

RESOLUTION NO. 2024 - 07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MINERAL WELLS ADOPTING THE PURCHASING POLICY MANUAL FOR THE CITY, ATTACHED HERETO AS EXHIBIT A, PURSUANT TO ARTICLE VII, SECTION 75 OF THE CHARTER OF THE CITY OF MINERAL WELLS, TEXAS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Texas Local Government Code Section 101.022, the City Council of the City of Mineral Wells may manage and control the finances of the municipality; and

WHEREAS, the City issued its Purchasing Policy Manual on or about May 7, 2018; and

WHEREAS, by Special Election dated May 4, 2024, Article VII, Section 75 of the Charter of the City of Mineral Wells was amended to require the City comply with the laws of the State of Texas in making expenditures of City money according to a City Council approved purchasing policy; and

WHEREAS, in concert with City Council, City staff reviewed the purchasing policy and recommends adoption of a resolution stating the review has been completed and that it shall be effective.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINERAL WELLS, TEXAS:

Section 1. The Purchasing Policy Manual for the City of Mineral Wells, attached hereto as Exhibit A, is hereby adopted and shall provide sufficient information and reference detail to enable City employees to be fully aware of, and comply with, City purchasing policies and procedures, and shall define the authority of the purchasing policies and procedures of the City from and after the effective date of this resolution.

Section 2. All provisions of the resolutions of the City of Mineral Wells, Texas, in conflict with the provisions of this resolution be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this resolution shall remain in full force and effect.

Section 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this resolution be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said resolution which shall remain in full force and effect.

Section 4. This resolution shall become effective immediately from and after its passage.

PASSED AND APPROVED on this the 4th day of June, 2024.

APPROVED:

Regan Johnson
Regan Johnson, Mayor

ATTEST:

Sharon McFadden
Sharon McFadden, City Clerk



EXHIBIT A



**PURCHASING POLICY MANUAL
FOR THE
CITY OF MINERAL WELLS, TEXAS**

Adopted June 4, 2024

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SECTION ONE – LAWS AND STATUTES GOVERNING PURCHASING

1. GENERAL INFORMATION

The City of Mineral Wells, Texas (“City”) is a Home-Rule Municipality, operating pursuant to Article 11, Section 5 of the Texas Constitution and State law. In determining purchasing practices, the City is guided by State law, its City Charter, and its City Ordinances, which are supplemented occasionally by Resolution of the City Council and City administrative policies and procedures.

Purchasing is governed primarily by the following resources: Texas Local Government Code Chapter 252 and Chapter 271 (Subchapter H) and Texas Government Code Chapter 2252. Portions of these codes are referenced throughout this manual as it pertains to specific purchasing activities. Below are some of the laws that affect purchasing by the City.

2. BIDDING REQUIREMENTS

As a general rule, before a municipality may enter into a contract requiring expenditures in excess of \$50,000.00 from one or more municipal funds, the municipality shall (i) comply with the procedures of Chapter 252 of the Texas Local Government Code for competitive sealed bidding or competitive sealed proposals; (ii) use the reverse auction procedure, as defined by Section 2155.062(d) of the Texas Government Code, for purchasing; or (iii) comply with a method prescribed by Chapter 2269 of the Texas Government Code. Electronically submitted bids or proposals, if allowable, shall be in accordance with Section 252.0415(a) of the Texas Local Government Code. Electronically submitted bids or proposals shall (i) ensure the identification, security, and confidentiality of the electronic bids or proposals and (ii) ensure that the electronic bids or proposals remain effectively unopened until the proper time.

If the competitive, sealed bidding or competitive, sealed proposals requirement applies, notice of the time and place at which they will be publicly opened and read aloud shall be published at least once a week for two consecutive weeks in a local newspaper, with the date of the first publication being before the 14th day before the date set to publicly open the bids or proposals and read them aloud.

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

(Reference: TEXAS LOCAL GOVERNMENT CODE §§ 252.021, 252.041)

3. RECIPROCAL LAW

Texas Government Code Section 2252.002, Subchapter A, relates, in part, to bids by nonresident bidders for contracts awarded by a municipality for general construction, improvements, supplies, services, a public work project, or for purchase of supplies, materials or equipment.

- a. This statute states, in part, that a municipality may not award a contract for general construction, improvements, services, public works projects, or purchases of supplies, materials or equipment to a nonresident bidder unless the nonresident bid underbids the lowest

bid submitted by a responsible Texas resident bidder in an amount that is not less than the amount by which a Texas resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. This requirement does not apply to a contract involving federal funds.

b. For purposes of this statute:

- i. "Nonresident bidder" means a person who is not a resident of the State of Texas; and
- ii. "Resident bidder" means a person whose principal place of business is in this State, including a contractor whose ultimate parent company or majority owner has its principal place of business in this State.

(Reference: TEXAS GOVERNMENT CODE § 2252.002)

4. BRAND NAME SPECIFICATIONS

Specifications should not be written to list a single preferred product. Specifications that include a specific brand name, model, or other identifying item discourage competition and should be avoided unless the item is the only one that will satisfy the City's needs and must be justifiable. Care should be taken such that specifications are not written to favor, or disfavor, any single preferred product.

A local government may be challenged in court on why another brand will not work; therefore, this type of specification should be used judiciously.

