



**PURCHASING  
POLICY  
AND  
PROCEDURES**

Revised September 2024

## INTRODUCTION

This manual has been prepared to inform each department and division, of the methods of procurement available to city staff and role of all those involved in the purchasing process.

City purchasing procedures are governed to a large extent by Texas statutes. These statutes, including interpretations of them made by Texas courts, are the ultimate authority on the validity of purchasing procedures. Because the procedures described in this manual are based on state law, this manual contains language taken directly from statutes, and paraphrases of and broad generalizations about Texas statutory law have been included where appropriate to assist in applying the law in routine situations. This manual cannot address every situation; and when an unusual situation occurs or a difficult legal or factual problem arises, the exact statutory language must be reviewed and analyzed.

The Purchasing Department shall assist each department, division, and their staff to procure the quality goods and services they require at the best possible price which are necessary to provide the citizens with the services they expect.

### Texas Statutes

Local Government Code Chapter 171 Regulations of Conflicts of Interest of Officers of Municipalities, Counties and certain other Local Governments

Local Government Code Chapter 252 Purchasing and Contracting Authority of Municipalities

Local Government Code Chapter 271 Purchasing and Contracting Authority of Municipalities, Counties, and certain other local Governments

Government Code Chapter 791 Interlocal Cooperation Contracts

Government Code Chapter 2161 Historically Underutilized Businesses

Government Code Chapter 2252 Contracts with Governmental Entity

Government Code Chapter 2253 Public Work Performance and Payment Bonds

Government Code Chapter 2254 Professional and Consulting Services

Government Code Chapter 2269 Contracting and Delivery Procedures for Construction Projects

### City of New Braunfels Charter Section 9.17 Purchases, Sales and Contracts

New Braunfels Ordinance, Section 2-130 City Manager – Execution of contracts and deeds

### Federal Statutes

Federal Awards, 2 CFR 200 – Uniform Administrative Requirements

- 2 CFR 200.318(c) General Procurement Standard
- FTA C 5010.1E, Award Management Requirements
- FTA C 4220.1F, Chapter III, Third Party Contracting Guidance

## MISSION, VISION AND GOALS

### **Mission:**

To secure, whenever practical, competitive prices on purchases and to generate fair and open competition to receive the best prices, terms and conditions for the City.

### **Vision:**

To aid the City in serving citizens through greater efficiency, both in terms of economy and service to the departments and procurement of quality supplies, equipment and services.

### **Goals:**

1. Establish policies and procedures that maintain the integrity of the purchasing process encourage competitiveness and show a cost savings on procurements.
2. Procure goods and services for departments of the requested quality and quantity from an appropriate source using the most efficient and economical means and at the best possible price, to have them available when and where they are needed.
3. Improve delivery speed to departments by predetermining appropriate sources of supply before an actual need for the particular item or service become, facilitating potential quantity and special discounts.
4. Comply with all local, state, and federal laws while administering the purchasing function.

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### 1. STATEMENT OF GENERAL POLICY

It is the policy of the City of New Braunfels that all purchasing shall be conducted on the basis of economic and business merit. This policy is intended to promote the best interest of the citizens of the City of New Braunfels, Texas.

It is important to remember that City purchasing operates in full view of the public. To assure an open purchasing process and economy in purchasing, the New Braunfels City Council has determined that competitive bidding will be used as much as possible in the purchase of goods and services for the City.

The City of New Braunfels intends to maintain a cost effective purchasing system conforming to good management practices. To be successful, everyone must support the system. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. To accomplish timely purchasing of products and services at the least cost to the City of New Braunfels, takes everyone's cooperation.

### 2. PURCHASING AUTHORITY

#### A. City Charter and State Statutes on Purchasing for Municipalities

##### 1. Excerpts from Section 9.17 of the City of New Braunfels Charter:

The City Manager may delegate some or all of the financial administrative duties to a Director of Finance or other administrative officer but shall maintain supervisory authority over all functions. The City Manager shall have charge of the administration of the financial affairs of the City and to that end shall have authority and responsibility for the performance of the following duties:

(9.17) Sec. 9.17. - Purchases, Sales and Contracts. All purchases made, and contracts entered into, by the City, and all sales, exchanges or other dispositions of property of any kind or character owned by the City, shall be accomplished pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and laws. The City Manager shall have the authority to contract for expenditures without further approval of the City Council for all budgeted items that do not equal or exceed the minimum amount required for mandatory competitive bidding/purchasing set by state law. At the time this charter provision was amended, state law defined such minimum as any amount over fifty thousand dollars (\$50,000.00).

2. Per the City of New Braunfels Code of Ordinances, Sec. 2-130, the City Manager will execute all contracts. Contracts exceeding \$50,000 require City Council approval before signature

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execution by the City Manager. The City Manager is the only employee that has the authority to sign contracts on behalf of the City.

Sec. 2-130. - City manager—Execution of contracts and deeds.

The city manager is hereby authorized to execute the following documents on behalf of the city pursuant to the following conditions:

- (1) All contracts for expenditures in an amount not exceeding \$50,000.00 provided that the expenditure is budgeted;
- (2) All contracts for expenditures in excess of \$50,000.00 when said expenditures have been approved by the city council;
- (3) Deeds and closing documents conveying real property owned by the city when the sale of the property has been approved by the city council;
- (4) Deeds and closing documents for the purchase of real property by the city when the purchase of the property has been approved by the city council; and
- (5) The granting or abandonment of utility easements across city-owned real property provided that the granting or abandonment of the easement shall not unreasonably restrict the use of the property by the city and provided further that the execution of the document does not involve the payment of monetary consideration by the city.

### **B. Purchasing Manager Responsibilities**

1. The Purchasing Manager shall have responsibility to ensure statutory compliance with applicable laws, regulations, and City purchasing policy and procedures and to ensure that competitive procurement is practiced in a fully public and ethical environment.
2. Purchasing shall be responsible for solicitations, bid openings and closings, and assisting the departments in presentation of purchases of goods and services (when required) to the City Council. Purchasing will also notify the City Secretary's office of all advertising requirements.
3. Purchasing will assist individual departments in developing specifications for goods and services to be purchased along with required delivery schedules.
4. Purchasing will encourage competition between vendors through negotiations, competitive bidding and quantity buying by continuously monitoring requisitions from all departments. This includes consolidation of purchases where possible.
5. Purchasing will solicit evaluations and recommendations from user departments on proposals received from suppliers.
6. Purchasing will oversee the disposition of city surplus property including transfer of equipment between offices, departments or agencies and sell of surplus, obsolete or unused supplies, materials or equipment.

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7. Purchasing will monitor and evaluate vendor performance and, when advisable, assist the departments with the testing of goods and services for compliance with specifications.
8. Purchasing may utilize State Cooperative Purchasing Agreements, Interlocal and City purchasing contracts for price and delivery advantages. City departments will use existing City contracts when available for all purchases.
8. Debarment Check - It is the policy of the City to check if a vendor has been debarred prior to entering into a contract. The Purchasing Representative, in conducting his/her due diligence, shall verify that the vendor does not appear on the list maintained by the federal government. The System for Award Management can be accessed at the following web link: <https://www.sam.gov> .

