



# CITY OF FORNEY, TEXAS PURCHASING POLICY



(REVISED 2022)

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**INTRODUCTION**

Purchasing is a division under the Finance Department responsible for the procurement of materials, supplies, equipment, and services in the most effective and economical way for the City of Forney.

The goal of the City of Forney’s Purchasing Policy is to ensure that all City departments and functions receive maximum benefit from the expenditure of City funds and that vendors will make a reasonable profit in providing goods and services to the City. Success in this effort will be best achieved with the cooperation of each City department, the Finance Department, and Vendors.

This manual is a compilation of applicable state laws, administrative regulations, and good business practices for the purchasing process. Adherence to these rules and regulations is necessary to comply with Texas state laws and meet the goals of our Purchasing Policy. The manual has been updated by the Purchasing Manager and approved by the Finance Director, City Attorney and City Manager.

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## I. GENERAL

### A. Establishment of the Purchasing Process

1. The purchasing process is established to assist City employees in meeting the standards of good business practices while complying with state and local government regulations. The Finance Department is responsible for maintaining and updating the purchasing process as necessary and relaying changes to all City departments in a timely manner. Consistent and intentional disregard of the purchasing guidelines listed in this manual may subject an employee to disciplinary action.
2. In addition, violations of certain Purchasing Policies may result in criminal penalties. A municipal officer or employee commits a Class B misdemeanor if he or she knowingly or intentionally makes or authorizes separate, sequential or component purchases to deliberately avoid the bidding requirements as mandated by the Texas Local Government Code (§252.062).
  - Separate purchases are when purchases of items are split into multiple orders that, in normal purchasing practices, would be placed on one purchase order.
  - Sequential purchases are when items or services are ordered over a period of time on individual purchase orders that, in normal purchasing practices, would be placed on one purchase order.
  - Component purchases are when component parts of an item are placed on multiple purchase orders that in, normal purchasing practices, would be placed on one purchase order.

### B. No Personal Purchase or Use of City Property

City employees shall not purchase items or services for personal use through City accounts. City-owned supplies and equipment will not be sold to employees except in accordance with Section I(C) “Surplus City Property.”

### C. Surplus City Property

Surplus City property is defined as any City-owned property, other than real estate and buildings that is worn out, outdated or no longer needed for current operations yet still has a potential resale value. Surplus goods include, but are not limited to, equipment parts, tools, vehicles, computers, software, supplies, paper stock, books and furniture.

1. The responsible Department Director and Finance Director shall jointly determine when City-owned property has no resale value. Resale value shall take into consideration the cost of preparing the item for sale. Items without potential resale value may be disposed of in any manner approved by the responsible Department Director and the Director of Finance.
2. Department Directors will submit in writing, lists of property that they recommend to be designated as surplus. Only the City Manager or Finance Director has the authority to declare City-owned goods as surplus. A staff member of the Finance Department will review all surplus property lists for items that may be on asset rosters and update such rosters accordingly.
3. Surplus goods will be disposed of in a manner that will yield the greatest possible benefit to the City. Whenever possible, items will be batched together and sold at public auction. Individual items that are not easily stored for future auction may be disposed of individually by making a good faith attempt to obtain the highest price for the item(s). Proceeds from such sales will be accounted for in accordance with generally accepted accounting principles such as they are applied to government.
4. In order to maintain the highest level of ethical propriety at all times, surplus goods may not be given or sold directly or indirectly to City employees or City officials except under exceptional circumstances. Exceptional circumstances for surplus property may be approved with a written recommendation from the employee's Department Director and subsequent approval of the Finance Director and the City Manager. An example of such an item would be a ballistic vest tailored to a specific officer or a work attire item such as a fire helmet used by a retiring firefighter.
5. City employees may participate, on their own time, in public auctions for the purchase of surplus City goods.

#### **D. Vehicle Related Purchasing and Disposal Issues**

The term "vehicle" will encompass all rolling stock acquired by the City. This will include all on and off-road equipment such as passenger vehicles, motorcycles, truck stock, road construction equipment of all sorts, forklifts, tractors, trailers, riding mowers, etc.

