



PROCUREMENT MANUAL 2022

OUR MISSION

To be responsible stewards of the public trust,
to strive for excellence in public service and
to enhance the quality of life for all.

OUR PLEDGE

Accept and fulfill responsibilities with integrity, professionalism and accountability Acknowledge and value the contributions of all Build on the foundation of our predecessors Provide consistent, cost-effective and quality service to our community Continuously reach for the highest level of service Communicate effectively with our citizens and employees Care about the needs of others Treat everyone with courtesy, respect and understanding Promote responsible and diversified economic growth.

OUR PROCUREMENT GOALS

To promote fiscal responsibility by obtaining the right product, for the right purpose, at the right time, for the right price To actively seek fair competition in the procurement process Ethical compliance with Federal, State and local laws To treat suppliers fairly and equitably Increase public confidence in public purchasing

TABLE OF CONTENTS

CHAPTER 1	PURPOSE	
CHAPTER 2	ETHICS	
Section A	Employee Standard of Conduct	
Section B	Employee Conflict or Substantial Interest	
Section C	Vendor Conduct	
Section D	Violations and Remedies	
Section E	References	
CHAPTER 3	ORGANIZATIONAL RESPONSIBILITY, AUTHORITY AND ENFORCEMENT	
Section A	City Council	
Section B	City Manager	
Section C	Finance Director	
Section D	Purchasing Manager	
Section E	Directors	
Section F	Department Staff	
Section G	Administration of Budget	
CHAPTER 4	AUTHORITY LEVELS	
Section A	General Procurement Authority	
Section B	Signature Authority	
Section C	Requisition Approval Authority	
CHAPTER 5	PAYMENTS, INSURANCE, PUBLIC RECORDS	
Section A	Payments	
Section B	Vendors / Contractors/ Payment of Subcontractors and Allowable Miscellaneous Expenses	
Section C	Criminal Penalties	
Section D	Insurance Requirements	
Section E	Public Records	
CHAPTER 6	PROCUREMENT THRESHOLDS: SUPPLIES, EQUIPMENT AND NON-PROFESSIONAL SERVICES	
Section A	Non-contract Purchases	
Section B	Contract Purchases	
Section C	Requisition Documentation	
Section D	Purchases from Cooperative Agreement or Interlocal Purchasing Agreements	
Section E	Vendor On-Line Terms/Conditions	

CHAPTER 7	METHODS OF PROCUREMENT	
Section A	Methods of Procurement	
Section B	Exemptions	
Section C	Competitive Sealed Bids	
Section D	Non-Responsive / Non-Responsible	
Section E	Identical Bids	
Section F	Department Director or Designee Responsibilities	
Section G	Purchasing Responsibilities	
Section H	City Council Agenda Items	
CHAPTER 8	PUBLIC WORKS/CONSTRUCTION PROJECTS	
Section A	Bid Type	
Section B	Prevailing Wage Rates	
Section C	Bonding Requirements	
Section D	Insurance and Indemnification Requirements	
CHAPTER 9	PROFESSIONAL SERVICES	
Section A	Definition of Professional Services	
Section B	Procurement of Architectural, Engineering or Land Surveying Services	
Section C	Pre-Qualified Various Professional and Engineering Firms	
Section D	All Other Professional and Personnel Services	
CHAPTER 10	GRANTS, REBATES and SUBSIDIES	
CHAPTER 11	CHANGE ORDERS	
Section A	Threshold for Change Orders	
Section B	General Process	
Section C	Approval for Change Orders	
Section D	Contingency Fee Policy	
CHAPTER 12	CONSTRUCTION CONTRACTS CONTINGENCY FEE POLICY	
Section A	Policy Purpose	
Section B	Bid Aware Procedure	
Section C	Change Orders	
Section D	Invoice Payment Procedure	
CHAPTER 13	SOLE SOURCE PURCHASES	
Section A	Single Source and Brand Name Clarification	
Section B	Written Justification	
Section C	Notice of Intent to Award a Sole Source Procurement	
CHAPTER 14	EMERGENCY PURCHASES	
Section A	Emergency Disaster Declaration	
Section B	Emergency Purchase Process (not processed through the City's EOC)	
Section C	Non-Emergency	

CHAPTER 15	COOPERATIVE PURCHASES	
CHAPTER 16	PROCUREMENT CARD PROGRAMS	
Section A	General Policies	
Section B	Violations and Remedies	
CHAPTER 17	GENERAL ITEMS	
Section A	Tax Exempt Certificates	
Section B	Various Other Procurement Programs	
Section C	Petty Cash Purchases	
Section D	Fiscal Year Procurement Cut Off	
CHAPTER 18	BONDS, INSURANCE AND INDEMNIFICATION	
Section A	Bond Policy	
Section B	Types of Bonds	
Section C	Insurance and Indemnification Policy	
Section D	Insuring City Assets	
CHAPTER 19	CONTRACTS	
Section A	Purchase Orders	
Section B	Contracts greater than \$40,000	
Section C	Annual/Term Contracts	
CHAPTER 20	CONTRACT MANAGEMENT & VENDOR PERFORMANCE	
Section A	General Responsibilities	
Section B	Non-Performing Vendors	
CHAPTER 21	ASSET AND SURPLUS DISPOSAL	
Section A	Transfer of Surplus Goods within the City	
Section B	Disposal of Goods, Salvage or Surplus Property	
CHAPTER 22	REQUISITIONS & PURCHASE ORDERS	
Section A	Access to Incode	
Section B	Requisition Process	
Section C	Purchase Orders	
Section D	Deletion of Purchase Orders	
CHAPTER 23	RECEIPT OF GOODS & SERVICES	
Section A	Inspecting Goods or Services	
Section B	Partial Deliveries	
Section C	Defective or Damaged Merchandise	
FORM	PROCUREMENT MANUAL – ACKNOWLEDGMENT OF RECEIPT	

CHAPTER 1 – Purpose

The Purchasing Department will serve as the central procurement office of the City and will determine which method of procurement provides the best value for the City, adopt operational procedures consistent with sound business practices and state law which govern the procurement and management of all materials, services and construction to be procured by the City, and manage disposal of materials.

The purpose of the Procurement Policy is to provide the City with the requisite parameters for purchasing goods and services. The policy is based on Texas statutory provisions as found in the Texas Government Code, Texas Local Government Code, Texas Insurance Code, and Texas Labor Code, as amended.

These policies are intended to:

- Simplify and clarify the laws governing purchasing by the City;
- Permit the continued development of purchasing policies and practices;
- Provide consistency in the purchasing practices of the City;
- Increase public confidence in public purchasing;
- Ensure the fair and equitable treatment of all persons who participate in the purchasing process;
- Provide increased economy and efficiency in purchasing activities by avoiding unnecessary, unwarranted, and duplicative purchases

Policy:

It is the policy of the City to conduct procurement functions efficiently, effectively, and in full compliance with all federal and state laws, City Charter, and City administration policy and procedures. The City Council's authority to contract for all goods and services and make all sales is delegated to the City Manager as set forth in this manual and to those employees to whom the City Manager delegates that responsibility. The Purchasing Manager has been delegated by the City Manager to contract for the City in accordance with this manual.

Department Directors may choose to delegate procurement responsibilities only within their full-time staff. All such personnel are required to complete mandatory training provided by the Purchasing Department and access to the City's financial system will be granted once that training is completed.

Unauthorized personnel who attempt to contract in the name of the City, or personnel making unauthorized purchases outside of the scope of this manual, may be subject to disciplinary action, legal action, and personal financial liability.

If a person fails to comply with the competitive bidding or competitive proposal procedures required by law, that person may be convicted of a Class B misdemeanor. This includes a situation in which a person knowingly makes or authorizes separate, sequential, or component purchases in an attempt to avoid competitive bidding requirements.

General Enforcement:

It shall be the responsibility of the Finance Director and Purchasing Manager to enforce all purchasing procedures. Texas Local Government Code § 252.062, 252.063 and 271.029 provide criminal penalties for officers and employees who knowingly violate state statutes.

CHAPTER 2 – Ethics

A special responsibility is imposed on all City officers, employees, and agents (hereafter referred to as “employees”) entrusted with the allocation of City funds. In government procurement, employees are held to the highest degree of integrity required to secure best economic results, and required to comply with the procurement process.

It is critical that all City employees involved in procurement and procurement-related functions remain independent, free of obligation or suspicion, and completely fair and impartial. Credibility and public confidence are vital. A shadow of doubt can be as harmful as the conduct itself and employees should make every effort to:

- Avoid the intent and/or appearance of unethical or compromising practice in relationships, actions, and communications. If a situation is perceived as real, then it is in fact real in its consequences.
- Avoid business relationships with personal friends and relatives.
- Avoid holding business meetings with suppliers outside the office. If such a meeting is necessary, carefully choose the location so there will be no perception by others in the business community or your peers of impropriety.

