, past performance, proposed personnel, methodology, safety record, and other appropriate factors.

Specific work projects under the contract are authorized by execution of a work order. The order may be a fixed price, lump sum order, or a unit price order based on estimated quantities. Performance and payment bonds must be provided, if required by law, in each specific job order and not on the overall job order.

CHAPTER 12: PROCUREMENT POLICIES & PROCEDURES FOR CS ELECTRIC UTILITY

12.01 Public Purpose and Authority

The public purpose to be served by the CSU Procurement Procedures set forth herein shall be to obtain and maintain for the electric utility at all times a sufficient and uninterrupted supply of best quality materials and services at the lowest practicable cost for the benefit and best interests of the City of College Station and its citizens.

Furthermore, these Procedures are intended to allow the City to protect and enhance its ability to provide reliable energy-related products and services on a competitive and financially sound basis by obtaining safe, reliable, and timely delivery of materials, equipment and supplies, and performance of services on a fair and equitable basis from all interested parties.

These Procedures are adopted (Resolution No. 11-10-11-2d) pursuant to the general exemption from competitive bidding or proposals provided for municipally owned electric utilities in Section 252.022 of the Texas Local Government Code. (*See Appendix "A" for Resolution No. 11-10-11-2d*).

12.02 Scope of Procedures

The City of College Station's Purchasing Procedures, as amended from time to time, as well as all other applicable state and federal laws including but not limited to Chapters 252 and 271 of the Texas Local Government Code and Chapter 2269 of the Texas Government Code apply to CSU procurement, except as specifically set forth otherwise in these Procedures.

The City Manager or his designee may adopt additional processes and guidelines consistent with these Procedures to ensure the uniform and consistent application of these Procedures.

12.03 CSU Purchasing Policies and Procedures

If the City Manager determines it to be in the best interest of the City based upon the public purpose and authority recited above, the City Manager may approve and authorize one of the procurement methods listed below for the purchase of materials and services for CSU, such materials and services to include, but not be limited to, construction projects, software, electronic hardware and the procurement of insurance:

- Competitive Bidding;
- Best Value Bids;
- Competitive Sealed Proposals;
- Construction Manager Agent;
- Construction Manager at Risk;
- Job Order Contracting; or
- Design Build

Once the procurement method is determined by the City Manager, the procedures outlined in Chapters 252 and 271 of the Texas Local Government Code and Chapter 2269 of the Texas Government Code and as provided by all other applicable state and federal procurement laws shall apply.

Award of a contract pursuant to one of these procurement methods must be made as required pursuant to the statute for such procurement method.

12.04 Cooperative Purchases

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. As allowed by statutory provisions on participation in cooperation agreements, including Texas Local Government Code Chapter 271 Subchapter D, purchases of goods and services pursuant to this Act satisfy the requirement of CSU to solicit competitive bids or proposals.

If the City Manager determines it to be in the best interest of the City, the City Manager may authorize the participation in a contract awarded by another local government as required under Chapter 252 of the Texas Local Government Code for purchases related to the electric utility.

12.05 Exceptions to Procedures

In addition to the general exemptions listed in Section 252.022 of the Texas Local Government Code and notwithstanding anything to the contrary herein, the City Manager may authorize the procurement of materials and services in a manner independent from any requirement of Chapter 252 and of these Procedures, to meet a compelling business reason under the circumstances and in the manner described in this sub-part.

The following describes some of the conditions under which a finding of Compelling Business Reason may be deemed to be appropriate:

- The procurement is necessary to meet a critical need for materials or services necessary to restore or maintain the reliability or safety of the electric systems, or a major component or related business operation;
- The procurement is necessary to respond to fluctuating market conditions wherein potential delays in the normal and routine procurement process governed by these Procedures would adversely affect CSU's ability to obtain quality materials and/or services at a commercially reasonable price;
- The procurement is necessary to protect the competitive interests or position of CSU;
- The procurement is necessary to prevent or mitigate significant financial loss to the City due to inherent delays in the normal acquisition process; or

The City seeks to enter into, renew, extend or modify a strategic alliance or partnership agreement entered to improve CSU's inventory control process or business efficiencies under such terms as may be provided in the alliance or partnership agreement.

CHAPTER 13: CHANGE ORDERS AND CHANGE ORDER ROUTING PROCEDURES

13.01 General

This chapter applies to all contracts where a change order is necessary. This includes contracts for materials, equipment, supplies, or other commodities; contracts for general services; professional services contracts; construction contracts; and contracts that are entered into using an alternative procurement method.

A change order may be required if, after the contract has been executed:

- Changes in plans or specifications are necessary after the performance of the contract has begun; or
- It is necessary to decrease or increase the quantity of work to be performed; or
- It is necessary to decrease or increase the quantity of materials, equipment, or supplies to be furnished.

Material changes in scope, quantities, or related work may not be made. A material change is defined as substantial revisions. "Bidding presupposes that due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the items and parts of the contract, and the proposal specify as to all bids the same or substantially similar specifications." *Attorney General Opinion MW-296*.

A change order form must be fully completed for all written contract documents and forwarded to the User Department's assigned Buyer to route for electronic approvals in accordance with the City's contract routing procedures. The change order form is available under Forms on [CityHUB](#).

All change orders must include sufficient explanation or detail for the City Manager to make an informed decision to change the original contract. If necessary, a supplemental memo or supporting documentation may be attached to the change order form.

13.02 Changes to Materials, Equipment, Supplies, Other Commodities, and General Services

- When the original contract amount plus all change orders is \$100,000 or less, the City Manager or his designee may approve the written change order, provided the change order does not increase the total amount set forth in the contract to more than \$100,000; and
- When a change order is for more than \$50,000 or if a change order results in a revised total contract amount that exceeds \$100,000, the change order must be approved by City Council prior to commencement of the services or work and may be subject to statutory procurement requirements as applicable. In all cases the original contract price may not be changed by more than 25 percent. Additionally, the original contract price may not be decreased by more than 25 percent without the consent of the contractor.

13.03 Changes to Contracts for Professional Services

- When the original contract amount plus all change orders is \$100,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the contract to more than \$100,000. For such contracts, when a change order results in a total contract amount that exceeds \$100,000, the City Council must approve such change order prior to commencement of the services or work; and
- When the original professional services contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25 percent of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25 percent of the original contract amount, the City Council must approve such change order prior to commencement of the services or work. Following such Council approval, any additional change orders exceeding \$50,000 or when the sum of any additional change orders exceeds 25 percent of the original contract amount, must be approved by City Council.

13.04 Changes to Construction Contracts

- When the original contract amount plus all change orders is \$100,000 or less, the City Manager or his designee may approve the written change order, provided the change order does not increase the total amount set forth in the contract to more than \$100,000 and provided it doesn't trigger other requirements as set forth below; and
- When a change order is for more than \$50,000 or it results in a revised total contract amount that exceeds \$100,000, the change order must be approved by City Council prior to commencement of the services or work and may be subject to statutory procurement requirements as applicable; and
- In all cases, the original contract price may not be increased by more than 25 percent without triggering additional statutory procurement requirements. The original contract price may not be decreased by more than 25 percent without the consent of the contractor.

13.05 Routing Procedures for all Change Orders

All Change orders to written contracts subject to this chapter shall be routed and executed as set forth below.

Routing Procedures for all Change Orders of \$0.01 to \$2,999.99 (+ or -)

The routing procedure for change orders for a contract less than \$3,000 may be authorized by the Contract Manager as set forth herein.

The change order form for change orders less than \$3,000 must be fully completed and electronically executed by the following people:

- A/E Consultant (if applicable)
- Contractor
- Contract manager
- Public Works Director (if applicable)

- Department Director
- City Attorney's Office (if a non-standard contract)

Routing Procedures for Change Orders of \$3,000.00 to \$50,000.00 (+ or -)

The routing procedure for change orders of \$3,000 to \$50,000 for contracts must be pre-approved prior to authorizing the work as set forth herein.

The change order form for change orders of \$3,000 to \$50,000 must be fully completed and electronically executed by the following people:

- A/E Consultant (if applicable)
- Contractor
- Contract manager
- Public Works Director (if applicable)
- Department Director
- City Attorney's Office (if a non-standard contract)
- Assistant City Manager/CFO
- City Manager

Routing Procedures for Change Orders Greater Than \$50,000.00 (+ or -)

The internal routing procedure for change orders greater than \$50,000 may be allowed as set forth herein, provided such change order is approved by Council prior to the commencement of the services or work.

The following people must electronically approve/execute the change order form for change orders greater than \$50,000 in advance of Council approval:

- A/E Consultant (if applicable)
- Contractor
- Contract Manager
- Public Works Director (if applicable)
- Department Director
- City Attorney's Office Assistant City Manager/CFO

Following Council approval, the following people must approve/execute the change order form:

- City Manager

CHAPTER 14: CONTRACT RENEWAL PROCEDURES

14.01 General

This Chapter applies to bids or contracts for purchases of goods and services that are secured for a specified period of time and for which it is desired to renew the original terms, conditions and pricing for one or more additional time periods. Typically, it is the policy of the City to follow a general pattern of a one-year initial term and two renewable one-year terms. However, exceptions may be made on a case-by-case basis when in the best interest of the City. Such determination is typically made upon discussion and mutual agreement between the User Department, Purchasing Division, and the City Attorney's Office.

14.02 Multiple Award Contracts

If the bid or contract is renewable and multiple vendor awards occur, the purchase in its entirety should be repeated using the appropriate procurement method if all vendors do not agree to renew.

14.03 Determination to Renew

Vendor performance should always be a consideration when deciding whether or not to renew a contract as well as any other relevant factors. Relevant factors include the following:

- Supplier/Contractor performance
- Goods/services demand requirements
- Market analysis
- Joint bidding opportunities

Renewals of bids or contracts must be under the same terms and conditions as the original provided, however, in no event may the unit prices be increased by more than ten percent (10%) of the original price.

14.04 Process

The User Department is responsible for monitoring when a contract is up for renewal. Attention should be given to renew the contract in a timely manner to avoid any lapses between the original term of the contract and its renewal. This means that for procurements requiring Council approval and/or new solicitations additional lead time may be required. The User Department should contact their assigned Buyer when it desires to renew the procurement of the goods or services to obtain the proper renewal forms and to follow the correct process.

In the event a new agreement cannot be executed by the anniversary date of the original term or any renewal term, the agreement may be renewed month-to-month until a new agreement is executed.

14.05 Renewals – Written Contracts

The renewal agreement must be executed by both the contractor and the City Manager (or designee) and routed in accordance with the City's contract routing procedures. The Purchasing Division will assist the User Department with preparing and obtaining a written renewal agreement from the contractor. The renewal agreement should specify the renewal term and any mutually agreeable changes. *Note: Unless the Budget Ordinance, adopted by City Council annually, delegates authority to the City Manager, or authorized and designated employees at his discretion, contract exceeding \$100,000 in value must first be approved by City Council.*

14.06 Renewals – Bids and Purchase Orders (No written contract)

The renewal agreement must be executed by both the contractor and the Department Director and routed in accordance with the City's contract routing procedures. The Purchasing Division will assist the User Department with preparing and obtaining a written renewal for price agreements for goods and commodities. The renewal agreement should specify the renewal term and any mutually agreeable price changes. *Note: Unless the Budget Ordinance, adopted by City Council annually, delegates authority to the City Manager, or authorized and designated employees at his discretion, contract exceeding \$100,000 in value must first be approved by City Council.*

CHAPTER 15: CONTRACT ROUTING PROCEDURES

15.01 General

The Purchasing Division assigns contract numbers and initiates the contract routing process. Departments must complete a Contract and Agreement Routing Form, available on CityHub under Forms, and submit it to their assigned Buyer, along with a PDF of the contract if the contract was not prepared by the Buyer.

15.02 Delegation of Authority – City Council

The Budget Ordinance adopted annually by Council delegates authority to the City Manager, or authorized and designated employees, at his discretion, to approve and execute contracts and documents authorizing the payment of funds and to expend public funds for expenditures that are \$100,000 or less. Additionally, City Council Resolution No. 02-23-12-2d authorizes the City Manager to execute all contracts on behalf of the City when the City Council has approved the contracts. *(See Appendix "A" for Resolution No. 02-23-12-2d)*

In order to improve efficiency of contract administration procedures, the City Manager delegates authority to approve and execute the following contracts to the following staff:

The Budget Ordinance adopted annually by Council delegates authority to the City Manager, or authorized and designated employees, at his discretion, to approve and execute contracts and documents authorizing the payment of funds and to expend public funds for expenditures that are \$100,000 or less.

In order to improve efficiency of contract administration procedures, the City Manager delegates authority to approve and execute the following contracts to the following staff:

- (Standard) Tenant Based Rental Assistance Agreements may be approved and executed by the Director of Planning and Development Services.
- (Standard) Unpaid Internship Agreements may be approved and executed by the Director of Human Resources.
- (Standard) Facility Rental Agreements, Independent Contractor Instruction Service Agreements, and Recreational Activity Agreements (without insurance) may be approved and executed by the Director of Parks and Recreation and the Director of Economic Development, where applicable.
- (Standard) Vendor Agreements may be approved and executed by the Director of Parks and Recreation.
- (Standard) Sponsorship Agreements less than \$25,000 may be approved and executed by Department Directors.
- (Standard) Texas A&M Engineering Extension Service (TEEX) Letter Agreements for Training Services may be approved and executed by the Fire Chief.
- (Standard) Water and Wastewater Rehabilitation Project Contracts (for connecting and disconnecting private sanitary sewer customer service lines) may be approved and executed by the Director of Public Works.
- (Non-Standard) Technology Purchase Agreements may be approved and executed by the Chief Information Officer under the following conditions:
 - Purchases less than \$50,000 that add/remove additional licenses or hardware without changes to the original terms & conditions approved by the City;
 - Maintenance Agreement Renewals less than \$50,000 without changes to the original terms & conditions approved by the City;

- On-line user acceptance agreements less than \$50,000 required to purchase technology products or services with no alternative or option for a written agreement outside the online user's account.
- Purchase Orders, for commodities not associated with a written contract, may be executed by the Purchasing Staff once City Council or Department Director has approved the expenditure.

15.03 Manual Routing

Contracts requiring notarized signatures must be manually routed for City signatures. Departments must complete a Contract and Agreement Routing Form, available on CityHub under Forms, and submit it to the Purchasing Division along with the hardcopy of the contract, already signed by the counterparty.