Specifications for the purchase of new vehicles shall be developed with the combined input of the requisitioning Department and the Finance Department.

Acceptance and delivery of new vehicles will take place under the direction of an appointed representative of the requisitioning Department. The appointee will have

sole responsibility to ensure the vehicles are properly prepared both mechanically and with proper documentation and licensing. Vehicles will be placed into service only with the approval of the appointee except under emergency circumstances. Emergency service use must receive the approval of the City Manager within two working days after the service began.

Vehicles submitted by a requesting department as being replaced by a new acquisition will be disposed of in the same manner as other assets, as described elsewhere in this policy.

Such vehicles slated for replacement will not be retained as part of the fleet without the written approval of the Finance Director or the City Manager.

- Budgetary requests for replacement vehicles must include a listing of what vehicle is being replaced.
- If a vehicle is being replaced, and the existing vehicle is being repurposed for another department, the Finance department must be notified and the new purpose for the vehicle must be included in the budget request for the replacement.

**E. City Credit Card Policy**

City credit cards are issued to City employees to purchase low-cost supplies or services for official City use only. No personal items or services are to be purchased with the City credit card under any circumstances, nor shall the card be used to circumvent the Purchasing Policy bidding requirements as per the Local Government Code (§252.062). The City credit card is not to be used for obtaining cash nor is the employee to accept cash in lieu of a credit to their account. Any violation of this policy may result in the employee’s loss of credit card privileges, and/or other disciplinary action.

An employee’s request for a City credit card must be approved by their Department Director as well as the Finance Director. At the time of approval, the credit level for the employee’s card will be based on the following:

Supervisor/ Administrative Assistant	\$2,500
Assistant Director/Assistant Chief	\$5,000
Department Director	\$10,000
Assistant City Manager/Attorney	\$15,000
City Manager/Special Events	\$25,000
Accounts Payable	\$100,000

The employee may not allow other individuals to use their credit card unless prior authorization is obtained from their Department Director or the Finance Director. If

the credit card is lost or stolen, the employee shall contact the credit card company immediately and then notify the Finance Department as soon as possible.

The City of Forney is tax-exempt. Whenever possible, the employee should make their credit card purchases with a vendor whom the City has an account to avoid having sales tax charged. If the City does not have an account with the vendor, the employee should provide the vendor with a completed tax-exemption form obtainable from the Finance Department prior to the purchase.

After Department Director approval, all receipts must be submitted to Accounts Payable with a completed credit card reconciliation form each month to avoid any possible service charges from the credit card company for late payments. Itemized receipts must be included with the credit card reconciliation. Missing receipts must be recorded on a “Missing Credit Card Receipt Form” and approved by the City Manager. The Finance Department will review all credit card reconciliations for accuracy and alert the City Manager to any purchases that may not conform to this policy.

It is the Department Director’s responsibility to notify the Finance Department as soon as possible if the employee has moved to a new position in which they will no longer need to make City purchases, or the employee has been terminated. Finance will deactivate the card on the transfer or termination date. However, it is the Department Director’s responsibility to ensure that the credit card is retrieved from the employee and turned into the Finance Department upon the employee’s change of position or termination. The Department’s Director will also be responsible for confirming that any recurring charges to the card will be transferred to an active card held by the department.

Use of the City credit card for travel must be made in accordance with the City’s travel policy.

#### **F. Purpose of the Requisition**

A requisition should tell the Purchasing department what to buy, when needed, where to deliver the goods/services, and the name of the recommended vendor. Special instructions for the vendor should be noted in the requisition form.

**Reminder:** A requisition submitted is not an automatic purchase order to buy or retain services.

**Requisition Form**

A requisition form (see Sample Forms, Section V) is to be submitted online for ALL purchases by each department and approved by the Department Director.

All information on the requisition should be completed by the requestor in as much detail as possible. The requestor may list the name and address of a suggested vendor in the “Vendor” section of the form. Dollar amounts listed under “Unit Price” and “Total Amount” are to be estimates or the budgeted amount for the goods or services. After completing the requisition, the requestor (admin or department representative) should obtain the appropriate authorized signature and submit the requisition and supporting documents (such as a quote) to Purchasing.