5. SOLE SOURCE PURCHASING

Procurement where the functional requirements of the City can only be satisfied by one source for expenditures greater than \$50,000.00.

- a. By way of example, without limitation, this shall apply to procurement where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchase of electric power, gas, water, and other utility services, and the purchase of capital replacement parts.

Purchase Orders (PO) of any sole source materials or services shall be accompanied by a written memorandum fully explaining the conditions that make the supplier a sole source.

- a. The City Manager shall refer this memorandum to the appropriate financial or procurement personnel, as needed; and
- b. The memorandum shall then be attached to the permanent accounting record(s) for later review by the auditors.

(Reference: TEXAS LOCAL GOVERNMENT CODE, § 252.022(a)(7))

6. PROMPT PAYMENT ACT

Chapter 2251 of the Texas Government Code, sometimes referred to as the Prompt Payment Act, establishes a time period for payment by the City of goods and services and the payment of interest on late payments.

- a. A payment under a contract on or after September 1, 1987, is overdue on the 31st day after the later of:
 - i. The date the City receives the good under the contract; or
 - ii. The date the performance of the service under the contract is completed; or
 - iii. The date the City receives an invoice for the goods or service.
- b. Interest starts accruing on the date the payment becomes overdue.
- c. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the preceding fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of:
 - i. One percent; and
 - ii. The prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

Interest stops accruing on the day payment is mailed or electronically transmitted.

Payment of interest shall be made automatically and at the same time the bill (principal) is paid.

The City shall submit the interest payment with the net amount due for the goods or service.

- a. The City may not require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest under this chapter as a condition of the contract between the parties.
- b. The City may not require a vendor to petition bill or wait an additional day to receive the interest due.

To minimize the amount of interest the City must pay, departments shall keep the Director of Finance and/or the appropriate Accounts Payable personnel informed regarding the receipt of merchandise, returns and cancellations, backorders, etc.

(Reference: TEXAS GOVERNMENT CODE, Chapter 2251.025)

7. MINERAL WELLS CITY CHARTER

The City shall comply with the laws of the State of Texas in making expenditures of City money, subject to an internal purchasing policy that may be adopted by the City Council from time to time.

The Director of Finance shall have authority to make expenditures without the approval of the City Council for all budgeted items not exceeding \$3,500.00. Any expenditure involving more than \$3,500.00 must be expressly approved in advance by the City Council.

(Reference: Mineral Wells City Charter, Article 7, Section 75 – Purchase Procedure)

8. DEFINITIONS

For purposes of this policy, the following definitions shall apply:

Benefit means anything reasonably regarded as economic gain or economic advantage, including a benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

Board means a board, commission or committee:

- a. Which is established by City ordinance, charter, inter-local contract or state law; or
- b. Which serves as the board of a nonprofit development corporation that acts as an instrumentality of the city; and
- c. Any part of whose membership is appointed by the City Council, but does not include a board, commission, or committee which is the governing body of a separate political subdivision of the state or agency of the state or county.

Employee means a person employed and paid a wage or salary by the City, including those individuals on a part-time basis, but does not include an independent contractor or City Council member.

Conflict of Interest: Prospective Employment means a discussion between a City officer or employee and another employer concerning the possibility of the City officer or employee considering or accepting employment with the employer, in which discussion the City officer or employee responds in a positive way.

Officer means a member of the City Council and any member of a board or commission who is appointed by the City Council.

Financial Interest means an interest a person has in an entity or transaction which may result in an economic gain or economic advantage to that person, including a benefit.

Historically Underutilized Business means a corporation, sole proprietorship, partnership, or joint venture formed for the purpose of making a profit in which at least 51 percent ownership of the business is by a woman, minority, and/or service-disabled veteran.

9. NON-DISCRIMINATION POLICY

It is the policy of the City of Mineral Wells to afford all individuals an equal opportunity to bid on any contract being let by the City.

The policy prohibits discrimination against any person because of race, color, sex, religious, age, disability or national origin, in the award or performance of any contract.

The City of Mineral Wells shall require all officers, employees, agents, and contractors to adhere to this Policy.

The City of Mineral Wells encourages participation by Historically Underutilized Businesses (HUB) to bid on City contracts. The City of Mineral Wells endeavors to notify these businesses of bidding opportunities.

SECTION TWO – INTERNAL PURCHASING POLICIES

1. ENFORCEMENT OF PURCHASING PROCEDURES

Violations of purchasing procedures are causes for disciplinary action up to and including termination as authorized by the City of Mineral Wells Personnel Policies & Procedures Manual.

It shall be the responsibility of the Director of Finance, together with appropriate consultation with the City Manager, to enforce all purchasing procedures.

- a. A violation is defined as an employee's action or omission that indicates an intentional or reckless disregard for purchasing laws or procedures or this policy. A violation may also be noted if the employee's action was unintentional, but violates State, City, or other applicable laws or procedures regarding purchasing ("purchasing procedures").
- b. Violations of purchasing procedures shall be referred to the appropriate Director/Department Head in a memorandum from the Director of Finance and copied to the City Manager.
- c. Repetitive violations of purchasing procedures by one department shall be communicated by the Director of Finance in a memorandum to the City Manager, with copy to the appropriate Director/Department Head.