CHAPTER 16: PROCUREMENT WITH FUNDS RECEIVED UNDER FEDERAL & STATE GRANTS

16.01 General

This chapter applies to all City procurements made in whole or in part with money received from federal or state grant programs. This includes grant funds that the City may receive directly as well as indirectly. An example of receiving indirect federal grant money is when federal transportation funding is disbursed to the City via the Texas Department of Transportation.

The requirements of this chapter must be met, as well as all other applicable chapters in the manual.

Each procurement funded with grant money must comply with the terms of the specific grant involved. The Department applying for and using grant money is responsible for complying with grant terms and with coordinating same with the Purchasing Division.

In cases where conflicts between the terms of the grant and this chapter, or the rest of this Purchasing Manual cannot be harmonized, the more stringent requirement shall apply.

16.02 Grant Review and Reporting Requirements ("GRRR") Committee

The City Grant Review and Reporting Requirements ("GRRR") Committee serves as a resource for all departments to use during the grant application process, procurement with grant funds, and ongoing compliance with grant monitoring and reporting requirements.

Purchasing Division must be notified of all proposed procurements involving awarded grant funds, and such purchases must be routed through the Purchasing Division prior to beginning of the procurement.

Federal and state grant programs may have different requirements or may overlap in their specifications.

16.03 Federal Grant Requirements

The most common requirements that must be met to receive funds from federal grant programs are:

- SAM.gov Exclusion Record check
- Buy American preference
- Section 3 Preference
- Davis-Bacon and Related Acts
- Nondiscrimination and Equal Opportunity requirements (fair housing, Civil Rights Act, Americans with Disabilities Act)

- Hiring of military personnel

This list is not exhaustive and not all of the requirements may apply to a particular grant; therefore, the recipient Department is responsible for doing all necessary research and ensuring compliance.

Effective October 1, 2018, the City will comply with all requirements included in CFR Title 2, Subtitle A, Chapter 2 – Part 200 – Uniform Administrative Requirements for Federal Awards.

Prior to October 1, 2018, the following OMB Circulars, accessible on the City's intranet and/or internet, should be consulted as a starting point in determining what requirements may apply to a particular grant:

- Circular A-87 (cost principles for local governments)
- Circular A-21 (cost principles for agreements with educational institutions)
- Circular A-122 (cost principles for agreements with non-profit institutions)

In addition, Circular A-133 identifies important compliance requirements expected to be considered as part of any audit conducted on City activities in connection with its receipt of federal funds.

In all instances, the recipient Department is responsible for ensuring that specific grant requirements are complied with.

Micro-Purchase

Purchases for supplies or services valued less than the micro-purchase threshold will comply with all sections of OMB Super Circular, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

Simplified Acquisition Threshold

Purchases for property or services valued less than the simplified acquisition threshold will comply with all sections of OMB Super Circular, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

System for Award Management (“SAM”) Check

The System for Award Management (“SAM”) provides a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and non-financial assistance and benefits.

The recipient Department must do a check on all prospective participants and may not contract with any entity or individual that has been found guilty of unfair business practices and subsequently “debarred” or suspended per the SAM, currently accessible at SAM.gov. This check must be done prior to the purchase of any federal funding acquisition regardless of the purchasing method: contract, purchase order, request for check, procurement card, etc.

Conflict of Interest for Federal Grants

Pursuant to 2 C.F.R. 200.317 and 200.318(c), no employee, officer or agent of the grantee (City) or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, agent, or board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an entity considered for a contract. An employee,

officer, agent, and board member of the recipient or subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors.

Exceptions

In all cases not governed by 2 CFR 200.317 and 200.318, the provisions of 24 C.F.R. § 570.611 shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to 24 C.F.R. § 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to § 570.203, 570.204, 570.455, or 570.703(i))

Upon written request by the City and pursuant to the conditions provided in the 24 C.F.R. 570.611, HUD may grant exceptions to the conflict of interest provisions on a case-by-case basis.

CHAPTER 17: OTHER GENERAL PURCHASING POLICIES & PROCEDURES

17.01 GENERAL

This chapter covers miscellaneous purchasing policies and procedures covering a variety of topics:

- Electronic Procurement Policy
- Bid Advertisement
- Reverse Auctions
- Acquisition of Automated Information Systems Equipment and Supplies
- Acquisition of Automobiles, Trucks and Heavy Equipment
- Environmentally Friendly Purchasing
- Identical Bids
- Local Preference
- Protested and Contested Bids
- Inspecting, Testing and Receiving
- Vendor Payments
- Capital Assets

17.02 Electronic Procurement Policy

Electronic sealed bids or proposals shall be in accordance with Section 252.0415 of the Local Government Code requiring the identification, security, and confidentiality of electronic bids or proposals to remain effectively unopened until the proper time.

Electronic reverse auctions shall be in accordance with Section 271.906 of the Local Government Code and defined by Section 2155.062(d), Government Code, requiring a real-time bidding process taking place during a previously scheduled internet location with multiple suppliers, anonymous to each other, submitting bids to provide goods or services.

Advertisement

In accordance with Section 2-96 of Chapter 2 "Administration," Article V, "Finance," Division 1 "Generally," of the City's Code of Ordinances, the City may choose the method of giving notice of the deadline for the submission of and the time and place at which competitive Invitations to Bid and competitive Requests for Proposals will be publicly opened and read aloud by either following the applicable provisions of Texas Local Government Code Chapter 252 or by posting such information for at least 14 days on the City's designated online bidding portal to the extent permitted by state law. The date of the online posting must be before the 14th day before the date set to publicly open and read aloud the bids or proposals. (See Appendix "A" for Ordinance 2019-4072. The solicitation's terms and conditions shall instruct vendors on how to submit responses electronically through the City's online bidding portal. The online bidding portal will issue an automatic e-mail to submitting vendors to confirm their electronic submissions were successful.

Security

Electronic sealed bids or proposals shall be in accordance with Section 252.0415(a) of the Local Vendor's electronic solicitation submissions are encrypted and remain effectively locked until the time and date set for the solicitation to close. At the specified closing time, a *password-enabled* employee in the Purchasing Division will unseal the solicitation and download the electronic submissions, applicable tabulations, and submission timestamp logs. A bid submitted non-electronically within the bidding period will be considered as per the bid and proposal document terms and conditions. (See Appendix "A" for Ordinance 2003-2635)

Confidentiality

Once the submission deadline has passed, Purchasing staff will read aloud the names of the responding vendors and the base bid amounts, if applicable to the type of solicitation, to any interested parties present at the solicitation opening. For solicitations where bid amounts must be read aloud, Purchasing staff will post a summary of the bid amounts to the online bidding portal following the opening. For solicitations where the submission contents must remain confidential until an official award has been made, only the names of the submitting firms will be posted to the online bidding portal following the opening. Either posting will include a disclaimer that states it only represents the results of the opening and shall not be construed as a notice of award or an indication the City accepts the bids or proposals as responsive and the bids or proposals are still subject to evaluation for accuracy, completeness, and compliance with the solicitation specifications by the City.

17.03 Reverse Auctions

"Real-time" Bidding Process – Electronic reverse auctions shall be conducted in accordance with Section 271.906 of the Texas Local Government Code and as specified in Section 2155.062(d) requiring a real-time bidding process taking place during a previously scheduled Internet location with multiple suppliers, anonymous to each other, submitting bids to provide good or services.

Reverse auctions will be advertised and issued in the current manner as are Invitations to Bid and Requests for Proposals. The solicitation's terms and conditions shall instruct interested vendors on how a notification will be added to bid terms and conditions stating vendors should submit responses electronically through City's online bidding portal. The real-time bidding process will usually last up to one (1) hour, **or** normally up to two (2) weeks, and take place during a previously scheduled period and scheduled Internet location.

Multiple Bidders

Purchasing Staff shall ensure multiple, qualified bidders are available, interested and notified electronically or otherwise of any current reverse bidding opportunity. The solicitation's terms and conditions shall instruct interested vendors on how to submit responses electronically through City's online bidding portal.

Anonymous Bidders

City's selected online bidding service provider (OBSP) shall insure the anonymity of all responding bidders through the assignment of a "Bidder Number" to the Vendor (as opposed to their Vendor name) that will be reflected on the OBSP's website during the reverse auction bidding process. The OBSP website will reflect all active Vendors bidding by a) the Vendor's assigned Bidder Number and b) their last entered bid price. After tabulation of bids, staff will post bid tabulation with the same qualifying statement as shown above.

17.04 Acquisition of Automated Information Systems Equipment and Supplies

In accordance with the IT Handbook, departments must coordinate all technology or software related purchase requests (including grant proposals, RFPs, bids, contracts, purchase orders, and City credit card purchases) with the IT Department through an IT request ticket. Once reviewed and agreed upon, technology purchases will be initiated by the IT Department.

Departments must involve the IT Department in the earliest planning stages of any grant proposal, RFP, bid, contracts, or purchase, etc. which will result in IT-related services or products being obtained, prior to the submission of any request to the Purchasing Division, or City Council.

Determining "Best Value" Procurement Decisions

Depending on the cost and nature of the technology related product(s) and service(s) (computer equipment, software, telecommunications, etc.) needed, the policies and procedures outlined in Chapters 7 and 8 may apply to the purchase. IT products and services may also be purchased through various approved purchasing cooperative programs. Purchases made through approved purchasing cooperative programs satisfy our competitive bidding requirements; however, the City is responsible for determining "best value" when making these procurement decisions. The purchase must be in the City's best interest and based on best value criteria such as:

- installation costs and hardware costs;
- the overall life cycle cost of the requested equipment;
- the estimated cost of employee training and estimated increase in employee productivity;
- impacts on support personnel;
- estimated software maintenance costs;
- compliance with applicable standards and compatibility; and
- other criteria determined to be in the City's best interest.

Annually, the City Council approves funding and authorizes the City Manager (through Finance/Purchasing) to make purchases pursuant to interlocal agreements and specifically approved purchases in Attachment A of the Budget Ordinance.

17.05 Acquisition of Automobiles, Trucks and Heavy Equipment

All requests for the purchase of new and replacement vehicles and equipment shall be coordinated through the Fleet Services Division of Public Works. The Fleet Services Division is responsible for making

recommendations for the most cost-effective purchases for all Departments taking into consideration the following three criteria:

- the age of the vehicle and equipment;
- the total miles on the vehicle or number of hours on the piece of equipment;
- the units repair history

A vehicle inventory report will be run each year and all vehicles and equipment in the City fleet meeting the replacement criteria will be identified. Those vehicles and equipment that meet all of the criteria will then be further assessed by the Fleet Services Division Manager, who will submit a list of vehicles and equipment for replacement or sale and coordinate with budget and respective Department. The Fleet Services Division will prepare the purchasing requisition(s) for approval by the Fleet Services Division Manager and Director of Public Works and/or Assistant Director. Fleet and Purchasing collaborate to determine the most cost-effective purchasing method - competitive bidding or purchasing through one of many cooperative purchasing programs.

17.06 Environmentally Friendly Purchasing

The City of College Station is committed to being a leader in resource conservation and improving our environment; by recycling commonly used materials such as mixed paper, cardboard, plastic and glass bottles, aluminum cans, and hazardous materials such as batteries, electronic equipment, mercury containing lamps, and oil.

Additionally, environmental considerations should become part of normal purchasing practice, consistent with such traditional factors as product safety, price, performance and availability, to the extent feasible. Responsibility for environmentally friendly purchasing should be shared among our vendors, City Departments and Purchasing staff. Environmental factors should be taken into account as early as possible in the acquisition and decision-making process. Some ways we can do this include:

- Ensure we buy only goods and services that are truly necessary;
- Encourage upgrade, reuse, repair and recycling of products;
- Specify equipment which is water and energy efficient both in its manufacture and operation;
- Avoid use of hazardous chemicals where a less damaging alternative is appropriately available;
- Encourage the purchase of foods containing recycled materials to support the market for recyclates;
- Minimize the use of virgin non-renewable natural resources and support the use of sustainable sources;
- Work with suppliers to investigate and introduce environmentally friendly processes and products;
- Specify, wherever possible and reasonably practicable, the use of environmentally friendly materials and products, particularly in contracts where significant environmental risks have been identified; and
- Continuously monitor the performance of our environmental purchasing and always seek improvement.

17.10 Identical Bids

Pursuant to Local Government Code 271.901, if the City receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body must enter into a contract with only one of those bidders.

If only one of the bidders submitting identical bids is a resident of the City, the City must select that bidder. However, if two or more of the bidders (or none of the bidders) are residents of the City, the City must select one of the bidders by the casting of lots. In all other cases, the City must select from the identical bids by the casting of lots. The casting of lots is prescribed by the mayor and must be conducted in the presence of the governing body.

17.07 Local Preference

Real Property or Personal Property (not affixed to real property)

If the City receives one or more bids from a bidder whose principal place of business is within the corporate city limits of the City, and the bid is within three percent of the non-local bidder, the City may award the bid to:

- 1) the lowest bidder; or
- 2) the bidder whose principal place of business is within the City. If the contract will be awarded to the local bidder, the governing body must determine, 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 in the City and any increased tax revenues to the City.

The City may also reject all bids.

Real Property, Personal Property (not affixed to real property) or Services

If the City receives one or more competitive sealed bids from a bidder whose principal place of business is within the corporate city limits of the City, and the bid is within five percent of the non-local bidder, the City may award the bid to:

- 1) the lowest bidder; or
- 2) the bidder whose principal place of business is within the City. If the contract will be awarded to the local bidder, the governing body must determine, 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 in the City and any increased tax revenues to the City.

The City may also reject all bids.

This section applies to construction services less than \$100,000 or other purchases less than \$500,000.

This section does not apply to the purchase of telecommunications services or information services.

17.08 Protests and Contested Bids

Bid Protests

The purpose of the bid protest process is to ensure the appropriate steps are taken when the City is contacted by a vendor wishing to protest the advertising of bid notices, deadlines, bid openings, or alleged improprieties or ambiguities in the specifications. This process does not create any due process rights but is intended to allow bidders to raise concerns regarding actions taken regarding a bid or other form of competitive solicitation. Only the following types of issues will be considered an appropriate basis for a protest:

- An alleged violation of state or federal laws;
- An alleged violation of City ordinances, procedures, policies; or

- An alleged failure of the City to follow terms or processes set out in the applicable solicitation.

The filing of a protest does not operate as a stay to awarding of a contract.

Bid Protest Requirements

Vendor protests must be made in writing and must contain all of the following:

- The name, address, email, and telephone number of the protestor;
- The signature of the protester or a representative who has the written delegated authority to legally bind the protester;
- Identification of the request for proposal, request for qualifications, contract number or other solicitation being protested;
- A detailed written statement of the legal and factual grounds of the protest, including specific citations of the solicitation, law, ordinance, policy or procedure allegedly violated or failed to be followed by the City, along with copies of relevant documents, photos, etc.; and
- The desired relief or outcome which the protester is seeking.