**G. Purpose of a Purchase Order**

A Purchase Order is a legal document designed to expediate and control buying for the City. It is used for a one-time purchase of goods and services. Once a vendor receives a signed purchase order from the City, then the City is then obligated to pay the vendor for the goods and services.

**Purchase Order**

A signed Purchase Order is a legal contract that needs to be filled out with care. The vendor’s name, address and vendor contact should be complete as well as the shipping address. For each item ordered, a detailed description is needed of what is being purchased. The Purchase Order should be signed by an authorized employee, a Department Director or a representative of the Finance Department. A general ledger account will be listed and there must be sufficient monies in that account to pay for the purchase.

**H. Budgeted Funds and Fund Transfers**

All purchases will be supported by budgeted funds in the department general ledger accounts, or when written authorization (see sample Budget Transfer Authorization Form in Sample Forms, Section V) is given by the City Manager or Finance Director. The Finance Director may authorize a balanced transfer of funds of any accounts within the same fund. A transfer that results in an increase to a department total without a decrease in another department total, or a transfer between two different funds requires that the City Council approve a budget amendment via ordinance.



**I. Receiving Procedures**

It is the requestor's responsibility to make sure the item(s) or services received are of the standard and quality expected by the City. If an item(s) received is damaged or services performed unsatisfactorily, the Finance (Purchasing) Department must be contacted immediately so that the issue can be resolved in a timely manner. Once the item(s) received is accepted, the requestor must sign, date and return the received copy of the invoice to Accounts Payable at [accountspayable@forneytx.gov](mailto:accountspayable@forneytx.gov)

**J. Exclusion of Vendors on Federal Excluded Parties List System**

Vendors on the Federal Excluded Parties List System may not be utilized for the acquisition of goods or services on any project financed with grant funds. Federal regulations specify that use of an excluded party will be grounds for voiding a federally funded grant/contract (including pass-through grants) and reimbursement of all funds remitted to the City. The purpose of this policy is to ensure that the City follows all necessary procedures for grant-funded projects.

The Purchasing Agent is the designated source for determination of eligible vendors for all grant-funded contracts prior to awarding any contract for goods or services. Upon request from a Grant Project Manager, the Purchasing Agent, or his/her designee, will confirm the eligibility of a vendor to the Grant Project Manager.

Record of the confirmation will be maintained with the grant records for the required retention period of the grant or three (3) years, whichever is longer.

Failure to comply with the requirements of this policy will subject the violator to disciplinary action in accordance with the City Personnel Policies.

**K. The Purchasing Agent's Role**

The Purchasing Agent, under the supervision of the Finance Director will perform the following functions:

- 1) Observe and enforce the procedures outlined in this manual.
- 2) Always encourage competitive bidding
- 3) Develop and maintain good vendor relations so that competitive pricing will assure that the City receives the highest quality of the lowest cost.
- 4) Investigate and report any possibilities of collusion among bidders.
- 5) Help resolve any vendor issues such as inferior products or service, pricing discrepancies, or late deliveries.

- 6) Issue purchase orders and contracts for goods and services that total \$3,000 or more.
- 7) Submit PO orders with Vendors after approval.
- 8) Review ALL requisitions and provide substitutions for the best value of the item(s).
- 9) ALL online ordering such as Amazon, Quill, Wedge Supplies will be requisitioned and sent to Purchasing.
- 10) Review and recommend purchases that can be combined to take advantage of volume discounts.
- 11) Keep informed on the latest purchasing state and local laws, policies, and procedures and relay them to the Finance Department and City Manager.
- 12) Continue to research and use interlocal and governmental cooperatives to obtain the best pricing for the City.

#### **L. Purchasing Procedures for Elected Officials/Board and Committee Members**

Non-City employees such as elected officials or committee and board members, temporary employees and contracted personnel do not have authorization to commit City funds for purchases. An exception to this section applies always for the collective members of the Forney City Council when it is acting in its official capacity as the City's governing body.