As a method for enforcing purchasing procedures, the Director of Finance or City Manager may revoke the privilege of issuing department POs for any offending employee for a period of time to be determined.

2. DELEGATION OF PURCHASING AUTHORITY

Each Director/Department Head is responsible for notifying the Finance Department of the names of the individuals who are authorized to approve requisitions and POs on behalf of each department. This purchasing authority is then maintained within the system for the authorization process.

It is the responsibility of each Director/Department Head to notify the Finance Department of any changes in the delegation of purchasing authority in that department. Permanent authorization shall remain in effect until written notification of a change is received.

3. PURCHASING OF CITY MATERIALS, EQUIPMENT, AND SUPPLIES

Employees in the City Manager's Office and the Finance Department are prohibited from purchasing City items offered at auction. In addition, any employee(s) who determines that an item is surplus is prohibited from purchasing that particular item.

If an employee acquires merchandise or services from a vendor doing business with the City for his/her personal use, such merchandise or service may not be delivered to the employee, or another City employee, unless the acquisition is paid directly by the employee.

No personal invoices are to be mailed to an employee (or another City employee for, or on behalf of, the employee) at the employee's (or other employee's) place of employment.

Employees may purchase merchandise or services from a vendor doing business with the City, provided that the price at which the item is purchased is the same price charged to all officers and employees of the City.

Employees shall not use the City's business accounts for personal purchases. Employees who are involved in contract negotiations should use an abundance of caution when purchasing merchandise or services for personal use with a current or past vendor of the City.

SECTION THREE – INFORMAL QUOTES

1. PURCHASES UP TO \$3,499.99

For purchases up to \$3,499.99, the following guidelines apply:

- a. Purchases up to \$3,499.99 may be made by the Department Head or the Department Head's authorized representative. These purchases do not require prior approval from the Director of Finance. As such, the Department Head is the final authorization within the system.
- b. For purchases between \$1,000.00 and \$3,499.99, at least three oral quotations should be provided and either noted in the remarks section or scanned and attached through the system. Purchases made from Buyboard, HGAC, or other authorized purchase cooperatives are exempt from the requirements to obtain quotations.
- c. The Finance Department will then issue a PO. The vendor is encouraged to mail the invoice or statement directly to Accounts Payable, unless the invoice accompanies goods (See 2b. of this subsection below).

Once the items have been received:

- a. The department representative shall generate the receipt within the system.
- b. In the instance an invoice accompanies goods, the recipient shall forward the invoice to Accounts Payable.
- c. The invoice should be entered into the system within three working days of receipt of shipment.

Estimated amounts shall be used on POs when the exact amount cannot be determined at the time of issuance, including freight/shipping costs. Departments shall note on the PO that the amount is estimated and state the reason why an estimate is necessary. Within three days of the receipt of goods and services for which a PO was issued through an estimated amount, a change order within the system shall be completed such that Accounts Payable can process the invoice in a timely manner. For change orders of more than 25%, departments must consult with the Director of Finance.

CAUTION: The issuance of sequential or repetitive department POs to circumvent the ceiling amount is a criminal offense as defined in Texas Local Government Code Section 252.062 and shall result in immediate termination of employment.

2. PURCHASES OF \$3,500.00 THROUGH \$49,999.99

For purchases between \$3,500.00 and up to \$49,999.99, the using department shall create a PO in the system (see Section Seven) and complete the routing for approval before a purchase is made. All departments should endeavor to promote fair and open competition for every purchase and to secure the best value and the highest quality merchandise at the lowest possible cost. The Department Head, or designee, is responsible for soliciting quotations.

- a. The Department shall obtain written quotations from at least three vendors, whenever possible.
- b. At least one HUB, if available, shall be contacted on a rotating basis, for quotations for any purchase more than \$3,000.00, but less than \$50,000.00 (see TEXAS LOCAL GOVERNMENT CODE § 252.0215). If the Texas Comptroller of Public Accounts Centralized Master Bidders List fails to identify a HUB in Palo Pinto County and Parker County, the City will be exempt from this requirement.
- c. The names and prices of the vendors contacted shall be noted on the requisition, attached to the permanent copy of the PO or scanned and attached to an electronic copy of the PO.
- d. Quotations received from vendors shall not be disclosed to other bidders until after the award has been awarded, in accordance with and subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
- e. The use of purchasing cooperatives, such as Buyboard, HGAC, and the State of Texas Cooperative Purchasing Program is encouraged.

f. As in Section 3.1 above, estimated amounts shall be used on POs when the exact amount cannot be determined at the time of issuance, including freight/shipping costs. Departments shall note on the PO that the amount is estimated and state the reason why an estimate is necessary.

The bid shall be awarded to the most responsive and responsible bidder conforming to the specifications and delivery requirements.

Regarding the issuance of the PO:

- a. All purchases in excess of \$3,500 shall be approved by the City Council.
- b. Capital outlays in excess of \$5,000 that have not been included in the budget shall have the approval of the City Manager before a PO is issued.

Having selected the appropriate vendor, the PO shall be generated within the system and issued directly to the vendor by the using department.

CAUTION: The issuance of sequential or repetitive department POs to circumvent the ceiling amount is a criminal offense as defined in Texas Local Government Code Section 252.062 and shall result in immediate termination of employment.