### **C. Department Responsibilities**

1. Departments will determine the availability of budgeted funds in the appropriate category before requesting a purchase. Purchase requisitions may be returned if funds are not available and will not be processed until the user department addresses this issue.
2. Departments will submit requests with sufficient lead-time to acquire materials in advance of need.
3. With the assistance of Purchasing, departments will develop detailed and comprehensive minimum specifications for goods and services. Specifications should be written to encourage competition, whenever possible. Products available through a sole source must be justified to Purchasing.
4. Departments will inspect all deliveries of supplies, materials and equipment, and determine their quality and conformance with specifications.
5. All claims regarding damaged material, etc. must be processed in an expeditious manner. The user department should immediately contact Purchasing upon discovery of damaged goods and advise Purchasing in writing of the problem and provide evidence of unsatisfactory performance by a supplier.
6. When applicable, contacts with suppliers regarding procurement should be arranged through and under the cognizance of Purchasing. This includes arranging for samples and/or products for evaluation. Purchasing shall be provided copies of any correspondence between suppliers and Departments.
7. No department head or employee is authorized to indicate in any way or manner to any salesperson or company that they will recommend a particular product.

### **3. PURCHASES LESS THAN \$3,000**

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### **A. Delegated Departmental Procedures**

Departments, upon approval by the department head, may purchase goods and/or services up to \$3,000 directly from a vendor by methods described below. This procedure enables departments to procure small purchases in a cost, and time-effective manner using the informal solicitation method.

When requested by a department, it is the responsibility of purchasing staff to assist with identifying potential vendors or researching any information needed to make purchases.

Coordination of daily operations should be planned and budgeted for by the using departments to reduce and/or eliminate work stoppages and rush ordering.

**Purchasing Card (P-Card)** – Use the P-Card for these types of purchases less than \$3,000 when able.

The Purchasing Card program is designed to streamline the purchasing and accounts payable process by reducing paperwork generated by small dollar, high volume transactions, providing immediate access to goods and/or services, and facilitating quick payment to vendors.

All Purchasing Card (P-Card) purchases must be made in compliance with the P-Card Policy and statutory and City Charter requirements for public procurement.

## **4. PURCHASES OF \$3,000 TO \$50,000**

### **A. General Information**

Three (3) or more competitive written quotes are required on all purchases of \$3,000 or more. Two (2) no quotes returned equal one (1) quote. Quotes are to be scanned and attached to the requisition in the ERP system.

1. All purchases of \$3,000 or more shall require a purchase requisition initiated by the Department Head or their designee whose appropriation will be charged, and a purchase order approved by the Purchasing Manager. No contract or order shall be issued to any seller unless and until the Finance Department certifies that a sufficient unencumbered appropriated balance is available for which the contract or order is issued. Inclusion in an approved budget does not automatically entitle a City department to the equipment, supplies or materials requisitioned.
2. Section 252.0215 of the Local Government Code provides that at least two (2) of the quotes be from historically underutilized businesses (HUB) contacted on a rotating basis, per information provided on the Centralized Master Bidder's List (CMLB) located on at the Window on State Government website ([www.window.state.tx.us/procurement/](http://www.window.state.tx.us/procurement/)). If the CMLB fails to identify a HUB vendor in Guadalupe or Comal counties, then the quotes in this dollar category may be from any vendor. Contact Purchasing if a current HUB listing is required.

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3. The purchase requisition must be completed (either by the Department or Purchasing) with all known information –including quantity, description, account code, unit price, total price, delivery, freight and payment terms.

### **B. Flow Sequence for Purchases of \$3,000 to \$50,000**

1. The user sends an automated purchase request via the ERP system with minimum requirements, required delivery dates, pricing and quantities.
2. Purchasing verifies that required competitive quotes have been received and documented and approves the requisition.
3. Finance will certify the availability of funds and accuracy of account code(s).
4. Purchasing will complete the Purchase Order, print it and send to department for distribution to the vendor.

## **5. PURCHASES OF MORE THAN \$50,000**

### **A. General Information**

1. Purchases of more than \$50,000 (LGC 252.021) must be expressly approved in advance and may require legal advertising and formal sealed bids or proposals. The Purchasing Manager will be responsible for determination of solicitation method, and distribution of bid/proposal requests to vendors.
2. The Department shall initiate the bid process by completing a Scope of Work/Service to obtain an IFB, RFP or RFQ.
3. “Component”, “Consecutive”, or “Sequential” purchases to avoid the competitive bid process are prohibited. “Component Purchases” means purchases of the component parts of an item that in normal purchasing practices would be bought in one purchase. “Separate Purchases,” mean purchases made separately of items that in normal purchasing practices would be bought in one purchase. “Sequential Purchases” means purchases of items made over a period that in normal purchasing practices would be bought in one purchase.
4. The Department for which the items are budgeted will be responsible for preparing or aiding Purchasing in development of specifications and providing information on any known vendor they wish to receive a bid package.
5. Purchasing assigns the bid package a number or groups it with other like items already in a bid package. Bid packages are assigned numbers in ascending numerical sequence proceeded by a two-digit number identifying the current fiscal year (e.g. 14-001, etc.).

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6. Purchasing prepares the solicitation legal ad(s), and bidder mailing lists. In conjunction with the Department, Purchasing Manager will set the advertising dates and schedule the bid opening date and time. Purchasing will upload the solicitation to <https://www.bidnetdirect.com/texas/city-of-new-braunfels> for national advertising and the City website <https://newbraunfels.gov/2694/Solicitations>.
7. Bids will be received by the Purchasing Office and secured until the opening/proposal closing at which time they will be presented to Purchasing. Bids/proposals received after the due date and time will be rejected as non-responsive. The time stamp in the City Secretary's Office will be the official time. Bid openings are open to the public.
8. The bid openings will be conducted by Purchasing and will take place in a designated Conference Room as otherwise specified.
9. Purchasing will prepare a tabulation for each item or group of items following the bid opening. Purchasing will consult with each Department involved for consensus of a recommendation. Bids are awarded based on ***lowest responsible, responsive bidder or best value.***
10. In the event an agreement cannot be reached between the Department and Purchasing, the Chief Financial Officer, Department Head, and the Purchasing Manager will meet jointly to resolve their differences. In the event no conclusion is reached, the City Manager will determine the recommendation.
11. Purchasing with input from the user department will prepare an agenda item request form with the staff recommendation for Council approval and award.
12. The Department will submit an electronic purchase requisition in the ERP system to Purchasing for processing, including the contract number and Council award date and agenda item number.

## 6. HIGH TECHNOLOGY PURCHASING PROCEDURES

Solicitations for high technology procurements may be solicited through a request for proposal. The request for proposal shall specify the relative importance of price and other evaluation factors. High technology is defined as information processing equipment, software, telecommunications equipment, radio and microwave, electronic distributed control systems and the technical services related to such equipment.

## 7. ACQUISITION OF COMPUTER RELATED EQUIPMENT AND SUPPLIES

### A. Requests

1. All requests for computer equipment, software, and related services or supplies will be reviewed by Information Technology (IT). IT will review each request for compatibility with other hardware and software and will investigate alternatives. IT recommendations and comments will include but not be limited to:

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- a. Additional costs incurred because of the purchase;
- b. Compatibility considerations;
- c. Cost effectiveness of the request; and
- d. Alternatives that would effectively meet the user's needs.