## **II. PURCHASING PROCEDURES**

**Factors to consider when making a purchase:** The purchasing goal is to obtain the highest quality at the lowest price. However, a low price quoted by an out-of-town vendor may not be the lowest price if there is a shipping charge or a long delivery time. The City may award a purchase to a bidder whose principal business is in the City and whose bid is within 3% of the lowest bidder whose principal business is not located in the City per the Texas Local Government Code (§271.905). In order to award a purchase to the local bidder in such circumstances, the City Council must determine, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities created by the contract award, including the employment of residents of the City and increased tax revenues to the City, pursuant to Local Government Code §271.905.

Vendors must be prescreened and approved by the Finance Department. Completed vendor information forms (including a W-9 and a Conflict of Interest Form), must be submitted to the Finance department by any new vendor prior to purchase of goods or services. Finance will maintain and make available an approved vendor listing.

The City of Forney is a tax-exempt government entity. When making any purchase, especially with Petty Cash or credit card, the buyer must provide the vendor with either a Tax-Exempt Form that is available from Accounts Payable or the Forney Intranet, or give the vendor the City Sales Tax Number: 75-6003089.

#### **A. Purchasing Amounts**

ALL requisition forms must be submitted to the Purchasing Department **prior** to any purchase or service.

- Requisition Purchases in amounts of \$0 - \$999.99 may be submitted without a quote.
- Requisition Purchases in amounts of \$1,000.00 - \$2,999.99 may be submitted with a requirement of at least one (1) quote.
- Purchases in amounts of \$3,000 - \$49,999.99 may be made on the basis of a minimum of three (3) quotes, taking into consideration the State Law requiring Historically Underutilized Businesses (HUBS) involvement for purchasing, by the using departments of the City or quote from Co-Op.

It is proper business procedure to notify all vendors who submitted either verbal or written quotes that they were not the successful bidder.

- Purchases in the amounts of \$50,000 or greater are subject to requirements of the competitive bid process unless specifically exempted by State Law.

Under most circumstances, purchases are based on competitive bids. Negotiations are not authorized when utilizing a request for bids procurement method; however, if only one response is received, negotiations are allowed and encouraged. Negotiations of contracts are encouraged for emergency purchases when soliciting is not practical.

##### **1. Emergency Purchases**

Exceptions will be when the purchase is required due to an emergency. Emergencies occur as a result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat. If a situation arises in which compliance with normal procurement practices is impractical or contrary to the public interest, an emergency purchase may be warranted to prevent a hazard to life, safety, welfare, property or to avoid undue additional cost to the City.

Notwithstanding the immediate nature of an emergency, all procurements conducted as emergencies should be made as competitive as possible under the circumstances. If an emergency exists, a written determination of the basis for the emergency and for the selection of a particular vendor shall be included in the procurement file.

Emergency purchases of goods or services should not exceed the scope or duration of the emergency.

Emergency purchases require a letter of justification signed by the Finance Director or an authorized representative, documenting the emergency and at a minimum addressing the following:

- The nature of the emergency such as hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the City, and what caused the emergency situation; and
- The estimated impact or damage, financial or otherwise, that will occur by following normal procurement practices.

The Finance Department may temporarily increase the transaction authority of a purchasing card to effect a purchase under this section when such a purchase brings value to the City, typically in the form of rebate values and/or expedited processing.

## 2. **Bid Specifications**

The Finance Department cannot obtain goods and/or services without specifications written clearly by the Requestor, nor can vendors bid cost effectively without sufficient information. Brand names may be used as a guide for both the Finance Department and vendors as to what is needed to meet the Requestor's needs, but the line item description must end with "**or approved equal**" so that competition is not restricted.

The requesting department must provide to the Finance Department the following information in a written / electronic form prior to undertaking a process of seeking bids:

- 1) The project name;
- 2) The project budget;
- 3) The source of funds for the project; and
- 4) The project specifications.

Upon submission of the foregoing the Finance Department will submit the following to the Requestor:

- 1) The bid number;
- 2) The dates of advertising;
- 3) A proposed date/time for bid opening.

A bid Tabulation form (see sample Bid Tabulation Form – See Sample Forms, Section V) may be attached for summarizing telephone/electronic bids. Electronic submission of the telephone/electronic bids is also acceptable. The Finance Department will review and approve the attached quotations or may obtain additional quotes before placing the order.