SECTION FOUR – FORMAL BIDS

1. PURCHASES IN EXCESS OF \$50,000.00

For purchases in excess of \$50,000.00, shall be on a competitive sealed bid basis, unless an exception applies in State law. The department requesting bids shall notify the Finance Department of the following:

- a. Items or services desired;
- b. Desired timeline to receive the product or service;
- c. Estimated price;
- d. Whether the purchase had been anticipated in the budget;
- e. Whether or not written approval of the City Manager is required or has been obtained (if the item was not approved in the department's budget, written approval by the City Manager shall be secured prior to submitting the Bid Request); and
- f. Name, address, phone numbers, email address, and contact name for all identified sources for the product or service desired.

The Director of Finance will assist the departments in establishing clear, concise, and competitive specifications. After the specifications have been approved by the Director of Finance and by the

appropriate Department Head, staff will prepare and publish the Advertisement for Bids. The City's bid advertisement will be published in the Weatherford Democrat and will be included on the City's website. Bid publishing services such as www.demandstar.com may also be utilized, as appropriate.

The advertisement shall:

- a. Notify all interested parties of the date, time, and location of the bid opening;
- b. Be published once a week for two consecutive weeks; and
- c. The date of the first publication shall be at least 14 days prior to the bid opening.

Sealed bids shall be submitted to the office of the City Clerk by the time and date set for the opening. Bids submitted after this opening time and date shall not be accepted and shall be returned unopened to the bidder.

At the date and time for a bid opening, all bids shall be publicly opened and read by either the Director of Finance, the Director of Public Works, the City Clerk, City Engineer or Consulting Engineer, Consulting Architect, or their respective designee. In addition, at least one additional City employee shall serve as a witness to the bid opening. Such opening shall correspond to the date, time, and location as outlined in the advertisement for bids, unless an addendum is issued delaying the date and time for the opening of bids.

All bids, with the exception of some construction bids, shall be tabulated by the City Clerk, Director of Finance, or designee, with the assistance of the requesting department, and copies shall be made available to all interested parties. The Director of Finance, City Engineer or Consulting Engineer, Consulting Architect, or their respective designee, may tabulate bids for construction.

All original bid documents and related material shall be on file in the City Clerk's Office prior to an award being made. The City Manager, and/or the Director of Finance and the using department may jointly determine the lowest responsible bidder or the best value bid as outlined in the advertised bid or request for proposal. These methods are outlined below:

- a. Lowest Responsible Bidder Method. Factors which may be considered, in addition to price or other matters, in determining the lowest responsible bid may include:
 - i. Quality of product;
 - ii. Bidder's ability to supply and provide service;
 - iii. Bidder's past performance with the City and other customers for similar services or products; and
 - iv. Considerations pertaining to the location of vendor's supply stocks and service installations.
- b. Best Value Bid Method. In determining the best value for the City, the City may consider certain factors, which are listed below. Bids for the construction of highways, road, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater

distribution or conveyance facilities, airport runways and taxiways, drainage projects or related types of projects associated with civil engineering construction projects shall be awarded to the lowest responsible bidder (if the competitive sealed bidding requirement applies) and cannot use the “Best Value Bid Method.” (see TEXAS LOCAL GOVERNMENT CODE § 252.043). Specific provisions which may be considered in determining the best value include the following:

- i. Purchase price;
- ii. Reputation of the bidder and the bidder’s goods or services;
- iii. Quality of the bidder’s goods and services;
- iv. The extent to which the good or service meets the City’s needs;
- v. Bidder’s past relationship with the City;
- vi. Impact on the ability of the City to comply with laws and rules, relating to contracting with HUBs with non-profit organizations employing persons with disabilities;
- vii. Total long term cost to the municipality and cost to acquire the bidder’s goods or services; and
- viii. Any relevant criteria specifically listed in the request for bids or proposals.

c. All criteria for evaluation is required to be outlined in the bid specification documents and the City shall indicate the contract may be awarded to either the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City.

A “Recommendation of Award” for inclusion on the City Council agenda may be submitted to the City Manager after the Director of Finance is satisfied that all necessary information has been received and properly tabulated.

- a. The City Manager requires all items be presented to his/her office, prior to inclusion on the agenda, which are over budget or when the Department Head desires to accept the bid which is not the lowest price (when the competitive sealed bidding requirement applies).
- b. No individual or department will place a purchasing item on the agenda unless specifically authorized by the City Manager, or designee.
- c. Unless directed to the contrary by the City Manager, a Department Head shall not attempt to place any item on a City Council agenda until all requirements are met.
- d. It is the responsibility of the Department Head making the request, or the Department Head’s authorized representative, to attend the City Council meeting to answer any questions the City Council may have.

When a bid, other than the low monetary bid, is recommended:

- a. The Department Head will be required to include a memo with the submission to the City Manager, outlining the reasons why the bidder recommended by the Department Head is not the lowest responsible bidder.

- b. Upon approval by the City Manager, the item may be forwarded to the City Clerk's office for inclusion on the City Council agenda.

