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INTRODUCTION

Purchasing is a division of the City of La Porte Finance Department and is responsible for the process of acquiring goods and services necessary to provide the public with certain services.

The Purchasing Division provides centralized procurement and all purchasing activities are governed by this Purchasing Policy Manual. The Purchasing Division assists each department, division and their staff to secure the best material, services, and equipment in the most efficient and economical manner. Furthermore, the division is responsible for sale and/or disposal of city surplus.

City purchasing policy and procedures comply with local, state and federal codes, ordinances, and statutes. The statutes that govern public procurement and cited throughout the document are Texas Local Government Codes (TX LGC) 252. In the event of conflict, the appropriate statute or ordinance will prevail. The Purchasing Division functions in a manner that is consistent with codes, ordinances, statutes, and sound business practices.

The purpose of this policy manual is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

This manual applies to the procurement of supplies, services, and equipment, entered into by the City, irrespective of the source of the funds.

The City of La Porte does not discriminate against individuals, companies, or awarding of bids with respect to race, color, national origin, sex, age, disability, or religion.

This policy manual supersedes any and all previous purchasing policy manuals approved or utilized by the City of La Porte and becomes effective July 2022.

GENERAL ETHICAL STANDARDS

STATEMENT OF POLICY

City of La Porte employees shall conduct all procurement on the basis of the best benefit to the City and that best promotes the interest of the citizens of La Porte. Unrestricted competition on every type of procurement is encouraged, which ensures the taxpayers the best possible return on each dollar. All contracts and purchases shall be handled to ensure the best value for the City, with solicitations obtained whenever practical.

Ethics: To achieve the purpose of this section, it is essential that those doing business with the City also observe the ethical standards prescribed here. It shall be a breach of ethics:

- To attempt to realize personal gain through public employment with the City, other than the employees normal duties
- For any employee, officer or agent to participate directly or indirectly in procurement when the employee knows that he or any member of the employee's immediate family (or associated business or organization) has a financial interest pertaining to the procurement
- No employee of the City shall solicit, demand, accept or agree to accept from another person or business, a gratuity or an offer of employment in connection to any solicitation pending or make available information not provided to all potential respondents
- For any employee or former employee of the City to knowingly use confidential information for actual or anticipated personal gain
- Solicit or accept anything of value from an actual or potential vendor with the exception of promotional items of negligible value, in the form of note pads, pens, calendars, etc., which may be accepted and used in normal City business operations.

Appointed Official/Employee: As stated in the City of La Porte Charter §Article VIII, Section 8.02:

"No member of City Council or any officer or employee of the City shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the City, or to a contractor supplying the City, of any lands or rights of interests in any land, material, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall there by forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the City shall render the contract voidable by Council."

Under Texas law, an individual is automatically removed from his or her position if that person is finally convicted of failing to comply with the competitive bidding or competitive proposal procedures required by TX LGC § 252.063.

CHAPTER 1- PROCUREMENT

The Purchasing Division has the authority and responsibility of centralized procurement for the City of La Porte. Employees are provided authority to procure goods and services under \$3,000 with petty cash, direct pays, and procurement cards, as described under Procurement Methods, further in this section. All other procurement unless approved by the Purchasing Manager, must be processed through a Purchase Requisition with authorized approval through the Purchasing Division and ordered only by a numbered Purchase Order. Employees do not have the authority to obligate City funds and may be held accountable for unauthorized purchases, including disciplinary action up to and including termination as stated in the Employee Policies Handbook, 3.04 Violations of Policies/Acts of Misconduct: "Employees may be disciplined or terminated for misconduct dependent on the severity, including but not limited to violation of any City or department rule, regulation, policy or procedure.

The goals of the City's Purchasing Division include the following:

- Timely purchasing of quality goods and services;
- Obtaining the best possible prices for goods and services;
- Encourage and promote inter-local cooperation among area agencies;
- Utilize cooperative purchasing programs as allowed;
- Provide guidance to internal customers regarding proper purchasing practices, procedures and processes.

Vendor Relations: Purchasing staff acts as the liaison between the City and vendors

- Purchasing staff should be the first contact for vendors. New vendors should be directed to Purchasing for information on how to do business with the city. Purchasing will meet with vendors upon request and forward any pertinent information to the appropriate end-users
- All vendors must be afforded equal opportunity to compete, provided the same information, and treated fairly
- End-users should coordinate meetings with vendors through Purchasing staff
- All correspondence with vendors shall be through the Purchasing Division
- Any solicitation or item under consideration for purchase shall not be discussed or price revealed until a purchase order or contract has been awarded.

Public Purchase: Vendors wanting to do business with the City will need to register on Public Purchase, which is a web based e-Procurement service that manages our vendor data base. All Formal Quotes, Request for Bids, Request for Proposals and Request for Qualifications are posted on Public Purchase as well as any addendums. Once a vendor is registered they can sign up to receive email notifications when a solicitation is posted.