The Requestor will be notified by the Finance Department as soon as the Purchase Order has been placed. A confirmation copy of the Purchase Order will be sent to the vendor as required under the Uniform Commercial Code, UCC 2-201, Statute of Frauds.

### 3. **Sole Source**

If a vendor is declared a Sole Source (quotes not obtainable), the Requestor must fill out a Sole Source Justification Form (See Sole Source Justification Form, Section V) and send it to the Finance Department with the purchase order specifications.

Sole Sources are acceptable in accordance with Local Government Code §252.022 as follows:

A purchase of items that are available from only one source because of patents, copyrights, secret processes or natural monopolies; films, manuscripts or books; gas, water and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials that are available only from the person holding exclusive distribution rights; management service 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.

If a purchase is made through an interlocal contract for cooperative purchasing administered by a regional planning commission, there is no need to obtain quotes. However, the name of the cooperative purchasing program and the contract number must be completed on the Sole Source Justification Form and attached to the purchase order. Some cooperative purchasing programs, such as Texas Building and Procurement Commission Cooperative Purchasing Program (TBPC) and the Houston-Galveston Area Council's Cooperative Purchasing Program (HGACBuy), require that the purchase order must be issued by them rather than the City or the purchase will not meet competitive bidding requirements.

Proposals may be used for the purchase of goods or services, including high technology items and insurance.

**B. Historically Underutilized Business (HUB's)**

A minimum of two (2) Historically Underutilized Businesses (HUB) must be contacted on all expenditures of more than \$3,000 but less than \$50,000 on a rotating basis, based on information provided by the Texas Building and Procurement Commission. A HUB is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American and/or American woman and/or Service Disabled Veteran that has been certified by the statewide HUB Program. A list of certified HUB's is obtainable at the State Comptroller of Public Accounts website [www.window.state.tx.us](http://www.window.state.tx.us) under the CMBL (Centralized Master Bidders List) or by contacting the Finance Department. If the list fails to identify a historically underutilized business in the category or area of the goods or services to be acquired in the county in which the City is situated, the City is exempt from this section per the Local Government Code (§252.0215).

**C. Competitive Sealed Bids and Proposals for Purchases more than \$50,000**

**1. Competitive Sealed Bids and "Best Value" Bidding**

State law requires that a contract or purchase order for expenditures for goods and/or services of more than \$50,000 must be processed through the competitive sealed bidding process (with the exception of exempted or sole source purchases addressed below) per Texas Local Government Code (§252.021) as currently constructed and as modified over time.

- a) Department Directors, in coordination with the Finance Department, should determine the timing of the desired goods or services and prepare the detailed specifications for the Request for Bids far enough in advance to ensure the desired bid date can be met. Bid numbers will be issued by the Finance Department.

- b) The Request for Sealed Bids package must be reviewed and approved by both the appropriate Department Director and the Finance Department before it is sent out to potential bidders and the proper notification for bids is placed in the City's official newspaper. The Finance Department shall be responsible for placing the bid notification ads unless other arrangements are made with the Finance Department.
- c) The selection of vendors for the Bidders' list will be based on recommendations from Department Directors as well as the Finance Department. The Local Government Code, (§252.043 & §271.113) allows the City to award a contract to either:
  - (i) The lowest responsible bidder, or
  - (ii) The bidder who provides goods, services, or the construction of a facility for the "best value" for the City.

In determining the best value for the municipality, the municipality may consider: (1) the purchase price; (2) the reputation of the bidder and of the bidder's goods or services; (3) the quality of the bidder's goods or services; (4) the extent to which the goods or services meet the municipality's needs; (5) the bidder's past relationship with the municipality; (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities; (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and (8) any relevant criteria specifically listed in the request for bids or proposals.

If not utilizing the best value method, the contract **must** be awarded to the lowest responsible bid. The City Council may reject any and all bids. To reject the lowest bid, the City Council must determine that a higher bid is the lowest responsible bid. Local Government Code §252.043.

The best value method may not be used, and the contract must be awarded to the lowest responsible bidder for contracts for the construction of:

- highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or
- Buildings or structures that are incidental to projects that are primarily civil engineering construction projects (Local Government Code §252.043(d)).