Bid Protest Procedures

Protests shall be submitted in writing and filed with Purchasing Division. Protests will be handled as follows:

- Protests regarding the terms, conditions or specifications in the solicitation (pre-bid or pre-proposal protests) must be filed no less than five (5) business days before the opening of the bid or proposal.
- Protests regarding the evaluation of bids, qualifications, or proposals (pre-award protest) must be filed no later than three (3) business days prior to the City Council meeting at which the award appears on the agenda.
- Protests made after City Council's decision to award a contract must be received by the City no later than three (3) business days after the date of Council award.

Protests may be hand-delivered by the Protester or the Protester's representative, or they may be mailed, but regardless of the method of delivery, they must be received by the City no later than the deadline identified above.

Staff Review of Protest

A written decision and response to the protest will be prepared by the Purchasing Manager, in consultation with the Department and the City Attorney. During the review process, the City may:

- Allow for an informal conference on the merits of the protest with all interested parties;
- Allow for reconsideration if data becomes available that was not previously known, or if there has been an error of law or regulation;
- Render a decision supporting or canceling the award, such a decision shall be in the form of a staff recommendation.

Protest Appeals

If the protesting vendor does not agree with the staff recommendation, they may appeal to the City Council in accordance with the procedures above. Protesting vendors must contact the City Secretary in order to be acknowledged and heard by City Council at the first available Council meeting.

17.09 Inspection, Testing and Receiving

Departments shall contact the vendor, or Purchasing Division, if materials and/or services are not received or performed by the due date. Always keep the Purchasing Division apprised of the situation.

Since there is no central receiving point, each Department is responsible for inspecting, testing and receiving commodities and services. Any shortages, late deliveries, damaged merchandise or other problems relating to the vendors' performance should be reported to the Purchasing Division as soon as possible. Initially, affected Departments should call the Purchasing Division, and follow up with a written explanation of the situation utilizing the Vendor Performance Form found on [CityHUB](#).

Inspection

When receiving ordered goods, the user will conduct an initial inspection of the merchandise to determine its condition. A comparison is made of the goods received against the product specifications. Once a determination has been made that articles(s) received meet specifications and are not damaged, an electronic receiving report should be initiated.

Damage

Damaged freight should always be reported to the freight line, within the same day of the delivery, if possible. Types of damage:

Visible damage

If freight is visibly damaged, receiving personnel should instruct the freight line driver to:

- Note the damage on the freight bill; and
- Sign the freight bill.

Concealed Damage

If there has been concealed damage, save the shipping cartons. Notify the freight line and request an "inspection report of concealed damage." The receiving report should note the damage also.

Packing Materials

All boxes and packing materials should be kept in the event of visible or concealed damage freight shipments.

Returns

Damaged supplies, equipment, or materials should not be returned to the freight line, or the vendor. If the vendor requests return of the items, the Purchasing Division should be notified. The items should be returned after determining that a claim has been filed, and that authorization has been given by the vendor and/or Purchasing Division.

Testing

Arrangements for the utilization of outside testing laboratories will be made by the Purchasing Division. Payment for testing will normally be made from the requesting Departments' budget; however, if the test reveals non-spec material has been supplied the vendor will pay for the testing or face disqualification from future bidding.

Receiving

All materials and equipment received in poor condition, damaged, or noncompliance with the contract, should be reported to the Purchasing Division in writing as soon as possible. All relevant documentation should be retained by the Department. The Purchasing Division will notify the vendor and prescribe corrective action.

Departments shall pay particular attention to the delivery ticket, and how it matches the City of College Station Purchase Order. The employee receiving the materials must verify that all items were shipped as stated on the delivery ticket prior to electronically receiving the goods. Once the goods have been received electronically and a valid invoice has been received in Accounting, the vendor will be paid.

17.10 Inspection, Testing and Receiving

The Accounting Division is centralized and includes Accounts Payable, Accounts Receivable, and Payroll. Accounts Payable processes all invoices and payments.

Accounts Payable prefers invoices be submitted via email. Invoices submitted by email should be sent to vendorinvoiceentry@cstx.gov. All other invoices can be submitted by mail directly to the following address:

City of College Station
Accounting Division 1101 Texas Avenue
P.O. Box 9973
College Station, TX 77842-9973

A purchase order (PO) number or Request for Check (RFC) number shall be noted on all invoices.

17.11 Capital Assets

Asset Management

Fixed Assets and Inventory shall be reasonably safeguarded and properly accounted for and sufficiently insured. Responsibility of safeguarding of the City's assets lies with the Department Director in the Department the fixed asset is assigned. The Fiscal Services Department shall maintain the permanent records of the City's fixed assets including description, cost, department of responsibility, date of acquisition, depreciation and expected useful life.

Additional information on asset management can be found in the Fiscal and Budgetary Policy Statements found in the Approved Annual Budget adopted annually by City Council.

CHAPTER 18: INTERLOCAL COOPERATIVE PURCHASING AGREEMENTS

18.01 General Information

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. Chapter 271, Subchapter F of the Texas Local Government Code allows the City to participate in cooperative purchasing programs with another local government or a local government organization.

The City participates in various local, state and national purchasing cooperatives. The City Council must approve the interlocal agreement authorizing the City's use of these contracts and acknowledgement that purchases made pursuant to these contracts satisfy the City's requirement to solicit competitive bids or proposals.

Examples of some interlocal cooperative purchasing agreements that the City has:

- Omnia Partners
- State of Texas
 - TxSmartBuy
 - TxMAS (Multiple Award Contracts)
 - DIR (Dept of Information Resources for IT related purchases)
- BuyBoard
- Houston Galveston Area Council of Governments (HGAC)
- Choice Partners
- Brazos Valley Council of Governments/Purchasing Solutions Alliance (PSA)
- Texas A&M University
- Brazos County
- City of Bryan
- Various other local governments and local cooperative organizations.

18.02 Federal Supply Schedules

Local Government Code 271, Subchapter G allows the City to purchase goods or services available under Federal supply schedules of the United States General Services Administration (GSA) to the extent permitted by federal law. The GSA allows state and local governments to purchase from GSA Federal Supply Schedule 70 which includes a variety of Information Technology products, software and services. The City may also purchase alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purposes clothing from contracts awarded under GSA Federal Supply Schedule 84. Purchases made under either of these schedules satisfy the City's requirement to seek competitive bids or proposals.

18.03 Procedure

To initiate this process, the User Department may research goods and services on the approved cooperative's website to determine if the needed goods and services are available from the cooperative. Based on this research, the Department prepares an electronic purchase requisition in the Munis Requisition Entry module and identifies in the requisition comments that the goods or services are available on the cooperative. The Purchasing Division confirms whether or not the requested goods or services are available from a specific cooperative. If available, the Purchasing Division compares prices among cooperatives and local vendors to obtain the best value. The Purchasing Division works with the Department to determine best value and issues a Purchase Order with the selected vendor using the purchasing method that provides the best value.

The Purchasing Division either submits the approved purchase orders to the applicable cooperative or directly to the vendors that have contracts with the specific cooperative.

CHAPTER 19: VENDOR SUSPENSION AND DEBARMENT POLICY

19.01 Statement of Purpose

The City desires to maintain the integrity of the procurement process. In order to do this, the City must follow various laws when purchasing goods and services that sometimes require making determinations regarding the suitability of a prospective vendor. This includes purchases subject to the following:

1. Chapter 252 including § 252.043 Texas Local Government for competitive sealed bids requiring that award of contract be to the lowest *responsible* bidder or to the bidder who provides *best value, including reputation of the bidder and of the bidder's goods or services*;
2. Chapter 252 including § 252.042 Texas Local Government for request for proposals in determining vendors who are *reasonably qualified to obtain the best final offer*;
3. Chapter 2269 including § 2269.055 Texas Government Code for improvements to real property allowing the City to consider such matters including the *experience and reputation, quality, personnel, financial capability and other relevant factors listed in the request for bids, proposals or qualifications*;
4. Applicable State and federal debarment rules and lists; and
5. Any purchase involving certain determinations as allowed or required by law, including anytime this Policy is explicitly referenced as being applicable.

The purpose of this policy is to assist the City in determining when one or more of these criteria apply, how to determine whether a prospective vendor meets them, whether suspension or debarment should occur, and, finally, creation of a procedure for consideration and possible imposition of suspension or debarment. This Policy is not intended to limit but rather to assist the City in making such determinations.

This Policy does not apply to a contract for professional services, as that term is defined and regulated pursuant to Chapter 2254 Texas Government Code. Nothing in this chapter may be construed as depriving the City the right to reject any bid, proposal or request for qualifications at any time prior to the actual awarding of a Contract pursuant to applicable law.

19.02 Definitions

“*Affiliate*” means a person or business entity that has a relationship with a vendor as follows:

1. is the assignee, successor, subsidiary, or parent company, of the subject vendor;
2. is a controlling stockholder; member; owner; partner; officer; director; or management level employee of the subject vendor;
3. is a business entity with the same or similar management of the subject vendor;
4. acts as surety, agent or otherwise acts on behalf of vendor;
5. performs services or provides supplies to the subject vendor; or.
6. is otherwise directly or indirectly controlled, or has the power to be controlled, by the subject vendor. Indicia of control includes but is not limited to the following; similar management, directorship, membership, partnership, or ownership; identity of interest among relatives; shared facilities, equipment, or employees; creation of a business entity soon after the debarment, suspension or proposed debarment of a person or business entity which has the same or similar management, directors, owners, partner or principal employees as the subject vendor that was debarred, suspended or proposed for debarment.

“*Debar*” or “*Debarment*” means the disqualification of a prospective vendor for a specified period of

time or indefinitely, from directly or indirectly contracting with the City in accordance with this Policy.

“Relative” means an individual related by consanguinity (blood) or affinity within the second degree as determined by the common law.

“Suspend” or *“Suspension”* means the temporary debarment of a vendor pending the outcome of some stated future occurrence, including but not limited to, an indictment, a debarment proceeding or some other legal proceeding the City determines may potentially detrimentally impact performance under an actual or proposed City contract.

“Vendor” means, in addition to the meaning of the term as applied to individuals and companies alike who provide goods and services to the City as set forth in Chapter 2 hereof, those prospective vendors who properly vie for a City Contract yet may not necessarily be awarded one.

19.03 Suspension

The City Manager, after consultation with the City Attorney, may immediately suspend a vendor when there is a current proposal for debarment, or if there is a pending indictment or other legal proceeding that may, in the judgment of the City Manager, potentially detrimentally impact performance under an actual or proposed City contract. The vendor should be suspended for the lesser of the initial period of ninety (90) calendar days or until the City Manager or City Council makes a final determination with respect to the debarment in accordance with this Policy. The initial suspension period may be extended by the City Manager or City Council, as the case may be, for up to two (2) additional thirty (30) calendar day periods. The effect of suspension shall be the same as for debarment unless otherwise stated in the suspension.

19.04 Reasons for Debarment

A vendor may be suspended and/or debarred if vendor is:

1. Presently debarred, suspended or proposed to be, or is voluntarily excluded from contracting with City or with another governmental entity if based upon causes consistent with this Policy when the other governmental entity has written procedures in place that are sufficient to afford due process; or anytime applicable state or federal rules require debarment or suspension.
2. Criminally indicted, convicted, has a civil judgment for, or makes a public admission of, is under investigation for any act or omission relating to a public contract, subcontract, performance of services or supplies to a governmental entity, or any act or omission that could detrimentally affect performance of a contract with City if such act or omission were performed against the City. This includes but is not limited to embezzlement, theft, bid rigging, perjury, forgery, bribery, falsification or destruction of invoices or other official records or documents, conspiracy, collusion or receiving stolen property or services;
3. Performing or omitting to perform, or has previously performed or omitted to perform, any act or omission that may indicate an unacceptable lack of fiscal responsibility, business integrity, or capability to perform as a vendor to the City. This includes but is not limited to declaration of bankruptcy or general inability to make payments to creditors; loss of certifications or licensing needed to perform a contract, abandoning or failing to complete work, performing defective work or failing to correct defective work, failing to perform work as set forth under a contract, failing to comply with various laws, failing to perform in a timely manner, failing to perform safely, failing to disclose pertinent information relating to contracts including anomalies in payments and performance, or any other cause so serious or compelling that it

- affects the present proposed contract;
4. Involved in a lawsuit or disputed claim initiated by vendor against City or being otherwise indebted to the City; or
 5. Known to have consistently, frequently or historically performed acts or omissions of one or more of the above recited matters.

Such reasons for suspension and debarment may apply to both vendor and vendor's affiliates.

When considering debarment and/or suspension, the seriousness of the acts or omissions and any remedial measures or mitigating factors should be considered in making a decision.

19.05 Process for Suspension and Debarment

1. When Applies.

The existence of a cause for suspension or debarment does not necessarily require suspension or debarment; however, when suspension or debarment is being considered, the following process should apply.

2. Request to Consider Suspension or Debarment.

A Department Director may request the City Manager to consider suspension and/or debarment of a vendor. After reasonable notice and after reasonable opportunity to such vendor to be heard, the City Manager, after consultation with the City Attorney, shall have the authority to suspend and/or debar the vendor.

The notice shall be sent in any written form, including facsimile transmission, e-mail and by certified mail, return receipt requested, and shall include:

- a. A statement that the vendor will be placed on possible suspension or debarment,
- b. An identifying solicitation or contract number (if applicable);
- c. A description of the facts that are the reason for possible suspension or debarment;
- d. A copy of this Policy;
- e. The length of time the vendor may be suspended or debarred; and
- f. Information regarding the right to protest a possible suspension or debarment, provided the protest is received in writing by the City Manager within ten (10) calendar days after the vendor has received notice of possible suspension or debarment.

3. Request for Hearing.

The request for the opportunity from vendor to be heard shall be timely submitted in writing and shall include all relevant data and adequate evidence to refute the request for suspension or debarment and should include at a minimum the following:

- a. The vendor's name, address, telephone number, e-mail address and point of contact;
- b. The identifying number of the solicitation or contract, if applicable; and
- c. A detailed statement of the factual grounds for the protest, including copies of relevant documents.

4. Determination after Hearing.

The City Manager shall hold a hearing with the vendor and whomever else the City Manager determines should be present, and shall make a written determination that includes citing the reason(s) for the

suspension and/or debarment, and the length of time for same. This should be done within fifteen (15) calendar days after receipt of the written protest from the vendor and/or affiliate as applicable.

