

# **CITY OF HALTOM CITY**



## **PURCHASING & ASSET MANAGEMENT MANUAL**

# **INTRODUCTION**

Purchasing is the procurement of materials, supplies, equipment and services at the lowest cost and best quality to assist in the effective operation of the City of Haltom City.

The goal of the City of Haltom City's Purchasing Policy is to ensure that all City Departments and functions receive maximum benefit from the expenditure of City funds and that vendors will make a reasonable profit in providing goods and services to the City. Success in this effort will be best achieved with the mutual cooperation of each City department, the Purchasing Agent, and vendors.

This manual is a compilation of City Charter provisions, applicable state laws, administrative regulations, and good business practices for the purchasing process. Adherence to these rules and regulations is necessary to comply with Texas State laws and meet the goals of our Purchasing Policy.

Approved: _____	_____
City Manager	Date
_____	_____
Finance Director	Date
_____	_____
Purchasing Agent	Date

**RESOLUTION NO. R-2013-010-03**

**A RESOLUTION OF THE CITY OF HALTOM CITY, TEXAS,  
APPROVING A PURCHASING POLICY FOR THE CITY,  
INCORPORATING CHANGES FROM FEDERAL AND  
STATE LAW AND INCORPORATING EXISTING POLICIES  
FOR PURCHASING CARDS, AND VENDOR  
DISQUALIFICATION.**

**WHEREAS**, the City Council has an ongoing goal of seeking the best value for the expenditure of City monies; and

**WHEREAS**, the existing City Purchasing Policy does not reflect changes to Federal and State Law; and

**WHEREAS**, the City has new technologies that allows for more efficient and effective purchasing processes.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS, THAT:**

**SECTION 1.**

The City Council approves the Purchasing Policy of the City of Haltom City.

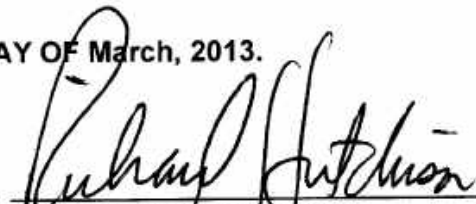
**SECTION 2.**

This Resolution shall be made a component part of the approved Purchasing Policy.

**SECTION 3.**

That this resolution shall be effective immediately from and after its passage.


PASSED AND APPROVED ON THIS 25th DAY OF March, 2013.

  
Richard Hutchison, Mayor

ATTEST:

  
  
Art Camacho, City Secretary

APPROVED AS TO FORM:

  
Wayne Olson, City Attorney

## **RESOLUTION NO. R-2020-008-03**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS, APPROVING A REVISED PURCHASING PROCEDURE FOR THE CITY OF HALTOM CITY.

**WHEREAS**, the City has previously adopted a Purchasing and Asset Management Manual for the City setting forth certain guidelines and regulations concerning the procurement of goods and services for the City; and

**WHEREAS**, the City's purchasing procedures require minor modifications of the City's purchasing policy; and

**WHEREAS**, the City Purchasing change does not reflect changes to Federal and State Law; and

**WHEREAS**, the City has new technologies that allows for more efficient and effective purchasing processes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS THAT:**

### **SECTION I.**

The City Council of Haltom City has reviewed the Revised Purchasing and Asset Management Manual and hereby adopts the Revised Purchasing and Asset Management Manual as attached to this resolution as Exhibit "A", which shall supersede any Purchasing and Asset Management Manual previously approved by the City; and

Pursuant to Section 252.021 ( c ) of the Texas Local Government Code and Section 2269.053 of the Texas Government Code, the City Council of Haltom City hereby delegates the City Manager or his/her designated representative to act on it's behalf in determining the procurement method that provides the best value to the City.

### **SECTION II.**

This resolution shall be made a component part of the approved Purchasing Policy.

### **SECTION III.**

That this resolution shall be effective immediately from and after its passage.

PASSED AND APPROVED ON THIS 24<sup>TH</sup> DAY OF February 2020.

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Dr. An Truong, Mayor

Attest:

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City Secretary

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# **CITY OF HALTOM CITY PURCHASING AND ASSET MANAGEMENT MANUAL**

## **I. GENERAL**

### **A. Establishment of the Purchasing Process**

1) The purchasing process is established to assist City employees in meeting the standards of good business practices while complying with State and local government regulations. The Finance Department and the Purchasing Agent are responsible for maintaining and updating the purchasing process as necessary and relaying changes to all City departments in a timely manner. Consistent and intentional disregard of the purchasing guidelines listed in this manual may subject an employee to disciplinary action.

2) In addition, violations of certain Purchasing Policies may result in criminal penalties. A municipal officer or employee commits a Class B misdemeanor if he or she knowingly or intentionally makes or authorizes separate, sequential or component purchases to deliberately avoid the bidding requirements as mandated by the Texas Local Government Code (§ 252.062).

a) Separate purchases are when purchases of items are split into multiple orders that in normal purchasing practices would be placed on one purchase order.

b) Sequential purchases are when items or services are ordered over a period of time on individual purchase orders that in normal purchasing practices would be placed on one purchase order.

c) Component purchases are when component parts of an item are placed on multiple purchase orders that in normal purchasing practices would be placed on one purchase order.

### **B. Standards of Conduct. (the following language is excerpted from the City of Haltom City Code of Ethics, Ordinance No. 0-2001-006-01)**

“§2-454 (a) No City officer, employee or advisory board member, or their spouses, shall knowingly:

5) Engage in any exchange, purchase or sale of property, goods or services with the City, except:

(a) Rendering services to the City as an officer, employee or advisory board member;

(b) Paying taxes, fines, utility service or filing fees;

(c) Advisory board members who are not otherwise officers or employees of the City may engage in any exchange, purchase or sale of property, goods or services with the City, or enter into a contract with the City, provided that the board on which they are a member has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage.