- d) If the City desires to award a contract for goods and services under the best value method, the City must indicate in the bid specifications that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City (Local Government Code §252.043(c)).
- e) After the Sealed Bid package has been approved, the City must advertise the bid as required by State Law. The advertisement must be published at least once a week for two consecutive weeks in the City's official newspaper. The first publication must be more than fourteen (14) days before the date of the bid opening (Local Government Code §252.041). If the contract pertains to a Public Works project, the second publication must be on or before the 10<sup>th</sup> day before the bids may be submitted (Local Government Code §271.025).
- f) Sealed bids are to be addressed to the attention of the Finance Department, City of Forney, 101 E. Main Street, Forney, TX. 75126.
- g) Public openings of Sealed Bids will be attended by the Department Director and the Finance Director, or their designated representatives. If the bid is to be awarded to the lowest responsible bidder, the bids will be opened and read aloud with the apparent low bidder announced. If the bid is to be awarded based upon best value, the bids will be opened and read aloud; the City Council will then determine which bidder provides the City with the best value. However, an announcement will be made to those present at the bid opening that a recommendation will be presented to the City Council for the award to the lowest responsible bidder or the bidder who provides the best value to the City, after an analysis of the bids is made by the staff. The Department Director is the primary staff person responsible for preparation of the recommendation and agenda item submitted to the City Council. The City reserves the right to reject any and all bids.
- h) If the contract is for a Public Works project and is not awarded to the lowest bidder, each lower bidder must be given notice of the proposed award and an opportunity to appear before the City Council and present evidence concerning the bidder's responsibility as per the Local Government Code. (§271.027)
- i) The City may award a contract for any real property or personal property that is not affixed to real property to a bidder whose principal business is in the City and whose bid is within 3% of the lowest bidder whose principal business is not located in the City per the Local Government Code (§271.905). To award a purchase to the local bidder in such circumstances, the City Council must determine, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities created by the contract award, including the employment of residents of the City and increased tax revenues to the City, pursuant to Local Government Code §271.905.



- j) In the event there are two or more responsible bidders with the identical lowest bid that fully meets the specifications and needs of the City, the bidder who is a resident of the City shall be awarded the bid. If there is not a local resident bidder or there is more than one local resident bidder, the award of the contract will be determined by casting of lots. The casting of lots must be in a manner prescribed by the mayor of the City and must be conducted in the presence of the governing body of the municipality. All qualified bidders or their legal representative may elect to be present at the casting of lots. The City will still retain its right to reject all bids per Local Government Code. (§271.901)

## 2. **Competitive Sealed Proposals:**

Sealed proposals are governed by the same State Laws and good business practices as Sealed Bids. Sealed Proposals may be used for procurement of insurance, high technology goods, or services whose cost is estimated at \$50,000 or more. Local Government Code §252.001(c).

“High technology procurement” means the procurement of equipment, goods, services of a highly technical nature, including:

- 1) data processing equipment and software and firmware used in conjunction with data processing equipment;
- 2) telecommunications equipment and radio and microwave systems;
- 3) electronic distributed control systems, including building energy management systems; and
- 4) technical services related to those items.

The two main differences between a sealed bid and a sealed proposal are:

- 1) The request for proposal must solicit quotations, and the criteria for selecting a vendor from a sealed proposal is not based on price alone. While price is important, vendor qualifications, experience, and support system may be some of the components that will be considered in making a selection. The desired evaluation factors for the procurement must be listed in the Request for Proposal (Local Government Code §252.042(a)).
- 2) When publicly opening sealed proposals, only the names of the firms submitting proposals shall be announced. After the analysis of proposals is completed, a recommendation by City Staff to the City Council for award to the lowest and most responsive bidder which best meets all the evaluation criteria will be made. Each proposal shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. If there are vendor negotiations, care should be made to avoid disclosing proposal contents of other bidders. All proposals that were submitted will be open for public inspection after the contract award as addressed in §552.104 of the Texas Public Information Act. However, any proprietary information

designated as such by the vendor will not be made available for public inspection per §552.110 of the Texas Public Information Act.