A. Employee Standards of Conduct

City Employees will:

- Promote positive vendor relations through courtesy and impartiality in all phases of the procurement process.
- Actively strive to comply with City policies, federal and state laws regarding purchases from HUB (Historically Underutilized Businesses)
- Handle confidential or proprietary information belonging to the City, fellow employees or vendors with care and proper consideration of ethical and legal ramifications, and governmental regulations.
- Never use information gained confidentially in the performance of duties for profit.
- **Prohibited Conduct:**
City employees shall not participate in the negotiation, selection, discussion, award or administration of a contract or procurement supported by public funds if:
 - That individual has a substantial interest in a person or entity (Chapter 171 of the Texas Local Government Code) that is the subject of the contract or procurement.
 - A conflict of interest exists. A conflict arises when a City employee, officer or agent, or any relative or potential relative thereof (family members), a partner or a person or an organization that employs or may employ in the near future any of these individuals, has a financial or other interest (directly or indirectly) in the sale to the City of any materials, supplies or services, including any proposed or existing contract, purchase, work, sale, or service to, for, with, or by the City.
- **Personal Use:**
The purchase of goods, equipment or services for personal use by a City officer, employee, agent, or family members from City business accounts and/or contracts is strictly prohibited.

- Employees that are involved in contract negotiations should not purchase merchandise or services for personal use with a vendor that is currently working, seeks to work, or has worked for the City.
- Employees shall NOT use the City of Wylie tax exemption forms for personal use, nor set up accounts with a City tax exemption form in their personal name.
- A City officer, employee, agent, or family member 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 a designated segment of the public regardless of place of employment, or all officers and employees of the City.
- If a City officer, employee, agent, or family member acquires merchandise or services for the employee's personal use from a vendor doing business with the City, such merchandise or services may not be delivered to the employee or another City employee unless the acquisition is paid directly to the vendor 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 work. Neither the vendor nor the employee may process the purchase under the City's tax exempt status. Employee is responsible for payment of applicable sales tax.
- **Gratuities (Gift and Entertainment):**
City employees shall not:
 - Solicit and/or accept benefits or gifts of any kind from vendors, actual or potential.
 - Provide special favors or privileges to anyone, either as payment or under any other circumstances.
 - Be in violation of any City ordinances or HR Policies regarding ethics/gifts.

B. Employee Conflict or Substantial Interest

In the event of a conflict of interest or substantial interest, as set forth above, the affected employee must adhere to the following procedures:

- Sign a declaration of possible Conflict of Interest form;
- Abstain from participating in the procurement process, which includes, but is not limited to, discussions, lobbying, rating, scoring, recommending, explaining or assisting in the design or approval of the procurement process, selection of vendors, or the award of the contract:
 - Where the officer, employee, agent or family member directly represents an organization or may receive an economic benefit;
 - Where the officer, employee, agent or family member may directly receive an economic benefit;
 - Where the officer, employee, agent or family member is in direct competition with a proposal or bid which would provide a direct financial benefit;

Any deviation from this policy must be submitted in writing by the Director, providing departmental procedures detailing how the conflict will be managed, and approved by the Purchasing Manager and Finance Director.

C. Vendor Conduct

Vendors, their officers, employees, agents, partners or subcontractors, seeking to do business with the City or contracted to do business with the City must:

- At all times be in compliance with all federal, state and local laws;
- Conduct themselves ethically and refrain from any exchange of favors, money, gifts or other forms of favor with any City officers, agents, employees, employee family members or potential family members;
- Maintain an accurate "Conflict of Interest Questionnaire" (Texas Ethics Commission) with the City Secretary's office;
- Vendors, their officers, employees, agents, partners or subcontractors, who are directly involved with the writing of any type of specification created for the purposes of a fair and open procurement process, may not submit an offer or response.

Violation of this policy may result in the Vendor, their officers, employees, agents, partners or subcontractors being barred from working with the City, or in the voiding of any contracts. Violations of state or federal law shall be referred to the proper authority having jurisdiction over same.

D. Violations and Remedies

Violations of policy may constitute misconduct, subjecting the violator to any and all penalties prescribed by federal and/or state law, the City's HR Manual, City Ordinance or City Charter; up to and including termination.

Penalties, sanctions or other disciplinary actions, to the extent permitted by federal, state or local law, rules or regulations, shall be imposed for violations of the code of conduct/conflict of interest standards, by a City officer, employee or agent, or by persons, contractors or their agents, when the procurement involves state or federal programs and/or funds.

Violations of state or federal law shall be referred to the proper authority having jurisdiction over same.

E. Disclosure of Certain Relationships:

City employees and officials must become familiar with the requirements in Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers; and Texas Local Government Code Chapter 171, Regulation of Conflicts of Interest of Officers of Municipalities; and the penalties provided therein.

CHAPTER 3 – Organizational Responsibility, Authority and Enforcement

This chapter covers the responsibility delegated to various staff, their respective approval authority, and enforcement.

A. City Council

The City Council shall be responsible for:

- Establishing the rules and regulations for the purchase of all goods and services by means of this manual.
- Authorizing all purchases at or exceeding the competitive requirements as stated by law.
- Authorizing all written contracts and agreements at or exceeding the competitive requirements as stated by law.
- Considering and adopting rules for electronic receipt of bids/proposals.
- By means of this manual, delegate approval authority to the City Manager for approval of alternative bidding methods to be used for the construction of a facility, as described by Chapter 2269 (Government Code) after determining it to be a better value than competitive bidding.

Authority includes:

- Approval of budgeted items at or greater than the competitive requirements.
- Approval of budget amendments as required.
- Approval of change orders at or greater than the competitive requirements.
- Approval of emergency expenditures at or greater than the competitive requirements.

B. City Manager

The City Manager is responsible for:

- Ensuring compliance by all departments with the policies and procedures outlined in this manual, and promoting and protecting governmental purchasing integrity.
- By means of this manual delegate to the Purchasing Manager:
 - The authority to procure goods and services, authority to approve alternative bidding methods to be used for the construction of a facility, as described by chapter 2269 (government code) after determining it to be a better value than competitive bidding; and
 - Authority to manage disposal of materials and/or assets no longer needed, and administer the purchasing rules and regulations as established by all federal law, state law, and city charter and ordinance provisions.

Authority includes:

- Approval of purchases less than the competitive requirements limit.
- Approval of non-budgeted items.
- Execution of all contracts, agreements, change orders or necessary documents as approved and authorized by City Council (see Signature Authority).
- Execution of all contracts, agreements, change orders or necessary documents where the total amount(s) are less than the current competitive requirement.

C. Finance Director

The Finance Director and/or designee provides and oversees compliance for financial components with regard to procurement activities.

Authority includes:

- Ensuring the proper expenditures of funds, both budgeted and unbudgeted.
- Verifying the availability of funds for City Council recommendations and awards before being placed on the City Council Agenda.
- Approval of all alternative financial arrangements (leases, grants, bank notes, etc.).
- Approval and authorization of access for City employees to the City's financial systems
- Approval of cardholder financial levels for the City procurement card program (p-card).
- Assignment of project codes for procurement tracking.
- Approval of the disposal of assets via donations.

D. Purchasing Manager

The Purchasing Manager performs or oversees compliance with all procurement requirements for goods and services as prescribed in this manual. The Purchasing Manager ensures all procurement activities are conducted with the highest level of ethical standards in a fair, open, inclusive and transparent environment, and provides suppliers a fair opportunity to compete for City business and protects public funds.

The Purchasing Manager is responsible for:

- Developing and administering the City's purchasing policy and procedures.
- Providing guidance and assistance for all City employees regarding the purchasing process.
- Managing the City's purchasing programs to include compliance with all statutory and internal policies.
- Procuring goods and services budgeted at **\$40,000** and above in collaboration with the requesting Department;
 - Developing final specification documents and methods to ensure competition.
 - Managing the bid and evaluation processes
 - Facilitating recommendations for award (administrative and Council)
- Determining which method of procurement provides best value for the City; including
 - Authority to approve alternative bidding methods to be used for the construction of a facility, as described by Chapter 2269 (Government Code) after determining it to be a better value than competitive bidding.
- Preparing all documentation required for purchases requiring approval by the City Council, City Manager or appropriate staff.
- Monitoring the terms and conditions of purchases.
- Reviewing requisition documents and approving requisitions of \$1,000 or greater.
- Managing the disposal of materials and/or assets no longer needed.
- Updating all procurement forms, templates, policies, and procedures.
- Providing training to City employees on requisitions, credit cards and various procurement related topics.
- Administering contracts and agreements for goods and services.
- Maintaining purchasing files and records.
- Consulting with the City Attorney for review of all procurement related issues.

Authority includes:

- Determining which method of procurement provides the best value for the City and making recommendations to the City Manager and/or the City Council, as appropriate.