(11) Transact any business in his or her official capacity with the City with a business entity in which he or she has a *substantial interest*.

***Substantial interest*** (as defined in § 2-454 Haltom City Code of Ethics)

(a) A person has a *substantial interest* in a business entity if:

- (1) The interest is ownership of ten percent (10%) or more of the voting stock or shares of the business entity or ownership of either ten percent or more or \$15,000 or more of the fair market value of the business entity (see §171.002, Texas Local Government Code); or
- (2) Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year (see §171.002, Texas Local Government Code); or
- (3) The person holds a position of member of the board of directors or other governing board of the business entity; or
- (4) The person serves as an elected officer of the business entity; or
- (5) The person is an employee of the business entity; or
- (6) The person is a creditor, debtor or guarantor of the business entity in the amount of \$15,000 or more; or
- (7) Property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount \$15,000 or more."

### **C. No Personal Purchase or Use of City Property**

City employees shall not purchase items or services for personal use through City accounts. Such purchases or use shall subject the purchaser to disciplinary action as prescribed in the City Personnel Policy. City-owned supplies and equipment will not be sold to employees except in accordance with Section 1, D "Surplus City Property".

### **D. Surplus City Property**

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

1) The responsible Department Head and Finance Director shall jointly determine when City-owned property has no resale value. Resale value shall take into consideration the cost of preparing the item for sale. Items without potential resale value may be disposed of in any manner approved by the responsible Department Head and the Director of Finance.

2) Department Heads will submit in writing, lists of property that they recommend to be designated as surplus. Only the City Manager or Finance Director has the authority to declare City-owned goods as surplus. A staff member of the Finance Department will review all surplus property lists for items that may be on asset rosters and update such rosters accordingly.

3) Surplus goods will be disposed of in a manner that will yield the greatest possible benefit to the City. Whenever possible, items will be batched together and sold at public auction. Individual items that are not easily stored for future auction may be disposed individually by making a good faith attempt to obtain the highest price for the item(s). Proceeds from such sales will be accounted for in accordance with Generally Accepted Accounting Principles such as they are applied to government.

4) In order to maintain the highest appearance of ethical propriety at all times, surplus goods may not be given or sold directly or indirectly to City employees or City officials except under exceptional circumstances. Exceptional circumstances for surplus property may be approved with a written recommendation from the employee's Department Head and subsequent approval of the Finance Director and the City Manager. An example of such an item would be a ballistic vest tailored to a specific officer or a work attire item such as a fire helmet used by a retiring firefighter.

5) Property deemed surplus in accordance with the forgoing standards may be donated to another governmental entity or not-for-profit organization with the approval of the City Council.

City employees may participate, on their own time, in public auctions for the purchase of surplus City goods.

## **E. Vehicle-Related Purchasing and Disposal Issues**

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

Specifications for the purchase of new vehicles shall be developed with the combined input of the requisitioning Department, the Fleet Services Supervisor, and the Purchasing Agent. Bidding for the acquisition of new vehicles will be conducted by the Purchasing Agent.

Acceptance and delivery of new vehicles will take place under the direction of the Fleet Services Supervisor. The Fleet Services Supervisor will have sole responsibility to ensure the vehicles are properly prepared both mechanically and with proper documentation and licensing. Vehicles will be placed into service only with the approval of the Fleet Services Supervisor, except under emergency circumstances. Emergency service use must receive the approval of the City Manager within two working days after the service began.

Vehicles submitted by a requesting department as being replaced by a new acquisition will be disposed of in the same manner as other assets, as described elsewhere in this policy. Such vehicles slated for replacement will not be retained as part of the fleet without the written approval of the Finance Director or the City Manager.

## **F. City Credit Card Policy**

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

An employee's request for a City credit card must be approved by the Finance Director. At the time of approval, the Department Head and the Finance Director will determine the appropriate credit level for the employee's card based on projected needs and usages

The employee may not allow other individuals to use their credit card unless prior authorization is obtained from their Department Head or the Finance Director. If the credit card is lost or stolen, the employee shall contact the credit card company immediately and then notify the Finance Department as

soon as possible.

The City of Haltom City is tax-exempt. Whenever possible, the employee should make their credit card purchases with a vendor whom the City has an account to avoid having sales tax charged. If the City does not have an account with the vendor, the employee should provide the vendor with a completed tax-exemption form obtainable from the Finance Department prior to the purchase. All receipts must be submitted to Accounts Payable with a completed purchase order form as soon as possible to avoid any possible service charges from the credit card company for late payments.

It is the Department Head's responsibility to notify the Finance Department as soon as possible if the employee has moved to a new position in which they will no longer need to make City purchases or the employee has been terminated. It is also the Department Head's responsibility to insure that the credit card is retrieved from the employee and turned into the Finance Department upon the employee's change of position or termination.

Use of the City credit card for travel must be made in accordance with the City's Travel Policy.

#### **G. City Procurement Cards (P-Cards)**

The City's Procurement Card will be issued in the name of the approved employee. By accepting the P-Card, the cardholder assumes all responsibilities pertaining to the use of the City's P-Card which is to be used for business purposes only. The P-Card is not transferable and may not be used by any individual other than the name on the P-Card or the assignee for a P-Card.