### **B. Placing the Order**

After all questions have been resolved, the issuance of the purchase order request will be coordinated between the department, IT and purchasing. If a contract is necessary, it will be provided to purchasing for review and execution as required in section 20 of this policy. As soon as the purchase orders have been printed and received, IT or Purchasing will place the orders.

### **C. Purpose**

Handling automated information system related purchases in this manner will:

- 1. Standardize the type and quality of equipment in the City's inventory;
- 2. Help ensure that purchases are made with minimum delay and confusion;
- 3. Facilitate tracking of requests and help expedite the purchasing process;
- 4. Assist IT in maintaining accurate inventories for insurance and other purposes;
- 5. Contribute to the most effective use of City resources.

## **8. PROCUREMENT OF PROFESSIONAL SERVICES**

In procuring professional services, the City must comply with two statutes: The Professional Services Procurement Act (Texas Government Code Chapter 2254) and the Texas Local Government Code Chapter 252. "Professional services" is defined in Texas Government Code Chapter 2254 as:

- Those within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, land surveying, professional engineering, real estate appraising or professional nursing, or
- Provided in connection with the professional employment or practice of a person who is licensed or registered as an architect, optometrist, physician, surgeon, certified public accountant, land surveyor, landscape architect or professional engineer, state certified or state licensed real estate appraiser, or registered nurse.

1. Contracts for the procurement of these professional services may not be awarded on the basis of competitive bids. Instead, services must be awarded on the basis of demonstrated competence and qualifications.

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- a. To ensure professional firms a fair and equal opportunity to do business with the City, and to ensure that the services of the most qualified professional are obtained, professional services are procured using the Request for Qualifications (RFQ) process.
- b. A Request for Qualification(s) must be used when:
  - The work involves a construction project that is valued at \$1,000,000 or more; or
  - Any portion of the work includes architectural, engineering, or land surveying services, where the total contract is valued at \$50,000 or more.
- c. The City maintains a pre-qualified list of Professional Service vendors. Staff may use the Task Order Process to contract for services, issue a formal RFQ, or request to direct contract. Staff will work with the Purchasing Office for direction on the proper process to follow for their specific needs on a case-by-case basis.
- d. For the procurement of professional services (i.e. architectural, engineering and land surveying services), the City allows the purchasing manager to take into consideration whether knowledge of local conditions should be part of the qualification's determination. The amount of weight to be given is determined by the purchasing manager and supporting team.

2. **Task Order process** - The City maintains an on-call list of pre-qualified professional services such as Architects, Engineers, Consultants and other Associated Professional Services. This on-call list has been procured using a formal Request for Qualifications, (RFQ). Consultants are ranked and multiple consultants are identified as prequalified vendors to assist various City departments and/or Project Managers to acquire services.

If the budgeted or estimated cost of the professional service required is less than \$40,000, the requisitioner may select a qualified candidate from the City's list of preapproved professional services vendors and negotiate a contract without using the task order process.

If the project budget is projected to be greater than \$40,000, the City's "Task Order" process will be used. The requester will provide a scope of work to purchasing who will develop the Task Order. The Task Order will identify the scope of work and criteria for ranking responses. Using the Task Order, purchasing will request qualifications from the City's list of "pre-approved" professional service vendors. Once responses for the specific task are received and ranked, the City and the top scored firm will work together to develop a scope of work and negotiate a price based on the developed scope of work. Once the scope and price are established, a professional services agreement shall be created. The professional services agreement will go to City Council for approval, once approved, the agreement will be executed by the City Manager.

### 9. HUB/DBE Participation

It is the practice of the City to seek participation in its contracts by Historically Under-Utilized business in Comal County. The City of New Braunfels does not certify HUB vendors. However, The City recognizes certifications from the State of Texas, and the Texas Unified Certification Program. The Purchasing Division may review the certification status of any vendor registering to do business with the City. The vendor must hold a current valid certification from one of these entities to qualify as a HUB.

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**DBE** - The City of New Braunfels has developed a DBE policy for FTA funded procurements and will ensure that DBE's have an equal opportunity to participate.

### **10. EXEMPTIONS TO COMPETITIVE PROCUREMENT PROCEDURES**

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

### **11. SOLE SOURCE**

In accordance with Section 252.022 of the State of Texas Government Code, it shall be the practice of the City of New Braunfels to employ a non-competitive process on a limited basis on goods and services that may only be acquired from a single source or when a specific source may be the only one to meet the City's requirements.

### **12. REIMBURSEMENT OF CITY EMPLOYEES FOR CERTAIN PURCHASES**

- A. If approval is received from the Purchasing Manager prior to purchase, reimbursements may be processed for certain goods or services.
- B. Exemption:
  - travel related expenses will follow the City Travel Policy
- C. All reimbursements are processed following the Request for Payment and must include support showing that the Purchasing Division approved the expenditure prior to purchase.
- D. Purchase orders are not issued in a City employee's name.

### **13. EMERGENCY EXPENDITURES**

- A. Emergency Expenditures are a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the property of the City (LGC 252.022 (a) (1);
- B. A procurement necessary to preserve or protect the public health or safety of the City's residents (LGC 252.022 (a) (2);
- C. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property (LGC 252.022 (a) (3)

Emergency expenditures over \$3,000 will suspend:

1. The quote process
2. The competitive bidding process outlined in Chapter 252 of the Local Government Code

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3. The \$50,000 and over financial transaction procedure on the City Council agenda (temporarily)

D. Follow these steps in the event of an emergency expenditure over \$3,000:

1. Before an exempted expenditure may be made, the departmental manager shall justify the emergency to the appropriate departmental director who shall notify the City Manager the next day at the beginning of business. If the expenditure is to exceed \$50,000, the City Manager shall be contacted immediately. The City Manager must certify that:
  - a. The expenditure qualifies under one of the items listed under IX. Emergency Expenditures, LGC 252.022 (a) (1) (2) (3);
  - b. The need for the expenditure was unforeseen;
  - c. The continued expeditious operation of the City requires that the expenditure be made before the time necessary to obtain City Council approval in advance or to obtain competitive bids;
  - d. Funds are available for the expenditure.
2. When the procedure set forth in Section 9.14 of the City Charter has been accomplished, a copy of the certification shall be delivered to the members of the City Council no later than the next council meeting. The certification shall contain:
  - a. A description of the expenditure;
  - b. An explanation of the necessity of the exempted expenditure;
  - c. The source of funds being used to make the expenditure;
  - d. Necessary approvals.
3. Upon certification of the emergency as required in Section D, the purchase request shall then be processed in accordance with the Purchasing Policy and may then be made, as necessity and the emergency dictate. Documentation on the purchase requisition in the Notes section shall contain the reason for the emergency procurement.

## 14. GRANT FUNDED PURCHASES

This chapter applies to all City procurements made in whole or in part with money received from federal, state or local grant programs. This includes grant funds that the City may receive directly as well as indirectly. Grants are administered via a written contract between the City and the granting authority.

1. All grant activity will be coordinated with the City's Grants Coordinator and adhere to the Grants Coordination and Administration Policy”
2. All purchases made with grant monies will comply with the terms and conditions of the grant, as well as the City's procedures regarding all purchases. The Department applying for and using grant money is responsible for complying with grant terms and with coordinating same with the Purchasing Division.
3. The User Department is responsible for providing the Purchasing Agent a copy of all procurement requirements in the grant document in a timely manner. Grants often require compliance with mandatory, and short time frames.