- Rejecting any and all bids, in concurrence with requesting department, when in the best interest of the City, and making recommendation to the City Manager and/or City Council, as appropriate. (Items over \$50,000 require a formal rejection by City Council.)
- Program Administrator for the City Procurement Card Program, and other City-wide procurement programs (Amazon, Office Depot, Home Depot, etc.)
- Executing all Interlocal or Cooperative Purchasing Agreements as have been approved by the City Council and/or the City Manager, as appropriate.
- Purchasing budgeted goods or services from cooperative or other inter-local agreements as have been approved by the City Council, City Manager, and/or other appropriate staff.
- Signature Authority to execute contracts and change orders up to \$10,000
- Approving requisitions of \$1,000 and greater (as approved by appropriate staff).

E. Directors

Directors are responsible for:

- Ensuring procurement policy compliance within their department and safeguarding against misappropriation of City funds.
- Ensuring adequate funds are appropriated prior to the procurement process.
- Submitting budget transfer requests if funds are insufficient, **prior** to entering a requisition or committing to the vendor. **Expenditures not included in the budget must have approval of the City Manager before quotes are obtained and purchase order commitment. Evidence of the approval shall be in the form of a memo or email issued by the City Manager.**
- Planning the department's annual purchase requirements to allow sufficient time to complete the appropriate procurement process (quotes, bids or proposals).
- Determining whether a contract exists or would be beneficial to the City for the item(s) or service(s).
- Ensuring Historically Underutilized Business (HUB) participation in accordance with the provisions of Texas Local Government Code Chapter 252.
- Managing and reviewing department P-Card use for compliance to policies.
- Delegating authority as appropriate to prepare requisitions and specifications.
- Delegation of authority to access the City's Financial systems:
 - Providing names of all departmental individuals authorized to enter or approve requisitions and purchase orders and ensuring the approval process is maintained within the electronic system, and
 - Providing any changes in delegation of such authority

Authority includes:

- Authorization of requisitions within the current limits set by the Finance Department.
- Purchases made in accordance with the City Procurement Card Program (p-card).
- Authorization of Emergency Purchases (as defined by statute).

F. Department Staff

Staff members are responsible for:

- Obtaining proper training through Purchasing on procurement laws, basic procedures, insurance and shipping directions, how to issue requisitions, write specifications, participation in the City's various procurement programs, and procurement ethics.
- Managing the P-Card reconciliation in accordance with this manual and current Finance procedures.
- Developing the technical portion of bid specifications.

- Providing “Tier 1” contract administration for various contracts in the areas of:
 - Overall vendor performance
 - On-time delivery of goods or services
 - Accuracy of invoicing
- Ensuring that current vendor insurance certificates which meet the City’s requirements are current and on file with the department before any work is started.
- Providing complete documentation to Purchasing of any vendor’s failure to perform as contracted.
- Maintaining any associated procurement records per retention schedule.

Authority includes:

- Input and authorization of requisitions within the current limits set by the Finance Department.
- Purchases that are made through the issuance of purchase orders in accordance with these Policies.
- Purchases that are made in accordance with the City Procurement Card Program (p-card).

G. Administration of Budget:

All employees are responsible for the proper administration of the City’s budget within the limits delegated to their positions.

- Compliance:
 - No verbal or other obligations shall be incurred or payment made except in accordance with the adopted annual budget and these policies, and unless the City Manager or designee first certifies that there is a sufficient unencumbered balance and that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of verbal or other obligations in violation will be void and any payment so made illegal.
 - Such action shall be the cause for removal of any employee who knowingly authorized or made such payment or incurred such obligations, and he shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance (Article XII, Section 10).
- Variances:
 - Any variance in quantities or expenditure amount, beyond what was approved in the annual budget will require written approval (email) from either the City Manager or an Assistant City Manager. Such approval will be forwarded to the Purchasing Department prior to approval of requisitions.

CHAPTER 4 –Authority Levels

A. General Procurement Authority:

- Procurement authority may be delegated by Department Directors to department staff as deemed necessary.
- Purchases may be made by either:
 - use of a City issued purchase order; or
 - use of a City issued procurement card (P-card)
- Except where authorized by law, City employees do not have the authority to verbally place orders or verbally bind the City to debt. (See Emergency Purchases)

B. Signature Authority: *

Signature authority resides solely with:

- **Mayor or Mayor Pro-Tem:** (City Charter/Article III/Section 5)
 - The mayor is authorized to sign any and all documents, agreements and contracts related to expenditures.
 - In the absence of the mayor, the mayor pro-tem shall have all the rights conferred upon the mayor.
- **City Manager** (Ordinance 2008-38)
 - Signature authority for any and all documents, agreements and contracts related to expenditures approved in the annual operating budget up to \$50,000.
 - Signature for any and all documents, agreements and contracts related to expenditures approved by a lawfully held City Council meeting.
- **Purchasing Manager (Adoption of these policies)**
 - Signature authority for any and all documents, agreements and contracts related to expenditures approved in the annual operating budget up to \$10,000.

C. Requisition Approval Authority:

The following approval levels shall be utilized within the City's financial system in all procurement related matters.

● Temporary Delegation:

If an approver will be out of the office, their approval authority may be temporarily assigned to another employee. Delegations may only be given "upward" within their management chain to another manager with existing approval authority.

For audit purposes, all approvals made as a delegate must be noted in the "internal notes" box of the requisition. ("Approving on behalf of First Name Last Name")

Amount	Requisition Approval Authorities				
\$0 - \$500	Designated Staff				
\$501 < \$1000	Designated Staff	Depart. Director			
\$1000 - \$7500	Designated Staff	Depart. Director	Purchasing Mgr.	Finance Director	
\$7500 +	Designated Staff	Depart. Director	Purchasing Mgr.	Finance Director	City Mgr.; Assist. City Mgr *including all over-budget

CHAPTER 5 – PAYMENTS, INSURANCE & PUBLIC RECORDS**A. Payments, Texas: (Government Code, §2251.021 through 2251.030)**

A payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the **31st day after the later of:**

- the date the governmental entity receives the goods under the contract; or
 - the date the performance of the service under the contract is completed; or
 - the date the governmental entity receives a correct invoice for the goods or service.
- All invoices will be reviewed by the Department for receipt of goods/services, accuracy and compliance to the issued purchase order, and processed promptly.
 - If goods or services are incomplete City staff must document any issues/shortages and notify the vendor in writing. All deliveries should be verified upon receipt.
 - **Payments are not made until goods and services are received and accepted.**
 - Prepayments for services such as professional speakers, artists, and/or performers may be authorized by the Purchasing department where the provisions are clearly defined in a mutually executed agreement.
 - Departments are encouraged to take advantage of prompt or early payment discounts. Notice of prompt payments should be highlighted on the invoice and clearly marked on the front of the purchase order submitted to Accounting for payment.
 - The approved purchase order and invoice will be forwarded to Accounting for processing.
 - It is the Finance Department's responsibility to monitor the prompt payment of invoices.

Goods, Services and Invoice Discrepancies:

Departments will ensure that all goods and services are correct and received on time. Should there be a discrepancy in the invoice it is the responsibility of the department to:

- Notify the vendor immediately of any discrepancies and ask for a resolution. If the vendor is notified by phone, the department should follow-up with a written communication summarizing the phone call.
- If the vendor is correct, the original payment deadline still applies.
- If the discrepancy is acknowledged by the vendor:
 - the department must obtain either a credit memo or a corrected invoice from the vendor.
 - the payment period starts when the new invoice is received.
- If the department is unsuccessful in resolving the issues, please notify the Purchasing Department at the earliest date possible for assistance.

B. Vendors / Contractors/ Payment of Subcontractors and Allowable Miscellaneous Expenses

Vendor and contractors must pay subcontractor(s) or supplier(s) who provide goods/services for which payment is made within ten (10) days after receipt of payment from the City. See Chapter 17 Bonds, Insurance and Indemnification.

Vendors, contractors, and/or subcontractors are eligible for reimbursement for travel expenses when covered by written contract. Reimbursements for travel will be in accordance with current IRS guidelines, per diem rates as published by the U.S. General Services Administration (GSA) for the City's zip code and County, and miscellaneous expenses are published by Purchasing.

C. Criminal penalties, Texas Local Government Code, §252.062

- A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.
- A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.
- A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described in Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Removal / Ineligibility, Texas Local Government Code, §252.063

- The final conviction of a municipal officer or employee for an offense under Section 252.062 (a) or (b) results in the immediate removal from office or employment of that person.
- For four years after that date of the final conviction, the removed officer or employee is ineligible:
 - to be a candidate for or to be appointed or elected to a public office in this state;
 - to be employed by the municipality with which the person served when the offense occurred; and
 - to receive any compensation through a contract with that municipality.

D. Insurance requirements: (Texas Labor Code, §406.096)

All contractors and subcontractors shall have insurance coverage (including worker's compensation as required). Proof of coverage must be provided prior to any work beginning. *Certificates must be submitted to Purchasing.*

Minimum Required Insurance: Workers Compensation, General Liability, and Auto Liability. Other types of insurance may be required depending on the type of work or service requested. A "Public Works" Building or construction is defined as:

- erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance; or
- remodeling, extending, repairing, or demolishing a structure; or
- otherwise, improving real property or an appurtenance to real property through similar activities.