It is the Cardholder's responsibility to insure the P-Card is maintained with the highest level of security. If the P-Card is lost or stolen or the Cardholder suspects the P-Card or account number has been compromised, the Cardholder must contact the bank immediately, then his/her Director and the P-Card Administrator.

All charges will be billed and paid directly by the City. While the Cardholder will not be responsible for making the payments, the Cardholder is responsible for providing itemized receipts and verification and reconciliation of all monthly account activities.

When issued a City P-Card, the Cardholder must sign an agreement that states the Cardholder understands that:

- 1) The Cardholder is required to follow the procedures as outlined in the Procurement Card Manual and will not exceed the departmental delegated authority.

- 2) The Cardholder will abide by the signed City of Haltom City's P-Card Agreement.
- 3) Improper use of the P-Card by the Cardholder may result in disciplinary action, up to and including termination of employment.

The Cardholder's Director, upon requesting and approving a City P-Card for an employee, understands that:

- 1) The department specified will have funds sufficient to pay any and all charges made by this individual.
- 2) All charges are to be properly reviewed and approved and that monthly reconciliation of all statements will be done as required and all documentation retained.
- 3) The improper use of the City P-Card by an individual may result in disciplinary action, up to and including termination of employment.

It is the P-Cardholder's or P-Card Assignee's responsibility to:

- 1) Ensure that all the bidding are followed for all P-Card charges as mandated by the Texas Local Government Code (§ 252.062).
- 2) Ensure that sales tax is not charged.
- 3) That if a purchasing error is made by the P-Card Cardholder, the Cardholder is to notify the P-Card Administrator and/or Finance Director immediately as well as their immediate supervisor or director. Finance will review the error on a case by case basis as to severity or pervasiveness. If the P-Card Administrator and Finance Director determine a risk to the City, the P-Card will be revoked. Disciplinary action may also be considered.

## **H. The Purchase Order**

A signed Purchase Order is a legal contract. The vendor's name, address and vendor contact should be complete as well as the shipping address. For each item ordered, a detailed description is needed of what is being purchased. The Purchase Order should be signed by the Purchasing Agent. A general ledger account will be listed and there must be sufficient monies in that account to pay for the purchase.

## **I. Budgeted Funds and Fund Transfers**

All purchases will be supported by budgeted funds in the department general ledger accounts, or when written authorization (see sample Budget Transfer Authorization Form in Sample Forms, Section V) is given by the

City Manager or Finance Director. The Finance Director may authorize a balanced transfer of funds of any account except capital or personnel. The City Manager must authorize the transfer of funds between capital and personnel accounts. The City Manager and Finance Director have authority to transfer budgeted amounts between departments within the same fund.

Only the City Council may approve a transfer between funds and/or an appropriation of fund balances.

#### **J. Receiving Procedures**

It is the Requestor's responsibility to make sure the item(s) or services received are of the standard and quality expected by the City. If an item(s) received is damaged or services performed unsatisfactorily, the Purchasing Agent must be contacted immediately so that the issue can be resolved in a timely manner.

#### **K. Exclusion of Vendors on Federal Excluded Parties List System**

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

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

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

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

#### **L. The Purchasing Agent's Role**

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

- 1) Observe and enforce the procedures outlined in this manual.
- 2) Encourage competitive bidding at all times.

- 3) Develop and maintain good vendor relations so that competitive pricing will assure that the City receives the highest quality for the lowest cost.
- 4) Investigate and report any possibilities of collusion among bidders.
- 5) Help resolve any vendor issues such as inferior products or service, pricing discrepancies, or late deliveries.
- 6) Issue purchase orders and contracts for goods and services that total more than \$3,000 or more.
- 7) Review and recommend purchases that can be combined to take advantage of volume discounts.
- 8) Keep informed on the latest purchasing state and local laws, policies, and procedures and relay them to the Finance Department and City Manager.
- 9) Continue to research and use interlocal and governmental cooperatives to obtain the best pricing for the City.

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

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

## II. PURCHASING PROCEDURES

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



Haltom City is a tax exempt government entity. When making any purchase, especially with Petty Cash or credit card, the buyer must provide the vendor with either a Tax Exempt Form that is available from Accounts Payable, or give the vendor the City Sales Tax Number: 1-75-6003105. (

## **Vendor List**

The City uses the Texas Building and Procurement Commission's *Centralized Master Bidders List (CMBL)* for its vendor database. Purchasers are encouraged to use these listings.

### **A. Purchases up to \$50**

Any City supervisor or his/her authorized representative may make a purchase of items costing \$50 or less. The purchase cost will be reimbursed by the City Cashier through Petty Cash upon submittal of the receipt and the appropriate general ledger account number and authorized signature. Purchases over \$50 should not be made out of Petty Cash. The Finance Director or the Controller must approve any exceptions.

### **B. Purchases less than \$3,000**

A purchase of items costing less than \$3,000 may be placed by an authorized departmental supervisor or employee if there is a completed Signature Authorization Form on file with the Finance Department.

When placing a verbal order with a vendor, please remember to give the vendor the **City Sales Tax Number which is 1-75-6003105 and either your "Bill To" address or the Municipal "Bill To" Address of:**

City of Haltom City  
Accounts Payable Department  
P. O. Box 14246  
Haltom City, TX 76117-0246

Obtaining verbal quotes whenever it is possible is always good business practice, but for orders under \$1,000, three verbal quotes are not required.

It is proper business procedure to notify all vendors who submitted either verbal or written bids that they were not the successful bidder. This is the responsibility of the requesting department for orders under \$1,000.00.