Procurement Thresholds:

- \$0 to \$2,999.99– Primary source of procurement is city-issued procurement card (p-card). If selected vendor does not accept p-cards, a direct pay may be used for expenditures up to \$199.99. Expenditures \$200.00 and above should be procured using a purchase requisition if a vendor does not allow use of the p-card.
- \$3,000.00 to \$24,999.99 – Requires a minimum of three (3) written quotes be obtained by the department or through purchasing, utilizing standardized quote forms. End-users should issue a purchase requisition and attach the quotes to the requisition. At least one (1) quote should be from a minority vendor or historically underutilized vendor (HUB), if available. Quotes must be on City Quote form or they will be rejected.
- \$25,000.00 to \$49,999.99 – Requires Purchasing create an informal solicitation (quote) to send to potential bidders.
- \$50,000 and above – Requires all state statues listed in the TX LGC Sections 252 be followed, including approval by City Council. This is supported by Ordinance No. 2004-2736-A. Legal statutes and ramifications as provided in Texas Local Government Code (TX LGC) and Texas Penal Code:

If a city enters into a contract without complying with the requirements of Chapter 252, the contract is void.

Attempts to circumvent purchasing policies and limits by dividing purchases into multiple separate invoices or payments will not be tolerated and is subject to disciplinary and/or legal actions. If a person fails to comply with the competitive bidding or competitive proposal procedures required by Local Government Code Chapter 252, that person may be convicted of a Class B misdemeanor; TX. LGC §252.062. This includes a situation in which a person makes or authorizes separate, sequential, or component purchases in an attempt to avoid competitive bidding requirements. A Class B misdemeanor may be punished by a fine of up to \$2,000, confinement in jail for up to 180 days, or both the fine and confinement. TX Penal Code §12.22

Except as otherwise provided, acquisition of goods and services \$3,000 and above shall be made only by an approved, numbered Purchase Order issued by the Purchasing Division, *prior* to placement of order. No purchase shall be made without proper approvals and compliance with procurement thresholds.

Procurement Methods:

The Finance Department accepts several methods of procuring goods and services for the City. Each method must be approved by authorized personnel, based upon approval forms. It is understood that the City Manager and Assistant City Manager shall be authorized to sign for all departments.

Petty Cash: Purchases \$100.00 and below may be made by authorized employees with approval from the Department Director, from petty cash, after completing a petty cash form.

Direct Pay: Direct Pays may only be used for payment for the following:

- Registration and Travel
- Memberships and Subscriptions
- Books, Videos and Tapes under \$100.00
- Utility Payments
- Petty Cash and Drawer Funds
- Reimbursements

If the payment is for a service a Purchase Request must be entered. A Direct Pay is entered in OneSolution with appropriate back up attached. Accounts Payable has detailed instructions on how to enter a Direct Pay in OneSolution.

Exceptions – If the item that you are purchasing is under \$200.00, and the vendor does not accept a P-Card, you may then use a Direct Pay – but this must be noted on the Direct Pay for Accounting to process the payment.

Procurement Card (P-Card): A City issued credit card is the preferred payment method for the following:

- Travel arrangements
- Small dollar purchases
- Over the counter expenditures
- Internet purchases
- Emergencies
- Contract items (with Purchasing approval)

Purchase Request (PR): A Purchase Request shall be prepared for all purchases unless a Procurement Card is used or the purchase meets one of the conditions listed under Direct Pay. The PR shall originate in the user department and shall be entered into OneSolution/Purchase Request Screen. Preparation must be done far enough ahead of the date the goods /services are needed to allow normal purchasing procedures to prevail.

When entering a PR; make sure to include:

- Detailed descriptions to allow staff and the vendor to know exactly what is being procured
- If there is freight or shipping make sure the amount is included in the total or make

- a separate line item.
- Separate line item for trade-ins or deductions
- Attach quotes on City Quote Form to the PR for expenditures between \$3,000 and \$24,999 or state in the PR Note section the reason why quotes were not obtained. No quotes, quotes not submitted on City forms, or no comments will cause the PR to be rejected and will delay the Purchase Order process.
- If the amount is over \$50,000, in Comments, state the Solicitation number and the date it was approved by Council.
- Attach or provide any agreements or contracts concerning this procurement
- Purchasing will email the PO to the vendor and end-user as standard procedure unless instructions to do otherwise are included in the comments on the PR.

A step by step end user guide for entering in Purchase Requests in OneSolution may be found on the CWShare drive under Purchasing.

Approvals: All PR's are routed through a workflow for approvals and must be approved online in OneSolution or by email if applicable. The requisitioner will save and approve the PR and then it will route to a supervisor/director depending on the dollar amount.

IT (Information Technology) Related Purchases: Any new software, computers, printers laptops, or technology based equipment must be approved by the IT Manager. If item is IT related the PR will route to the IT Manager through workflow for approval.

Purchase Order (PO): PO'S are issued by purchasing staff upon receipt of a completed, approved, purchase requisition (PR) with proper back up.

Once the PR is processed, purchasing staff will issue a copy of the PO to the awarded vendor and end-user. When the goods are delivered, City staff will ensure the product matches the order and is delivered in good condition. Damaged merchandise should be returned to the vendor for replacement or credit. Staff should also review and make certain all aspects of the service orders were completed satisfactorily and according to the quote and/or contract.