E. Public records:

Vendors or a member of the public may request a copy of a Bid Tabulation that is compiled when bids are opened in accordance with Chapter 552 of the Texas Government Code. The Purchasing Department is responsible to publicly post such documents.

The City will not release copies of bid submissions or bid evaluations until after the contract has been awarded in accordance with §552.104 of the Texas Government Code. Once awarded, all requests submitted under the Freedom of Information Act will be processed in accordance with all applicable laws.

Department staff shall not release procurement or contact documentation (in part or in whole), and will refer any inquiries to the Purchasing Department.

CHAPTER 6 – PROCUREMENT THRESHOLDS
SUPPLIES, EQUIPMENT AND NON-PROFESSIONAL SERVICES

The Purchasing Department will select the procurement method based upon amounts approved in the annual operating budget or as amended during the year. (Exceptions: Chapter 12 – Emergency Purchases)

NOTE: It is unlawful for any City employee to split purchases to circumvent the competitive requirements. Split purchases are defined as:

- Component Purchases: purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
- 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 purchases in one purchase.

A. Non-Contract Purchases of Supplies, Equipment or Non-Professional Services:

Where no City, interlocal or cooperative contract exists.

* All purchase orders must be issued to the vendor prior to the ordering, start of, or receipt of goods or services.

- **Purchases Less Than \$3000**

A onetime or cumulative purchase of supplies, equipment or non-professional services may be made with either a City issued purchasing card or by a purchase order:

- Competitive quotes are recommended, but not required
- Departments are responsible for securing the required insurance certificates from vendors performing work on City property. Work should not be started until a purchase order has been issued and sent to the vendor, and a copy of the insurance verified.

- **Purchases Between \$3000 and \$39,999**

- A onetime purchase or cumulative purchase for supplies, equipment or non-professional services requires a minimum of three (3) written quotes to ensure competition. The quotes will include a search for HUB vendors (Historically Underutilized Businesses) located in Collin County as required in Section 252.0215 of the Texas Local Government Code). If no HUB vendors exist for the supplies, the department will obtain a minimum of three (3) quotes.
- Departments are responsible for securing the required insurance certificates from vendors performing work on City property. Work should not be started until a purchase order has been issued and sent to the vendor, and a copy of the insurance verified.

- **Purchases of \$40,000 and above**

- A onetime purchase or cumulative purchase for supplies, equipment or non-professional services will be processed by the Purchasing Department in conjunction

with the department, to determine the most advantageous procurement process and compliance with applicable federal, state and local laws.

B. Contract Purchases

All requests for annual contracts will be processed through the Purchasing Department (regardless of amount; including interlocal purchasing agreements and cooperative agreements. The appropriate threshold and process will be determined by reviewing the current and future requirements of the Department.

- **Annual Contracts – Cumulative Value of Less Than \$3000**
 - Competitive written quotes are recommended, but not required
 - Vendor insurance certificates are required when performing work on City property.
 - Work should not be started until a purchase order has been issued and a copy of the insurance verified.
- **Annual Contracts – Cumulative Value Between \$3,000 and \$39,999**
 - Will be processed by the Purchasing Department in conjunction with the department, to determine the most advantageous procurement process and compliance with applicable federal, state and local laws.
 - Competitive written quotes will be solicited from an adequate number of vendors to ensure competition, including at least two (2) Historically Underutilized Businesses (HUBs) if available as required in Section 252.0215 of the Texas Local Government Code.
 - Purchases may be made through interlocal purchasing agreements or from cooperative purchasing organizations.
 - Vendor insurance certificates are required when performing work on City property. Work should not be started until a purchase order has been issued and a copy of the insurance verified.
- **Annual Contracts - Cumulative Value of \$40,000 or Greater**
 - Unless otherwise specified by law, annual agreements and contracts valued at \$50,000 and above shall be awarded by competitive bidding, the use of interlocal purchasing agreements or cooperative purchasing groups, or reverse auction procedures pursuant to current state law, and shall be issued by the Purchasing Department.
 - Vendor insurance certificates are required when performing work on City property. Work should not be started until a purchase order has been issued and a copy of the insurance verified.
- **Software Purchases – to support responsible spending of City funds:**
 - Departments are required to obtain quotes in accordance with the thresholds above.
 - While some software licenses may be proprietary, departments will obtain quotes from companies that provide a product similar in function before making a final decision.

C. Requisition Documentation

Departments are responsible for compiling and storing all documentation in support of purchases. This information will be linked to the requisition prior to the completion of any financial approvals.

Note: long term storage of documentation will be migrating to Laserfiche, as licenses and training are available. See Chapter "Requisitions & Purchase Orders".

D. Purchases from Cooperative Agreements or Interlocal Purchasing Agreements

Texas Government Code, Chapter 791, and the Texas Local Government Code, Chapter 271, authorize the use of cooperative purchasing programs, including interlocal purchasing agreements with other governmental agencies. See Chapter "Cooperative Purchases".

E. Vendor On-line Terms/Conditions

Vendor on-line terms and conditions, "click to accept", are treated as legal documents requiring an approved signature (per Chapter 4). Department should contact the vendor and request that the quote be sent as an attachment.

CHAPTER 7 – METHODS OF PROCUREMENT

A. Methods of Procurement

The Purchasing Manager will determine the best method of procurement based on the purchasing threshold and the nature of the goods or services required. The methods of procurement utilized by the City include, but are not limited to:

- Competitive Sealed Bids (CSB) or Competitive Sealed Bid performed by a Cooperative agency
- Competitive Sealed Proposals (CSP) or Competitive Sealed proposal performed by a Cooperative agency
- Request for Proposals (RFP)
- Request for Statement of Qualifications (RFQ)
- Request for Quotes
- Alternative Construction Methods (as defined by Gov. Code 2269)

B. Exemptions

Exemptions from the methods of procurement listed, are identified in Section 252.022 of the Texas Local Government Code as amended. Requests for exemptions will be submitted in writing to the Purchasing Manager for final approval.

C. Competitive Sealed Bids: (\$40,000 and above)

Purchases may be made by competitive sealed bid or proposal, and shall be referred to the City Council for award as required (See Chapter II, “Laws & Statutes Governing Purchasing”).

Note: The requirement for competitive bidding may also be satisfied by purchasing through an existing contract with another government entity or through cooperative purchasing programs, such as the State of Texas, HGAC, U.S. Communities, TCPN, TIPS or TASB Buyboard.

D. Non Responsive / Non Responsible:

Where the bid specification is written as award to the “Lowest Responsive, Responsible Bidder”, the evaluation of all bids will include the following vendor “responsibility” requirements:

- A. Have adequate financial resources, or the ability to obtain such resources as required;
- B. Be able to comply with the required or proposed delivery schedule;
- C. Have satisfactory record of performance;
- D. Have a satisfactory record of integrity and ethics;
- E. Otherwise qualified and eligible to receive an award
- F. Must have a current Certificate of Filing through the Texas Secretary of State Office at the time of bid submission (Texas Business Organization Code; Chapter 9)

If the Department evaluation concludes that the lowest bid is not responsive to the bid specifications, the Department will provide a written explanation of the deficiencies. In the event the Department evaluation concludes that a bidder is not “responsible”, the Department will provide a written explanation in the award recommendation which will be reviewed and acted upon by the City Council.

E. Identical Bids:

If all factors, conditions, values and expenses relating to the bids are equal, then the award recommendation will be made for the “local” bidder (defined as a business presence within, 1) the City of Wylie; and 2). Collin County).

- If two or more of the bidders submitting the lowest bids are residents of the city or district, or from out of state, the award recommendation shall be made by the casting of lots conducted by the Purchasing Manager with at least one witness.

F. Department Director or Designee Responsibilities:

- The requesting department shall notify the Purchasing Manager. Such notification will provide the following information:
 - Items or services desired
 - Budgeted amount
 - Request for a pre-acquisition meeting with Purchasing
 - If the item was not approved in the department’s budget, written approval by the City Manager must be secured prior to solicitation of bids.
- Once the notification has been made and the Procurement process is started, it is the Department’s responsibility to:
 - Cease communications or requests for additional information from vendors who may submit offers in response to the bid.
 - Treat all City communications, documents and drafts of the bid as “confidential / not for public information”.
 - Refer any and all calls for information to the Purchasing Department
- The Department is responsible for establishing the technical portion of the bid specifications. The Purchasing Manager will assist the departments in writing clear, concise and competitive specifications, and will make a final determination as to the specification content.
- The Department must be available during the bid process to attend pre-bid meetings, site visits, provide responses to bid questions, attend the bid opening, and participate on any required evaluation teams.
- The Department will make a written award recommendation based upon the evaluation method stated in the bid specifications. The Department shall provide additional explanation for:
 - Reasons as to why the item is over-budget.
 - Reasons as to why the low bidder is not recommended for the award.