After conferring with the City Attorney, the City Manager has the authority to settle or resolve a protest of a possible suspension or debarment subject to an appeal to City Council described herein. Vendor may appeal the City Manager's determination by providing written notice of same within ten (10) days from receipt of the City Manager's written determination. Otherwise, the City Manager's decision is final.

In the event vendor files a timely written notice to appeal the City Manager's decision, such notice must address the same items required as for the protest to the City Manager. In cases of an appeal to the City Council, the hearing before Council should be held within fifteen (15) days from such appeal or as soon thereafter as possible. The decision made by the City Council for an appeal from the City Manager's determination is final.

5. Determination without Hearing.

In the event vendor does not request to be heard within ten (10) calendar days after receiving notice of possible suspension or debarment, the vendor waives the right to protest same.

The City Manager, or City Council when applicable, shall approve, disapprove or modify the recommended suspension and/or debarment. All suspensions and/or debarments must be set forth in writing and a copy of same provided to the protesting vendor, the City Attorney, the Purchasing Manager and the Department Director requesting the suspension and/or debarment.

19.06 Effect of Debarment or Suspension

1. General.

When a vendor is suspended or debarred, it shall mean that the City determines vendor does not meet one or more criteria upon which it may award a City contract in accordance with applicable law, including determining vendor as failing to be the lowest responsible bidder, not providing the best value, including reputation of the bidder and of the bidder's goods or services, or that vendor lacks experience and reputation, quality, personnel, financial capability or other relevant factors listed in the request for bids, proposals or qualifications, as the case may be. This may result in the award of contracts to a person other than the subject vendor during the suspension or debarment period even if subject vendor is the lowest bidder and/or has otherwise properly responded to the City's request for solicitations, including bids, proposals or qualifications.

2. Length of debarment.

Length of debarment will typically range from one year up to five years as determined appropriate pursuant to this Policy. In rare cases, it may be recommended to debar a vendor and/or its affiliates longer up to an indefinite period of time.

3. Vendor Prohibitions.

When a vendor is suspended or debarred, all of the following prohibitions shall apply unless the determination of suspension and/or debarment expressly limits such suspension or debarment to prohibit only some of the items listed below. During the period of suspension and/or debarment, the vendor shall not:

- a. be awarded a contract;

- b. execute a contract with the City;
- c. directly or indirectly participate in a City contract as a contractor, subcontractor, material supplier, or employee of a prime contractor or another subcontractor for work on a City contract;
- d. conduct business with the City as an employee, agent or representative of another person, vendor, or business entity; or
- e. become an affiliate to another City vendor.

4. City Options.

During the period of suspension or debarment the City may do some or all of the following:

- a. Not solicit bids, proposals or request for qualifications from a suspended or debarred vendor;
- b. Terminate any or all existing contracts with the suspended or debarred vendor as set forth below;
- c. Not approve nor award a contract to the suspended or debarred vendor; or
- d. Not approve a contract where the suspended or debarred vendor is an affiliate who is indirectly involved in a contract with a different vendor. In such case, the suspension or debarment shall be construed to apply also to the vendor with which the City may contract but only as to such contract. Further, City's consent to a non-suspended or non-debarred vendor contract does not include consent to any suspended or debarred vendor activity in connection with such City contract or project.

5. Applicability.

When invoked, suspension or debarment applies to all divisions or other organizational elements of the vendor. **The City may extend the suspension or debarment to include any affiliates of the vendor if they are (a) specifically named; and (b) given written notice of the proposed suspension and/or debarment and an opportunity to avail themselves of the process herein.**

6. Effect of Transfers.

When a suspended or debarred vendor sells or otherwise transfers its business to a relative, affiliate, or to any other vendor over whose actions the suspended or debarred vendor exercises substantial influence or control, then that relative, affiliate or other vendor is automatically suspended or debarred or proposed for debarment or suspension to the same extent as the seller or transferor is debarred, suspended or proposed for same.

7. Additional City Options.

Except as otherwise provided in this section and notwithstanding the debarment, suspension, or proposed debarment or suspension of a vendor, the City may continue contracts or subcontracts it has with such vendor that are in existence at the time if such is deemed by the City Manager to be in the City's best interests at that time. If the basis of a vendor's debarment or suspension is so serious that the City Manager believes that immediate termination of existing contracts is advisable, the City Manager may do so after consultation with the City Attorney to ensure the lawful manner and means for the proposed action(s). In general, the City should not renew or otherwise extend the duration of current contracts, or consent to subcontracts, with debarred or suspended vendors, unless the City Manager finds compelling reason(s) for renewal or extension.

19.07 Exceptions

The City may contract with suspended or debarred vendors in the following circumstances:

1. The City Manager determines in writing that there is a compelling reason for such an action;
2. The contract is necessary due to a public emergency or calamity;

3. The contract is necessary to preserve or protect the public health or safety of the municipality's residents; or
4. The goods or services to be procured are available from the suspended or debarred vendor as the only source.

19.08 Agreement Not to Bid in Lieu of Debarment

In lieu of debarment, the City may, but is not required to, offer a vendor and/or affiliate the opportunity to execute a written agreement not to bid or otherwise respond to a solicitation for products or services for the City for an agreed period of time, in lieu of the City's pursuing a debarment under this chapter. By executing such an agreement, the vendor shall consent to waive a debarment review and the agreement will not constitute a debarment.

CHAPTER 20: DISPOSAL OF UNCLAIMED, SURPLUS OR OBSOLETE PROPERTY

20.01 Abandoned or Unclaimed Property

The disposition of abandoned or unclaimed property shall be made in accordance with Article 18.17 of the Code of Criminal Procedure as it may be amended from time to time.

20.02 Salvage or Surplus Property

Salvage Property – personal property, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended.

Surplus Property – personal property that:

1. is not salvage property or items routinely discarded as waste;
2. is not currently needed by the City;
3. is not required for the City's foreseeable needs; and
4. possesses some usefulness for the purpose for which it was intended.

20.03 Disposition of Surplus

It is the intent of this section to dispose of salvage or surplus property within 30 days of identifying it as such, except the applicable time period for vehicles and heavy equipment shall be 180 days. This will maximize the value of salvage and surplus property by avoiding hidden costs such as storage, maintenance, and obsolescence. A Department that determines it has surplus or salvage property should inform the Fiscal Services Department of the property's kind, number, location, condition, original cost or value, and date of acquisition.

20.04 Methods of Disposal

Recycling: Recycling is a key component of waste management and helps in the conservation of energy and natural resources while reducing waste. City departments should attempt to recycle when it is determined to be the most cost effective and environmentally sound way of managing waste. Departments should maximize the life of City property by reusing property whenever possible, recycling all acceptable materials, disposing only of what is necessary and buying recycled products when appropriate.

Auction or Competitive Bidding: The Fiscal Services Department may periodically sell the City's surplus or salvage property by competitive bid or auction, except that competitive bidding or an auction is not necessary if the purchaser is another local government.

Trade-In: The Fiscal Services Department may offer the property as a trade-in for new property of the same general type if it is determined to be in the best interest of the City.

Destruction: The property may be destroyed or otherwise disposed of as worthless if the Fiscal Services Department undertakes the sale of the property by auction or competitive bid and is unable to do so because no bids are received or if the property is considered salvage.

Charitable Donations: The Fiscal Services Department may dispose of the property by donating it to a non-profit, civic or charitable organization taking the following into consideration:

1. Pursuant to any applicable statutory provisions;
2. If undertaking to sell the property by auction or competitive bid would likely result in no bids or a bid price that is less than the City's expenses required for the bid process;
3. The donation serves a public purpose; or
4. The organization will provide the City with adequate consideration, such as relieving the City of transportation or disposal expenses related to the property.

20.05 Exceptions

Fleet: The inter-departmental transfer of vehicles and heavy equipment shall be coordinated by the Fleet Services Division Manager or his designee. Once Fleet has exhausted the equipment's useful life by transferring it to other City Departments, Fleet may choose any of the methods described above to dispose of the vehicles and heavy equipment in the most cost-effective manner it determines is appropriate. The City may exercise a repurchase option when disposing of property if the repurchase price of the equipment is contained in a previously accepted purchase contract.

Information Technology: The inter-departmental transfer of computer, communication devices and other high technology items shall be coordinated by the IT Director or his designee. Once IT has exhausted the equipment's useful life by transferring it to other City Departments, IT may choose any of the methods described above to dispose of high technology equipment in the most cost-effective and environmentally friendly manner it determines is appropriate.

Firefighting Equipment and Supplies: The City may choose to donate its surplus equipment, supplies, or other materials used in fighting fires to the Texas Forest Service or to a successor agency authorized to cooperate in the development of rural fire protection plans.

25.06 Notice

Notice of available surplus property may be posted on the City's intranet, the City's website, or through an internet auction site offering online bidding.

25.07 Record

The Fiscal Services Department shall keep a record of each item of surplus or salvage property sold and the sale price of each item. The City shall keep a record of each item disposed of for a period of one year.

25.08 Proceeds

The Fiscal Services Department shall deposit the proceeds from the sale of salvage or surplus property into the City treasury to the credit of the general fund or the fund from which the property was purchased.

25.09 Disposition of Seized Weapons, Explosive Weapons, or Other Prohibited Contraband

The disposition of gambling paraphernalia, prohibited weapons, criminal instruments, and other contraband shall be made in accordance with Article 18.18 of the Texas Code of Criminal Procedure as it may be amended from time to time.

The disposition of explosive weapons and chemical dispensing devices shall be made in accordance with Article 18.181 of the Texas Code of Criminal Procedure as it may be amended from time to time.

The disposition of seized weapons shall be made in accordance with Article 18.19 of the Texas Code of Criminal Procedure as it may be amended from time to time.

APPENDIX A
RESOLUTIONS AND ORDINANCES

ORDINANCE NO. 2635

AN ORDINANCE ADOPTING RULES FOR ELECTRONIC TRANSMISSION OF BIDS OR PROPOSALS, PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

- PART 1: That the "Electronic Procurement Rules" are hereby approved as set out in Exhibit "A" attached hereto and made a part of this ordinance for all purposes.
- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 35 of the Charter of the City of College Station.

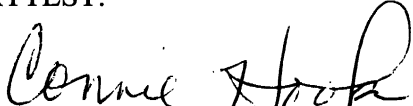
PASSED, ADOPTED and APPROVED this 12th day of June, 2003.

APPROVED:



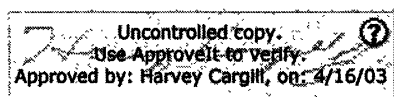
RON SILVIA, Mayor

ATTEST:



Connie Hooks, City Secretary

APPROVED:



City Attorney

EXHIBIT "A"
ELECTRONIC PROCUREMENT RULES

I. GENERAL STATEMENT

- A. Electronic sealed bids or proposals shall be in accordance with Section 252.0415(a) of the Local Government Code requiring the identification, security, and confidentiality of electronic bids or proposals to remain effectively unopened until the proper time.
- B. Electronic reverse auctions shall be in accordance with Section 271.906 of the Local Government Code as defined in Section 2155.062(d) requiring a real-time bidding process taking place during a previously scheduled Internet location with multiple suppliers, anonymous to each other, submitting bids to provide goods or services.

II. PROCEDURES

A. Electronic Bidding

1) Identification--Invitations to Bids and Requests for Proposals will be advertised and issued in the current manner. A notification will be added to bid terms and conditions stating vendors should submit responses electronically through City's service provider at the appropriate electronic address listed. An automatic "e-mail return notification" will be sent to the submitting vendor upon receipt of their bid or proposal.

2) Security--At specified bid closing time, a *password-enabled* employee in the Purchasing Division will open, download, and print all bids and the bid tabulation summary assembled by City's service provider. The printing operation will occur in the controlled environment of the Purchasing Division. A bid submitted non-electronically within the bidding period will be considered as per the bid and proposal document terms and conditions. All bids submitted electronically will use the Advanced Encryption Standard (AES), a Federal Information Processing Standard (FIPS) that specifies a cryptographic algorithm for use by U.S. Government organizations to protect sensitive (unclassified) information.

3) Confidentiality--Bids will remain effectively unopened and confidential until the specified time and date. Purchasing staff will then read aloud all bid responses received by closing time and date to any interested parties present at the bid opening. After tabulation of bids or proposals, staff will post bid tabulation electronically with a qualifying statement: "The tabulation listing of a bid should not be construed as a comment on its responsiveness or an indication that the City accepts such bid as responsive. After evaluating bids or proposals, the City will post tabulation and staff award recommendation of the contract on City Purchasing Division's web site and through its Internet service provider."

B. Reverse Auctions

1) “Real-time” Bidding Process—Reverse Auctions will be will be advertised and issued in the current manner as are Invitations to Bid and Requests for Proposals. A notification will be added to bid terms and conditions stating vendors should submit responses electronically through City’s service provider at the appropriate electronic address listed. The real-time bidding process will usually last up to one (1) hour, **or** normally up to two (2) weeks, and taking place during a previously scheduled period and scheduled Internet location.

2) Multiple Bidders—Purchasing Staff along with its selected Internet Service Provider shall insure multiple, qualified bidders are available, interested and notified electronically or otherwise of any current reverse bidding opportunity. A notification will be added to bid terms and conditions stating vendors should submit responses electronically through City’s service provider at the appropriate electronic address listed.

3) Anonymous Bidders—City’s selected Internet Service Provider (ISP) shall insure the anonymity of all responding bidders through the assignment of a “Bidder Number” to the Vendor (as opposed to their Vendor name) which will be reflected on the ISP’s web-site during the reverse auction bidding process. The ISP web-site will reflect all active Vendors bidding by a) the Vendor’s assigned Bidder Number and b) their last entered bid price. After tabulation of bids, staff will post bid tabulation with the same qualifying statement as expressed in Section II, A(3).

RESOLUTION NO. 11-10-11-2c

A RESOLUTION OF THE CITY OF COLLEGE STATION, TEXAS, AMENDING CERTAIN PROVISIONS OF THE CITY'S STANDARD FORM OF CONSTRUCTION AGREEMENT FOR OVER \$50,000; AMENDING THE ARCHITECTS AND ENGINEERING PROFESSIONAL SERVICES CONTRACT; GRANTING AUTHORITY TO THE CITY MANAGER TO ACT ON BEHALF OF THE CITY, INCLUDING ISSUING APPROVALS FOR CONTRACT CHANGES PURSUANT TO CERTAIN STATUTORY PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of College Station last adopted changes to the Standard Construction Form contract for over \$50,000 and Architects and Engineering Professional Services contract in January 2011 by City Council Resolution No. 01-13-11-2L; and

WHEREAS, pursuant to statutory changes occurring in the last Texas Legislative Session, the City Council desires to revise certain paragraphs of the standard contracts established and to make other changes in processing City contracts;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS AS FOLLOWS:

PART 1: That all of the findings of fact made and set forth in the preamble to this resolution shall be and the same are hereby found, declared, and adjudicated to be true and correct.