Most POs are issued for specific items or known quantities and prices. The quantity may be one or greater and the unit cost reflected; however, in some cases, the quantity may be one and the amount a lump sum. If the amount is a lump sum amount the pay by box must be checked when entering in the PR. Regular POs are issued a six-digit number with the first two digits being the fiscal year (190001).

After the end-user has determined the vendor has successfully provided the goods or service, a Receiving Report (RR) in OneSolution must be completed in order for Accounts Payable to have the authority to pay for the goods and services. If the goods are not accepted or returned or canceled, contact Purchasing to adjust the PO.

Contract Purchase Order: Contract PO's are for construction/CIP projects. Purchase Request for construction projects will be processed by the Purchasing staff. through the OneSolution Contract Module The PR will go through the appropriate workflow approvals for the department. Contract PO's are issued a six-digit number that begins with a C (C000001).

Change Order: TX LCG §252.048 states a change order necessary after work has begun or the quantity increases or decreases, the total contract price may not be increased by more than 25% of the original contract price and the contractor or vendor must consent to a decrease over 25%. City Council must approve all change orders \$50,000 and above and may grant authority to an administrative official to approve changes below \$50,000. All change orders must be within budget or additional funds must be requested, prior to PO processing. Change orders for regular PO's will be entered by the department on the Change Orders screen in OneSolution. Change Orders for contract PO's will be entered by Purchasing through the Contract Module. All change orders for contract PO's will be in writing and signed by the Department Director or Project Manager and the Contractor.

CHAPTER 2- SOLICITATIONS

SOLICITATION REQUIREMENTS

City policy requires competitive solicitations on any procurement over \$3,000; however, the process may be accomplished with various methods as listed below:

- Quotes- \$3,00-\$24,999
- Informal Bids- \$25,000-\$49,999
- Formal Bids-\$50,000 and above
- Requests for Qualifications-Used for Professional Services
- Requests for Proposal-\$50,000 and above

Solicitation Prep Request Form: Solicitations pertaining to construction projects will require the Solicitation Prep Request Form be filled out and sent to Purchasing. This form has information that will assist Purchasing with the Bid Documents. This form can be found on the CWShared Drive/Forms,Policies & Manuals/Purchasing/Forms. See Exhibit A

Available Funds: Before Purchasing staff will begin any type of solicitation, funds for the goods or services must be available and approved in the annual budget. The approved estimated budget will drive the type of solicitation to be used. All funding listed at or near \$50,000 will require a formal bid process.

Grants/Federal Funds: End-users **must** notify Purchasing staff that a grant or federal funds are used *prior* to the solicitation process. Government grantees must follow the procurement regulations set forth in the Uniform Grant Guidance 2 CFR 200.318-200.326, General Procurement Standards. There is a separate policy, Procedures for Purchasing with Federal Grant Funds that must be followed in order to receive grant funds. This can be found on the CWShare Drive/Forms, Policies, Manuals/Purchasing

Quotes or Informal Bids: Three (3) written quotes are required for procurement of goods or services from \$3,000 to \$49,999.99. Departments shall use the quote form found under Forms/Purchasing in the CWShare Drive (See Exhibit B) for all solicitations under \$25,000. Specifications for quotes \$25,000 or over should be submitted to the Purchasing office and it will be posted on Public Purchase.

Historically Underutilized Business(HUB): Texas Local Government Code 252 requires a city, in making an expenditure of more than \$3,000 but less than \$50,000, to contact at least two HUBs on a rotating basis, based on information provided by the Texas Comptroller's Office pursuant to Chapter 2161 of the Government Code (<http://cpa.state.tx.us/procurement/prog/hub/>). If the list fails to identify a HUB in the county in which the city is located, the city is exempt. TX LGC §252.0215

Formal/Competitive Sealed Bids: State law requires a formal, competitive process for purchases of more than \$50,000 (Texas Local Government Code 252.021). Any City department requiring a purchase which involves the expenditure of \$50,000 or over, shall be required to obtain competitive sealed bids or proposals. The following procedures shall be followed to facilitate the bidding process. All competitive bids must go through the Purchasing Department. Specifications should be submitted to the Purchasing office to allow a minimum of eight (8) weeks until award.

A city may not avoid the application of competitive bidding or proposal laws by purposely dividing a single purchase into smaller components so that each component purchase is less than \$50,000. Chapter 252 of the Local Government Code prohibits the use of “separate, sequential, or component purchases” as a means of avoiding bidding requirements.

Specifications: The requesting department for which the items are budgeted will be responsible for preparing and/or assisting Purchasing in the development of specifications and/or any required scope of services. Purchasing will assist the department in any way necessary to develop specifications that will promote full and unrestricted competition.

Departments should provide the Purchasing division at least two (2) weeks to properly prepare a solicitation. It is imperative that departments carefully plan their requests giving consideration to the Purchasing division's timelines in connection with department deadlines.

All specifications shall seek to promote overall economy for the purpose intended and encourage competition in satisfying the City's needs, and shall be unduly restrictive.

Bid Schedule: In conjunction with the requesting division, Purchasing will establish the schedule of events including advertisement dates, pre-bid conference, and bid opening date. All formal solicitations will be assigned a number which will be included in the title of the bid or proposal.