G. Purchasing Responsibilities:

- Determining the most appropriate bid distribution method.
- Finalizing all bid specification documents, including dates and meetings.
- Responsibility for scheduling all bid openings and for setting the time and date thereof. Bid opening dates will be scheduled to allow for proper review and analysis of all pertinent information prior to the request for placement on the Council agenda.
- Placing and verifying of required public advertisements.
- Receiving of sealed bids through either physical submission or on-line submission (as allowed by law)
- Oversight of all bid openings (as required by law).

- All bids, with the exception of some construction bids, shall be tabulated by the Purchasing Manager with the assistance of the requesting department. Bids for construction may be tabulated by the Purchasing Manager, City Engineer or the Engineer of Record. Upon review of the submitted bids, a final bid tabulation will be certified by the Purchasing Department and posted for public information.
- All original bid documents and related material must be on file in the Purchasing Department prior to award being made.

H. City Council Agenda Items:

All procurement related agenda items will be processed by the Purchasing Department (unless specifically authorized by the City Manager). This includes purchasing interlocal agreements, procurement awards, change orders, resolutions and/or ratifications, and other documents as required by statute.

- The Purchasing Department will review the submitted documents and ensure that all information has been received and properly tabulated and generate the agenda paperwork.
- The Department Director will review and approve the agenda item prepared by Purchasing.
- Once approved, the Purchasing Department will submit all the necessary documents to the City's Secretary's office and request that the item be placed on the next available City Council Meeting Agenda.
- A Department representative will be present at the Council meeting to address any issues regarding the vendor selection, pricing, or technical specifications.
- The Purchasing Manager will be present at the Council meeting to address any issues regarding the procurement process utilized.

CHAPTER 8 – PUBLIC WORKS/CONSTRUCTION PROJECTS

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.

A. Bid Type:

Several bid processes are defined in Texas Government Code Chapter 2269. The Purchasing Manager will work in cooperation with the Department to determine which method will provide the best value for the City.

B. Prevailing Wage Rates:

Texas Government Code Chapter 2258 mandates any Public Work contract awarded by the City include the requirement to pay prevailing wage rates. The statute requires the payment of a prevailing wage rate for laborers and mechanics and applies to both contractors and subcontractors. Wages for workers on construction projects shall not be paid less than the schedule of general prevailing rates of per diem wages as mandated. The prevailing wage rate or a link to the wage rates with the date shall be included in public works projects. Rates may be accessed at: <http://www.wdol.gov/dba.aspx>.

C. Bonding Requirements:

Bonds shall be in accordance with Texas Government Code Chapter 2253.

- The bond must be executed by a corporate surety in accordance with the policies of and on forms approved City form.
- The corporate surety must be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.
- A Power of Attorney must be included.
- Bonding shall be verified by the Purchasing Manager prior to the start of any project.

D. Insurance and Indemnification Requirements:

- The minimum insurance required will be specified by the Purchasing Department.
- For construction-related projects, all contractors and subcontractors, including those delivering equipment or materials or performing a service shall provide workers' compensation for all employees. General contractors are responsible for ensuring that subcontractors carry the same or higher insurance amounts as those required.
- All contractors shall provide proof of coverage which meets the requirements published by the Purchasing Department. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage. Texas Labor Code § 406.096
- Workers Compensation coverage is required by Texas Labor Code Texas Labor Code 406 for all Public Works contracts.

CHAPTER 9 – PROFESSIONAL SERVICES

The following policies are designed to assist the City’s staff in the selection of individuals or firms to perform professional services. The desire is to establish fairness and consistency in the selection process while obtaining the best value (quality services at a reasonable price) for the City in accordance with applicable legal requirements.

A. Definition of Professional Services:

Professional services generally refer to those services performed by an individual or group of individuals where education, degrees, certification, license, and/or registration are required for qualification to perform the service. The term “professional services” includes labor and skill that is predominantly mental or intellectual, rather than physical or manual in nature. (See Texas Attorney General Opinion No. JM-940, at p. 3 (1988)).

Certain professions are specifically named in the Professional Services Procurement Act (ACT), Texas Government Code Chapter 2254, Subchapter A. This includes services within the scope of the practice, as defined by state law (and amended), of:

1. Accounting
2. Architecture
3. Landscape Architecture
4. Land Surveying
5. Medicine
6. Optometry
7. Professional Engineering
8. Real Estate Appraising
9. Professional Nursing
10. Interior Design Services

If a department is not sure if a service is a “professional service,” the department should contact the Purchasing Manager before securing such services.

B. Procurement of Architectural, Engineering, or Land Surveying Services:

When procuring architectural, engineering or land surveying services, the City shall use a two-step selection process (see Texas Government Code § 2254.004).

General Procedure:

- First, the City shall select, through the RFQ process, the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- Second, attempt to negotiate with that provider a contract at a fair and reasonable price. Negotiations will be facilitated by Purchasing as lead for a team of stakeholders.
- If the City is unable to negotiate a satisfactory contract with the most highly qualified provider of architectural, engineering or land surveying services:
 - First, the City shall formally end negotiations with that provider;
 - Second, select the next most highly qualified provider;

- Third, attempt to negotiate a contract with that provider at a fair and reasonable price. The City must continue this process until a contract is entered into.
- A purchase order must be issued upon award of contract.

C. Pre-Qualified Various Professional and Engineering Firms:

The Purchasing Department maintains a list of pre-qualified professional and engineering firms. Departments are encouraged to:

- Contact the Purchasing Department for guidelines, assistance and appropriate forms.
- Review the list of firms for the appropriate category, and rank the firms from most qualified to least for the specific project.
- Request a proposal from the firm most qualified for the project, and enter into negotiations. Note that firms must utilize the City's proposal form under this process.
- If the Department is unable to complete a successful negotiation that firm is notified in writing that they are permanently set aside. The Department may repeat the process with the next most qualified pre-qualified firm.
- All projects and resulting contracts which meet or exceed the competitive bid limit will require approval and award by the City Council (see Chapter 7).
- If the Department does not make a final selection from the list of pre-qualified firms, a request for a new RFQ/RFP will be submitted to the Purchasing Department.
- A signed contract and purchase order is required before work can begin.

D. All Other Professional and Personal Service Agreements:

The Department will contact the Purchasing Department to determine the most advantageous method.

CHAPTER 10 – GRANTS, REBATES and SUBSIDIES

Grants, rebates, and subsidies may be available to off-set the City's purchase expense or to provide other forms of assistance. Departments applying for grants, rebates or subsidies must notify the Finance and Purchasing Department prior to submission of any required paperwork.

Finance Responsibilities:

- Determining the source of the funds. Various sources may have different audit requirements
- Determining the appropriate accounting codes to record/receive revenues.

Purchasing Department Responsibilities:

- Review the documents for purchasing and disposal requirements
- May be restriction on sole source or brand name purchases
- EDGAR (Education Department General Administrative Regulations) requirements

Department is the Grant Administrator

- Reporting requirements
- Asset tracking
- Repurposing or disposal requirements

CHAPTER 11 – CHANGE ORDERS

A change order is the written documentation and approval process that must be performed when changes (increases or decreases) in the scope of a project are proposed after the performance of a contract has begun. Such changes may include a significant change in the quantity of work to be performed, the cost of work to be performed, or of the materials, equipment, or supplies to be furnished. A change order is usually written for a construction contract but may be necessary in other types of contracts.

A. Threshold for Change Orders:

A “threshold” is defined as a financial limit on the amount of expenditures which can be authorized by the City Manager on a construction project before requiring City Council approval. See Texas Local Government Code Chapters 252 and 271.

- **Cumulative Change Orders Greater than \$50,000** – If the change order is greater than \$50,000 it must be approved by the City Council.
- **Cumulative Change Orders Less than \$50,000** – If the change order is less than \$50,000 it may be approved by the City Manager or designee.

B. General Process:

- All change orders and or contract modification will be processed by the Purchasing Department and must be submitted in writing for execution by all parties.
- Change orders shall not exceed 25% of the original contract amount, or decrease the original contract price by more than 25%, without consent of the contractor (except for exempt purchases as defined).
- The scope of work addressed by the contract change cannot be started prior to either City Council approval or execution of the written change; with the exception of contracts complying with the “**Construction Contracts Contingency Fee Policy**”).
- Purchase orders will be updated by the Purchasing Department.

C. Approval for Change Orders:

If a change order is greater than \$50,000 and is extremely time sensitive and qualifies as an emergency, the City Manager may approve such a change order prior to City Council approval; however, such change order still must be processed through the Purchasing Department as soon as possible for City Council approval as a ratification. Emergency conditions are defined in Chapter 12.

D. Contingency Fee Policy:

The City Council may establish a contingency fund for a construction project at the time of award of a bid to be used during the course of a project. A contingency fund may be established as recommended by staff and processed by the Purchasing Department in the form of a City Council agenda item at an amount not to exceed 25% of the original bid price. SEE CHAPTER 11 – CONSTRUCTION CONTRACTS CONTINGENCY FEE POLICY.

CHAPTER 12 – CONSTRUCTION CONTRACTS CONTINGENCY FEE POLICY

This Purchasing Policy applies to all public works and construction bids awarded (as required by law) by the City of Wylie.