#### **D. Purchases Exempt from Competitive Bidding**

Pursuant to Local Government Code §252.022, Competitive Bidding is not required for an expenditure for:

- 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;
- 4) A procurement for personal, professional, or planning services;
- 5) A procurement for work that is performed and paid for by the day as the work progresses;
- 6) A purchase of land or a right-of-way;
- 7) A procurement of items that are available from only one source, including:
  - a) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
  - b) films, manuscripts, or books;
  - c) gas, water, and other utility services;
  - d) captive replacement parts or components for equipment;
  - e) books, paper, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
  - f) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant or other benefits;
- 8) a purchase of rare books, papers, and other library materials for a public library;
- 9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- 10) a public improvement project, already in progress, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- 11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- 12) personal property sold:
  - a) at an auction by a state licensed auctioneer;

- b) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
  - c) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
  - d) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;
- 13) services performed by blind or severely disabled persons;
- 14) goods purchased by a municipality for subsequent retail sale by the municipality;
- 15) electricity; or
- 16) advertising, other than legal services.

#### **E. Additional Requirements on Purchases Exempt from Competitive Bidding**

The following additional criteria shall apply to all purchases requiring City Council approval and over which are otherwise exempt from competitive bidding:

- 1) Purchases over \$50,000 that are exempted from competitive bidding due to a public calamity that needs immediate action to relieve the necessity of the City's residents or to preserve the property of the City, preserve or protect the public health or safety of the City residents, or is necessary because of unforeseen damage to public machinery, equipment or property must be approved by the City Manager and a purchase order must be prepared and signed by the City Manager. The City Manager will present the expenditure to the City Council within 30 days for ratification.
- 2) All other exempted purchases (excluding interlocal cooperative purchases) for more than \$50,000 must be approved by the City Council and all documents must be signed by the City Manager.

#### **F. Procuring of Certain Professional and Consulting Services**

Professional and consulting services include such services as accounting, architecture, engineering, surveying, medicine and planning. These types of services are exempt from the competitive bid process as per Texas Local Government Code, §252.022(4). Additionally, The Professional Services Procurement Act of Texas Government Code, §2254.003, states the following

- (a) a governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:
  - (1) on the basis of demonstrated competence and qualifications to perform the services, and
  - (2) for a fair and reasonable price.

- (b) the professional fees under the contract may not exceed any maximum provided by law.

In procuring architectural, engineering, or land surveying services, or other services listed in the Professional Services Procurement Act, the following selection procedure must be used:

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

If a satisfactory contract cannot be negotiated with the first-choice provider, then the City shall:

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

This process shall be followed until a fair and satisfactory contract is negotiated and accepted by both parties.

## **G. Interlocal Agreements**

The Interlocal Cooperation Act, Gov. Code §791.001 et seq., gives cities the flexibility to contract with other governmental entities, including state agencies, districts, counties and municipalities. The City may contract with another local government to perform governmental functions and services such as:

- 1) Police protection and detention services
- 2) Fire protection
- 3) Streets roads and drainage
- 4) Public health and welfare
- 5) Library and museum services
- 6) Records center services
- 7) Waste disposal
- 8) Planning
- 9) Engineering
- 10) Administrative functions
- 11) Public funds investment
- 12) Other governmental functions in which the contracting parties are mutually interested (Gov. code §791.003)

City Council must **approve** all interlocal agreements before any product or service is provided by the vendor.

## H. Lease-Purchase Agreements

The City may obtain the use of equipment or other personal property through a lease-purchase agreement (Local Government Code §271.005(a)). A vendor leases a piece of equipment to the City with an option to purchase. Alternatively, an equipment vendor sells the equipment to a financing institution, who then leases the equipment to the City. The contract may not be for more than 25 years (Local Government Code §271.009).

The Constitution prohibits a City from incurring a debt without making provision to assess and collect annually a sufficient sum to pay interest and create a sinking fund (Texas Constitution Article 11, §5). The City must have an absolute right to terminate the lease at any time, or the right to terminate the contract at the end of each budget period so that the contract can be terminated if the City does not appropriate funds for future lease periods (commonly referred to as a “non-appropriation of funds” clause).