Regarding identical bids:

- a. If the City is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical in nature and amount, as the lowest and best bids, the City Council must enter into a contract with only one of the bidders and shall reject all other bids.
- b. In all other cases, the City shall select identical bids by the casting of lots. For example, identical bids submitted by non-resident bidders shall be selected by drawing numbers, with the lowest number winning. The drawing of numbers will be done in the presence of the Director of Finance and the Director of Public Works.

After City Council approval, the Department Head shall complete the procurement process per procedures contained within this policy.

Whenever the department requesting the purchase wishes to reject any and all bids submitted, such a recommendation shall be submitted to the City Council. Only the City Council has the authority to reject all bids.

2. ITEMS AND SERVICES ACQUIRED THROUGH ANNUAL CONTRACT

Purchases of items or services that may be readily qualified (such as a fixed hourly rate or a fixed price per linear foot) may be accomplished through annual contracts that are awarded on a competitive sealed bid basis and approved by the City Council. The procedure for awarding annual contracts is identical to the award of formal bids established earlier in this section.

Once an annual contract has been awarded and approved by City Council, using departments shall request the items or services under the contract with a PO. Once approved by the City Council, no further approvals are needed for purchases against the contract. Requested items should be detailed on the PO with the remarks section stating that the items are under contract to the specified vendor.

Annual contracts for the purchase of items or services where the price and quantity does not change from one month to another may be initiated by issuing one annual PO, if the system in place permits such activity.

CAUTION: The purchase of items or services which are exclusively awarded in an annual contract, from a vendor other than the vendor with whom the annual contract was made, is a direct violation of purchasing procedures, unless such purchase is an emergency purchase.

SECTION FIVE – PUBLIC WORKS PROJECTS

1. DEFINITIONS

Public Works Projects are those projects that require the construction, repair, or renovation of a structure, building, street, highway, bridge, park, water and wastewater distribution facility, airport runway or taxiway, drainage project, or other improvement or addition to real property.

2. SPECIAL RULES

Wages for workers on construction projects shall not be paid less than the schedule of general prevailing rates of per diem wages as mandated by state law. Please contact the Director of Finance to obtain additional information regarding prevailing wages.

3. BONDING REQUIREMENTS

For contracts in excess of \$100,000.00, a performance bond shall be executed in the full amount of the contract. The bond shall be executed by a corporate surety in accordance with the law, the corporate surety shall be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.

For contracts in excess of \$50,000.00, a payment bond shall be executed in the full amount of the contract. The bond shall be executed by a corporate surety in accordance with the law, and the corporate surety shall be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.

For contracts with a tangible product, a maintenance bond shall be executed in the full amount of the contract and shall be for a period of at least two years from the date of acceptance. The bond shall be executed by a corporate surety in accordance with the law, and the corporate surety shall be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.

4. INSURANCE REQUIREMENTS

The minimum insurance required will be the types and amounts required in the most recent edition of the Standard Specifications for Public Works Construction issued by the North Central Texas Council of Governments. The City Manager, Director of Finance, City Engineer or Consulting Engineer, or Consulting Architect may increase the amounts of insurance required for any project.

For construction and construction-related projects, all contractors and subcontractors, including those delivering equipment or materials, performing service on a Public Works project, shall provide workers' compensation for all employees. All Contractors shall provide proof of coverage satisfactory to the City. Prime Contractors are responsible for seeing that subcontractors carry the same or higher insurance amounts as those required of the prime contractor. Contractors shall post required signs at jobsites informing all workers of their right to workers' compensation coverage.

5. AWARD OF CONTRACT

The City Council is entitled to reject any and all submitted bids.

The contract shall be awarded to the lowest responsible bidder or best value bid as outlined in Section Four of this policy.

For contracts in excess of \$50,000.00, vendors shall specify in the bid if they request a payment schedule other than full payment at the completion of the project. Partial payment may not be considered for projects that are less than \$50,000.00.

SECTION SIX – PROCUREMENT OF PROFESSIONAL SERVICES

1. PURPOSE OF POLICY AND PROCEDURES

Even though there is great value in maintaining long-term relationships with professionals, there is also value in establishing relationships with new professionals with new ideas and a fresh approach to the City's projects. The following policies and procedures are designed to assist the City's staff in the selection of individuals or firms to perform professional services. The desire to establish fairness and consistency in the selection process while obtaining the best value (quality services at a reasonable price) for the City.

Departments are encouraged to seek proposals or qualifications for professional services at least every five years to help ensure the greatest and fairest competition in the selection of professional services by the City.

2. PROFESSIONAL SERVICES DEFINED

Professional services generally refer to those services performed by an individual or group of individuals where education, degrees, certification, license and/or registration is required for qualification to perform the service. The service is usually based on intellectual qualifications as opposed to craftsmanship.

According to the Attorney General's Office, professional services include "members of disciplines requiring special knowledge or attainment and a high order of learning, skill and intelligence." (Attorney General Opinion No. JM-940 (1988)). Certain professions are specifically named in the Professional Services Procurement Act, Chapter 2254, Subchapter A, Texas Government Code. If a department is unsure if a service is a "professional service", the department should contact the Director of Finance or City Manager before securing these services.

3. PROFESSIONAL SERVICES PROCUREMENT ACT DEFINED

The Professional Services Procurement Act states a provider of defined professional services or a group or association of providers may not be selected on the basis of competitive bids submitted from the contractor for the services. Instead, the selection and award of such services or contract must be on the basis of demonstrated competence and qualifications to perform the services, and for a fair and reasonable

price. Professional fees under the contract shall be consistent with and not higher than the published recommended practices and fees published by the applicable professional association and may not exceed any maximum provided by law.