A. Policy Purpose:

To facilitate the timely completion of changes in plans or specifications after the performance of the contract is begun, or if it is necessary to decrease or increase the quantity of work performed or of materials, equipment or supplies to be furnished. The City may choose to include a portion (by percentage) of the maximum 25% increase ("Contingency Fee") of the original bid price in the award of the contract.

B. Bid Award Procedure:

- The Department director will evaluate the submitted bids, and make an award recommendation to the Purchasing Department. The award recommendation will include the name of the contractor, the portion of the work awarded, and the amount bid for the portion of work identified in the bid specification.
- Based on the complexity of the scope of work, the Department director may elect to include a portion (by percentage) of the maximum 25% increase allowable by law. The dollar amount of the "Contingency Fee" will be listed separately in the memo, and included in the total award.
- The Purchasing department will determine if the award of the bid requires City of Wylie Council approval based on the total (bid + "Contingency Fee"), and applicability of bond requirements.

C. Change Orders:

- All change orders shall be documented and submitted in writing to the Purchasing Department.
- Purchasing Department will obtain the required signatures and distribute as required.
- The value of each change order shall be documented and applied against any pre-awarded "Contingency Fee".
- Change orders which exceed the "Contingency Fee" in part or in whole will be processed according to Section 252.048 of the Local Government Code.

D. Invoice Payment Procedure:

- A purchase order will be issued, keeping the original bid/contract amount separate from the "Contingency Fee" amount.
- All original scope of work shall be invoiced and paid against the original contract amount.
- All change orders will be invoiced against the "Contingency Fee".

Gov Code: 2269 (Contracting & Delivery Procedures for Construction Projects)

Gov Code: 2253 (Bonds)

Local Gov Code: 252.044 (Contractor's Bond)

Local Gov Code: 252.048 (Change Orders)

CHAPTER 13 – SOLE SOURCE PURCHASES

Sole source purchases are allowed by statute (Texas Local Government Code §252.022.a.7), as a “General Exemption” to the competitive bid laws for the following specific situations:

- 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 or 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.
- F) Management services provided by a non-profit organization to a municipal museum, park, zoo or other facility to which the organization has provided significant financial or other benefits.

A. Single Source and Brand Name Clarification:

Single source or brand name requirements do not automatically fall in to the sole source exemption category, specifically when other products may exist that meet the needs of the department. Final determination on the procurement process will be made by the Purchasing Manager.

- Sole source purchases are not the same as a “single source”. A single source usually involves restricted or assigned sales territories for authorized dealers or distributors of a manufacturer; where dealers are not allowed to cross over into another’s territory.
- A “brand name” requirement may or may not be a sole source purchase depending on the nature of the purchase and the method of sales or distribution.

B. Written Justification:

The City is responsible for obtaining and retaining documentation from the vendor that clearly states the reasons the purchase must be made on a “sole source” basis.

- All sole source purchases require written justification in the form of an affidavit which must be completed by the vendor and notarized. This form is available from the Purchasing Department and must be submitted and approved by the Purchasing Manager prior to the purchase being made.

C. Notice of Intent to Award a Sole Source Procurement

All purchases in excess of \$40,000 will be processed by the Purchasing Department and require City Council approval prior to the ordering of goods and services, or start of work.

CHAPTER 14 – EMERGENCY PURCHASES

Emergency Purchases are allowed by statute (Texas Local Government Code §252.022.a), as a “General Exemption” to the competitive bid laws for the following specific situations:

- 1) A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality’s residents or to preserve the property of the municipality;
- 2) A procurement necessary to preserve or protect the public health or safety of the municipality’s residents
- 3) A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and that seriously threatens the functioning of the City or the protection of property or the health or safety of any person.

A. Emergency Disaster Declaration:

In an event involving a disaster, an emergency declaration will be made by the Mayor. All purchases must be documented through proper state & federal forms and authorized by the Emergency Operations Center Resource Manager or designee. **Purchasing for declared disaster situations will be handled as dictated by the Code of Federal Regulations 2CFR200, and current FEMA publication(s), or any other relevant or subsequent law or policy.**

B. Emergency Purchase Process: (Texas Local Government Code Chapter 252)

Departments are encouraged to contact the Purchasing Manager to discuss available options, and are authorized to proceed with an emergency purchase as defined by statute.

- Emergency Expenditure between \$3,000 and \$39,999
The Department may contact a vendor to initiate repair services, or purchase or order materials as needed. Immediately or as soon as feasible, notify Purchasing of the situation and enter the required requisition to facilitate payment noting in the PO Description Box “Emergency Purchase”.
- Emergency expenditure of \$40,000 or Above
The Department may contact a vendor to initiate repair services, or purchase or order materials as needed. Immediately or as soon as feasible, the Department must submit a memo of explanation, including any vendor documentation, and the associated budget codes to the Purchasing Department. Purchasing will create the required agenda resolution to ratify the expense and place it on the next available City Council Meeting Agenda.

C. Non-Emergency:

An emergency created through a lack of planning or neglect will not be processed as an emergency. Typical examples of such neglect are:

- Depletion of stock due to lack of planning.
- Building or equipment needing repairs for some time, suddenly becoming an emergency overnight.

- Orders of materials for projects most of which must be planned weeks or months ahead of time, and requested just before desired use.

CHAPTER 15 – COOPERATIVE PURCHASES

Texas Government Code, Chapter 791, and Texas Local Government Code, Chapter 271, authorize the use of cooperative purchases through programs established with another governmental agency (piggy-backing) or an established cooperative agency.

These chapters grant the City authorization to utilize contracts that have completed a bid process and been awarded where:

- The bid is for the same goods and/or services; and
- The bid was completed in accordance with procurement laws that would govern the City's purchase; and
- An Interlocal Purchasing Agreement has been approved by both governing bodies.

It is the policy of the Purchasing Department to utilize cooperative agencies and interlocal purchasing agreements where a clear and definitive benefit exists. The City must be a member of the cooperative agency which may require Council approval prior to placing an initial order.

Interlocal Purchasing Agreements are normally restricted to other governmental agencies located within the Dallas/Fort Worth Metroplex. Purchasing interlocal agreements will not be executed to merely avoid the competitive bid process. Departments should contact the Purchasing Department for assistance with cooperative purchases and any reporting requirements.

CHAPTER 16 – PROCUREMENT CARD PROGRAMS

The procurement card programs are a payment mechanism designed to reduce the administrative costs associated with processing small purchases generally less than \$1,000. The programs are not intended to avoid or bypass appropriate purchasing or payment procedures; but are intended to complement the existing purchasing processes. The procurement card program administrator is the Purchasing Manager.

A. General Policies

- Program Eligibility:

- Must be a full time City employee
- Individual must complete purchasing training prior to issuance of the card

- Obtaining Procurement Cards:

The request must be submitted in writing by the Department Director and sent to the Purchasing Manager. Cards and access to the City's financial system will be issued for eligible full time employees once the cardholder has:

- Received the appropriate level of training from the Program Administrator; and
- Signed the Cardholder Agreement for the appropriate program, confirming receipt of the card, understanding of the program, and acknowledgement that improper use of the card may result in disciplinary action up to and including termination of employment.

- Cardholder Limits and Commodity Restrictions:

The Program Administrator, in coordination with the Finance Director, will assign authorization levels to each card.

Monthly dollar limits and commodity restrictions will be assigned to all City cards. Some restrictions will apply to the entire program, such as cash advances, alcohol, cigar/tobacco products, casinos/gambling facilities, and international travel or businesses. If a purchase is declined due to an exclusion, contact the Program Administrator.

- Program Administrator Responsibilities: (Purchasing Manager)

- Serving as the official City liaison with the credit card processing company
- Determining appropriate merchandise category exclusions to minimize risk to the City
- Maintaining the online card system
- Issuing cards and related program information
- Replacement of lost, stolen or compromised cards
- Assisting departments with appropriate transactions which may exceed their card limits

- Department Director Responsibilities:

- Approving cardholder requests
- Reviewing and approving monthly statements and purchase orders for adherence to policies prior to submission for payment.
- End of employment - Prior to an employee's final work day, the Department Director or manager will collect any issued cards and return it to the Program Administrator for cancellation.

- Cardholder Responsibilities:

While the cardholder's name is printed on the card, cards are issued to the City and will have no impact of the cardholder's personal credit. City funds are committed each time the card is used and each individual cardholder is responsible for all charges made to their card. Therefore, by participating in any card program, all cardholders are responsible for:

- Compliance with the City of Wylie Credit Card Program Cardholder Agreement and User's Guide.
- Cards will be assigned to individual cardholders and are issued within the parameters of a specific fund and department.
- Purchases are limited to those within the cardholder's assigned budget, and may not be used to purchase goods or services outside of those the cardholder has access to within the City's financial system.
- Cards should not be loaned or given to other employees.
- Determining if the transaction is an acceptable use of the card, and if the total expenditure, including delivery or freight charges, is within the cardholder's spending limit
- Ensuring that the card is utilized for legitimate City business only; the card is not for personal use
- Ensuring that transactions are not split to circumvent the limits assigned to the card, or to circumvent other procurement policies.
- Ensuring that the City is not charged sales tax; informing the merchant of the City's tax exempt status **prior** to placing the order. If sales tax is charged, it is the cardholder's responsibility to contact the vendor and obtain the credit.
- Ensuring that transactions that are processed through PayPal (or other 3rd party payment processes) are supported with detailed documentation as to what the purchase is and what it is used for.
- Resolving any disputes or billing errors directly with the merchant. Cardholders may notify the Program Administrator if the disputes cannot be resolved.
- Submitting the required statement and receipts for payment processing within the required deadlines.
- Immediately contacting either the Program Administrator or the bank (using the phone number on the back of the card) of a lost or stolen card, or fraudulent charges.