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

### A. Federal Requirements

The City will comply with all Federal requirements as specific Grants require, including Title 2, Subtitle A, Chapter 2 – Part 200 – Uniform Administrative Requirements for Federal Awards, and the Federal Transit Administration Requirements. These requirements may include, but are not limited to:

#### 2 CFR 200 Uniform Administrative Requirements

- 2 CFR 200.318(c) General Procurement Standard

#### Federal Transit Administration Requirements

- FTA C 5010.1E, Award Management Requirements
- FTA C 4220.1F, Chapter III, Third Party Contracting Guidance

In most cases the City's purchasing thresholds are more conservative than the Federal purchasing thresholds, however purchasing guidelines for each grant are unique and must be reviewed in advance of collecting bids, proposals, or quotes.

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

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

- Circular A-87 (cost principles for local governments)
- Circular A-21 (cost principles for agreements with educational institutions)
- Circular A-122 (cost principles for agreements with non-profit institutions)
- Circular A-133 identifies important compliance requirements expected to be considered as part of any audit conducted on City activities in connection with its receipt of federal funds.

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

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

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

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### C. System for Award Management (“SAM”) and Debarment Review

When using Federal or State Funding, Purchasing will conduct the SAM and Debarment status of prospective vendors to assure that the selected vendor is not debarred from doing business with the State or Federal Government on any purchase or contract that is greater than \$50,000. This review will be done prior to the purchase of any federal funding acquisition regardless of the purchasing method.

### D. Federal regulations require the following for every **procurement action equal to or above \$250,000:**

- Documentation of an independent estimate BEFORE (1) receiving bids or proposals (see 2CFR 200.324) or BEFORE (2) receiving quotes or proposals from other governmental entities through an interlocal contract or a purchasing cooperative (see 2CFR 200.318(e)).
- Documentation of a cost analysis or price analysis performed AFTER seeking bids, proposals or quotes for goods and/or services to be acquired, including construction costs. The purpose of these forms is to show that the offered price is fair and reasonable.

### E. If a subrecipient outsources some or all of its transit services and responsibilities, the questions below may apply to Third Party Contractors.”

1. Subrecipients must use their own procurement procedures that reflect applicable State and local laws and regulations, including requirements for competitive procurement, FTA C 5010.1E and FTA C 4220.1.F, “Third Party Contracting Requirements.”

### F. Pursuant to 24 C.F.R. 85.36, no employee, officer or agent of the grantee (City) or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent
2. Any member of his immediate family
3. His or her partner, or
4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

### G. FTA C 4220.1F Ch. 3

1. FTA/PTN-130 Vendor Consolidated Certification and Federally Required Contract Clauses and required federal certifications, as applicable for procurement type will be included in all procurements using FTA funding. Where there is a conflict the Federally Required Contract Clauses will supersede City of New Braunfels Definitions, Standard Terms and Conditions.
2. The city will ensure all procurements transaction will comply in a manner that provides full and open competition as required, 49 U.S.C. § 5325(k),
3. Award Criteria - The City will use a Designated Scoring Committee (DES) in awarding procurement contracts, and scoring will be based on the requirements as sent out in the RFP, technical and financial capability of bidder or offeror to render satisfactory service; and value,

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price or cost as determined by the City's independent cost estimate and price or cost analysis. Prior to award, bids and proposals must be determined to be responsive and responsible to all requirements.

4. When a procurement/award is funded in part FTA funds, the vendor may appeal to the FTA pursuant to FTA Regulations.
5. For FTA funded procurements the City shall conduct procurements in a manner that does not give in-State (Texas) or local geographic preferences in the evaluation of bids or proposals, except where applicable Federal statutes expressly mandate geographic preference.

### **15. RESIDENT PROPOSERS**

Texas provides no advantage to resident Proposers in the award process. However, offers from another state where that state favors their residents will be evaluated by adding the same differential to the proposal that would be required for a non-resident proposal to be awardable in their resident state. (For example, how much lower a Texas firm must be in that state than one of their resident proposals in order to be the awardee).

### **16. LOCAL BUSINESS PREFERENCE**

It is the police of the City to use the City's spending power in a manner that promotes fiscal responsibility and maximizes the effectiveness of local tax dollars by ensuring City spending provides business opportunity to city and local businesses as a measure to support the local economy. Purchases less than \$3,000 are highly encouraged to local businesses.

Pursuant to Local Government Code §271.9051, the City of New Braunfels has a local preference resolution 2009-R61. This resolution authorizes the municipality to enter into a contract with the lowest Proposer or the Proposer whose principal place of business is in the City of New Braunfels if that local Proposer is within five percent of the lowest proposal price received from a Proposer who is not a resident and offers the municipality the best combination of contract price and additional economic development opportunities for the City created by the contract award; including the employment of residents of the municipality and increased tax revenues to the municipality and total amount of the contract is less than \$100,000. This provision does not prohibit the City of New Braunfels from rejecting all proposals.

### **17. ORDER RECEIPT**

- A. Departments will receive item(s) ordered and inspect delivery prior to acceptance when possible.
- B. Departments will acknowledge that item(s) were physically received.

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- C. Upon receipt of goods, items shall be checked against purchase order for any discrepancy. Any discrepancy will be addressed immediately with vendor and notice of correction sent to Finance. If none found, an invoice for payment will be forwarded to Finance.
- D. All necessary documentation shall be forwarded to Finance for prompt payment. It is required by law to pay within 30 days of receipt of a correct and proper invoice.
- E. If, upon inspection, the items received are unacceptable, the department must immediately notify the vendor.

## 18. CONTRACT RENEWAL PROCEDURES

### A. Terms

Renewal terms should not exceed a total of five years including the original year. Exceptions may be made on a case-by-case basis when in the best interest of the City.

### B. Multiple Award Contracts

When multiple vendor awards occur, if all vendors do not agree to renew, the contract in its entirety may be rebid or just that vendor's part may be rebid.

### C. Price Changes

Renewal terms due to quantity changes or vendor proposed price increases shall be recommended on a case-by-case basis considering the merits of the renewal offer. No price changes will be considered in the middle of a contract year. The original contract price may not be changed by more than 25 percent.

### D. Vendor Performance

Vendor performance will always be a consideration when deciding whether or not to renew or rebid.

## 19. CHANGE ORDERS/MODIFICATIONS

### A. General Information

A contract modification (and/or change order) occurs when a change to an executed contract is necessary. The modification may involve a change to quantities, specifications, terms or any number of contract requirements. Any modification to an awarded contract, regardless of sourcing method, shall be documented, reviewed and approved through a contract modification and/or change order. Contract modifications and/or individual change orders for a cumulative total increase over \$50,000 require approval by the City Council.

All contract change orders will come through the Purchasing Division for review, contract compliance for further processing and approval.

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When the original contract amount plus all change orders *is \$50,000 or less*, the City Manager may approve the written change order or contract modification provided the change order or contract modification does not increase the total amount set forth in the contract to more than \$50,000. For such contracts, when a change order results in a total contract amount that exceeds \$50,000, the City Council must approve the change order or contract modification prior to commencement of the services or work.

When the original contract amount is greater than \$50,000 (as approved by City Council) and the change order or contract modification is less than \$50,000 the City Manager may approve the written change order or contract modification. For such contracts when the change order is greater than \$50,000, the City Council must approve the change order prior to commencement of the services or work.