Professional services are defined as services (a) within the scope of the practices, as defined by the state law of: (i) accounting; (ii) architecture; (iii) landscape architecture; (iv) land surveying; (v) medicine; (vi) optometry; (vii) professional engineering; (viii) real estate appraising; or (ix) professional nursing; or (b) provided in connection with the professional employment or practice of a person who is licensed or registered as: (i) a certified public accountant; (ii) an architect; (iii) a landscape architect; (iv) a land surveyor; (v) a physician, including a surgeon; (vi) an optometrist; (vii) a professional engineer; (viii) a state certified or licensed real estate appraiser; or (ix) a registered nurse.

(Reference: TEXAS GOVERNMENT CODE, Chapter 2254, Subchapter A)

4. PROCUREMENT OF ARCHITECTURAL, ENGINEERING, OR LAND SURVEYING SERVICES

The City of Mineral Wells shall follow the applicable purchasing laws and procedures in Chapter 2254 of Texas Government Code for all engineering and architectural services.

When procuring architectural, engineering, or land surveying services, the City shall use a two-step selection process:

- a. The City shall select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- b. Attempt to negotiate with that provider on a contract at a fair and reasonable price.

If the City is unable to negotiate a satisfactory contract with the most highly qualified provider of architectural, engineering, or land surveying services, it 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 to select and negotiate with providers until a contract is entered into.

(Reference: TEXAS GOVERNMENT CODE § 2254.004)

5. PROCUREMENT OF ARCHITECTURAL, ENGINEERING, OR LAND SURVEYING SERVICES – ESTIMATED FEES LESS THAN \$15,000.00 ANNUALLY

The City's staff shall solicit proposals from qualified professionals and the Department Head of the using department will select an individual or firm capable of performing the service on the basis of demonstrated competence and qualifications. The Department Head shall enter negotiations with the selected individual or firm and follow the procedures established by the Professional Services Procurement Act.

6. PROCUREMENT OF ARCHITECTURAL, ENGINEERING, OR LAND SURVEYING SERVICES – ESTIMATED FEES GREATER THAN \$15,000.00 ANNUALLY

An advertisement may be placed with a newspaper, normally used for legal advertising, soliciting a Request for Qualifications (“RFQ”) from all qualified professionals interested in providing the necessary services. The advertisement may be run in one edition of the selected newspaper at least one week prior to the date the RFQ is due.

The RFQ shall contain sufficient information to inform potential architects, engineers, or land surveyors as to the type of project, scope of services to be performed, and the selection criteria to be used. The RFQ may give the relative importance, or weighting, assigned to each of the criteria to be used in the selection process. The following criteria may be used, but the RFQ is not necessarily limited to the following criteria:

- a. The provider’s experience in successfully performing similar assignments, scope and size, for others.
- b. The provider’s current staff qualifications, including both size and related experience, to provide the desired services.
- c. The availability of sufficient finances and other resources to accomplish the assignment, within the time to be allowed by the City, and whether or not the provider will be able to provide continuing service if required by the City.
- d. References from previous clients of the provider, for similar projects, expressing satisfaction with the provider’s work.
- e. Whether or not the provider’s response, as perceived by the City’s staff, is complete and of acceptable quality.

A professional engineer, architect, or land surveyor may be selected after the evaluation of a submitted RFQ or it may be necessary (as determined by the Director of Finance, City Manager, and/or the utilizing department) to interview several of the firms and further evaluate them on the basis of the interview or a presentation, narrowing the field until one firm is selected for negotiations.

When negotiations are concluded, a recommendation will be made to the City Council that a contract will be awarded to the provider that the using department has determined is the highest qualified. A selected provider may be used for a period not to exceed five years, except as otherwise determined by the City Council.

7. PROCUREMENT OF OTHER PROFESSIONAL SERVICES

Professional services, other than those named in the Professional Services Procurement Act, may be contracted through the use of a Request for Proposals (“RFP”) and selection should be made on the basis of criteria similar to those for professional engineers, architects, and land surveyors; however, cost should be an additional criterion.

Services with fees of at least \$25,000.00 may be advertised in one edition of the newspaper to run at least one week prior to the due date of the RFP.

The selection process shall be similar to that used for professional engineers, architects, and land surveyors, and after negotiations are successfully concluded, the City Council shall be asked to award a contract.

Listed are some of the services held to be professional services in Texas cases or Attorney General Opinions, according to the LBJ School of Public Affairs, Advanced Public Purchasing course: Abstractor, Appraiser, Artist, Attorney, Auditor, Construction Manager Consultant, Coordinator of Criminal Investigation, Finances Services Advisor, Fiscal Agent, Law Enforcement Consultant, Map Maker, Model, Plat Book Preparer, Private Consultant, Property Tax Consultant, Scientist, Supervisor of Public Construction Projects, Teacher, and Third Party Administrator.

SECTION SEVEN – CHANGE ORDERS AND RECEIVING

1. INSPECTING GOODS AND SERVICES

It shall be the responsibility of the ordering department to inspect all equipment, supplies, services performed, and to initiate the payment process.