B. Amazon Procurement Program

The City participates in the Amazon Procurement Program, and accounts are assigned and managed by the Purchasing Department as the Program Administrator. Department accounts have been assigned to a specific cardholder to make purchases within the financial limits of the named cardholder. Amazon purchases made from accounts or credit cards other than those authorized by the Program Manager are prohibited.

C. Violations and Remedies:

Violations to the card program may result in disciplinary action, up to and including termination. At a minimum, violations to the card program will result in the following remedies:

- First Offense: Written warning of the infraction will be send to the cardholder
- Second Offense: Written warning of the infraction will be sent to the cardholder and the department director.

- Third Offense: Card privileges will be suspended for 30 days, and the cardholder will surrender the card to the Program Administrator for the duration of the suspension period.
- Fourth Offense: Card privileges will be suspended permanently and the cardholder will surrender the card to the Program Administrator

CHAPTER 17 – GENERAL ITEMS

A. Tax Exempt Certificates:

Department will contact the Purchasing Department via email (purchasing@wylietexas.gov) to request tax exempt certificates. To enable Purchasing to provide the best procurement solution, the request must include:

- Vendor Name, Address
- Products or services to be purchased
- Amount of money budgeted, and the vendor's quote (if available)
- Is this a one-time purchase, or will it be repetitive

Departments should allow sufficient time for the request to be completed, and forms will be emailed back to the Department unless otherwise requested.

B. Various Other Procurement Programs:

The Purchasing Department is responsible for setting up various other procurement programs such as:

- Copiers
- Office Supplies
- Sam's memberships
- Amazon Business Account (personal accounts may not be used for City purchases)
- Home Depot Account
- City issued credit cards (see Chapter 15)
- Fuel Programs

Department requests for access to these programs should be sent via email through the Department Director to Purchasing. Once completed, the Department staff will be notified.

C. Petty Cash Purchases

If the department maintains a petty cash fund, purchases are usually for items which are not maintained in stock, and are \$25.00 or less in value. Departments should note that items purchased through petty cash may be more expensive due to the payment of sales tax; therefore, the use of petty cash should be limited. A City Purchasing Card should be used for most small transactions.

When a vendor will allow employees to make a tax exempt purchase, the vendor may require a Tax Exemption Form. Contact the Purchasing Department or Accounts Payable for copies of this exemption certification.

D. Fiscal Year Procurement Cut Off:

Departments will complete all budgeted purchases no later than August 31st of each fiscal year. Only contracted recurring monthly expenses, break-fix/maintenance, or emergency requisitions will be approved. All exceptions must be pre-approved in writing by the City Manager and submitted to the Purchasing Department.

CHAPTER 18 – BONDS, INSURANCE AND INDEMNIFICATION**A. Bond Policy:**

Bidders may be required (at the statutory limit or less) to provide certain bonds for Public Works/Construction Contracts. This ensures that if the bidder attempts to withdraw after the bid is accepted, the City will not suffer loss. The City will only accept corporate sureties duly qualified and authorized. Personal sureties will not be accepted. All required bonds must be approved by the Purchasing Manager prior to contractors or vendors commencing work.

The City may require bonding on other projects to mitigate risk.

The City requires payment, performance, and maintenance bonding to be provided on City approved forms in accordance with statute.

B. Types of Bonds:

Bid Bonds –The Bid Bond minimum limit is five percent (5%) of the total amount bid and would typically apply to construction contracts. It is the City's option whether or not to require bidders to provide a Bid Bond. Certified or cashier's checks will NOT be accepted in lieu of a Bid Bond. Bid Bonds are provided on surety forms. Bid Bonds will be returned to the issuing vendor upon request. Bond must be requested within ten days of award.

Payment Bonds are required for Public Works Contracts in excess of fifty thousand dollars (\$50,000) and must be written for one hundred percent (100%) of the total bid price. The Payment Bond is for the protection of those performing work as subcontractors or suppliers for the prime vendor/contractor. See Texas Government Code § 2253.021

Performance Bonds are required for all Public Works Contracts when the vendor's bid exceeds one hundred thousand (\$100,000), and they must be written for one hundred percent (100%) of the total bid price. These bonds are solely for the protection of the City in the event of a contractor/vendor default under Contract terms and conditions. See Texas Government Code § 2253.021

Maintenance Bonds can be written for a term relevant to the project. The coverage provided by a Maintenance Bond is to guarantee against defective workmanship and materials.

C. Insurance and Indemnification Policy:

The Purchasing Department maintains the City's insurance requirements. Contractors performing work on City property or public right-of-way shall provide indemnification and certificates of insurance or a copy of their insurance policy(s) including a copy of the endorsements necessary to meet contract requirements, and hold harmless and defense clauses. The required language is inserted in solicitation documents by the Purchasing division or owner of the specifications.

Contractual agreements must contain a provision that transfers the risk of the project from the City to the contractor. Because the contractor may not have the financial resources to handle the risks that are

transferred in the contract, the City requires that insurance be purchased and maintained by the contractor for financial security.

- Workers' Compensation Insurance – Per statute, contractors, and subcontractors hired for building and construction projects must provide Workers' Compensation Insurance for their employees regardless of the project's cost. See Texas Labor Code, § 406.096.
- Purchasing will verify and approve all insurance documents prior to the contract, purchase order, or commencement of work to be performed.

***NOTE:**

These documents may vary based on the perceived exposure, and are constantly updated. City employees should not maintain copies of the insurance requirements for distribution purposes; but should obtain the most current documents from Purchasing on an as needed basis.

D. Insuring City Assets:

The Purchasing Department is responsible for maintaining insurance coverage for the City's assets including vehicles, mobile equipment, buildings, building contents, playgrounds, parks, water delivery structures, etc. Inventories will be reviewed and confirmed on an annual basis, to allow for adequate coverage and accurate billing.

Departments are responsible for maintaining their detail inventory lists and notifying Purchasing of any deletions, additions or changes that would impact the insurance coverages. Examples would include bringing a new water storage tank on-line or removal of an old tank; upgrading of playground equipment located at a park; adding additional lights or parking lot at a park; acquiring new vehicles, heavy equipment or mobile equipment.

CHAPTER 19 – CONTRACTS

A contract is a written, legally binding document or obligation to do or abstain from doing an act. The contractor must perform and meet the requirements of the contract. All guidance provided to a contractor must be within the scope of the contract.

A. Purchase Orders:

A Purchase Order is a legal contract. Purchase orders are generated and approved before goods or services are ordered and received. This ensures purchases are approved and within budget. A Purchase Order or Contract is required when insurance and indemnification is required. See Chapter “Requisitions and Purchase Orders”.

B. Contracts Greater than \$40,000:

All purchases greater than \$40,000 may require a written contract, insurance, and/or bonds. City Council approval is required at \$50,000 and Legal review of the contract may be required. All contracts will be processed by Purchasing.

C. Annual/Term Contracts:

The City may use an annual/term fixed price contract to obtain required goods or services from a chosen vendor for a specified time period. These contracts eliminate the necessity of bidding commodities and performing HUB searches each time they are needed. Annual contracts require a bid solicitation (or use of a cooperative contract), award process, and purchase order.

- Purchases of items or services that may be readily quantified (such as a fixed hourly rate or a fixed price per linear foot) will be awarded on a competitive sealed bid or competitive sealed proposal (CSP) basis and approved according to expenditure authority.
- Requested items should be detailed by description and unit cost on the P.O. or an attached document, with the remarks section stating that the items are under contract to the specified vendor. Releases will then be reconciled with invoices.

Note: Items or a service purchased from a source other than the vendor awarded the work is a direct violation of purchasing policy unless such purchase is an emergency purchase. If there are issues with a vendor’s performance, contact the Purchasing department. (An emergency is defined in Chapter “Emergency Purchases”.)