Authorization Limits:

Original Contract Amount	Change Order	Total Contract Amount	Approval
<\$50,000	<\$50,000	<\$50,000	City Manager
<\$50,000	<\$50,000	>\$50,000	City Council
<\$50,000	>\$50,000	>\$50,000	City Council
>\$50,000 (approved by CC)	<\$50,000	<\$100,000	City Manager
>\$50,000 (approved by CC)	>\$50,000	>\$100,000	City Council

### **B. Changes to Materials, Equipment, Supplies, Other Commodities and General Services**

A contract amendment and/or change order, or the cumulative total of contract modification and/or change orders, cannot increase the original contract price by more than twenty-five percent (25%) except as provided under state law. Modification and/or changes in excess of twenty-five percent (25%) require re-solicitation. Contract modifications and/or change orders reducing a contract or purchase order by more than twenty-five percent (25%) require the consent of the contractor.

1. A change order request for a Contract or Purchase Order shall be provided to Purchasing from the department director approving changes.
2. A change order/modification is required if, after the contract has been executed:
  - a. Changes in specifications are necessary.
  - b. It is necessary to decrease or increase the quantity of materials, equipment, or supplies to be furnished.

### **C. Changes to Contracts for Professional Services**

LGC 252.022 exempts professional services from LGC, Chapter 252.048. A change order request shall be provided to Purchasing from the department director approving the change.

1. A change order/modification is required if, after the contract has been executed:
  - a. Changes in plans, specifications or scope of work are necessary.
  - b. It is necessary to decrease or increase the scope of work to be performed.

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### **D. Construction Change Orders**

It is a practice for the City of New Braunfels to request approval by the City Council, upon recommendation for award of the contract, to execute change orders up to the contingency amount. The recommendation of award includes approval of the City Manager to execute change orders up to the contingency amount.

Construction change orders require the Project Manager's approval before coming through the Purchasing Division for review, contract compliance for further processing and approval. If applicable, an engineer/architect shall review and approve a contract modification and/or change order prior to submitting for approval by any other body, including the City Council. Upon approval, a contract modification and/or change order will be reviewed, signed and executed by the City Manager. A hard copy of the modification/change order will be forwarded to the contractor and a copy retained in the Procurement file.

The original contract price may not be increased by more than 25 percent without triggering additional statutory procurement requirements. The original contract price may not be decreased by more than 25 percent without the consent of the contractor.

### **D. Construction Contracts - Final payment requests** and supporting documents shall be copied to Purchasing for contract close out.

1. The final Application for Payment shall be accompanied by:

- a. All documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by the contract;
- b. consent of the surety, if any, to final payment;
- c. a list of all Claims against Owner that Contractor believes are unsettled; and
- d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

2. Payment bonds will remain in effect until one year, unless otherwise stated, after the date when final payment becomes due or until completion of the correction period specified in the project manual.

## **20. CONTRACT ADMINISTRATION**

The Purchasing Division is tasked with the issuance of all contracts. These responsibilities include record keeping, legal review, and execution by the City Manager. The User Department is responsible for monitoring and documenting contractor performance and compliance and provides Purchasing with copies of this documentation, which keeps the Purchasing Office informed about all performance and compliance issues. Discussions that merely explain the interpretation of the specifications may be dealt with orally by the User Department.

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1. The Purchasing Manager takes all steps related to correcting non-compliance with the contract but must consult with the City Attorney before taking any steps toward suspension or termination of the contract unless emergency, life safety, or property damage issues require immediate temporary work stoppage. Before any letters, notices or other communication related to termination or suspension are sent to the contractor, the contents of these must be reviewed by the City Attorney as the initial steps toward potential litigation.
2. Documentation of contractor performance is often overlooked and is most important if the User Department requests suspension or termination of the contract. To enforce contractual terms, documentation of specific non-compliance must be available. Specific dates, locations, examples, etc. must be documented.
3. Contract administration duties are basic daily, weekly, and monthly activities of the Purchasing staff and must take place to ensure successful completion of the project and to ensure the City receives the goods and services for which it has contracted for.
4. Per the City of New Braunfels Code of Ordinances, Sec. 2-130, the City Manager will execute all contracts. Contracts exceeding \$50,000 require City Council approval before signature execution by the City Manager. Other Staff do not have authority to sign contracts on behalf of the City.

## 21. APPROVALS AND AWARDS

### A. City Council

1. The City Council shall approve and award bids and contracts that require expenditure greater than \$50,000.

### B. City Manager and Department Director

1. The City Manager has the authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding fifty thousand dollars (\$50,000). The Department Director has the delegated authority from the City Manager to approve items up to \$5,000 for their department.
2. The Purchasing Manager shall verify and approve all expenditures for purchase requisitions.
3. The Department Director, or his/her designee, shall approve all expenditures for their department.

## 22. PROCEDURE FOR DISPOSAL OF SURPLUS ITEMS

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### **A. Disposal Process**

2. Purchasing is responsible for assigning a disposition of all surplus.
3. All departments shall review their assets each year and determine which items are no longer needed. A list of surplus, obsolete or unused supplies, materials or equipment, including description, picture, make, model, and serial numbers should be forwarded to Purchasing or assignment of disposition.
4. These items may be transferred from one department to another should the need arise.
4. Purchasing may sell surplus, obsolete or unused supplies, materials or equipment in a manner that is in the best interest to the City
5. Monies received from sale of surplus items will be returned to the appropriate City of New Braunfels funds.

## **23. ETHICS, GRATUITIES, ETC.**

### **A. Offers of Gratuities**

As stated in the City of New Braunfels Charter, Chapter XII, Section 12.03 Prohibitions:

1. (5) Neither the Mayor nor any other member of the City Council, nor any elective or appointive officer of the City, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of New Braunfels, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person violating it.
2. Any officer or employee of the City who violates the provisions of this section is guilty of a misdemeanor and may be punished by a fine that may be prescribed by ordinance for this offense, and upon conviction shall immediately be removed from office.

### **B. Personal Financial Interest**

As stated in the City of New Braunfels Charter, Chapter XII, Section 12.02 Personal Interest:

1. All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding personal, financial or conflicting interests in transactions with the City, including but not limited to Chapter 171 of the Texas Local Government Code.
2. Personal financial interest is defined as the person owning **stock** in a corporation that exceeds ten percent (10%) of the total capital stock of the corporation.

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3. A willful violation of this section constitutes a Class A misdemeanor.

### **C. Travel/Meals Paid by Vendor**

1. Travel costs related to a procurement contract are based on the terms of the contract. It is the cities standard to follow the GSA travel limits.
2. Good judgment must be exercised regarding vendor-supplied meals. In general, avoid situations where the vendor will feel obligated to purchase a meal.
3. Vendor promotional products of negligible value, in the form of note pads, pens, calendars, etc., may be accepted and used in City of New Braunfels business operations.

### **C. Cone of Silence/Anti-Lobbying**

The City's Cone of Silence/Anti Lobbying Policy will ensure a fair and competitive bidding environment by preventing communication or lobbying between City officials, employees, or representatives and parties involved in the bidding process that could create an unfair advantage to any party with respect to the award of a City contract.