All deliveries shall be inspected promptly and in the presence of the vendor or shipper, whenever practicable. The individual inspecting the merchandise or service performed should pay particular attention to the following:

- a. The quantity shipped is consistent with the quantity ordered.
- b. Note any damaged or defective merchandise on both the receipt (loading) ticket and/or the PO.
- c. Verify merchandise delivered meets the specifications defined on the PO or annual contract agreement.
- d. Verify the scope of services detailed on the PO has been performed to the using department's satisfaction.

After verifying the materials received are accurate and in good condition, or that services have been performed, the using department shall notify the Finance Department.

2. RECEIVING GUIDELINES

All partial receipt claims, POs released for payment, etc., shall be processed in the following manner:

- a. Upon receipt of invoice, the Finance Department shall stamp the invoice "Date Received".

- b. The Finance Department shall match invoices to corresponding POs and verify the amount to be paid. If complete, the Finance Department shall process payment.
- c. If a discrepancy exists on an invoice:
 - i. The using department shall be notified in writing and shall be responsible for advising the Finance Department within three business days of any changes in the amount to be paid.
 - ii. The using department, or the Finance Department, shall notify the vendor within 21 days after the invoice is received.
 - iii. If the vendor is correct, the original payment deadline applies.
 - iv. If the City is correct, a new invoice shall be issued. The payment period starts when the new invoice has been received.
- d. Departments should allow approximately two weeks for check processing. Payment for invoices due in less than seven days should be noted on the PO.
- e. Departments are to appoint an individual to process claims so that time off for vacation or illness, by the department's primary individual, will not cause payments to be delinquent.

CAUTION: The receipt of an invoice by the Finance Department prior to issuance of a PO is a violation of purchasing procedures.

3. PARTIAL DELIVERIES

When partial deliveries are made, the using department shall create a receipt in the system, noting the items and quantities received.

Utilizing departments should not hold any paperwork pending delivery of backordered merchandise.

Creating a partial receipt shall authorize the Finance Department to make a partial payment. In this case, the Finance Department shall process payment for quantities delivered. Payment for back-ordered items shall be processed after a receipt is created within the system indicating delivery is complete.

4. DEFECTIVE OR DAMAGED MERCHANDISE

When an item is defective, damaged, or does not meet specifications, the vendor shall be notified by the receiving department to arrange return of the merchandise. Returns for orders placed by the using departments shall be the responsibility of that department.

SECTION EIGHT – EXPENSES RELATED TO TRAVEL

1. REIMBURSEMENT FOR EXPENSES RELATED TO TRAVEL

All elected or appointed officials of the City, in addition to City employees, whose attendance at educational seminars, business meetings, criminal or civil trials, or public hearings is necessary to conduct

City business, or in some way benefits the City, shall be reimbursed for reasonable expenses related to their attendance in conformance with the policies established in this section. The Finance Department shall be responsible for the administration and proper enforcement of these policies. Requests for per diem or reimbursement of travel expenses shall be made on forms provided by the Finance Department.

Prior to receiving per diem payment in anticipation of expenses or reimbursement of incurred expenses, the City official or employee must explain the benefit the City would receive from the individual's attendance at the meeting. All requests for per diem or reimbursement of expenses incurred during attendance at meetings by City employees shall be approved by the appropriate Department Head and forwarded to the Director of Finance for processing.

All requests for City employees to attend business meetings out-of-state must be approved by the appropriate Department Head and City Manager prior to attendance.

All requests for travel by members of the City Council or appointed Boards shall be approved in advance by the City Council by way of an agenda consideration item, unless otherwise budgeted. Per diems or reimbursement of expenses incurred during attendance at meetings by members of the City Council or appointed Boards shall be first reviewed and approved by the Mayor and City Manager, then subsequently forwarded to the Director of Finance for processing. Any other expenses over \$3,500.00 must be approved by the City Council.

Spouses may accompany City employees on City business trips; however, expenses related to spousal travel shall not be reimbursable.

City officials and employees shall be reimbursed for all approved registration fees and related expenses.

Approved travel expenses shall be reimbursed as incurred. It is the responsibility of the traveler to select the least expensive and most expeditious forms of travel to a particular location.

A complete accounting of travel expenses shall be filed on the appropriate form within ten business days following the end of a trip. Itemized receipts for all expenses shall be attached.

Receipts shall accompany all requests for reimbursement. In the event adequate documentation is not provided of expenses incurred during business travel, the Director of Finance may withhold a portion, or all, of reimbursement requested by a traveler.

Expenses or charges for the following shall not be reimbursed and shall be the responsibility of the employee. Those items include, but are not limited to:

- a. In-hotel pay television and entertainment;
- b. Dry cleaning and laundry;
- c. Health club and spa treatments;
- d. Spousal expenses; and
- e. Alcoholic beverages.

City Manager approval is required for reimbursement or expenditure of funds for items or charges not specifically addressed in this section.

Abuse of this section, including falsifying expense reports and/or submitting false claims, shall result in disciplinary action, up to and including termination of employment.

2. RATES OF REIMBURSEMENT

Per diem advances and rates of reimbursement are set each fiscal year, effective October 1, by the United States General Services Administration (www.gsa.gov).