Public Notice/Advertisement: Any solicitation that is projected to exceed \$50,000 will be

advertised. In accordance with 252.041 of the Texas Local Government Code: “notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published by in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud” Bids are also advertised on the City’s website and posted on Public Purchase. Purchasing will be responsible for the advertisement and posting of the bids.

Pre-Bid Conferences and Site Visits: A pre-bid conference may be held when specifications or the scope of work is considered somewhat complex and requirements need to be clarified by City personnel. Because of this some pre-bid conferences are mandatory and any vendor that does not attend a mandatory meeting will not have their bid considered. The Purchasing Manager or his/her designee will attend all pre-bid meetings. There will be at least one City employee from the requesting department present at the pre-bid meeting that is knowledgeable of the bid specifications. Sign in sheets will be made available to all attending the pre-bid conference. Bids received from vendors not listed on the role of attendees of mandatory pre-bid conferences will be rejected and returned unopened to the bidder.

Addendums: Some situations may arise where the specifications or bid documents need to be revised or changed before the bid opening date. These changes are documented with an addendum to the Bid that is prepared and signed by the Purchasing Manager or his/her designee. All addendums will be posted by Purchasing to Public Purchase.

Bid Acceptance/Opening: Bids will be accepted at the City Hall receptionist desk. Bids must be sealed and are to be time and date stamped when received. Purchasing will accept all bids and place them in a secure area until the date and time of opening. Late bids will not be considered. Bids shall be opened publicly in the presence of one or more witnesses. Bids will be opened and read in the City Council Chambers at City Hall. The amount of each bid and name of each bidder shall be recorded and that record shall be open to public inspection.

Bid Evaluation/Tabulation: Purchasing will prepare a tabulation for each item or group of items following the bid opening and will consult with each department involved to arrive at a mutual agreement for recommendation. Bids shall be evaluated based on criteria set forth in the Bid documents in order to determine which represents the lowest responsive bidder.

Bidders Responsiveness: *Responsiveness* is compliance with the requirements of the solicitation, including specifications and contractual terms and conditions. It also insure that all bidders respond to a solicitation in a common manner that provides the equal competition. Failure by the bidder to accept the requirements of the bid is grounds for rejection of its bid. Some common instances where bids must be rejected and declared non-responsive:

- The bidder states that it will not accept an award unless the solicitation terms and conditions are modified or altered
- The bidder states that it will only accept an award for all line items when the

solicitation allows award by line item or aggregate grouping of line items.

- The bid is not submitted on the City's Bid Form
- The bid item does not meet the stated specifications and bidder has not indicated the item bid is an alternate.
- Requested information such as Contractor qualification statement or financial information is not included in bid response.

If a bid is non-responsive, it shall be rejected and will not be considered for an award.

Rejection of Bids/Re-bid: It may be necessary to reject all bids and re-bid the goods or services. Instances where all bids may be rejected are:

- Poor response, lack of competition
- All bids submitted are over budget for an item or project.

The rejection of all bids and approval to re-bid must be approved by City Council. It will be the requesting department's responsibility to prepare the agenda request for City Council.

Award: The contract shall be awarded with reasonable promptness by the City Council to the lowest bidder or the bidder who provides goods or services at the best value for the City.

In determining best value for the City, the City may consider items listed in 252.043 of the Texas Local Government Code. The best value method is determined by considering the following:

- The reputation of the bidder and the bidder's goods or services
- The quality of the bidder's goods or services
- The bidder's past relationship with the City
- The long term cost to the city to acquire the bidder's goods or services;
- Any relevant criteria specifically listed in the request for bids or proposals.

The City must indicate in the bid specifications and requirements that the contract will be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the City.

Any expenditure \$50,000 and above must be approved by City Council. Purchasing will assist in the agenda item; the responsible department will place and present the item for recommendation for City Council approval. Agenda items should be sent to Purchasing for review before placing item on the agenda.

Upon approval by the City Council, Purchasing will be responsible for the signatory of any contracts and obtaining payment and performance bonds and proper proof of insurance.

Formal Bids for a Public Works or Construction Project: All rules apply as mentioned above with the following exceptions:

Bonds: The Government Code mandates that a municipality contracting for a public work in excess of \$50,000 shall require its contractor to execute a payment bond. The Government code also mandates that a municipality contracting for public work in excess of \$100,000 shall require its contractor to execute a performance bond. Both the payment and performance bonds must be written for the total contract value. The City may also chose to require a vendor include a bid bond with their bid to ensure the successful bidder executes contract documents and proceeds with performance. The bid bond is normally 5% of the total bid price.

Contractor Qualifications: Each bid must contain evidence of Bidder's qualifications to perform work described in the contract documents. The bidder must list similar projects completed in the last five years. The City may request the bidder to submit a Statement of Qualification Form.

Financial Qualifications: Per the City of La Porte, Code of Ordinances Chapter 2-Administration/Public Works Contracts Section 2-106, qualification requirement of the apparent low bidder for contracts above one (1) million but less than two (2) million submit reviewed financial statements that are performed by an independent certified public accountant. Contracts which are above two (2) million require the apparent low bidder submit audited financial statements by an independent certified public accountant.