- 1) Note that the competitive bidding requirements for general contracts (goods exceed \$50,000) apply to leases of equipment and to lease-purchase arrangements (Local Government Code §271.006).
- 2) Note also that if financing separately through a financing institution, the financing may have to be bid, if total of financing costs exceeds \$50,000.

## III. CHANGE ORDER NOTIFICATIONS

Change order notifications for purchase orders or contracts for pricing increases due to a change in the scope of work should be approved in writing and a copy issued to the vendor prior to starting the additional work. If a change order involves a decrease or an increase of \$50,000 or less, the City Manager is authorized by City Council to approve the change. The original contract price may not be increased by more than \$50,000 without formal City Council approval and the original contract price may not be increased by more than 25%. The original contract price may not be decreased by more than 25% without the consent of the contractor (Local Government Code §252.048).

Upon written request from the Department Director, the Finance Department may cancel a purchase order. A written cancellation notice will be sent to the vendor by the Finance Department. The amount of payment by the City for goods received or expenses for services performed prior to the cancellation notice will be negotiated with the vendor by the Finance Department.

## IV. INSURANCE AND BOND REQUIREMENTS

Contractors, consultants, concessionaires and certain suppliers whose work, or employees, may expose the City and the public to risk of any kind, are required to sign an indemnity clause

along with a contractual agreement that will transfer the risk of the project from the City to the Contractor. They must also provide a current insurance certificate to the City that shows their liability meets the City's standard requirements. (See sample copy of the City's Insurance Requirements – attached herein). These requirements should be included in the Request for Bids and are made part of the contract or purchase order. Insurance requirements may vary from project to project depending on the type of work or service being provided.

**PERFORMANCE AND PAYMENT BONDS REQUIRED.** A governmental entity that makes a public works contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity: (1) a performance bond if the contract is in excess of \$100,000; and (2) a payment bond if: the contract is in excess of \$50,000, and the governmental entity is a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code.

A bond executed for a public work contract with the state or a department, board, or agency of the state must be payable to the state and its form must be approved by the attorney general. A bond executed for a public work contract with another governmental entity must be payable to and its form must be approved by the awarding governmental entity (Local Government Code §2253.001).



**CITY OF FORNEY**  
**101 E. MAIN STREET**  
**FORNEY, TX 75126**

**REQUISITION FORM**

VENDOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SHIP TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*list suggested vendor only*

P.O. # Assigned: \_\_\_\_\_

Requested by: \_\_\_\_\_

Date Needed: \_\_\_\_\_

Quantity Needed	In Units of	Description of Items	Estimated Unit Price	Estimated Total Cost	Account Code

Authorized by: \_\_\_\_\_  
Date: \_\_\_\_\_ Signature

Title: \_\_\_\_\_



# CITY OF FORNEY, TEXAS

## REQUEST FOR BUDGET TRANSFER / AMENDMENT

Effective Date: \_\_\_\_\_

**Transfer funds from:**

Account Name	Account Number	Amount
<b>Total</b>		-

**Transfer funds to:**

Account Name	Account Number	Amount
<b>Total</b>		-

**Reason for change and source of funds when appropriations are increased:**

  
  
  

Prepared by:

Approved by:





**SOLE SOURCE JUSTIFICATION FORM  
FOR P.O.# \_\_\_\_\_**

**(Required for all purchases over \$1,000 that are not being bid out)**

**D** Vendor is a State Contract Vendor or approved Interlocal Cooperative program. *(Show Co-Op Name Below)*

\_\_\_\_\_

**D** Item(s) or Good(s) is available from only one source including:  
(Circle the appropriate one)

1. Is covered by patent, copyrights, secret processes or natural monopoly
2. Films, manuscripts, or books and library materials with exclusive distribution rights
3. Electricity, gas, water and other utility services
4. Captive replacement parts or components and/or spare parts for equipment
5. Management Service provided by a Non-Profit Organization to a municipal museum, park, zoo or other to which the organization has provided significant funds or other benefits

Immediate Procurement necessary because of public calamity, to protect public safety or health, or unforeseen damage to public equipment or property

**D** Procurement is for personal, professional or planning services.

**D** Procurement is for day-work performed

If none of the above apply, please give detailed reason for Sole or Single

Source: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_