3. LODGING EXPENSES

City employees, as well as members of the City Council and Boards and Commissions, are required to utilize the State of Texas Travel Management Program to obtain lodging when traveling on City business, unless they are attending a conference that has a pre-selected hosting hotel. The City Manager or the appropriate Department Head shall approve, in advance, the utilization of a conference hotel.

Authorized travelers using City funds are entitled to reimbursement for actual lodging expenses, not to exceed a reasonable variance from the per diem rate for the travel destination when traveling on official City business. Lodging expenses incurred the night before official business has started and the night after official business has ended are reimbursable, allowable expenses.

For those attending a conference at the conference-selected hotel: if a discounted conference hotel rate is provided, the confirmation of the rate shall be attached to the expense report.

- a. Best practice to obtain the verification of the conference room rate is to provide a screenshot and/or page printout from the registration website documenting the hotels and rates for the conference.
- b. In the event the traveler is unable to secure the conference rate, the traveler may obtain approval of a higher rate from the appropriate Department Head, the Director of Finance, or the City Manager, as applicable. Approval of the higher rate must accompany the travel expense report.
- c. City-funded travel is restricted to the current GSA rates.

If a conference hotel rate is sold out and a different hotel is selected that exceeds the GSA rate for the per diem in business location, but equivalent to the conference rate, then reimbursement may be acquired, provided the documentation for proof of conference room rate.

The traveler shall provide a receipt from the commercial establishment to be eligible for reimbursement. The receipt shall include the following:

- a. Name and address of the commercial lodging establishment;

- b. Name of the employee (or prospective employee);
- c. Single room rate (unless approved for double occupancy);
- d. Day itemization of the lodging charges; and
- e. Proof of payment.

When at least two travelers share and pay the lodging expenses, each traveler shall be reimbursed for his/her respective share of the expense, up to the maximum daily lodging reimbursement rate.

- a. Each traveler shall provide the lodging receipt when submitting reimbursements and shall reference the individual with whom expenses were shared.
- b. Each City employee may only be reimbursed for his/her own expenses. Expenses for another person shall not be submitted as your own.

4. TRANSPORTATION EXPENSES

The most efficient and economical mode of travel shall be used. Travelers are eligible for reimbursement for the actual cost of transportation by air, bus, taxi, subway, train, or other commercial transportation company. Travelers shall submit receipt to be eligible for reimbursement. In addition, traveler shall submit proof of mileage through a reputable source.

Approved mileage shall be reimbursed at the current IRS-approved rate, plus toll and parking fees, if appropriate. Mileage reimbursement is typically based on the net additional miles driven to the destination compared to the person's normal work commute to the City. However, if travel is on an employee's non-workday or the travel is from the employee's normal work location, mileage is calculated based on all miles driven to the off-site destination.

5. TRAVEL TO OUT OF STATE LOCATIONS

Airfare is the recommended travel source for all out of state locations. The time and cost is typically the most cost effective means of travel. Mileage will be reduced to the amount of the airfare if the cost comparison proves that flying is more cost effective than driving.

Personal travel included in with business travel is permitted; however, additional documentation is required to verify conservation of funds. Expenses on personal days will not be reimbursed. For example, a traveler purchases an airfare ticket to attend a conference and the conference dates are the 10th through the 14th, but the traveler decides to stay until the 17th on personal time. A cost comparison for the cost of the airfare must be provided showing the actual cost of the ticket including the addition days and then a cost for a ticket if the traveler were to have returned the day after the conference. The lesser of the two options will be the amount reimbursed to the traveler. Best practice is to capture the price of the airline ticket without personal days at the same time as booking the actual flight. An additional option is to contact an approved State of Texas Travel Management Program full-service travel agent to determine

if the additional days cause an increase in price so that the overage can be charged to the traveler's personal credit card, and the business expense for the airfare can be charged to the City.

SECTION NINE – EMERGENCY PURCHASES

A condition establishing an emergency shall be defined as the following:

- a. When there is unforeseen damage to public property, machinery, or equipment, and when such breakdown would significantly disrupt the operation of the City or significantly increase the cost of City operations;
- b. When it is necessary to preserve or protect the public health or safety of the City's residents; or
- c. When it becomes necessary to preserve the property of the City or to relieve the necessity of the City's residents as a result of a public calamity that requires the immediate appropriation of money.

The Director/Department Head, or authorized representative, shall communicate with the City Manager, notifying of the nature of the emergency, and shall obtain the City Manager's (or designee) approval before proceeding. A PO shall be created as soon as practicable describing the emergency and noting the emergency purchase. If the requesting department obtained price quotations from three vendors, this information shall be recorded. If the requesting department utilized a Cooperative Purchasing service, this information shall be recorded. If equipment must be dismantled for a vendor to make an estimate, only one quotation is required. This information shall be forwarded to the Finance Department as soon as it becomes available and placed on the next City Council agenda for consideration and possible ratification.

In cases where an emergency has been declared at the federal-, state-, and/or county-level of government, all emergency purchases shall adhere to the guidelines contained in the Palo Pinto County Basic Emergency Management Plan.

Emergencies created through the negligence of a City employee shall be avoided at all costs. Apparent abuse of this Section shall be considered a major violation of policy and shall be brought to the attention of the City Manager for possible disciplinary action.