### **C. Purchases exceeding \$3,000 and up to \$50,000**

A purchase of goods or services that totals \$3,000 or more must be placed by the Purchasing Agent and requires a minimum of three informal (written, facsimile, or electronic) quotes and issuance of a purchase order. All purchase orders are to be approved by the Controller and Budget Analyst.

In addition, purchase orders must include all quotes and backup documentation. Exceptions will be when the purchase is a field-related emergency or if the Purchasing Agent is unavailable. Exception purchases must be approved by the Department Head or Finance Director.

The Purchasing Agent may temporarily increase the transaction authority of a P-Card to effect a purchase under this section when such a purchase brings value to the City, typically in the form of rebate values and/or expedited processing.

### **Bid Specifications**

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

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

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

Upon submission of the foregoing the Purchasing Agent will submit the following to the Requestor:

- 1) The Bid Number;
- 2) The Dates of Advertising;
- 3) A proposed date/time for bid opening.

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

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

### **Sole Source**

If a vendor is declared a Sole Source (quotes not obtainable), the Requestor must fill out a Sole Source Justification Form (See Sole Source

Justification Form, Section V) and send it to the Purchasing Agent with the purchase order specifications.

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

A purchase of items that are available from only one source because of patents, copyrights, secret processes or natural monopolies; films, manuscripts or books; gas, water and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials that are available only from the person holding exclusive distribution rights; management service provided by a non-profit organization to a municipal museum, park, zoo or other facility to which the organization has provided significant financial or other benefits.

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

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

#### **D. Historically Underutilized Business (HUB'S)**

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

## **E. Competitive Sealed Bids and Proposals for Purchases in excess of the limit imposed under Local Government Code §252.021**

### **Competitive Sealed Bids and “Best Value” Bidding**

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

- 1) Department Heads, in coordination with the Purchasing Agent, should determine the timing of the desired goods or services and prepare the detailed specifications for the Request for Bids far enough in advance to ensure the desired bid date can be met. Bid numbers will be issued by the Purchasing Agent.
- 2) The Request for Sealed Bids package must be reviewed and approved by both the appropriate Department Head and the Purchasing Agent before it is sent out to potential bidders and the proper notification for bids is placed in the city's official newspaper. The Purchasing Agent shall be responsible for placing the bid notification ads unless other arrangements are made with the Purchasing Agent.
- 3) The selection of vendors for the Bidders' list will be based on recommendations from Department Heads as well as the Purchasing Agent. The Local Government Code, (§252.043 & §271.113) allows the City to award a contract to either:
  - a) The lowest responsible bidder, or
  - b) The bidder who provides goods, services, or the construction of a facility for the “best value” for the City.

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

If not utilizing the best value method, the contract **must** be awarded to the

lowest responsible bid. The City Council may reject any and all bids. To reject the lowest bid, the City Council must determine that a higher bid is the lowest **responsible** bid. Local Government Code §252.043.

Resolution No. 2002-036-03 passed by City Council on October 28, 2002 authorizes the City Manager to make Selection of Best Value for Construction Method and Facilities. A copy of the resolution is located in the appendix to this manual.

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

- a) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or
  - b) buildings or structures that are incidental to projects that are primarily civil engineering construction projects” (Local Government Code §252.043(d)).
- 4) If the City desires to award a contract for goods and services under the best value method, the City must indicate in the bid specifications that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City (Local Government Code §252.043(c)).
  - 5) After the Sealed Bid package has been approved, the City must advertise the bid as required by State Law. The advertisement must be published at least once a week for two consecutive weeks in the City’s official newspaper.. The first publication must be more than fourteen (14) days before the date of the bid opening (Local Government Code §252.041). If the contract pertains to a Public Works project, the second publication must be on or before the 10<sup>th</sup> day before the bids may be submitted (Local Government Code §271.025).
  - 6) Sealed bids are to be addressed to the attention of the Purchasing Agent, City of Haltom City, 5024 Broadway Avenue, Haltom City, TX. 76117.
  - 7) Public Openings of Sealed Bids will be attended by the Department Head and the Finance Director, or their designated representatives. If the bid is to be awarded to the lowest responsible bidder, the bids will be opened and read aloud with the apparent low bidder announced. If the bid is to be awarded based upon best value, the bids will be opened and read aloud; the City Council will then determine which bidder provides the City with the best value. However, an

announcement will be made to those present at the bid opening that a recommendation will be presented to the City Council for the award to the lowest responsible bidder or the bidder who provides the best value to the City, after an analysis of the bids is made by the staff. The Purchasing Agent is the primary staff person responsible for preparation of the recommendation and agenda item submitted to the City Council. The City reserves the right to reject any and all bids.

- 8) If the contract is for a Public Works project and is not awarded to the lowest bidder, each lower bidder must be given notice of the proposed award and an opportunity to appear before the City Council and present evidence concerning the bidder's responsibility as per the Local Government Code. (§ 271.027)
- 9) The City may award a contract for any real property or personal property that is not affixed to real property to a bidder whose principal business is in the City and whose bid is within 3% of the lowest bidder whose principal business is not located in the City per the Local Government Code (§ 271.905). In order to award a purchase to the local bidder in such circumstances, the City Council must determine, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities created by the contract award, including the employment of residents of the City and increased tax revenues to the City, pursuant to Local Government Code §271.905.
- 10) In the event there are two or more responsible bidders with the identical lowest bid that fully meets the specifications and needs of the City, the bidder who is a resident of the City shall be awarded the bid. If there is not a local resident bidder or there is more than one local resident bidder, the award of the contract will be determined by casting of lots. The casting of lots must be in a manner prescribed by the mayor of the City and must be conducted in the presence of the governing body of the municipality. All qualified bidders or their legal representative may elect to be present at the casting of lots. The City will still retain its right to reject all bids per Local Government Code (§271.901)