The City prohibits any communication or lobbying activities with City officials, employees and/or its consultants or contractors on matters of a solicitation from its advertisement through the date said item is posted on the forthcoming City Council agenda.

## **24. LEGAL BASIS FOR PURCHASING**

### **A. Excerpts from the Texas Local Government Code, Chapter 252, Subchapter B, Section 252.021:**

“Before a municipality may enter into a contract that requires an expenditure of more than \$50,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals.”

“A municipality, in making an expenditure of more than \$3,000 but less than \$50,000, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the General Services Commission pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.”

### **B. Govt. Code Chapter 2254 -- Professional Services Procurement Act**

Municipalities may not bid contracts for professional services. These contracts instead must be awarded on the basis of “demonstrated competence and qualification for the type of professional services to be performed.” Fees must be “fair and reasonable,” consistent with and not in excess of published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law.

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“Professional services” includes services within the scope of the practice of: accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising or professional nursing. This includes services performed by a certified public accountant, an architect, a landscape architect, land surveyor, a physician, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser or a registered nurse in connection with his or her professional employment or practice.

### **C. Local Government Code Chapter 271.083 - Purchase Under State Contract**

The State Comptroller may perform purchasing services for local governments (including municipalities). The municipality may participate by adopting a resolution. The contents required in the resolution are stated in the statute. A municipality that purchases under state contract satisfies all competitive bidding laws.

### **D. Local Government Code 271.102. Cooperative Purchasing Program Participation**

1. A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization.
2. A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative purchasing organization stating that the signing local government will:
  - a. Designate a person to act under the direction of, and on behalf of, that local government in all matters relating to the program;
  - b. Make payments to another participating local government or a local cooperative organization or directly to a vendor under a contract made under this subchapter, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and
  - c. Be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.
3. A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

### **E. Interlocal Cooperation**

The Interlocal Cooperation Act, Chapter 791 of the Government Code authorizes local governments to enter into cooperative purchasing agreements with other jurisdictions such as Independent School Districts and Counties (Local Government Code 271, Subchapter F). Furthermore, LGC 271, Subchapter D provides for the extension of state contract prices/bids to participating local governments when the General Service Commissions considers it feasible.

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### **F. Bonding**

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

*END OF PURCHASING POLICY*

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## PURCHASING CARD POLICY AND PROCEDURES

### 1. PURPOSE

To establish policies and procedures for procuring goods and/or services using a Purchasing Card. The Purchasing Card program is designed to streamline the purchasing and accounts payable process by reducing paperwork generated by small dollar, high volume transactions, providing immediate access to goods and/or services, and facilitating quick payment to vendors. All Purchasing Card (P-Card) purchases must be made in compliance with statutory and City Charter requirements for public procurement.

This policy includes procedures for the following:

- Establishing Purchasing Limits
- Establishing Allowable/Prohibited Purchases
- Security
- Charge Transaction Declines
- Merchandise Returns
- Monthly Statements and Reports
- Reconciliation
- Payment Processing
- Records Management

### 2. SCOPE

This policy applies to all City of New Braunfels departments and employees. All Purchasing Cards shall be governed by this policy and used in a manner that complies with State Law and the City of New Braunfels policy regulating the procurement of goods and services.

### 3. POLICY

Employees who use Purchasing Cards to perform official City business will adhere to policies as provided.

### 4. DEFINITIONS

A. Purchasing Card – The Purchasing Card is a commercial credit card for small dollar purchases of goods and/or services necessary for official city business. The Purchasing Card may be issued to a permanent employee for purchases by the designated employee only.

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B. Purchasing Card Program Administrator – An employee in the finance department who will serve as the point of contact between the City of New Braunfels and the bank for general oversight of the Purchasing Card Program.

C. Purchasing Cardholders – Permanent employees that have been designated by the Department Director to be issued a Purchasing Card in their name for use under these policies and procedures. Cardholders and/or their designee are responsible for administration and control of the purchasing card policies and procedures.

D. Department Cards are Purchasing Cards that are assigned to the department to be used for check-out. The Department Director is responsible for the oversite and management of the card, same as other department staff who have their own assigned P-Card.

E. Bank – The bank selected by the City to provide the Purchasing Card program.

## 5. RESPONSIBILITIES

### A. Purchasing

Develop policy and procedures for the use of Purchasing Cards complying with State Law. Administer the Purchasing Card Program, to include the following responsibilities:

- Serve as primary contact with the bank for the purchasing card program.
- Serve as primary contact with the cardholders and/or their administrative designee.
- Approve/Process applications for the issuance of purchasing cards for users in compliance with policy.
- Establish guidelines for transactions and cumulative dollar limits for purchasing cards.
- Process changes to cardholder limits and restrictions as authorized by department Directors or the departmental purchasing card coordinators.
- Keep a current list of cardholders, card numbers and card limits.
- Coordinate training on purchasing card usage and transaction processing and approval through JPMorgan online system.
- Maintains and updates purchasing card guidelines.
- Cancel and suspend cards as requested by Department Directors or departmental purchasing card coordinators.
- Review transactions for verification of small dollar purchases and price agreement opportunities.
- Cardholders are considered assistants of the Purchasing Department for purposes of Purchasing Card use. Therefore, final authority for usage and control resides with Purchasing. Purchasing may cancel a Purchasing Card at any time without cause.
- Spending limits may be adjusted at the Purchasing Department's discretion to accommodate emergency purchases.
- Cancel purchasing card if and when a cardholder has not adhered to the purchasing card policy and procedures.
- Review transactions to ensure the proper use of City funds.

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### B. Finance

- Review monthly billing statement from the bank and supporting documentation from departments ensuring timely payment of monthly indebtedness.
- Process general ledger interface for monthly Purchasing Card purchases. Coordinate any system updates needed to interface with the City's financial system.
- Review or perform necessary accounting transactions to process all departmental charges
- and ensure the reconciliation account zeros out monthly.
- Conduct random audits of Purchasing Card transactions to act as a check on departments carrying out their responsibility for audit and compliance with state law and City policies.

### C. Department Directors and Administrative Designee (if applicable)

Department Directors will make recommendations as to which employees will receive a Purchasing Card with recommended limits for each account. Cardholder limits will include single transaction limits, monthly transaction limits and merchant category restrictions. These limits will be based on the Cardholder's purchasing requirements and will not exceed the limits established by Purchasing.

- Timely approve all departmental transactions for processing by Finance.
- Recommend suspension or cancellation of a card to Purchasing.
- Enforce timely compliance of submission requirements.
- Notify Purchasing to cancel card privileges, if employee is terminated or changes positions; collection of card from employees.
- Verify that information on Requests for Purchasing Cards is correct and that Purchasing Cards are issued within the guidelines established by Purchasing Card Program Administrator. (Exhibit #1)
- Monitor purchases made by Cardholders.
- Review receipts.
- Review Purchasing Card applications or changes to card controls prior to submission.
- Designate a system to maintain receipts and reconcile to the monthly statement for each cardholder reporting to them.

### D. Designated Cardholders

- Read and sign a Purchasing Card Cardholder Agreement (Exhibit #1) prior to being issued a Purchasing Card.
- Keep the Purchasing Card in their possession, not allow anyone else to use the Purchasing Card issued in their name.
- Assume responsibility for all purchases made with the Purchasing Card, adhering to this policy, insuring that no unauthorized purchases are made. Unauthorized purchases could be considered misappropriation of City funds. Validate that the merchandise is received.
- Maintain the Purchasing Card data in a secure location at all times.