PART 2: That the City Council of the City of College Station hereby authorizes the City Manager to execute the City's Standard Form of Construction Agreements for over \$50,000 and the Architects and Engineers Professional Services Contracts on behalf of the City when City Council has duly approved such contracts by adoption of a resolution.

PART 3: Article IX, Paragraph 9.02(b) of the Architects and Engineering Professional Services Contract is hereby revised as follows:

“Article IX. Change Orders & Documents & Materials

....

9.02

....

b. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his delegate may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For

such contracts when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract, the City Council must approve such change order prior to commencement of the services or work.”

PART 4: Section 17.02 of the Standard Form of Construction Agreement for contracts over \$50,000 is hereby revised pursuant to Texas Local Government Code sections 258.048 and 271.060 as follows:

“17. EXTRA WORK CHARGES”

....

17.02.

For "Extra Work", as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original contract price may not be increased by more than *twenty-five percent (25%)*. Written change orders that do not exceed *twenty-five percent (25%)* of the original contract amount may be made or approved by the City Manager or his delegate if the change order is less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of *Fifty Thousand Dollars (\$50,000.00)* must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

OR:

For construction contracts funded in whole or in part by Certificates of Obligations, for "Extra Work," as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 271.060 of the Texas Local Government Code, a contract with an original contract price of \$1 million or more may not be increased by more than *twenty-five percent (25%)*. If a change order for a construction contract funded in whole or in part with certificates of obligation that has an original price of less than \$1 million increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than *twenty-five percent (25%)*. Written change orders may be made or approved by the City Manager or his delegate if the change order is less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of *Fifty Thousand Dollars (\$50,000.00)* must

be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

PART 5: The City Council hereby delegates its authority regarding an action authorized or required by the Texas Government Code chapter 2267 to the City Manager or his designee pursuant to the Texas Government Code section 2267.053 for facilities construction contracts. When considering a construction contract for a facility using a method other than competitive bidding, the City Manager or his designee must, before advertising, determine which method provides the best value for the City pursuant to the Texas Government Code section 2267.056.

PART 6: The City Council hereby grants general authority to City Manager or his designee to approve change orders that involve a decrease or increase of \$50,000 or less pursuant to Texas Local Government Code sections 252.048 and 271.060.

PART 7: That all previous resolutions in direct conflict with this resolution are hereby superseded and repealed, but only to the extent of such conflict.

PART 8: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 10th day of November, 2011.

ATTEST:

Sherry Washburn
City Secretary

APPROVED:

Nancy F. Perry
Mayor

APPROVED:

Michael...
City Attorney

RESOLUTION NO. 11-10-11-2d

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, ADOPTING PROCUREMENT PROCEDURES TO BE USED BY COLLEGE STATION UTILITIES FOR EXPENDITURES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of College Station, Texas, is a home-rule municipality; and

WHEREAS, the City of College Station, Texas, owns an electric utility referred to hereinafter as College Station Utilities or CSU; and

WHEREAS, Section 252.022(c) of the Texas Local Government Code exempts from the requirements of Chapter 252 expenditures by a municipally owned electric utility made in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures; and

WHEREAS, the City Council of the City of College Station deems it to be in the best interest of the citizens of College Station to adopt by resolution procurement procedures applicable to CSU as provided in Section 252.022(c); and

WHEREAS, the City Council of the City of College Station desires to establish procurement procedures for CSU to meet the public purposes of protecting and enhancing the ability of the City to provide reliable energy-related products and services on a competitive basis, continuing to provide, on a fair and equitable basis, a mechanism for acquiring materials and services at reasonable and competitive costs from suppliers, adding value to the City and its citizens, and managing and operating the City's electric systems on a sound and efficient business basis; and

WHEREAS, the City Council of the City of College Station further finds that these procurement procedures will benefit the public purposes, the citizens of College Station, and the customers and ratepayers of CSU by providing for purchases to conform with applicable laws while assuring that procurements are both beneficial and cost effective for CSU and its customers and fair and equitable to suppliers; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby determines that all purchases by CSU of materials and services or any other items otherwise subject to the procurement provisions, including but not limited to Chapters 252 and 271 of the Texas Local Government Code and Chapter 2267 of the Texas Government Code shall hereafter be made in accordance with the procurement procedures as set out in Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

PART 2: That the City Council hereby finds that the procurement procedures adopted hereunder will allow the City to efficiently obtain quality goods and services at a reasonable cost and, more specifically, to meet the public purposes of protecting and enhancing the ability of the City to provide reliable energy-related products and services on a competitive basis, continuing to provide, on a fair and equitable

basis, a mechanism for acquiring materials and services at reasonable and competitive costs from suppliers, adding value to the City and its citizens, and managing and operating the City's electric systems on a sound and efficient business basis.

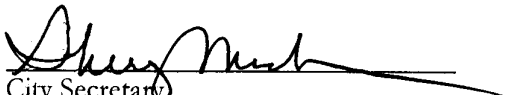
PART 3: That the City Council may supplement or amend the procurement procedures adopted herein from time to time as may be appropriate and desirable in order to continue to operate and manage the City's electric systems in a manner consistent with the purposes enumerated herein and in the interest of the City and its citizens.

PART 4: If any provision of the procurement procedures adopted herein is declared invalid, the City Council resolves that the other provisions shall remain in full force and effect.

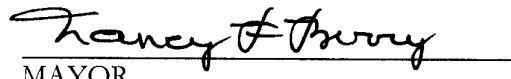
PART 5: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 10th day of November, A.D. 2011.

ATTEST:


City Secretary

APPROVED:


MAYOR

APPROVED:


City Attorney

EXHIBIT "A"
Procurement Policies & Procedures for CS Electric Utility

Public Purpose and Authority

The public purpose to be served by the CSU Procurement Procedures set forth herein shall be to obtain and maintain for the electric utility at all times a sufficient and uninterrupted supply of best quality materials and services at the lowest practicable cost for the benefit and best interests of the City of College Station and its citizens.

Furthermore, these Procedures are intended to allow the City to protect and enhance its ability to provide reliable energy-related products and services on a competitive and financially sound basis by obtaining safe, reliable, and timely delivery of materials, equipment and supplies, and performance of services on a fair and equitable basis from all interested parties.

These Procedures are adopted pursuant to the general exemption from competitive bidding or proposals provided for municipally owned electric utilities in Section 252.022 of the Texas Local Government Code.

Scope of Procedures

The City of College Station's Purchasing Procedures, as amended from time to time, as well as all other applicable state and federal laws including but not limited to Chapters 252 and 271 of the Texas Local Government Code and Chapter 2267 of the Texas Government Code apply to CSU procurement, except as specifically set forth otherwise in these Procedures.

The City Manager or his designee may adopt additional processes and guidelines consistent with these Procedures to ensure the uniform and consistent application of these Procedures.

CSU Purchasing Policies and Procedures

If the City Manager determines it to be in the best interest of the City based upon the public purpose and authority recited above, the City Manager may approve and authorize one of the procurement methods listed below for the purchase of materials and services for CSU, such materials and services to include, but not be limited to, construction projects, software, electronic hardware and the procurement of insurance:

- Competitive Bidding;
- Best Value Bids;
- Competitive Sealed Proposals;
- Construction Manager Agent;
- Construction Manager at Risk;
- Job Order Contracting; or
- Design Build

Once the procurement method is determined by the City Manager, the procedures outlined in Chapters 252 and 271 of the Texas Local Government Code and Chapter 2267 of the Texas Government Code and as provided by all other applicable state and federal procurement laws shall apply.

Award of a contract pursuant to one of these procurement methods must be made as required pursuant to the statute for such procurement method.

Cooperative Purchases

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes local governments to contract directly with other governments to increase their efficiency and effectiveness. As allowed by statutory provisions on participation in cooperation agreements, including Texas Local Government Code Chapter 271 Subchapter D, purchases of goods and services pursuant to this Act satisfy the requirement of CSU to solicit competitive bids or proposals.

If the City Manager determines it to be in the best interest of the City, the City Manager may authorize the participation in a contract awarded by another local government as required under Chapter 252 of the Texas Local Government Code for purchases related to the electric utility.

Exceptions to Procedures

In addition to the general exemptions listed in Section 252.022 of the Texas Local Government Code and notwithstanding anything to the contrary herein, the City Manager may authorize the procurement of materials and services in a manner independent from any requirement of Chapter 252 and of these Procedures, to meet a compelling business reason under the circumstances and in the manner described in this sub-part.

The following describes some of the conditions under which a finding of Compelling Business Reason may be deemed to be appropriate:

- The procurement is necessary to meet a critical need for materials or services necessary to restore or maintain the reliability or safety of the electric systems, or a major component or related business operation;
- The procurement is necessary to respond to fluctuating market conditions wherein potential delays in the normal and routine procurement process governed by these Procedures would adversely affect CSU's ability to obtain quality materials and/or services at a commercially reasonable price;
- The procurement is necessary to protect the competitive

interests or position of CSU;

- The procurement is necessary to prevent or mitigate significant financial loss to the City due to inherent delays in the normal acquisition process; or
- The City seeks to enter into, renew, extend or modify a strategic alliance or partnership agreement entered to improve CSU's inventory control process or business efficiencies under such terms as may be provided in the alliance or partnership agreement.

RESOLUTION NO. 02-23-12-2d

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, GRANTING AUTHORITY TO THE CITY MANAGER TO EXECUTE CONTRACTS ON BEHALF OF THE CITY WHEN CITY COUNCIL HAS DULY APPROVED SUCH CONTRACTS.

WHEREAS, the City Council of the City of College Station, Texas, adopted Resolution No. 11-10-11-2c which in part authorizes the City Manager to execute the City's Standard Form Construction Agreements for over \$50,000.00 and the Architects and Engineers Professional Services Contracts on behalf of the City when the City Council has duly approved such contracts thus improving the efficiency of processing said contracts; and

WHEREAS, the City Council of the City of College Station, Texas, has determined that all contracts approved by the City Council can similarly be more efficiently processed by authorizing the City Manager to execute such contracts following their approval; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

- PART 1: That all the findings of fact made and set forth in the preamble to this Resolution shall be and the same are hereby found, declared and adjudicated to be true and correct.
- PART 2: That the City Council of the City of College Station hereby authorizes the City Manager to execute all contracts on behalf of the City when City Council has duly approved such contracts.
- PART 3: That the City Council hereby finds that granting such authority to the City Manager in no way precludes the Mayor from executing contracts on behalf of the City when City Council has duly approved such contracts if required by law or as a condition of the contract or as otherwise determined by the City Council in its discretion.
- PART 4: That the City Council further finds that granting such authority to the City Manager shall not otherwise modify or change the City's procedures for processing such contracts.
- PART 5: That this Resolution shall take effect on April 1, 2012.

ADOPTED this 23rd day of February, A.D. 2012.

ATTEST:

Sherry Mashburn
City Secretary

APPROVED:

Trancy F. Provey
MAYOR

APPROVED:

Carla A. Robinson

City Attorney

ORDINANCE NO. 2019-4072

AN ORDINANCE PROVIDING THAT A NEW SECTION 2-96 OF CHAPTER 2, “ADMINISTRATION,” ARTICLE V, “FINANCE,” DIVISION 1 “GENERALLY,” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS BE CREATED RELATING TO THE PROVISION OF NOTICE FOR COMPETITIVE BIDS AND COMPETITIVE PROPOSALS; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about November 6, 2018 the City conducted a Charter Amendment election; and

WHEREAS, in this election was Proposition 5 was approved by a majority of voters who voted on this proposition; and

WHEREAS, Proposition 5 allows for the City of College Station (“City”) to determine by ordinance the methods to be used to satisfy notice requirements for competitive bids and competitive proposals; and

WHEREAS, the City Council of the City now desires to adopt such an ordinance to implement this proposition; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the facts and recitations set forth in the preamble of this Ordinance are declared true and correct.

PART 2: That a new Section 2-96 of Chapter 2 “Administration, Article V “Finance,” Division 1 “Generally,” of the Code of Ordinances of the City of College Station, Texas, be created as set out in **Exhibit “A”** attached hereto and made a part of this Ordinance for all purposes.

PART 3: If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

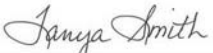
PART 4: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or

public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 5: This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED and APPROVED this 14th day of February, 2019.

ATTEST:



City Secretary

APPROVED:



Mayor

APPROVED:



City Attorney

EXHIBIT A

That a new Section 2-96 of Chapter 2 “Administration,” Article V, “Finance,” Division 1 “Generally,” of the Code of Ordinances of the City of College Station, Texas, be created to read as follows:

“CHAPTER 2, ADMINISTRATION.

. . . .

Article V. Finance.

Division 1. Generally.

. . . .

Section 2-96. The City may choose the method of giving notice of the deadline for the submission of and the time and place at which competitive bids and competitive proposals will be publicly opened and read aloud by either following the applicable provisions of Chapter 252 Texas Government Code or by posting such information for at least 14 days on the City’s internet website to the extent permitted by state law. The date of the internet posting must be before the 14th day before the date set to publicly open and read aloud the bids or proposals.”

RESOLUTION NO. 03-23-23-9.3

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AND ADOPTING THE CITY’S PUBLIC PRIVATE PARTNERSHIP PROGRAM GUIDELINES.

WHEREAS, it is a paramount goal of the City of College Station, Texas (“City”) to ensure the financial integrity of the City and to meet all legal requirements associated with public purchasing; and

WHEREAS, in accordance with the Public and Private Facilities and Infrastructure Act, Chapter 2267, Texas Government Code, for the purpose of encouraging private entity participation, creativity and completion and to guide the selection of qualifying projects in the public-private partnership development program, including the adoption of guidelines by local governments; and

WHEREAS, City Staff has proposed that the Council approve and adopt this Resolution that establishes the City’s Public Private Partnership Program Guidelines for the development or operation of qualifying projects that provide public services, facilities, and related functions, as attached as **Exhibit “A”** to this Resolution; and

WHEREAS, the City’s Public Private Partnership Program Guidelines require that the City Council review the program guidelines and to approve and adopt a resolution stating the review has been completed and recording any changes made to the program guidelines.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the facts and recitations set forth in the preamble of this Resolution are hereby declared true and correct.