#### **Competitive Sealed Proposals:**

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

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

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

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

- 1) The request for proposal must solicit quotations, and the criteria for awarding the bid to a vendor for sealed proposals is not based on price alone. While price is important, vendor qualifications, experience, and support system may be some of the components that will be considered in making a selection. The desired evaluation factors for the particular procurement must be listed in the Request for Proposal (Local Government Code §252.042(a)).
- 2) When publicly opening sealed proposals, only the names of the firms submitting proposals shall be announced. After the analysis of proposals is completed, a recommendation by City Staff to the City Council for award to the lowest and most responsive bidder which best meets all the evaluation criteria will be made. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. If there are vendor negotiations, care should be made to avoid disclosing proposal contents of other bidders. All proposals that were submitted will be open for public inspection after the contract award as addressed in §552.104 of the Texas Public Information Act. However, any proprietary information designated as such by the vendor will not be made available for public inspection per §552.110 of the Texas Public Information Act.

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

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

- 1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
- 2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- 3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- 4) a procurement for personal, professional, or planning services;

- 5) a procurement for work that is performed and paid for by the day as the work progresses;
- 6) a purchase of land or a right-of-way;
- 7) a procurement of items that are available from only one source, including:
  - a) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
  - b) films, manuscripts, or books;
  - c) gas, water, and other utility services;
  - d) captive replacement parts or components for equipment;
  - e) books, paper, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
  - f) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant or other benefits;
- 8) a purchase of rare books, papers, and other library materials for a public library;
- 9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- 10) a public improvement project, already in progress, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- 11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- 12) personal property sold:
  - a) at an auction by a state licensed auctioneer;
  - b) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
  - c) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
  - d) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;
- 13) services performed by blind or severely disabled persons;



- 14) goods purchased by a municipality for subsequent retail sale by the municipality; or
- 15) electricity.

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

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

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

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

Professional and consulting services include such services as accounting, architecture, engineering, surveying, medicine and planning. These types of services are exempt from the competitive bid process as per *Texas Local Government Code*, § 252.022(4). Additionally, *The Professional Services Procurement Act* of Texas Government Code, Chapter 2254, states that

- a) "a government entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:
  - 1) On the basis of demonstrated competence and qualifications to perform the services, and
  - 2) For a fair and reasonable price.
- b) The professional fees under the contract:
  - 1) must be consistent with and not higher than the recommended

practices and fees published by the applicable professional associations; and

2) may not exceed any maximum provided by law.”

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

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

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

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

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

## **I. Interlocal Agreements**

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

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

mutually interested" (Gov. Code §791.003)

## **J. Lease-Purchase Agreements**

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

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

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

## **III. CHANGE ORDER NOTIFICATIONS**

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

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

## **IV. INSURANCE AND BOND REQUIREMENTS**

Contractors, consultants, concessionaires and certain suppliers whose work, or

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

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

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

# CITY OF HALTOM CITY, TEXAS

## REQUEST FOR BUDGET TRANSFER / AMENDMENT

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

Budget Change No. \_\_\_\_\_

**Transfer funds from:**

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

**Transfer funds to:**

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

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

**Prepared by:**

Division Manager

Date Council approved:

Ordinance / Bid number:

**Approved by:**

Department Director:

Finance Director:

City Manager:

**Routing:**

Division Manager	→	Dept. Director	→	Finance Director	→	City Manager if Required	→	To City Council if Required	→	Return to Finance Director	→	Approved Copy to Division Manager
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**City of Haltom City  
Bid Tabulation**

Date: \_\_\_\_\_ Dept: \_\_\_\_\_ Project: \_\_\_\_\_ P.O. # \_\_\_\_\_

Item(s)/Services being requested: \_\_\_\_\_

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

Vendor Name	Phone #	Contact Person	Price Per unit	Total Bid Price (inc. frt)	Notes

If the lowest bidder is not selected, please give reason: \_\_\_\_\_

Approved and Signed by: \_\_\_\_\_

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

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

- ☐ Vendor is a State Contract Vendor or approved Interlocal Cooperative program. *(Show Co-Op Name Below)*  
\_\_\_\_\_
- ☐ Item(s) or Good(s) is available from only one source including:  
(Circle the appropriate one)
1. Is covered by patent, copyrights, secret processes or natural monopoly
  2. Films, manuscripts, or books and library materials with exclusive distribution rights
  3. Electricity, gas, water and other utility services
  4. Captive replacement parts or components and/or spare parts for equipment
  5. Management Service provided by a Non-Profit Organization to a municipal museum, park, zoo or other to which the organization has provided significant funds or other benefits
- ☐ Immediate Procurement necessary because of public calamity, to protect public safety or health, or unforeseen damage to public equipment or property
- ☐ Procurement is for personal, professional or planning services.
- ☐ Procurement is for day-work performed

If none of the above apply, please give detailed reason for Sole or Single Source:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