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- Inform merchant of tax-exempt status; **cardholder will be responsible for reimbursing the tax amount to the City if any is incurred on a charge.**
- **Keep receipts and update transactions on a weekly basis. Cardholder will be held personally responsible for items purchased without the supporting documentation.**
- Immediately report lost or stolen cards to the bank toll-free number and Purchasing by phone and then notify the department purchasing card coordinator.
- Make every reasonable effort to resolve disputed purchases with the vendor.
- Immediately report all unresolved disputed purchases to the Department Director and Purchasing.

### E. Department Card

- A “department card” may be requested by the department director for check-out purposes.
- Specific guidelines apply for use of a department card for checkout and must be followed:
  - The department will assign a staff person to oversee the checkout of the department card.
  - The checkout form must be used or an authorized version.
  - The individual checking out the “Department Card” must sign in and out the card and acknowledge reading the section 6. Procedures.
  - The card must be turned in within 24 hours. The card is not intended to be used for overnight travel. All travel must follow the travel guidelines.
  - The card may not be checked out for an extended period of time.
  - The card may not be used for reoccurring expenses.
  - Receipts shall be turned in with the return of the P-Card.

## 6. PROCEDURES

### A. Purchasing Limits

Each Department will recommend limits for individual Purchasing Cards. The maximum amount of a single item purchase of supplies or materials will not exceed \$3,000. In all cases, a monthly maximum per card will be established by the Department Director.

**B. Purchases Allowed with the Purchasing Card** – Purchasing Cards may be used to purchase any item and/or service for immediate use not prohibited by law, this policy, or other policies approved by City Council. The total purchase with the Purchasing Card will not exceed the limits established for that card. All other purchasing policies remain in effect and Purchasing Cards should not be used to circumvent them.

- Single vendor purchase less than \$3,000
- One-day events are defined as a conference, meeting, training or seminar within a 60-mile radius that does not require an overnight stay. One-day events are not incorporated in the travel policy and will follow the P-Card guidelines as referenced herein.
  - A mid-day meal may be allowed at a not-to-exceed amount of \$16.00 per person.

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### C. Purchases Prohibited with the Purchasing Card

- Travel - expenses using the P-Card must align to the City's Travel Policy.
  - P-Cards should not be used for defined travel meals – The Travel Policy requires per-diem be filed in advance.
  - If there is a special cause for meals to be purchased with the P-Card, prior authorization by City Manager or Assistant City Manager is required. Documentation of this authorization must be submitted with the P-Card receipts/expense report.
  - To avoid duplication of payment for services the Supervisor is required to reconcile the requested travel related expenses, (including per-diem if authorized), with P-Card transactions and cash advancements through accounts payable.
- Personal expenditures
- Cash advances, refunds, gift cards/certificates
- Celebratory food and/or supply purchases, such as birthday, welcome and holiday meals. *Exception:*
  - *Work through meals*
  - *Guest functions*
  - *Retirement meals, food and supplies approved by the City Manager or his designee*
- Recurring staff meeting snacks, meals (i.e., breakfast tacos, doughnuts).
- Transaction amounts greater than Cardholder's transaction limit, unless prior approval from Purchasing is received.
- Single vendor purchases of \$3,000 or more, unless prior approval from Purchasing is received.
- Sales tax, except in cases where State law does not exempt local governments, ex: Hotel Tax. If tax is included, the cardholder will be responsible for reimbursing the tax amount to the City.
- Purchases that exceed the City's policy for purchases of equipment of any type.
- Weapons, Firearms, Ammunition
- Animals
- Consulting services
- Inventoried assets or controllable inventory, this includes technology purchases such as tablets, computers, phones and software. These purchases should be coordinated with IT and follow the purchase order process.
- Prescription drugs or over the counter medications/drugs
- Purchases involving equipment trade-in
- Entertainment of any kind, including the purchase of alcohol or patronage of drinking establishments unless by law enforcement personnel for covert operations
- Purchases of items/services under contract, unless purchasing from the contracted vendor or an emergency exception is granted

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- Separate, sequential, and component purchases or transactions made with the intent to circumvent state law or City policy including:
  - Multiple, sequential purchases of less than \$3,000 from a single vendor for similar purchases adding up to more than \$3,000
  - Purchases that are split to stay within card transaction limits
- Other purchases specifically excluded in other City policies or by law
- The City Manager, at his discretion is afforded latitude as it relates to this section. At times, items that fall within the categories above may be best acquired through a P-Card. Therefore, the City Manager or his designee may exercise such discretion as long as the purchasing does not violate our ethics policy or any other pertinent statute.

The items shown above are intended to guide you in which form to use for processing payments and orders. These are not representative of all restrictions and may change without notice. **It is recommended that you contact Purchasing/Finance to ensure the proper expenditure of funds.**

**D. Security** – Because the Procurement Card is issued in an employee's name, he/she is responsible for the security of the card and any transactions made against the Procurement Card. This card should be treated with the same level of care as the Cardholder would use with his/her own personal charge cards.

- Your card should be carried with you or kept in a secure location.
- Know where your card is at all times.
- Do not share your card with anyone.
- Secure your card number. Do not write your card number on outgoing email or faxed orders. Instruct the supplier to call for the credit card information and do not keep credit card numbers on file with suppliers.
- Make sure security is in place before making any Internet orders.
- Guard your personal information. Do not provide any non-essential information on-line.

**E. Supporting Documentation for Card Purchases** – All transactions must be supported by itemized receipts or credit slips. In instances where the receipt is lost, **Cardholder** must obtain a copy at their own expense from the Bank or vendor. For purchases made over the phone or on the Internet, a logging system with unique transaction identifiers should be maintained and a faxed copy or e-mail confirmation of the order retained as the receipt.

**F. Declined Transactions** – If a Vendor receives a “Decline” response from the Bank after attempting to put through a Purchasing Card transaction, Cardholders should contact the Purchasing Card Administrator to determine the cause for decline. The following information will be needed for resolution:

Account number  
Business where decline occurred  
Total transaction amount of the decline  
Date the decline occurred

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G. Using the Card – A need for an item and/or service is established when it is not readily available through a City contract. In making a purchase, the Cardholder must abide by the following rules:

- The Cardholder must ensure that the item or service purchased is not restricted under paragraph 6.C.
- In purchasing an item or service, the Cardholder must ensure that sales tax is not included in the purchase price before issuing payment with the Purchasing Card.
- The Cardholder must retain the purchase receipt.

H. Purchasing Return – The Cardholder is responsible for obtaining a credit memo from the Vendor when merchandise is purchased with the Card is later returned to the Vendor for any reason. The credit memo must be kept with the sales receipt.

### I. Sales Tax

As a tax-exempt government agency, the City does not pay sales tax. There is exception in cases where State law does not exempt local governments from sales tax. Cardholders will be provided a copy of the City's tax exemption certificate. Cardholders are then responsible for ensuring that the merchant does not include sales tax in the transaction. If tax is included, the cardholder will be responsible for correcting the charge or reimbursing the tax amount to the City.