Retainage: If payment will be made by monthly progress payments with approved pay applications during construction, retainage should be withheld monthly. The amount of retainage will be 10%. Retainage will be set up by Purchasing in the Contract Module in OneSolution and reflected on the Purchase Order.

Project Design: If project is designed by an Engineering Firm or Architect the following shall apply:

- Specifications and plans/drawings shall be sent to Purchasing electronically. Purchasing will add specification and plans/drawings to City of La Porte bid and contract documents.
- Engineer/Architect will prepare Bid Proposal Form and send electronically to Purchasing and it will be inserted in the bid package.
- Bids must be stamped with the licensed professional engineer/architect seal
- Engineer/Architect will participate in Pre-bid meeting if applicable and clarify any questions pertaining to the plans or specifications.
- If any changes will be made to the specifications or plans before the bid opening date, the Engineer/Architect will prepare and sign the addendum.
- Engineer/Architect may attend the bid opening and will prepare the bid tabulation and review all bids.
- Engineer/Architect will prepare a letter for recommendation of award and submit to the City.

Requests for Proposals (RFP): This type of solicitation is used for projects that are highly technology or complex. Price is not the only consideration of award, there are other factors that should be considered and will be specified in the RFP. Revisions of proposals and price negotiations may be permitted after submission and prior to award.

Public Notice/Advertisement: Must be advertised as stated in Formal Competitive Sealed Bids (pg.12).

RFP Schedule: In conjunction with the requesting division, Purchasing will establish the schedule of events including advertisement dates, proposal due dates and evaluation due dates. The RFP will be assigned a number which will be included in the title of the proposal.

Evaluation Criteria: The RFP shall state the relative importance of price and other factors and sub-factors. The evaluation criteria must be listed in the RFP. If price is part of the evaluation criteria it cannot exceed 50% of the total evaluation criteria. Purchasing and the requesting department will work together to compile the evaluation factors.

Receipt of Proposals: Proposals shall be opened so as to avoid disclosure of contents to competing offers. Openings will be public and will be in the City Council Chambers, however, only the name of the responding vendors will be announced. A tabulation shall be prepared after the opening and may be open for public inspection after the award of the contract.

Evaluation Committee: A minimum of three (3) City staff members shall comprise an evaluation committee to review and evaluate the returned responses, based on the requirements specified within the RFP. Each committee member will sign and submit to Purchasing a Code of Conduct Form (See Exhibit C) before they begin their evaluations. Evaluations sheets will be prepared and distributed by Purchasing to each committee member. Purchasing will total all evaluation scores and compile one score sheet.

Interviews: The committee may choose to interview the top rated firms.

Best and Final Offers: After the interviews, firms are allowed the opportunity to submit a "best and final offer" (BAFO) and the committee may once again score the firms to select the firm that best meets the needs of the City. In conducting discussions, there shall be no disclosure of any information derived from proposal submitted by competing offerors.

Award: Recommendation of award shall be made to the top ranked firm. Any expenditure over \$50,000 must be approved by City Council. Purchasing will assist in the agenda item; the responsible department will place and present the item for recommendation for City Council approval. Agenda items should be sent to Purchasing for review before placing

item on the agenda.

Professional Services: Texas law specifically exempts contracts for professional services from the competitive bidding requirements. TX LGC§252.022(a)(4): “a procurement for personal, professional, or planning services”.

A city is prohibited under state law from obtaining certain professional services through competitive *bidding* such as the services of: certified public accountant; architect; land surveyor; physician, surgeon, or optometrist; planner or professional engineer; state certified or stated licensed real estate appraiser; or registered nurse.”

The Texas Attorney General has provided an opinion as follows:

- Professional services have been described as those services which are mainly mental or intellectual rather than physical or manual
 - Those disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence
- Op. Tex. Att’y Gen. Nos. JM-1038 (1989); JM-940 (1988); MW-344 (1981)

Request for Qualifications (RFQ): Although competitive bids shall not be obtained, neither the law nor Attorney General Opinions prohibit the City from soliciting qualifications from professional service providers and evaluating the responses to determine the top-rated firm. The City utilizes a Request for Qualifications (RFQ) to obtain qualifications and experience for professional service firms. Since this solicitation is based only on the qualifications of the respondent; price is not requested or considered.

The end-user submits information to Purchasing staff detailing the project and list of qualifications. Purchasing will follow the same procedures as listed in Request for Proposals with the following exceptions:

Negotiations: The committee selects the top-rated firm based on the qualification factors listed in the RFQ. The end-user department meets with the top firm to discuss the project and negotiate a firm price. If a price cannot be agreed upon, the negotiations will terminate and the next top-rated firm will be contacted and negotiations proceed. At no point, may the first firm be re-considered. The process continues until the City and a firm reaches an agreement.

Agreements: If an agreement is reached, the City Manager may award budgeted items if under \$50,000; if \$50,000 or above, City Council approval is required. The City Manager or Assistant City Manager must approve all new agreements \$5,000 and over. Once the City determines and contracts with the top-rated firm for a particular service, that same entity may be hired for like projects; however, once a contract has terminated, it is advisable to issue new solicitations for qualifications periodically to ensure the best vendor is performing the right services for the City.