PART 2: That the City Council of the City has completed its review of the City’s Public Private Partnership Program Guidelines and any changes made to the program guidelines are recorded in the official City Council Meeting Minutes and will be incorporated into the final program guidelines.

PART 3: That the City Council hereby approves and adopts the City’s Public Private Partnership Program Guidelines, which are attached hereto as **Exhibit “A”**.

PART 4: That this Resolution shall become effective immediately after passage and approval.

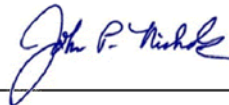
ADOPTED this 23rd day of March, A.D. 2023.

ATTEST:




City Secretary

APPROVED:



Mayor

APPROVED:



City Attorney

EXHIBIT A

PUBLIC PRIVATE PARTNERSHIP PROGRAM GUIDELINES

Public Private Partnership Program Guidelines

City of College Station, Texas

Adopted by Resolution No. 03-23-23-9.3

on March 23, 2023

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I. INTRODUCTION

A. ACT OVERVIEW

To assist municipalities with their growing infrastructure and government facility needs, the State of Texas enacted the Public and Private Facilities and Infrastructure Act (the “Act”) to allow greater use of public-private partnerships. The Act allows for partnerships between public and private entities as an alternate method of procurement to expedite the timing and reduce the costs of such projects. The purpose of the Act is to provide governmental entities with the greatest possible flexibility in contracting with Private Entities or other persons to provide public services through Qualifying Projects.

By enacting the Act, the Texas Legislature found that:

1. there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities in this state that serve a public need and purpose;
2. the public need may not be wholly satisfied by existing methods of procurement in which Qualifying Projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed;
3. there are inadequate resources to develop new education facilities, technology and other public infrastructure, and government facilities for the benefit of the citizens of this state, and there is demonstrated evidence that partnerships between public entities and private entities or other persons can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;
4. financial incentives exist under state and federal tax provisions that encourage public entities to enter into partnerships with private entities or other persons to Develop Qualifying Projects; and
5. authorizing private entities or other persons to Develop or Operate one or more Qualifying Projects may serve the public safety, benefit, and welfare by making the projects available to the public in a more timely or less costly fashion.

The Act became effective September 1, 2011 and is codified as Chapter 2267 of the Texas Government Code.

B. GUIDELINES OVERVIEW

On March 23, 2023, the College Station City Council passed Resolution No. 03-23-23-9.3 electing to utilize public-private partnerships and adopting these Guidelines to encourage Private Entity participation, creativity, and competition, and to guide the selection of Qualifying Projects. The Guidelines will furnish the private sector with a predictable and uniform process to respond to solicitations for Qualified Projects. These Guidelines are intended to encourage competition and guide the selection of Qualifying Projects under the purview of the City of College Station (“City”). Nothing in these Guidelines shall prevent the City from utilizing other procurement laws or methods at its discretion, including for a project that meets the definition of a Qualifying Project.

C. DESIGNATED CONTACT

The City of College Station designates the following representative or position, as may be amended by the City from time to time, to meet with Private Entities who are considering submitting a Proposal:

Director of Fiscal Services
City of College Station
1101 Texas Avenue South
College Station, TX
mleonard@cstx.gov
979-764-3645

The City’s designee is available by appointment only, Monday to Friday between 8:00 a.m. and 5:00 p.m., CST excluding City holidays.

D. QUALIFYING PROJECTS

A public-private partnership (“P3”) is a contractual relationship between a public agency such as the City of College Station and a Private Entity for the purpose of timely delivery of services or facilities in a cost-effective manner that might not otherwise be possible using traditional sources of public financing. Through this contractual agreement, the assets and professional skills of each sector (public and private) are shared to deliver a facility and/or service (e.g., planning, designing, financing, constructing, operating, maintaining, and owning) for the use of the general public and each sector shares in the potential risks of the timely and efficient delivery of the service or facility.

To be considered under the P3 Program a Proposal must meet the definition of a “Qualifying Project” as defined in the Act and these Guidelines. The City may approve as a Qualifying Project the Development or Operation of a facility needed by the City, or the design or equipping of a Qualifying Project, if the City determines that the project serves the public purpose of the Act. This public purpose determination can be made if:

1. There is a public need for or benefit derived from the project;
2. The estimated cost of the project is reasonable in relation to similar facilities; and
3. The plans will result in the timely Development or Operation of the Qualifying Project.

II. GENERAL PROVISIONS

A. DEFINITIONS

The following terms shall have the meanings set forth below:

Act means the Public and Private Facilities and Infrastructure Act, Chapter 2267, Texas Government Code.

Affected Jurisdiction means any county or municipality in which all or a portion of a Qualifying Project is located.

City means the City of College Station.

City Council means the governing body of the City of College Station.

City Manager means the City Manager of the City of College Station, or a designated assistant city manager.

Comprehensive Agreement means the comprehensive agreement between the Contracting Person and the City for the Development or Operation, or both, of a Qualifying Project. Comprehensive Agreements are subject to review and approval of the Oversight Committee and require approval by resolution of the City Council.

Contracting Person means a person who enters into a Comprehensive or Interim Agreement with the City.

Develop or **Development** means to plan, design, develop, finance, lease, acquire, install, construct, or expand a Qualifying Project.

Financial Analysis means a review of a proposed Qualifying Project that includes, at a minimum, a cost-benefit analysis; an assessment of opportunity cost; consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market; and consideration of the results of all studies and analyses related to the proposed Qualifying Project.

Guidelines means this P3 Program guideline document.

Improvement means:

- (A) a building, structure, fixture, or fence erected on or affixed to land;
- (B) the installation of water, sewer, or drainage lines on, above, or under land;

(C) the paving of undeveloped land; and

(D) specialized software that in any manner is related to the control, management, maintenance, or operation of an improvement.

Interim Agreement means an agreement, before or in connection with the negotiation of the Comprehensive Agreement, between the City and a Contracting Person for the Development or Operation, or both, of a Qualifying Project. The Interim Agreement may authorize the Contracting Person to begin activities or project phases related to the Qualifying Project including, but not limited to, project planning and development, design, engineering, environmental analysis and mitigation, surveying, financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities, or any other phase of the Qualifying Project. Interim Agreements are subject to review and approval of the Oversight Committee and City Manager. Interim Agreements also require approval by resolution of City Council.

Operate or Operation means to finance, maintain, improve, equip, modify, repair, or operate a Qualifying Project.

Oversight Committee means a committee formed by the City's designated representative identified in Section I.C, consisting of qualified professionals of the City with expertise in the development and operation of Qualifying Projects in accordance with the Act.

P3 Program means the City's public-private partnership program implemented in accordance with the Act.

Private Entity means any individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity.

Proposal means a requested submittal for a Qualifying Project accepted by the City for a detailed analysis and evaluation in response to an RFP or RFQ that complies with the requirements of Section IV below.

Qualifying Project means:

(A) any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, technology facility, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or

(B) any improvements necessary or desirable to real property owned by a governmental entity, including the City.

RFP means a request for proposals.

RFQ means a request for qualifications.

B. GENERAL PROPOSAL SUBMISSION PROCESS

The City may from time to time identify development opportunities and initiate the process for review and approval of proposals. The process for receipt and review of a proposal is initiated by a solicitation by the City in the form of an RFP or an RFQ.

The P3 Program is a flexible development tool that allows the use of innovative financing techniques. Private Entities are encouraged to include innovative financing methods, including the imposition of user fees or other forms of service payments, in their proposal. The Contracting Person can be involved in a variety of ways, from designing the facility to undertaking its financing, construction, operation, maintenance, and management.

Proposals should include a concise description of the Private Entity's capabilities to complete the Qualifying Project. Proposals must include a scope of work and a financial plan for the Qualifying Project, containing enough detail to allow a Financial Analysis by the City.

As provided in the Act, the City reserves the right, on a case-by-case basis, to conduct the analysis of the Proposal with internal resources or to contract with outside advisors or consultants to provide this service. In either case, the City may request additional financial and/or other relevant information in order to complete its analysis. The City may, at any time, request in writing that the proposer clarify its submission.

The P3 Program is intended to encourage Proposals from the private sector that offer private financing in support of a Qualifying Project, which may include commensurate risk to the Private Entity, but may also benefit the Private Entity through innovative approaches to project financing, development, and use. Proposals may include in-kind consideration, in an amount that is not less than the fair market value of the real property interest; including but not limited to construction of new facilities, alteration and restoration of existing facilities, and environmental remediation. The qualifications, capabilities, resources and other attributes of a Private Entity and its whole team shall be carefully examined for every Qualifying Project. In addition, Private Entities shall be held strictly accountable for representations and information provided regarding their qualifications, experience or other content in their Proposals, including all specific aspects of proposed plans to be performed by the Private Entity.

C. TEXAS PUBLIC INFORMATION ACT

The City is subject to the Texas Public Information Act, Chapter 552, Texas Government Code. Most information collected, assembled, or maintained by the City in connection with the transaction of official business is public information subject to disclosure upon written request. The Public Information Act exempts certain categories of information from required public disclosure. The Office of the Attorney General determines whether information may be withheld, not the City. All information provided to the City will be handled in accordance with the Act and the requirements of the Texas Public Information Act while in the City's possession. All documents submitted under these Guidelines should be regarded as public records and subject to disclosure; provided however, such documents will be held in confidence by the City as required by the Act and to the requirements of the Public Information Act. A Private Entity may identify those specific portions of a Proposal that the Private Entity considers to be trade secrets or confidential commercial, financial, or proprietary information. The City will disregard blanket statements regarding the confidentiality of information.

The City will process any third-party request for disclosure of information comprising all or part of the response to the solicitation or other information in accordance with the procedures prescribed by the Texas Public Information Act. Private Entities are directed to the Attorney General's web site (www.oag.state.tx.us) which is the City's reference for information concerning the application of the provisions of the Public Information Act.

D. ADJUSTMENT OF TIMELINES AND PROCEDURES

Except for specific time periods and procedures established in the Act, the City Manager may accelerate and modify the solicitation, evaluation, selection, review, and documentation timelines and procedures set out in these Guidelines for proposals involving a Qualifying Project considered a priority by the City; and may extend the timelines for such additional periods of time and add procedures as are determined by the City Manager to be necessary or convenient to provide for a fair and complete evaluation and selection process. In determining whether to authorize additional time and procedures, the City Manager will consider the complexity of the proposed Qualifying Project.

E. RESERVATION OF RIGHTS

The City reserves all rights available to it by law in administering these Guidelines, including without limitation the right in its sole discretion to:

- a. withdraw a solicitation, including an RFP or RFQ, at any time and issue a new request;
- b. reject any and all Proposal submittals at any time;
- c. terminate evaluation of any and all Proposal submittals at any time;
- d. suspend, discontinue, or terminate either Interim or Comprehensive Agreement negotiations with any proposer at any time prior to the actual authorized execution

- of such agreement by all parties;
- e. negotiate with a proposer without being bound by any provision in its Proposal;
 - f. negotiate with a proposer to include aspects of unsuccessful Proposals for the project in the Interim or Comprehensive Agreement;
 - g. request or obtain additional information about any Proposal from any source;
 - h. modify, issue addenda to, or cancel any solicitation including an RFP or RFQ;
 - i. waive deficiencies in a Proposal submittal, accept and review a nonconforming Proposal submittal, or permit clarifications or supplements to a Proposal submittal; or
 - j. waive, revise, amend, supplement, or make substitutions for all or any part of these Guidelines.

F. REQUEST FOR INFORMATION

At any time prior to the City's issuance of an RFQ or RFP, the City may solicit a request for information to assist with the scoping and feasibility analysis of a particular Qualifying Project.

G. CONSENT

In submitting any Proposal, the proposer shall be deemed to have unconditionally and irrevocably consented and agreed to the provisions of these Guidelines, City Ordinances, and any applicable solicitation.

H. COSTS

Except as specifically provided in these Guidelines, under no circumstances will the City or any of its agents, representatives, consultants, directors, officers, or employees be liable for, or otherwise obligated to, reimburse the costs incurred by any proposer, whether or not selected for negotiations, in developing Proposals or in negotiating agreements.

III. SOLICITED PROPOSALS

A. PROPOSAL

The City, in accordance with the provisions of these Guidelines, may invite bids or Proposals from Private Entities for purposes that constitute a Qualifying Project. The procedures and requirements applicable to any solicited Proposal shall be specified in the solicitation for that Proposal.

B. RFQ

The City may issue an RFQ for a Qualifying Project setting forth the basic criteria for professional experience, technical competence, and capability to complete a proposed project, and such other information as the City considers relevant or necessary in the RFQ and will publish and advertise it as provided in Section III.D. The City may also elect to

furnish the RFQ to businesses in the private sector that the City believes might be interested and qualified to participate in the Qualifying Project which is the subject of the RFQ. At its sole option, the City may elect to furnish conceptual designs, fundamental details, technical studies and reports, or detailed plans of the proposed Qualifying Project in the RFQ. The RFQ may request one or more conceptual approaches to bring the project to fruition.

The City, after evaluating the qualification submittals received in response to a RFQ, will identify and approve a "short-list" that is composed of those Private Entities that are considered most qualified to submit Proposals for a proposed Qualifying Project. In evaluating the qualification submittals, the City will consider objective evaluation criteria that the City considers relevant to the project, which may include among other things the Private Entity's financial condition, management stability, technical capability, experience, staffing, and organizational structure. The RFQ will include the criteria used to evaluate the qualification of submittals and the relative weight given to the criteria. The City shall advise each entity providing a qualification submittal whether it is on the short-list of qualified entities.

C. RFP

The City may issue an RFP consisting of the submission of detailed documentation regarding the designated Qualifying Project. The response to any RFP shall be a Proposal and include the information and be in the format set out in Section IV. When the process is commenced with a RFQ, the RFP will be limited to those Private Entities qualified for the short-list in accordance with Section III.B.

D. SOLICITATION

Solicitations of a RFQ or RFP will be by issuance, posting, and publication of an electronic written request. The City will publish and advertise a notice on the City's online bidding portal. The notice shall summarize the Qualifying Project, identify the proposed location of each project, and include specific information and documentation regarding the nature, timing, and scope of the Qualifying Project. The notice shall also state that the City will accept Proposals for a period of forty-five (45) days after the initial electronic publication of the notice, or such lesser or additional time as authorized by the City Manager. Only Proposals that comply with the requirements of the Act, these Guidelines, and the City's solicitation and which contain information sufficient for meaningful evaluation will be considered. Proposals will be evaluated by the City after identification of those Proposals determined to be in compliance, based on the evaluation criteria set forth in the solicitation.