J. Monthly Bank Statements and Expense Reports – Each month the cardholder will reconcile the transactions and assign correct account to be charged to each transaction. Failure to meet timely submission requirements from Cardholders will cause suspension or cancellation of Purchasing Cards as authorized by this policy. Finance will reconcile all reports against the monthly payment made by Automated Clearing House.

- Cardholders and supervisors are required to assign account information and obtain supervisor approval **no later than 30 days** after the close of the statement date. Finance staff will notify cardholders and supervisors of these deadlines and outstanding approval issues.
  - If the Purchasing Card reconciliation is not received in the Finance Office by the 30<sup>th</sup> of each month, (the Monday after if on a weekend), the use of card (s) will be suspended.

### K. Records Management –

- **Submitting Statement**

The cardholder's billing cycle ends on the 5<sup>th</sup> day of each month unless the 5<sup>th</sup> is on a weekend and then the cycle ends on the next Monday. Upon *completion of the cycle*, the cardholder is required to complete the following steps.

- **Statement Review Process**

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1. Monthly, each cardholder will receive an on-line statement (s) identifying each transaction made against the Purchasing Card during the billing cycle.
2. Purchasing Card Reconciliations including the following:
  - o Expense Report from Smart Data On-line - The statement must be reconciled against your retained receipts for accuracy.
  - o All original, itemized receipts shall be attached to the expense report and approved by the card holder. **Expense reports and receipts will be scanned and saved, no less than monthly to the central file location. (U/common/p-card/department)**

- The cardholder and/or their administrative designee must maintain all original receipts attached to the monthly expense report and kept secure at a designated file location. Expense reports and receipts will be scanned and saved, no less than monthly.

L. Lost or Stolen Purchasing Cards – When it is determined that a Purchasing Card has been lost or stolen, **IT IS IMPERATIVE TO FIRST CANCEL THE CARD WITH THE BANK BY CALLING THE BANK'S TOLL-FREE NUMBER.** In addition, the Cardholder must also notify the Purchasing Card Program Administrator of the loss. The City is liable for all charges until the card is reported lost or stolen. **Thus, the Cardholder may be responsible for all charges made against the Purchasing Card from the time it is lost or stolen until the time the Bank is notified, if the Cardholder fails to immediately notify the Bank upon discovering the loss or fails to discover the loss within a reasonable amount of time.**

M. Request for Issue of a Purchasing Card or Making Changes to Existing Accounts – To request a new Purchasing Card, cardholder must read and sign a Purchasing Card Cardholder Agreement. To make changes to an existing Purchasing Card account, an email to Purchasing for this request will suffice. The email should also be sent to the Department director.

N. Unauthorized Use of the Purchasing Card – Any purchases that the Purchasing Card Program Administrator and/or Finance staff deems prohibited as defined in paragraph 6C will be sent back to the Cardholder for justification and/or explanation. If any prohibited charges appear the following may occur:

Purchasing/Finance staff will investigate all circumstances surrounding alleged misuse of the Purchasing Card and in cases where there is evidence of a procedure or policy violation; refer that information to the appropriate authority for investigations and/or disciplinary action.

Employee may be required to repay the City of New Braunfels for the unauthorized action.

Termination of employment and forfeiture of the Purchasing Card are potential disciplinary actions for improper use of the card.

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In those cases where there is evidence of negligent use of the Purchasing Card, but no fraudulent acts have been committed, the Cardholder will be required to surrender the Purchasing Card with all further privileges revoked.

Any employee having knowledge of violations to this procedure or any other procedure or policy governing the use of the Purchasing Card must immediately report such activity to the Purchasing Card Program Administrator.

The Purchasing Card may be suspended or terminated if a Purchasing Cardholder is suspected of fraud, theft, or illegal drug use. Should the suspicion prove founded, appropriate action shall be taken in accordance with existing City policies and procedures.

O. Disputed Items – Disputes, if possible, should be resolved promptly between the Cardholder and the Vendor. Cardholders should raise disputes immediately. As failure to do so will result in an authorized purchase that the department is responsible for paying even though the charge is incorrect. If the dispute cannot be resolved within 10 days, the Cardholder should notify the Purchasing Card Program Administrator. A charge should not be disputed on the current statement if it was returned for credit after the billing cycle is closed. The credit should be reported on the next statement with a notation being made on the current statement that there is a disputed charge and expected credit.

P. Termination Clause – The Purchasing Card is issued to an employee for the City's convenience and may be terminated at any time by Purchasing. Purchasing Card privileges may be cancelled for non-compliance with City policies and procedures. Transfer, resignation, or terminations of employment are grounds for cancellation of the Purchasing Card.

It is important to cancel a card immediately upon an employee's separation from employment. The Bank or the Credit Card Recovery Program will not cover any charges incurred between the employee's termination date and the date the card is cancelled. The department will be responsible for payment of charges incurred by an employee no longer working in that department, if a delay in canceling privileges resulted of the department's actions.

By this policy, the City of New Braunfels, City Council authorizes the use of City provided purchasing cards. The purpose of the purchasing cards is to provide the City with an efficient and controllable method of making small dollar, high volume commodity and service purchases. This card policy is not intended to replace, but rather supplement existing purchasing and other City policies

I understand and accept the responsibility to access and read the policy and procedures, and to abide by the contents. I further understand to direct any questions I may have to the Purchasing Manager.

I verify that I have read the Purchasing Card Policy and Procedures.

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Accepted by:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Dept.: \_\_\_\_\_

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Exhibit #1

### **CARDHOLDER AGREEMENT**

I, \_\_\_\_\_ hereby agree to comply with the Purchasing Card Policy and Procedures and the following terms and conditions regarding my use of the card. As a cardholder, I have read and understand the City of New Braunfels Purchasing Card Policy and Procedures.

1. I understand that I am being entrusted with a valuable tool, the purchasing card. I will be making financial commitments on behalf of the City of New Braunfels. I will obtain the best value for the City of New Braunfels by using the card wisely and with discretion.
2. I agree to use this card for official purchases only. I fully understand that misuse or abuse of the card will result in revocation of the card and appropriate disciplinary action, which may include termination of my employment. I also agree to attend training in the use of this card as prescribed by the Purchasing Card Program Administrator.
3. Policy violations include, but are not limited to:
  - Expenditures for personal purposes
  - Cash advances or refunds
  - The purchase of alcoholic beverages
  - Separate, sequential, and component purchases or transactions made with intent to circumvent state law or City policy
  - Transaction amounts greater than cardholder's limits
  - Failure to submit proper documentation with each monthly statement
  - Allowing the card to be used by someone else
4. I agree to return the card immediately upon request or upon termination of employment (including retirement and resignation). Should I be transferred, qualify for extended leave or undergo an organizational change which causes my duties to no longer necessitate the use of the card, I agree to return it immediately and arrange for issuance of a new card as may be appropriate.
5. If the card is lost or stolen, I agree to immediately notify the bank and the Purchasing Card Program Administrator.

Transaction limit (each purchase) \$ \_\_\_\_\_ Monthly limit- \$ \_\_\_\_\_

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Employee Signature

Last 4 of SSN

Date of Birth

Date

By signing this agreement, the Department Head agrees that this employee has a business need for a City of New Braunfels purchasing card.

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Department Head Signature

Date

**RETURN THIS FORM TO PURCHASING**

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Card number

Date issued

Date cancelled

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Purchasing Card Program Administrator Signature