Annual Solicitations: Annual contracts that extend for a period of one (1) or more years may be obtained through quotes, formal bids, or request for proposals. Annual solicitations must include a term, including the start and termination date and a specific number of years. Annuals may include additional option years for renewal upon consent of both parties. Option years should be renewed with the exact same terms as the original award, if possible. Exceptions may include documented and verified federal wage increases, manufacturing product increases, or circumstances beyond the vendor's control. Any price increases require a 30 day written notice to the City and reviewed by Purchasing. All renewals shall be processed and issued by the Purchasing Division with prior consent of the end-user department.

Any commodity that is purchased through-out the year and exceeds \$25,000 should be considered an annual contract and awarded through the Purchasing office with the appropriate solicitation method.

When expenditures exceed \$50,000 and require Council approval, the agenda item shall contain the following items:

- Term and option years renewals, if any
- Annual Budget
- Amount of the recommended bid
- Not-to-exceed annual dollar amount to be spent, if less than total of recommended bid

Annual contracts should provide good estimated quantities based on the prior year and include an allowance for unforeseen circumstances. Be aware that any increase or decrease to an annual contract must comply with the rules pertaining to change orders.

CHAPTER 3- EXEMPT PURCHASES

Exemptions from competitive solicitations are specific exceptions that relieve the City of the need to bid or seek proposals of an item or service.

Emergency Purchases: An emergency purchase is defined as follows: TX LGC §252.022 A procurement made because of 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; or, a procurement necessary to preserve or protect the public health or safety of the municipality's residents; or,

Procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

Emergency purchases may be made for items costing more than \$3,000 and less than \$50,000 without being subjected to the competitive quotes. A properly executed requisition and a signed statement from the Department Director certifying that an emergency exists must be submitted to the Purchasing Division.

The Purchasing Division shall attempt to secure more than one quote if time and/or circumstance will allow. If the emergency procurement occurs during normal business hours, a purchase order must be issued or a P-card transactions authorized through the Purchasing division.

If the emergency procurement is required outside of normal office hours, the proper paperwork shall be submitted to Purchasing by noon the following business day whereby Purchasing will either authorize a P-card transaction or issue a purchase order to conclude the emergency purchasing activity. In the case of natural disasters, P-card limits may be increased and temporarily allow P-card transactions over \$3,000.

Emergency purchases exceeding \$50,000 shall require a signed statement from the Department Director certifying that an emergency exists and approval of the City Manager or Assistant City Manager. The Director shall submit an agenda item to request approval by City Council at the next regularly scheduled Council meeting. Nothing herein shall prevent the emergency purchase to be made prior to the next Council meeting.

Sole Source: Procurement of items available from only one source. Two (2) forms of documentation are required prior to the issuance of a purchase order for sole source items:

- Memo from the Department Director stating why this particular product is the only one that may be considered, and
- Letter from the manufacturer stating they are the only maker of this *product* and sole supplier. If available through a single distributor, the manufacturer must specify the supplier and why. Examples may include territories, marketing assignments, etc.

Proprietary Source: Procurement is only available from one source due to the fact that it must be compatible with another item. Example: parts for a John Deere tractor

Cooperative Purchasing Agencies: An agency that follows all rules and regulations of competitive solicitation requirements to obtain pricing for specific items and/or services. Although departments are encouraged to research and use these agencies, purchasing staff should be notified of the intent to procure items through this method and verify required documents *prior* to Council award or the issuance of a Purchase Requisition. All quotes utilizing a cooperative, excluding vehicles must be on the Cooperative Quote Form (see Exhibit D) POs will be distributed by the Purchasing office and must be sent to the vendor and the cooperative agency for the order to be valid. The City recognizes and has agreements or memberships with the cooperative agencies listed below; however the list is not all inclusive and other agencies may be utilized.

Houston Galveston Area Council (H-GAC)
State of Texas
BuyBoard
Omnia
PACE

NJPA
TIPPS
TCPN
DIR
GSA- Only Public Safety, IT, Homeland Security

Inter-local Agreements: When procurement is obtained through an inter-local agreement with another city or public entity by utilizing their competitive solicitation. The solicitation must contain wording that other entities may be allowed to enter into agreements with the awarded vendor. Both the inter-local agreement and specific expenditure, if \$50,000 or above, must be approved by Council.