CHAPTER 20 – CONTRACT MANAGEMENT & VENDOR PERFORMANCE**A. General Responsibilities:**

Purchasing will be responsible for all contract documents that are issued through the Purchasing Department. These documents will include:

- D. Bid related documents
- E. Insurance certificates
- F. Bonds
- G. Any written contract
- H. Change Orders
- I. Relevant correspondence; including copies of “Notice to Proceed” documents issued by the department
- J. Tier 2 Contract Administration (habitual or unresolved contract issues)
 - a. Vendor performance issues (department will be required to submit written documentation)
 - b. Legal issues, including notice to terminate (which may include City Council action)

City Staff will be responsible for:

- Issuing the purchase order
- Issuing a written “Notice to Proceed”, and copying the assigned Purchasing staff
- Tier 1 Contract Administration
 - Monitoring contract compliance; including meeting minutes/notes
 - Accurate and timely deliveries and invoicing
- Submitting change orders to Purchasing for processing
- Requests for payments
- Inspection and Testing
- Documentation or reporting as required by local, state or Federal grants
- Acceptance of goods, work or services performed

Vendors play a crucial role in the City’s day-to-day operations. As such, maintaining communication during the vendor obligation period is important. Both City staff and the vendor should provide open communication on project status, current issues, and potential issues.

B. Non-Performing Vendors:

When a vendor fails to perform according to the Agreement (Purchase Order, Annual Agreement, Contract, and/or Specification), the Department Director (or designee) and Purchasing will:

- Document the issues in writing to the vendor.
- Schedule a meeting to discuss the issues.
- Document a mutually agreed upon resolution in writing and signed by the department and the vendor. A copy will be forwarded to the Purchasing Department for the bid file.

If a vendor’s performance remains non-compliant or otherwise unsatisfactory, the department will notify the Purchasing Manager who will attempt to facilitate a resolution. If Purchasing cannot resolve the issues, the Purchasing Manager and the Department Director will make a joint determination to cancel the contract per its terms and conditions. Purchasing will then work with the department to obtain a substitute vendor or issue a new solicitation in accordance with purchasing policy.

CHAPTER 21 – ASSET AND SURPLUS DISPOSAL

Surplus property is property owned by the City that is no longer needed. There are multiple formats for the disposal process such as auction, trade-in, recycling, and destruction. All methods require written approval.

- Departments must contact the Purchasing Manager or designee prior to the relocation or disposal of property so that accounting records are accurately maintained. This is particularly important when the item was originally purchased as a capital asset to be depreciated
- Disposition forms / Capital Asset Forms are available from Finance or Purchasing.
- After approval by the Purchasing Department, equipment should be stored by the department until the property can be removed for auction.

A. Transfer of Surplus Goods Within The City

- Equipment (vehicles, trailers, etc.)

Directors may request that an item be transferred between departments. Such requests should be indicated on the Purchasing Disposal Form and sent to Purchasing requesting a transfer of all desired equipment. If the transfer of equipment is approved, the Purchasing Division shall notify Accounting for updates to the Fixed Asset List, and make other inventory, billing and insurance changes as necessary.

B. Disposal of Goods, Salvage or Surplus Property

The Purchasing Manager or designee shall be responsible for the disposal of City owned real property and salvage/surplus personal property (excluding property or evidence in possession of the City of Wylie Police Department which is governed by court order). Neither employees of the City, their family members nor the general public may acquire City owned property outside of one of the following methods.

- Personal property that has been deemed salvage or surplus may be disposed of by one the following methods, as deemed appropriate by the Purchasing Manager:
 - sold at a public auction
 - sold by soliciting competitive bids
 - sold or donated to a political subdivision of this state, a state agency of this state, or an entity of the federal government
 - traded-in on new property of the same type during the purchasing process
 - Library sponsored used book sales or donations to the Friends of the Library
 - destroyed, if such property has a value of less than \$500
- Real Property (all land, structures, firmly attached and integrated equipment) shall be disposed of in accordance with Texas Local Gov. Code 253 and 272, including:
 - Requirements for public notification,
 - Notice of intent to sell at public auction or
 - Notice of intent to sell by soliciting competitive bids.

C. Donations

Contact the Purchasing Department prior to making donations outside agencies or organizations.-

CHAPTER 22 - REQUISITIONS & PURCHASE ORDERS**A. Access to Incode: For full time employees of the City of Wylie**

Request for access will be submitted by the Department Director to the Purchasing Manager. Upon approval, the Purchasing Manager will notify the employee to schedule a date/time to complete the mandatory Purchasing Training. When the training has been completed the Purchasing Manager shall forward the access request to the Assistant Finance Director for access to the City's financial system.

B. Requisition Process:

The requisition is the first step in the creation of a legal binding contract with the vendor. The resulting purchase order must contain sufficient information to allow the vendor to fulfill the order. Departments must not rely upon verbal conversations to ensure that the goods or services ordered are correct.

Upon receipt of the appropriate documentation (quotes, bids, contracts, etc.), the authorized Department representative will:

- Review the documentation to ensure compliance with contract requirements, shipping terms, payment terms, insurance requirements, etc.
- Review Incode Vendor file to see if vendor is listed and active. Be sure to verify address (some vendors have several addresses).
- If vendor name and address is not listed, contact the vendor for a W9 and complete the New Vendor forward. Forward those forms to the Purchasing Department (purchasing@wylietexas.gov).
- Compile and store all supporting documentation in accordance with Chapter 6 "Procurement Thresholds". Note: Long term storage of documentation will be migrating to Laserfiche, as licenses and training are available.
- Requisition information must be detailed and goods and/or services should generally be itemized. Where there is insufficient field space to include a complete description, departments should utilize the "P.O. Description" box for additional information, or reference an attached quote.
- The "P.O. Description" box must also include such items as:
 - Dates of services or term coverage (example: June 1, 20XX – May 31, 20XX)
 - Contract numbers
 - Delivery instructions
 - Insurance Requirements
- Complete the requisition process and print the purchase order.

C. Purchase Orders:

As stated in Chapter 18 (Contracts), purchase orders are legal binding documents. For the terms of the contract to be fulfilled, the purchase order **must** be printed and sent to the vendor (emailing is acceptable). Verbal orders are not acceptable, and in many cases may expose the City to unnecessary insurance and financial risks.

D. Deletion of Purchase Orders:

For deletion of a purchase order prior to any payments, the department must contact Purchasing to request the deletion.

Contact A/P for the exceptions:

- Closing out of unused funds of an existing purchase order (where payments have already been made).
- Year-end closing.

CHAPTER 23 – RECEIPT OF GOODS/SERVICES

A. Inspecting Goods or Services:

It is the responsibility of the using department to inspect all equipment and supplies and to initiate the payment process.

- All deliveries should be inspected promptly, and whenever possible, in the presence of the vendor or shipper. The individual inspecting the merchandise or service performed should pay particular attention to the following:
 - The quantity shipped is consistent with the quantity ordered.
 - Note any damaged or defective merchandise on both the receipt (loading) ticket and/or the Purchase Order.
 - Verify that merchandise received meets the specifications defined on the purchase order specifications or annual contract agreement. Verify that the scope of services detailed on the purchase order has been performed to the department's satisfaction.
- After verifying that the materials received are accurate and in good condition, or that services have been performed, the using department shall sign a copy of the Purchase Order, attach the invoice and forward to Accounts Payable within 3-5 days.

B. Partial Deliveries:

When partial deliveries are made, the Department shall indicate a partial delivery on the Purchase Order receiving copy, noting the items and quantities received.

- Departments should attach a copy of the Purchase Order to the receiving documents, clearly mark that it is a "partial payment" and submit to Accounts Payable within 5 days of receipt of merchandise. **Using departments may not hold any paperwork pending delivery of back-ordered merchandise. The department should contact Purchasing if there are any questions.**
- Accounting will process payment for quantities delivered.
- Payment for back-ordered items will be processed after receipt of forms indicating that delivery is complete.
- Upon delivery of all back-ordered merchandise, the using department should note on the receiving copy of the purchase order the items to be paid for and that the delivery is complete.

C. Defective or Damaged Merchandise:

When an item is defective, damaged, or does not meet specifications, the department will notify the vendor in writing within 2 days (unless otherwise noted) of discovery of the discrepancy to discuss remedies and invoices.

- Any merchandise in need of return that was ordered by Purchasing will be handled by the Purchasing Division.
- Returns for orders placed by the using departments will be the responsibility of the department.



PROCUREMENT MANUAL

ACKNOWLEDGMENT OF RECEIPT

The undersigned employee acknowledges that they have received the City of Wylie Purchasing Manual and that they understand the provisions therein and, in consideration of their employment or continued employment, acknowledge and agree that:

1. The policies in the manual are not contractual in nature.
2. Failure or refusal to sign this acknowledgement may result in termination of your participation in procurement activities and access to the City's procurement financial system.
3. The City can unilaterally rescind, modify or add to the policies in the manual at any time without notice.
4. You have read and understand the policies contained in this manual, including those related to purchasing card usage (and its associated documents).
5. No rule contained herein or adopted pursuant hereto guarantees any employee of the City a right to continued employment. The City always retains the right to exercise discretion in amending these rules and in interpreting them reasonably.
6. Any agreement(s) or assurance(s) concerning the terms, conditions or duration of any individual's employment are not binding unless they are in writing and signed by the appropriate official (City Manager).

Accepted this ____ day of _____, 20____, by:

Employee Name (print)

Department (print)

Signature