**SAMPLE OF  
STANDARD TERMS AND CONDITIONS  
FOR  
REQUESTS FOR BIDS**

1. **Default** – In case of default after bid acceptance, the City of Haltom City, Texas (“City”) may exercise any and all rights it may have in compliance with the law.
2. **Prices Held Firm** – The City reserves the right to require that submitted bids remain in force for a forty five (45) day period after opening or until award is made, whichever occurs first.
3. **Resource Contact** – All information and/or questions pertaining to this bid shall be directed to \_\_\_\_\_ at 817-\_\_\_\_\_. It is the responsibility of the bidder to seek clarification of any uncertain terms.
4. **Negotiation** – Any attempt to negotiate or give information on the contents of this bid with the City or its representatives prior to award shall be grounds for disqualification.
5. **Tax Exempt** – The City of Haltom City is exempt from all sales and excise taxes. A tax exemption certificate is available upon request.
6. **Forms Provided** – All bids must be submitted on the forms provided to ensure uniformity and comparability of responses. Bids may be rejected if they show any omissions, alterations in wording, conditional clauses, or irregularities of any kind.
7. **Price Fixing** – In submitting a bid response to this request, the bidder thereby certifies that the bidder has not participated in, nor been party to, any collusion, price fixing, or any other agreements with any company, firm, or person concerning the pricing on the enclosed.
8. **Gratuities** – The City may, by written notice to the successful bidder, cancel this contract without liability to the successful bidder if it is determined by the City that gratuities in the form of entertainment, gifts, or otherwise, were offered or given by the successful bidder, or any agent or representative of the successful bidder, to any officer or employee of the City with a view toward securing or amending, or the making of any determinations with respect to the performing of such a contract.
9. **Force Majeure** – Neither party shall be required to perform any term, condition, or covenant in this contract so long as such performances are delayed or prevented by Force Majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the party required to perform and which, by the exercise of due diligence, said party is unable, wholly or in part, to prevent or overcome



10. **Applicable Law** – This agreement shall be governed by the Uniform Commercial Code. Wherever the term “Uniform Commercial Code” is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
11. **Taxes, Unemployment Benefits, etc.** – The successful bidder hereby accepts exclusive liability for, and agrees to indemnify the City against liability for the payment of, any and all contributions or taxes for employment insurance, old age pensions or annuities or other purposes now or hereafter imposed by the government of the United States and/or by the government of any state of the United States, which are, in whole or in part, measured by and/or based upon the wages, salaries, or other remuneration paid to persons employed by the successful bidder on work in connection with this order.
12. **Anti-Discrimination** – The successful bidder, in performing the work required hereunder, shall comply with the provisions of Executive Order Number 11246, and shall not discriminate against any employees or applicant for employment because of religion, race, color, sex, age or national origin.
13. **Invoicing and payments** - Invoicing is to be provided to the City of Haltom City Finance Department, P.O. Box 14246, Haltom City, TX 76117. Payments are processed weekly. The payment terms are net 30 days, unless otherwise stated on the first page of this request. Net 30 days means payment must be postmarked by the City no later than 30 days after receipt of correct invoicing or receipt of ordered items, whichever occurs later.
14. **Fair Labor Standards Act** - The successful bidder warrants that the materials covered by this order have been produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.
15. **Opening Place, Time and Date** – The City will conduct a public bid opening at the location, time and date as specified on the first page of the request. Bidders are encouraged to attend. A tabulation of the bid responses received at the time and date of the opening will be made available to all bidders at a later date.
16. **Modifications and Amendments** – Purchaser shall have the right to modify this order subject to an adjustment in the price in accordance with the applicable provisions of the purchase order, if any, or pursuant to mutual agreement. No agreement or understanding to modify this order shall be binding on the purchaser unless in writing and signed by the purchaser or the purchaser’s authorized agent.
17. **Patent Indemnity** – The successful bidder hereby warrants that the use or sale of the products and materials hereunder will not infringe claims of any patent covering such materials, and the successful bidder agrees to indemnify and hold harmless the City for any and all costs, expenses, judgments and damages which the City may have to pay or incur.

18. **Withdrawal** – The City reserves the right to withdraw the request for bid for any reason prior to the opening time and date without bidders' claims.
19. **Facsimile** – The City will not accept a bid response or alterations to a bid response via facsimile machine. The facsimile machine is available for informational inquiries only. The existing facsimile machine does not have the capability of "Fax Mail". No bid responses received via the facsimile machine will be considered.
20. **Bid Alteration** – Bids cannot be altered or amended after submission deadline. Any interlineations, alteration or erasure made before opening time and date must be initialed by the signer of the bid guaranteeing authenticity.
21. **Change orders** – No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City Manager or his or her designee.
22. **Reject Bids** – Bidders are required to return all pages of the enclosed forms. If all forms are not returned, signed and initialed, the bid will be rejected. It is recommended that bidders retain a copy of the bid response for reference purposes.
23. **Return Forms** – Bidders are required to return all pages of the enclosed forms. If all forms are not returned, signed and initialed, the bid will be rejected. It is recommended that bidders retain a copy of the bid response for reference purposes.
24. **Venue** – This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Tarrant County, Texas.
25. **Hold Harmless** – The successful bidder shall defend, indemnify and save harmless the City of Haltom City and its officers, agents, and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any persons or property on account of any negligent act or fault of the successful bidder, or any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder indemnifies and will indemnify and save harmless the City of Haltom City from liability, claim or demand on their part, agents, servants, customers, and/or employees whether such liability, claim or demand arise from event or casualty happening within the occupied premises themselves, or happening upon or in any of the halls, elevators, entrances, stairways or approaches of or to the facilities within which the occupied premises are located. Successful bidder shall pay any judgment with costs which may be obtained against the City of Haltom City growing out of such injury or damages.