CHAPTER 4- CONTRACT ADMINISTRATION

The focus of contract administration is to obtain the supplies and services outlined in the contract, of the best quality, within a specific time frame and, most importantly within budget. As such, contract administration serves as a primary part of the procurement process that assures that the contract is successfully executed. Purchasing Staff is assigned the undertaking of contract administration and will work with the vendors as the liaison; however, departmental assistance is essential for completion of these tasks. Purchasing responsibilities will include:

- Provide administration of all city-wide contracts, for example, rental of uniforms..
End-users must notify Purchasing staff of any issues regarding city-wide contracts. Feedback on any type of annual or term contract is imperative to ensure specifications and expectations are met. Vendors must be allowed the opportunity to remedy any issue
- Manage the preparation, approval process and execution of contract documents
After a contract is awarded by City Council, Purchasing will send an award letter to the vendor along with the contract documents.
Purchasing will manage the contract execution process and will receive performance and payment bonds (when applicable) and verify certificate of insurance. Purchasing will be the primary liaison for the City along with the City Attorney in the development and review of contract documents.
- Contract Purchase Request for Annuals and Construction Projects
Once the contract documents have been executed and all required forms are submitted, a Purchase Request will be entered by Purchasing through the Contract Module in OneSolution and will be routed for approvals according to the work flow process. When the Purchase Order is received by the end-

user department the contractor can be contacted to schedule a pre-construction meeting and prepare the Notice to Proceed, if applicable.

- Maintain a centralized list of all annual contracts/agreements for goods and services.

Contact vendor and end-user department to request renewal

Review all increases and decreases

Prepare contract renewal documents and ensure they are executed by both parties.

- Spot check prices on annual contracts quarterly

Purchasing will audit contract pricing quarterly, but it is the department's responsibility to ensure they are paying contract pricing.

- Upon the completion of a contract the project manager will fill out a Vendor Report Card, (See Exhibit E) so we will have a record of the vendor's performance.

CHAPTER 5- DISPOSAL OF CITY SURPLUS

The Purchasing Division is responsible for the sale and/or proper disposal of surplus or obsolete City property including vehicles, equipment, office furniture, or any other item that is determined to be of no further use to the City. Each Department Director shall review their department's assets each year and determine if any item should be sold through auction or properly discarded.

Auction: Purchasing works with a licensed auctioneer to conduct online auctions as determined by need.

- Purchasing staff will notify departments of an upcoming auction and a deadline to submit a list of items for auction.
- Departments must provide a list with the following information:
 - Complete description
 - Condition of the item and any known defects
 - Pictures, if applicable, including front and side views of vehicles and equipment
 - Storage location for bidder viewing
 - Point of contact name and number for pick up.
 - Completed VIS form for vehicles and equipment
 - Copy of title of vehicle is being auctioned
- Proper forms for fixed asset disposal must be completed and submitted to the Accounting Division

- Departments are responsible for storage of items until sold and picked up by the successful bidder.
- The Purchasing Manager may declare any item not sold or picked up to be of no value and recommend disposal

Disposal: Items that are broken and non-repairable and/or have no dollar value may be properly disposed. Usable items shall not be discarded; employees shall not remove discarded items from City property. The procedures below must be followed:

- Purchasing staff must be notified of disposal items
- Items should be recycled, if possible
- Proper forms for fixed asset transfer must be completed and submitted to the Accounting Division
- Proper disposal must be in compliance with any laws and regulations
- Contact IT to assist with disposal of hi-tech equipment as they use an outside source to wipe the drives and provide certification of proper disposal

Employee Ineligibility: City employees are not allowed to bid on any item at City of La Porte auctions.

CHAPTER 6- LEGAL REQUIREMENTS

Insurance: Contractors performing work on City property or public right-of-way for the City of La Porte shall provide the City a certificate of insurance listing the City as additional insured and evidencing the coverages identified in the solicitation. All insurance must be written buy an insurer licensed to conduct business in the State of Texas, unless otherwise permitted by the Owner.

All contractors shall provide proof of coverage as stated in the solicitation requirements. Contractor shall not commence until certificate has been provided to the Purchasing Department. Each policy obtained by the Contractor shall name the City of La Porte as an additional insured, and shall contain wavier of subrogation in favor of the City and also give a 30 day cancellation notice. For construction and construction related jobs, all contractors and sub-contractors, performing service on a Public Works project, shall provide Texas Workers' Compensation for all employees as required by the State of Texas.

Errors and Omissions Insurance (Professional Liability Insurance): Errors and omissions, or professional liability, insurance shall be required to cover professional advice and services, this would be services such as consultants, auditors or legal advice.

Performance and Payment Bond: Performance and Payment Bonds are furnished as a guaranty of the faithful performance of the work and for the protection of the claimants for labor and material. Each bond will be in the full amount of the Contract price, executed by a surety company or surety companies authorized to execute surety bonds under and in accordance with the laws of the State of Texas. Purchasing will be responsible to add these

forms and requirements to the Contract Documents when applicable.

Sales Tax: The City of La Porte is exempt from payment of taxes. Any use of the City's tax exemption certificate for personal purchase is prohibited. The Texas Sales Tax Exemption Certificate may be requested from the Purchasing or Accounting Divisions. If an employee is charged sales tax it will be their responsibility to get a credit back from the vendor or pay the City back for the taxes charged.

Signatory Responsibility: All agreements and contracts \$5,000 and over will be signed by the City Manager or the Assistant City Manager.