In order to (i) provide an effective analysis, and (ii) assist with the negotiation of an Interim and/or Comprehensive Agreement, the City may engage professional financial, technical, legal and other necessary advisors or consultants having appropriate experience in analyzing innovative financing methods, complex real estate development methods, and public-private partnership proposals. For a Proposal with an estimated cost of \$5 million

or more for construction or renovation of a Qualifying Project, review by an architect, a professional engineer, and a registered municipal advisor not otherwise employed by the City is mandatory in order to provide independent analyses regarding the specifics, advantages, disadvantages, and long-term and short-term costs of a Qualifying Project, in conformance with Sec. 2267.052 of the Act.

E. PROPOSAL EVALUATION AND SELECTION

All solicited RFP's and RFQ's shall be analyzed by an Oversight Committee, and any qualified professionals retained by the City on the recommendation of the Oversight Committee. Based on the evaluation criteria described in Section V.B., the Oversight Committee will rank all Proposals that are complete, responsive, and in conformance with the requirements of these Guidelines, and may select the proposer whose Proposal offers the apparent best value to the City.

The City reserves the right at all times to reject any proposal at any time for any reason in its sole discretion.

The Oversight Committee will submit a recommendation to the City Manager regarding approval of the Proposal it ranks as providing the apparent best value to the City. The City Manager may approve or disapprove the recommendation, and if approved, will recommend that the Proposal be presented to the City Council for possible discussion and possible action by the City Council. Following receipt of comments from Affected Jurisdictions and the public in response to the City's notice and hearing as provided in Section VII, the City may award the Qualifying Project to the apparent best overall value proposer by resolution of the City Council. The Interim or Comprehensive Agreement will be negotiated and signed by the proposer prior to City Council action, but the award will be subject to any necessary federal action, submission of required bonds or any other required documentation, review by the Oversight committee, execution of the agreement by the City Manager, approval as to form by the City Attorney's Office and satisfaction of such other conditions identified in the solicitation.

In the alternative, the Oversight Committee may determine not to proceed further with any Proposal.

IV. PROPOSAL PREPARATION AND SUBMISSION

NOTE: EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE GUIDELINES, PRIVATE ENTITIES MAY NOT CONTACT OFFICIALS OR EMPLOYEES OF THE CITY, ANY ELECTED OR APPOINTED OFFICIAL, OR STATE EMPLOYEES ABOUT ANY MATTER IN THIS SOLICITATION DURING THE SOLICITATION.

The City shall not be liable for any cost incurred by a Private Entity in preparing, submitting or presenting any Proposal and in satisfying any demonstration or other

requirements for an unsuccessful Proposal. All submittals, at a minimum, shall provide the following unless a waiver of the requirement or requirements is agreed to in writing by the City.

1. All Proposals must be organized in the manner outlined below and submitted with the applicable review fee defined in Section V.A. of these Guidelines. All Proposals shall be submitted as 1 original, 10 copies, and 10 electronic copies (Word or searchable PDF format on flash drives). The original copy containing original signatures shall be marked ORIGINAL on the cover letter.
2. The Private Entity shall also submit trade secrets, financial records, proprietary or other confidential records exempt from disclosure under Government Code Section 552.101 in a separate, sealed envelope, designated on the cover as CONFIDENTIAL MATERIALS, and include a cover letter listing all exempt material. The Private Entity must clearly mark any material believed to be a trade secret, confidential, or proprietary information protected from disclosure under applicable law. Such material must be clearly marked in all caps as CONFIDENTIAL using a word processing watermark or stamp. Handwritten notices of confidentiality may be disregarded.
3. Proposals shall be packaged and submitted in the following format:
 - i. Pages shall be numbered and organized by paginated table of contents corresponding to the tabbed sections identified below.
 - ii. The submittal shall be divided into tabbed sections as follows:
 - TAB 1: Executive Summary
 - TAB 2: Private Entity and Team
 - TAB 3: Qualifications and Financial Capacity
 - TAB 4: Proposal
 - TAB 5: Project Analyses
 - TAB 6: Project Financing
 - TAB 7: Community Impact
 - TAB 8: Miscellaneous
 - TAB 9: Addenda
 - iii. The contents shall be printed on spiral bound 8½" x 11" paper (except A/E drawings and renderings).
 - iv. Drawings shall be printed no larger than 24" x 36".
 - v. Supplemental materials in alternate formats may be included in **TAB 8** to describe the Proposal in more detail.

4. All submissions shall be addressed to the City's designated representative in a sealed envelope marked:

DO NOT OPEN IN MAILROOM

Solicitation Number

Proposer's Name

Mailing Address

5. To the greatest extent possible, the submitted Proposals shall be sufficient to convey the experience and capacity of the development team, the overall quality and character of the Qualifying Project, as well as the financial and implementation strategies to ensure successful completion of the Qualifying Project. The submittal should be organized in the following order and tabbed in accordance with this section. All submittals, at a minimum, shall provide the following:

TAB 1: COVER LETTER AND EXECUTIVE SUMMARY. Provide a cover letter, signed by an authorized representative of the Private Entity representing that all information in the Proposal is true and accurate, and an executive summary that highlights the key components of the Qualifying Project, including but not limited to describing the Private Entity, its qualifications and experience with similar projects, highlights of the Proposal and Qualifying Project analyses, and the community impact and benefits of the Qualifying Project.

TAB 2: PRIVATE ENTITY AND TEAM

A. Identify the Private Entity:

- i. Identify the legal structure of the Private Entity or consortium of private entities who will be directly involved in the Qualifying Project and the members or principals of same making the Proposal;
- ii. For the Private Entity and each member or partner thereof, provide proof of authority to do business in Texas and, as applicable, a certificate of active status from the Texas Comptroller of Public Accounts;
- iii. Identify the person(s) in charge of negotiations, key personnel who will be involved in decision making, and the representative authorized to sign on behalf of the Private Entity;
- iv. Provide a list of each member, partner, or other principal including the relevant company name, title, address, telephone, and email of each team member; and
- v. Identify any persons known to the Private Entity who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the Qualifying Project.

B. Identify the Team:

- i. Provide a list of any selected or prospective professional or consultant which may include, but are not limited to analysts, architects, engineers, contractors, legal counsel, marketing firms, and real estate brokerage and property management firms;
- ii. Identify the persons or entities that will provide design, construction, and completion guarantees and warranties;
- iii. Provide an organizational chart that clearly illustrates the legal structure of the team and identifies the role of each team member, including design professionals, consultants, or major contractors, participating in the Development or Operation of the Qualifying Project; and
- iv. Describe the management structure and the role of each team member or partner in the Qualifying Project. Confirm that no team member has a conflict of interest or prohibited employment as described in the Act.

TAB 3: QUALIFICATIONS AND FINANCIAL CAPACITY

A. **Qualification.** The Private Entity must provide demonstrable experience in the Development and Operation of Qualifying Projects of similar complexity, scope, and scale to the proposed project. The submission must describe relevant experience with respect to the Development and Operation of other commercial or public-private partnership projects, and clearly distinguishing the experience of the Private Entity (including joint venture partners) from that of consultants and other team members. To substantiate experience and ability to perform the following information shall be provided:

- i. Describe the length of time in business, business experience, public sector experience, and other engagements of the Private Entity or consortium of Private Entities;
- ii. Provide resumes and work experience of each team member;
- iii. For the Private Entity or consortium, any joint venture partners, the contractor and all major subcontractors to be involved in the Qualifying Project, provide a statement listing all prior projects and clients for the past 5 years, and contact information for same;
- iv. For the Private Entity or consortium and any joint venture partners, provide the composition of current real estate portfolios, including the size, value, years of ownership, asset performance, and any other relevant information; and
- v. For the Private Entity or consortium and any joint venture partners, provide at least 3 development references (name, title, entity, telephone number, email and contractual relationship) that can be contacted with respect to current and past project experience;

- vi. For the Private Entity or consortium and any joint venture partners, provide a listing and description of all pending projects under enforceable funded contracts, including the status, development schedule, financing method, sources, and amounts, and financial commitments required of the Private Entity, consortium, or joint venture partner.

B. Financial Capacity. The Private Entity must establish and demonstrate access to financial resources such as the ability to raise equity and secure debt capital to deliver the Qualifying Project in a professional and timely manner. To substantiate financial capacity, the following information must be provided:

- i. A qualification statement that reviews all relevant information regarding financial resources of each Private Entity, consortium, or joint venturer, including but not limited to bonding capacities and insurance coverage;
- ii. The most recent credit report or Dun & Bradstreet report and certified financial statements for the past 4 years of each Private Entity, consortium, or joint venturer, and each member or partner of each with an equity interest of 5% or greater; and
- iii. For the Private Entity or consortium and any joint venture partners, provide at least 3 financial references (name, title, entity, telephone number, email and contractual relationship) that can be contacted with respect to current and past project experience.

TAB 4: PROPOSAL

Provide an overview of the Qualifying Project including the conceptual design of any facility or a conceptual plan for the provision of services. The conceptual design for facilities, at a minimum, shall include concept renderings, a concept site plan, and elevations that collectively illustrate the location, size, and context of the Qualifying Project. The required renderings and drawings include:

A. Concept Plan

- i. **Concept Renderings:** Provide a conceptual site plan that characterizes the context of the design of the Qualifying Project, which at a minimum, shall include proposed land use and the approximate location and size of proposed structures or facilities, and the relationship of the Qualifying Project to the principal street and the surrounding area. To the extent the Private Entity has identified the preliminary programming of facilities, including the mix of uses, square footage(s), anticipated total project cost and cost per square foot, total parking spaces, parking allocations (shared or exclusive), and types of parking (e.g. structured or surface); describe the proposal.
- ii. **Concept Site Plan:** The site plan shall encompass the subject property and portions of contiguous parcels, including landscape and urban design concepts. The site plan shall also indicate all major pedestrian entrances, all proposed outdoor areas, and the circulation plan showing how the

Qualifying Project relates to public rights-of-way to and within the site for walking, cycling, public transportation, and motor vehicles. Summarize the preliminary programming of facilities, including if any, the mix of uses, square footages, total parking spaces, parking allocations (shared or exclusive), and types of parking (e.g. structured or surface).

- iii. **Elevations:** Provide exterior building elevations, illustrating the massing, openings, and any related elements.

B. Project Development Plan.

- i. Describe the project development plan, general approach and strategy to advancing project development, the results expected from implementation of the plan and the critical factors for the project's success.
- ii. Provide an implementation plan and strategy to develop, design, construct and deliver the project. Submit a conceptual development implementation plan with a preliminary schedule including construction start and completion dates, final acceptance dates, and other major milestones.
- iii. Describe the qualified personnel, material, and equipment resources available to the proposer that it will commit to the project. Team roles and responsibilities must be specifically described, including the use of major subcontractors and professional consultants. Discuss the current work backlog of each major participant and the capacity to perform the work. Describe with specificity the turnover history of key personnel during the course of similar projects listed in the submittal.
- iv. Based on knowledge of the surrounding area, adjacent land use and the proposed Qualifying Project, provide a list of factors that may impact the Qualifying Project and the existing neighborhood or landowners, including potential political, economic, transportation, and environmental factors. Identify any anticipated public support or opposition for the project and any Affected Jurisdictions.

C. Project Financial Plan.

- i. Describe the proposed business arrangements (i.e. performance based infrastructure, participation rent, concessions, parking management agreements, service agreements, etc.).
- ii. Describe the plan for the Development and Operation of the Qualifying Project showing the anticipated schedule of when funds will be required and from what source.
- iii. Describe the level and nature of the City's participation sought by the proposer in connection with the project's development and implementation.
- iv. Provide a preliminary schedule including permits and approvals from any federal, state, or local agencies to the extent such are required, and timing of any contemplated requests for federal, state, or local resources, and the initiation, construction phasing, completion, and opening of the Qualifying

- Project including major milestones and the proposed major responsibilities and timeline for activities to be performed by the City and the Private Entity.
- v. To the extent the Private Entity has identified federal, state, or local funding sources, describe such sources.
- vi. To the extent the Private Entity has identified the type of user fees, lease payments, and other service payments over the term of any applicable agreement and the methodology for calculation; describe such proposal.

D. Terms, Special Conditions and Other Considerations. This section is reserved for a description of any special conditions the proposal may offer to or request from the City.

- i. State the terms offered for the Qualifying Project.
- ii. State any contingencies or conditions requested by the Private Entity.
- iii. Identify any additional terms or conditions to be included as part of the negotiation process. Include a discussion of any trades or swaps of property and special legislation or plan amendments required to facilitate the Qualifying Project.

TAB 5: PROJECT ANALYSES.

In this section include the project analyses that support the business case of the Qualifying Project. The Project Analysis section shall be categorized into four sub-tabbed sections as follows: (1) location and site analysis, (2) marketing and competitive analysis, (3) financial analysis, and (4) political and legal analysis:

- A. Location and Site Analysis.** Describe how the proposed design of the improvements and the attributes of the site will generate maximum financial, economic, and social benefits, and list any public utility facilities that will be affected by the Qualifying Project and a statement of the plans to accommodate the affected facilities.
- B. Market and Competitive Analysis.** Provide a market study that supports the revenue assumptions and viability of the Qualifying Project. To indicate feasibility forecast the supply and demand relationship, including but not limited to demographic data, traffic counts, rent levels, and absorption rates. Include any supporting due diligence studies, analyses, or reports.
- C. Construction Schedule.** Provide a conceptual timeline identifying all the stages of project development from design to completion of turn-key project. Provide a construction timeline setting out the work schedule for the project from the design stage to project acceptance by the City.
- D. Political and Legal Analysis.** Provide an explanation of how the Qualifying Project will complement or comply with the City’s relevant city plans and policies. List all permits and approvals required for the development and completion of the Qualifying Project from federal, state, or local agencies. Identify any federal, state, or local resources that the Private Entity contemplates

requesting for the Qualifying Project. Describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment, both one-time and on-going.

TAB 6: PROJECT FINANCING

A. Financial Analysis

- i. Explain the financing plan for the Qualifying Project. Identify the sources and amounts of debt and equity to be used to capitalize the Qualifying Project, and the relationship of the Private Entity to each (e.g., outside lender, parent company, etc.).
- ii. Provide the following information:
 1. Loan commitment letters and contact information for funding sources;
 2. The sources and anticipated amounts of working capital to cover Operating costs and to adequately maintain operations from the start-up through completion; and
 3. Letters from lending institutions dated within 3 months of the submission that demonstrate the existence of liquid assets or suitable unencumbered lines of credit to carry out the predevelopment activities. Evidence of the Private Entity's liquid assets or some acceptable form of equity shall be equal to the equity requirements of the prospective construction lender.
- iii. To the extent the Private Entity has identified, applied for, or plans to apply for federal, state, or local funding sources, describe such sources.
- iv. Include any other information necessary for the City to complete a Financial Analysis of the proposal.