**SAMPLE INSURANCE REQUIREMENTS**  
**for**  
**THE CITY OF HALTOM CITY**

The Contractor will carry Workmen's Compensation Insurance, Public Liability and Property Damage Insurance, and Automobile Insurance sufficient to provide adequate protection against damage claims which may arise from operations under this Contract in compliance with the following:

**Contractors Insurance:** Without limiting any of the other obligations or liabilities of the Contractor, during the term of the contract, the Contractor and each subcontractor, at their own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly approved to do business in the State of Texas and satisfactory to the Owner. Certificates of each policy shall be delivered to the Owner before any work is started, along with a written statement from the issuing company stating that said policy shall not be canceled, non-renewed or materially changed without 30 days advance written notice being given to the Owner, except when the policy is being canceled for nonpayment of premium, in which case 10 days advance written notice is required. Prior to the effective date of cancellation, Contractor must deliver to the Owner a replacement certificate of insurance or proof of reinstatement. Coverage shall be of the following types and not less than the specified amounts:

- (a) workers' compensation in at least the minimum statutory amounts on all employees as required by Texas law, with the policy endorsed to provide a waiver of subrogation as to the Owner.
- (b) commercial general liability insurance, including independent contractor's liability, completed operations and contractual liability covering, but not limited to, the liability assumed under the indemnification provisions of this contract, fully insuring Contractor's (or subcontractor's) liability for injury to or death of Owner's employees and third parties, extended to include personal injury liability coverage with damage to property of third parties, with minimum limits of \$1,000,000.00 as the combined single limit for each occurrence of bodily injury, personal injury and property damage.

The policy shall include coverage extended to apply to completed operations, asbestos hazards (if this project involves work with asbestos) and XCU (explosion, collapse and underground) hazards. The completed operations coverage must be maintained for a minimum of one year after final completion and acceptance of the work, with evidence of same filed with Owner.

- (c) Comprehensive automobile liability insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage minimum limit of \$1,000,000.00 per occurrence for bodily injury and for property damage. Such insurance shall include coverage for loading and unloading hazards.

**Additional Coverage:** Any insurance coverages which are required by

statute, which are not expressly stated herein, shall be maintained in accordance with statutory requirements.

**Policy Endorsements and Special Conditions:**

(a) Each insurance policy to be furnished by Contractor shall include the following conditions by endorsement to the policy:

- (1) name the Owner as an additional insured as to all applicable coverage;
- (2) each policy shall require that 30 days prior to the cancellation, non-renewal or any material change in coverage, a notice thereof shall be given to Owner by certified mail. If the policy is canceled for nonpayment of premium, only 10 days written notice to Owner is required;
- (3) the term "Owner" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the Owner and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the Owner;
- (4) the policy phrase "other insurance" shall not apply to the Owner where the Owner is an additional insured on the policy;
- (5) all provisions of the contract concerning liability, duty and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

(b) Insurance furnished by the Contractor shall be in accordance with the following requirements:

- (1) any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by Contractor. The Owner's decision thereon shall be final;
- (2) all policies are to be written through companies duly licensed to transact that class of insurance in the State of Texas and shall be represented by an agent or agents having an office located in Tarrant County, Texas or a county with a contiguous border to Tarrant County, Texas; and
- (3) all liability policies required herein shall be written with an "occurrence" basis coverage trigger.

(c) Contractor agrees to the following:

- (1) Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the Owner, it being the intention that the

insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies;

- (2) companies issuing the insurance policies and Contractor shall have no recourse against the Owner for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the Contractor;
- (3) approval, disapproval or failure to act by the Owner regarding any insurance supplied by the Contractor (or any subcontractors) shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the Contractor from liability; and
- (4) no special payments shall be made for any insurance that the Contractor and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

The Contractor shall furnish the Owner with satisfactory proof that he has provided adequate insurance coverage in amounts and by approved carriers as required by these contract documents. Contractor shall not commence work under this contract until Contractor has obtained all the insurance required under this contract, certificates evidencing such coverage are received by the City and such insurance has been approved by the City. Contractor shall be responsible for delivering to the City, Contractor's certificates evidencing such coverage are received by the City and such insurance has been approved by the City. Contractor shall be responsible for delivering to the City, Contractor's certificate of insurance for approval.

**ORDINANCE NO.0-2001-006-01**

**CODE OF ETHICS**

**AN ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS ADOPTING A CODE OF ETHICS APPLICABLE TO ELECTED OFFICIALS, MEMBERS OF CITY BOARDS AND COMMISSIONS, AND CITY EMPLOYEES; PROVIDING STANDARDS OF CONDUCT FOR SUCH OFFICIALS, BOARDS AND COMMISSIONS MEMBERS, AND EMPLOYEES; REQUIRING THE DISCLOSURE OF CONFLICTS OF INTERESTS; PROVIDING FOR THE RENDERING OF ADVISORY OPINIONS BY THE CITY ATTORNEY; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS HEREOF; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Haltom City, Texas is a home rule City acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code;

**WHEREAS**, Section 1 0.02a of the City's Charter provides that the City council shall adopt and maintain in force an ethics policy governing elected officials, members of City boards and commissions, and City employees; and

**WHEREAS**, the City council deems it necessary and advisable to adopt a Code of Ethics applicable to the conduct of elected officials, members of City boards and commissions, and City employees while acting in their official capacities in representing the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS:**

**SECTION 1.  
DECLARATION OF POLICY**

Chapter 2 is hereby amended by adding a new Article V, "Code of Ethics," to read as follows:

**Sec. 2-391 – 2-450. Reserved.**

## ARTICLE V. CODE OF ETHICS

### Sec. 2-451. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Advisory board** means a board, commission or committee of the City that functions only in an advisory or study capacity.

**Business entity** means a sole proprietorship, partnership, firm, corporation, association, holding company, joint stock company, receivership, trust, or any other entity recognized by law.