DEFINITIONS

Addendum: a written change to a Bid, Quote, RFQ, or RFP during the solicitation process

Agreement: a formal, written document between the City and vendor providing goods or services, describing the scope of work and term of the contract. Agreements over \$5000 must be signed by the City Manager or Assistant City Manager

Bid: a formal written offer of a price by a vendor to the City to furnish specific goods and/or services in response to a solicitation

Bid Award: an award of a bid for which funds have lawfully been appropriated by the City Council

Bid Bond: An insurance agreement in which a third party agrees to be liable to pay the City a certain amount of money in the event the successful bidder does not execute the contract documents, furnish required bonds or insurance, or proceed with performance. The bid bond, naming the bidder as principal, is given to the City at the time of bid.

Bid Deposit/Cashier's Check: a guaranteed check furnished in lieu of a bid bond at the time of bid submittal.

Capital Improvement Project (CIP): any public improvement the City undertakes, including the construction or reconstruction in whole or in part of any building, road, highway, street improvements, physical plant, structure or facility necessary in carrying out the functions of the City government. It does not include any routine maintenance, operation or repair of existing structures, buildings or real property.

Change Order: a modification, deletion or addition to an executed contract by means of a formally executed document signed by both parties. A change order shall not exceed 25% of the original contract.

Consultant Services: An outside person or firm with education and experience in specific area of proficiency to provide expert advice and/or perform technical services requiring an elevated level of knowledge and skill. A Request for Qualifications should be used to select the best professional within their field of expertise. Once the City determines and contracts with the top-rated consultant for a particular service, that same entity may be hired for like projects.

Construction: the process of constructing a building, structure, road or drainage utilities; altering, repairing, improving or demolishing any structure or building; or other improvements of any kind.

Contract: (a) a deliberate verbal or written agreement between two or more competent parties to perform a specific act or acts; or (b) any type of agreement, regardless of what it is called, for the procurement or disposal of goods, services or construction, usually for exchange of goods or services for money or other consideration.

Contractor: any person having a contract with the City

Designee: a duly authorized representative of a person.

Historically Underutilized Business (HUB) Program: affirmative action program to increase the participation of disadvantaged or businesses normally used; includes minority and women owned businesses.

Emergency Purchases: procurement that is made in response to a requirement when the delay incident for complying with all governing rules, regulations and procedures would be detrimental to the health, safety and welfare of the City and/or its citizens.

Employee: a person employed by the City who is drawing a salary or wages directly from the City.

End-User Department/Division: the department/division within the City government, that requests and utilizes goods and/or services, procured according to the Purchasing Procedures Manual.

Goods: any tangible property other than services or real property.

Formal Bid: the solicitation document that is used for competitive sealed bidding for procurement of construction, goods and/or services and award is based on the lowest responsible bid or best value for the City.

Item: a separate single unit, article, product, material or service.

Payment Bond: a form of security, required on contracts over \$50,000, executed subsequent to award by a successful bidder that guarantees the payment of debts to persons furnishing services or materials on account of the contract work and/or payment of other responsibilities of the contractor; provided prior to contract execution.

Performance Bond: a form of security, required on contracts over \$100,000, executed subsequent to award by a successful bidder that guarantees the proper performance of the contract; provided prior to contract execution.

Procurement/Purchase: the buying, purchasing, renting, leasing or otherwise acquiring of any goods and/or services for public purposes in accordance with the laws, rules, regulations and procedures intended to provide for the economic expenditure of public funds. It includes but is not limited to all functions which

pertain to the obtaining of any supplies, materials, equipment and/or services including construction projects and Capital Improvement Projects, as defined herein, required by any department/division or agency of the City government regardless of the source of funds.

Procurement Card (P-Card): an instrument used to purchase goods/services in accordance with established procedures.

Professional Services: any certified public accountant; architect; land surveyor; physician, surgeon, or optometrist; state certified or stated licensed real estate appraiser; or registered nurse as defined under TX LGC 252.

Proposal: an executed formal document submitted by an offeror to the City stating the good(s) and/or service(s) offered to satisfy the need as requested in the Request for Proposal or quote solicitation.

Public Purchase: web based e-Procurement service that manages our vendor data base. All Formal Quotes, Request for Bids, Request for Proposals, and Request for Qualifications are posted on Public Purchase as well as any addendum. Once a vendor is registered they can sign up to receive email notifications when a solicitation is posted.

Purchase Order: the City's document used to authorize a purchase transaction with a vendor. It should contain provisions for construction, goods and/or services ordered; applicable terms as to payments, discounts, date of performance and transportation; and other factors or conditions relating to the transaction. Acceptance of a Purchase Order by a vendor shall constitute a contract, except instances in which a Purchase Order is issued only as an internal encumbrance document.

Purchase Requisition (PR): System generated and approved document submitted to purchasing to request a Purchase Order.

Quote or Informal Solicitation: written solicitation request and/or response offered to the City by a vendor for furnishing specific goods and/or services at a stated price, under \$50,000.

Request for Proposal (RFP): a solicitation for goods and/or services for which the scope of work, specifications or contractual terms and conditions cannot reasonably be closely defined. Evaluation of proposal is based on stated criteria and shall state the relative importance of all evaluation factors; other factors may be considered as stated in the RFP.

Request for Qualifications (RFQ): may be a formal or informal request to solicit qualifications and experience for specific services. Responses are evaluated and a top responder is selected. Price may not be known or considered during the evaluation process. Once a top respondent is identified, City staff negotiates