B. Project Budget

- i. Using standard estimating techniques provide a development budget detailing any anticipated land acquisitions, the anticipated pre-development costs, and hard and soft costs from construction through occupancy.
- ii. The budget should include cost estimates to pay for the relocation of any utility facilities which will be displaced as a result of project development.

C. Proforma Financial Statements

- i. Provide a discounted cash flow analysis, for the duration of the Qualifying Project, including but not limited to: estimates of costs, operating expenses, capital reserves including replacement and re-tenanting reserves, net operating income, debt service, partnership percentages, disposition benchmarks, and calculations of net present value, internal rate of return.
- ii. Provide projected balance sheet, statement of losses and earnings, and income statement for the first year of operation.

TAB 7: COMMUNITY IMPACT

- A. State the community benefits, including the economic impact and tax revenues, the Qualifying Project will have on the City.
- B. Estimate the number of jobs to be generated for area residents and level of pay and fringe benefits of such jobs.
- C. Project the number and value of subcontracts generated for area subcontractors.

TAB 8: MISCELLANEOUS

Use this section to present additional information such as letters of recommendation, letters of interest from prospective lenders or tenants, additional information concerning the development team, and other information that supports the Proposal.

TAB 9: ADDENDA

Use this section to present any item cited or referenced in the proposal.

V. PROPOSAL EVALUATION AND SELECTION CRITERIA

A. PROPOSAL EVALUATION AND FEE

Along with the submission of a Proposal, each proposer shall submit to the City a non-refundable review fee in accordance with Section 2267.053(d) of the Act in the amount of Two Thousand Five Hundred and No/100 (\$2,500.00). The review fee shall be made by money order or check made payable to the City of College Station and shall be used to cover the City's internal costs of processing, reviewing, and evaluating the proposal as permitted by the Act. In addition to the City's review fee, proposers shall pay the fees of any advisors, attorneys, or consultants engaged by the City to complete evaluation of the proposal. Payment shall be made in the manner and amounts set out in the RFQ or RFP as applicable.

Once the proposer has submitted the Proposal and review fee, and the deadline to submit additional proposals has passed, the City's Purchasing Division will submit each Proposal to the Oversight Committee. Within 90 days from receipt of the Proposals, the Oversight Committee shall evaluate the Proposal, select the most advantageous Proposal, negotiate a contract with the Proposer and present the proposed contract to the City Manager for a determination of whether a recommendation to enter into the contract shall be made to the City Council. The proposer shall be notified in writing of the City's decision to present the Proposal to the City Council, or to not pursue the Qualifying Project as presented in the Proposal. At any time during the evaluation, the Purchasing Division may request additional information or a meeting with the proposer to seek clarification regarding the submitted Proposal.

Any discussions between the City and any Private Entity(ies) or Proposer(s) about the need for infrastructure improvements in or related to any Proposal shall not limit the ability of the City to later determine to use other standard procurement procedures,

methods, or statutes to meet City infrastructure, facility, or other related needs.

B. SELECTION CRITERIA AND EVALUATION FACTORS

The City shall make a “best value” determination in evaluating proposals received and consider the total project cost as one factor in evaluation of the proposals. The City is not required to select the Proposal that offers the lowest total project cost. Factors to be considered in evaluating a Proposal may include some or all of the following:

1. QUALIFICATIONS AND EXPERIENCE, such as the following:

- Experience working with the public sector on public-private real estate development projects;
- Experience, training and preparation with projects of similar size, scope and complexity;
- The extent of personnel, logistical resources, bonding capacity, and the ability to complete the Qualifying Project in a timely and professional manner;
- Demonstrated record of successful past performance, including timeliness of project delivery, compliance with plans and specifications, quality of workmanship, cost-control and project safety;
- Demonstrated compliance with applicable laws, codes, standards, regulations, and agreements on past projects;
- Leadership structure;
- Project manager's experience;
- Management and operational plans;
- Financial condition and capacity; and
- Project ownership.

2. PROJECT CHARACTERISTICS. Factors to be considered in evaluating the Qualifying Project characteristics may include, but are not limited to:

- Project scope and scale, land use, and Project/product mix;
- The extent that the timing of the Qualifying Project is consistent with the City's relevant City plans and policies;
- Operation of the Qualifying Project;
- Technology;
- Technical feasibility;
- Environmental impacts;
- Federal, state and local permits; and
- Maintenance of the Qualifying Project.

3. PROJECT COST AND FINANCING. Factors to be considered in evaluating whether the proposed financing allows adequate access to the necessary capital to finance the Qualifying Project may include, but are not limited to:

- Cost and cost-benefit to the City;

- Financing and the impact on the debt or debt burden of the City;
 - Financial plan, including overall feasibility and reliability of plan;
 - Proposer's past performance with similar plans and similar projects;
 - The degree to which the Private Entity has conducted due diligence investigation and analysis of proposed financial plan and the results of any such inquiries or studies;
 - Estimated project cost and life-cycle cost analysis; and
 - The identity, credit history, and past performance of any third-party that will provide financing for the Qualifying Project and the nature, amount, and timing of their commitment, as applicable.
4. **COMMUNITY IMPACT.** Factors to be considered in evaluating the Qualifying Project's community impact may include, but are not limited to:
- Community benefits, including the economic impact the Qualifying Project will have on the City and Affected Jurisdictions in terms of tax revenue;
 - The number of jobs generated and level of pay and benefits of such jobs;
 - Community support or opposition, or both;
 - Compatibility with the Proposal's relationship to comprehensive planning or zoning requirements;
 - Compatibility with existing and planned facilities; and
 - Compatibility with local, regional, and state economic development efforts.
5. **OTHER FACTORS.** Other factors that may be considered by the City in the evaluation and selection of proposals may include, but are not limited to:
- The extent the offered consideration generates value and returns to the City and benefits to the public, including in-kind consideration greater than the fair market value of the asset;
 - The proposed cost of the Qualifying Project;
 - The general reputation, industry experience, and financial capacity of the Private Entity;
 - The quality of the proposed design of the Qualifying Project;
 - Opportunity cost of taking an alternative action;
 - The Private Entity's compliance with a minority business enterprise participation plan or good faith effort to comply with the goals of such plan;
 - The Private Entity's plans to employ local residents;
 - Non-financial benefits of a proposed Qualifying Project;
 - Involvement or impact of the project on multiple public entities; and
 - Other criteria that the City deems appropriate.

VI. POSTING AND HEARING REQUIREMENTS

A. AFFECTED JURISDICTIONS

In accordance with Section 2267.055, Texas Government Code, a Private Entity submitting a proposal shall notify each Affected Jurisdiction by providing a copy of its Proposal to the Affected Jurisdiction.

A copy of the Proposal shall be sent by certified mail, express delivery or hand delivery, within 5 days after submission of the Proposal to the City. The Private Entity is responsible for documenting delivery of the Proposal. In accordance with Section 2267.055, Texas Government Code, Affected Jurisdiction(s) have 60 days after the date an Affected Jurisdiction receives the notice required by Subsection 2267.055(a), to submit in writing to the City any comments the Affected Jurisdiction has on the Qualifying Project and indicate whether the facility or Qualifying Project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan.

When providing the Proposal to the Affected Jurisdiction(s), the proposer shall clearly mark information deemed to be confidential and not subject to release under the Texas Public Information Act.

B. NOTICE AND ACCESS TO ACCEPTED PROPOSALS

Within 10 days of the City's Purchasing Division accepting a Proposal, the director of that division will ensure that the City provides notice of the Proposal in accordance with Section 2267.066 of the Act by (i) making the Proposal available to the public on the City's official website, and (ii) making available a hard copy of each Proposal for inspection at the City Secretary's Office. Trade secrets, financial records, or other designated records excluded from disclosure pursuant to relevant provisions of the Act and under Section 552.101 of the Texas Public Information Act may not be posted or made available for public inspection except as otherwise agreed to by the City and the proposer.

C. PUBLIC HEARING

In accordance with Section 2267.066(d) of the Act, not later than 30 days prior to entering into an Interim or Comprehensive Agreement, the City shall hold a public hearing on the Proposal. For Qualifying Projects that will be constructed inside the College Station, Texas city limits, the public hearing shall be held at the City of College Station City Hall building. For Qualifying Projects that will be constructed outside of the College Station, Texas city limits, the public hearing shall be held in the area in which the proposed Qualifying Project is to be performed.

VII. COMPREHENSIVE AND INTERIM AGREEMENTS

Sections 2267.058 and 2267.059 provide for the City and Private Entity to enter into a Comprehensive Agreement and, if needed, an Interim Agreement. Any Comprehensive

Agreement or Interim Agreement shall define the rights and obligations of the City and the contracting party regarding the Qualifying Project.

A. MINIMUM INTERIM AGREEMENT TERMS

Before or in connection with the negotiation of the Comprehensive Agreement, the City may enter into an Interim Agreement with the Contracting Person proposing the Development or Operation of the Qualifying Project. The Interim Agreement may:

- i. authorize the Contracting Person to begin project phases or activities for which the Contracting Person may be compensated relating to the proposed Qualifying Project, including project planning and development, design, engineering, environmental analysis and mitigation, surveying, and financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities of the qualifying project;
- ii. establish the process and timing of the negotiation of the Comprehensive Agreement;
- iii. contain any other provision related to any aspect of the Development or Operation of a Qualifying Project that the parties consider appropriate; and
- iv. contain contracting provisions required by ordinance or statute.

Any Interim Agreement entered into pursuant to the P3 Program between the City and the Contracting Person is subject to approval by City Council.

B. MINIMUM COMPREHENSIVE AGREEMENT TERMS

Any Comprehensive Agreement entered into pursuant to the P3 Program between the City and the Contracting Person is subject to approval by City Council. Each Comprehensive Agreement shall define the rights and obligations of the City and the Contracting Person regarding the Qualifying Project. The City shall have no obligation to accept liability for Development or Operation of the Qualifying Project. The terms of the Comprehensive Agreement shall be tailored to address the specifics of the Qualifying Project and shall include but not be limited to:

1. A date by which activities related to the Qualifying Project must begin.
2. The delivery of letters of credit or other security in connection with the Development or Operation of the Qualifying Project, in forms and amounts satisfactory to the City, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities;
3. The review of plans and specifications for the Qualifying Project by the City and approval by the City indicating that the plans and specifications conform to standards acceptable to the City, except that the Contracting Person may not be required to provide final design documents for a Qualifying Project before the execution of a Comprehensive Agreement;
4. The rights of the City to inspect the Qualifying Project to ensure compliance with the development agreement and any other applicable agreements, permits,

- requirements, codes, and ordinances;
5. The maintenance of a public liability insurance policy, copies of which must be filed with the City accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the City and reasonably sufficient to ensure coverage of tort liability to the public and project employees and to enable the continued Operation of the Qualifying Project;
 6. The monitoring of the practices of the Contracting Person by the City to ensure that the Qualifying Project is properly maintained;
 7. The terms under which the Contracting Person will reimburse the City for services provided;
 8. The policy and procedures that will govern the rights and responsibilities of the City and the Contracting Person in the event that the Comprehensive Agreement is terminated or there is a material default by the Contracting Person, including the conditions governing assumption of the duties and responsibilities of the Contracting Person by the City and the transfer or purchase of property or other interests of the Contracting Person to the City;
 9. The terms under which the Contracting Person will file appropriate financial statements prepared in accordance with generally accepted accounting principles on a periodic basis, but not less than annually;
 10. Terms providing for any user fee, lease payment, or service payment established by agreement of the parties. In negotiating a user fee under this section, the parties shall establish a payment or fee that is the same for persons using a facility of the Qualifying Project under like conditions and that will not materially discourage use of the Qualifying Project. The execution of the Comprehensive Agreement or an amendment to the agreement is conclusive evidence that the user fee, lease payment, or service payment complies with the Act. A user fee or lease payment established in the Comprehensive Agreement as a source of revenue may be in addition to, or in lieu of, a service payment;
 11. The terms and conditions under which the City may contribute financial resources, if any, for the Qualifying Project;
 12. The terms and conditions under which existing site conditions will be assessed and addressed, including identification of the responsible party for conducting the assessment and taking necessary remedial action;
 13. The terms and conditions under which the City will be required to pay money to the Private Entity and the amount of any such payments for the Qualifying Project.
 14. Appropriate protections against potential bankruptcy.
 15. A requirement that any change in the terms of the Comprehensive Agreement that the parties agree to must be added to the Comprehensive Agreement by written amendment.
 16. A periodic reporting procedure that incorporates a description of the impact of the Qualifying Project on the City and Affected Jurisdictions;
 17. A written declaration of the specific public purpose served by the Qualifying Project;
 18. Other requirements of the P3 Program, Act, or other applicable law, or that the City

- otherwise deems appropriate; and
19. Other provisions required by ordinance or statute.

C. NOTICE AND PUBLIC HEARING.

Upon concluding negotiations, the proposed Interim or Comprehensive Agreement shall be posted on the City's website and made available at the City Secretary's Office for inspection by the public for a period of two weeks prior to entering into such agreement in accordance with Section 2267.066(e) of the Act.

In addition, the City shall hold a public hearing on the final version of the proposed Comprehensive Agreement and the City Council may vote on the proposed Comprehensive Agreement after the hearing. The hearing must be held not later than the 10th day before the date the City enters into a Comprehensive Agreement with a Contracting Person.

VIII. CITY COUNCIL AUTHORIZATION AND APPROVAL

Upon completion of the requirements of these Guidelines and the prescribed notice and hearing requirements, the City may present a Qualifying Project in the form of a resolution approving an Interim or Comprehensive Agreement to its City Council for consideration during a regular or special meeting. No agreements shall be valid prior to the approval of the City Council through a duly passed City resolution.

IX. USE OF PUBLIC FUNDS

The City's constitutional and statutory requirements as they apply to appropriation and expenditure of public funds apply to any Interim or Comprehensive Agreement entered into under the P3 Program. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into any Qualifying Projects.

X. GOVERNING PROVISIONS

The laws of the United States and the State of Texas are incorporated in these Guidelines by reference for all purposes. Compliance by each Private Entity is mandatory. In the event of any conflict between these Guidelines and any federal or state statutory or administrative authority, the terms of the respective statutory or administrative authority shall control. The following authorities do not apply to a Qualifying Project under the Act: Chapters 2155, 2156, and 2166 of the Texas Government Code, and any interpretations, rules, or guidelines developed under Chapter 2262, Texas Government Code.