**Employee** means any person employed by the City, including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

**Knowingly.** A person acts "knowingly" or "with knowledge," with respect to the nature of the person's conduct or to circumstances surrounding the person's conduct, when the person is aware of the nature of the conduct or that the circumstances exist. A person acts "knowingly" or "with knowledge," with respect to a result of the person's conduct, when the person is aware that the conduct is reasonably certain to cause the result.

**Officer** shall mean any member of the City council the planning and zoning commission, the board of adjustment, the hearings board, and any member of a board, commission or committee established by ordinance, charter or state law that has final approval authority over any application, permit, license or other City approvals; provided, however, that no member of an advisory board shall be deemed an officer of the City.

### **Substantial interest.**

(a) A person has a substantial interest in a business entity if:

- (1) The interest is ownership of ten percent or more of the voting stock or shares of the business entity or ownership of either ten percent or more or \$15,000 or more of the fair market value of the business entity (see Section 171.002, Texas Local Government Code); or
- (2) Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year (see Section 171.002, Texas Local Government Code); or
- (3) The person holds a position of member of the board of directors or other governing board of the business entity; or

- (4) The person serves as an elected officer of the business entity; or
  - (5) The person is an employee of the business entity; or
  - (6) The person is a creditor, debtor or guarantor of the business entity in the amount of \$15,000 or more; or
  - (7) Property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount \$15,000 or more.
- (b) A person does not have a substantial interest in a business entity if:
- (1) The person holds a position as a member of the board of directors or other governing board of a business entity; and
  - (2) The person has been designated by the City council to serve on such board; and
  - (3) The person receives no remuneration, either directly or indirectly, for his or her service on such board; and
  - (4) The primary nature of the business entity is charitable, nonprofit or governmental.
- (c) A person has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500 or more (see Section 171.002, Texas Local Government Code).
- (d) A person has a substantial interest under this article if the person's spouse or a person related to the person in the first degree by consanguinity or affinity has a substantial interest under this ordinance (see Section 171.002, Texas Local Government Code). A person is related in the first degree by consanguinity to his or her father, mother, brother, sister, son or daughter. A person is related in the first degree by affinity to his or her father-in-law, mother-in-law, brother's spouse, sister's spouse, son-in-law or daughter-in-law.

**Sec. 2-152. Declaration of article policy.**

- (a) It is hereby declared to be the policy of the City that the proper operation of democratic government requires that:
- (1) public officials and employees be independent, impartial and responsible only to the people of the City;



(2) governmental decisions and policy be made in the proper channels of the governmental structure;

(3) no officer, employee or member of any board, commission or committee have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest;

(4) public office and public employment are positions of public trust imposing the duty of a fiduciary upon all employees and office holders, who are not to use their public position for personal gain; and

(5) the public have confidence in the integrity of its government.

(b) To implement such a policy, the City council deems it advisable to enact this Code of Ethics for all officers, employees and advisory board members, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the City's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

(c) This Code of Ethics is cumulative of other ordinances, City charter provisions and state statutes defining and prohibiting conflict of interest.

**Sec. 2-453. Penalties for violation of article; forfeited position; exemptions; injunctions.**

(a) Except where otherwise provided by state law, it is not the intent of this article that violations of this article be subject to criminal penalties.

(b) The City council shall investigate an allegation that any City officer or advisory board member has violated any provision of this article. The City manager shall investigate an allegation that an employee has violated any provision of this article. The City council or the City manager, as the case may be, shall send written notice to the individual being investigated, advising the individual of the alleged violation of this article.

(c) Whenever the City council has determined that any City officer or advisory board member has violated any provision of this article, or whenever the City manager has determined that any employee has violated any provision of this article, the City council or the City manager, as the case may be, may sanction or discipline such officer, advisory board member, or employee. Such sanction or discipline may include forfeiture of the individual's office or position. The City council or the City manager, as the case may be, shall send written notice to the individual of the determination and any disciplinary action taken. Nothing in this ordinance shall be construed to prohibit such officer, employee or advisory board

member from being re-elected, reappointed or otherwise rehired to any position forfeited under the provisions of this article.

(d) The City council or City manager may exempt from the provisions of this article any conduct found to constitute a violation by an officer, employee or advisory board member if it finds that the enforcement of this article with respect to such conduct is not in the public interest.

(e) Any contract or transaction which was the subject of an official act or action of the City in which there is an interest prohibited by this article, or which involved the violation of a provision of this article, shall be voidable at the option of the City council or City manager.

(f) At the discretion of the City council or City manager, the City attorney shall have the power, where a violation of the provisions of this article is threatened or has occurred, to bring a civil action or proceeding, at law or in equity, for a judgment enjoining any violation of the provisions of this article or requiring the relinquishment of any prohibited interest or the voiding of any such contract or transaction, taking into account the interests of the City and any third persons who may be injured thereby. Where the City council or City manager determines that the public interest may best be served by not voiding a contract or transaction entered into in violation of this article, such contract or transaction may be enforced and an action or proceeding may be brought against any officer, employee or advisory board member found in violation of provisions of this article for damages, not to exceed twice the damages suffered by the City or twice the profit or gain realized by the officer, employee or advisory board member, whichever is greater.

#### **Sec. 2-454. Standards of conduct.**

(a) No City officer, employee or advisory board member, or their spouses, shall knowingly:

(1) Accept or solicit any gift, favor, service or thing of value, including a promise of future employment, from any person, group or business entity that might reasonably tend to influence him in the discharge of his or her official duties. This prohibition shall not apply to:

- a. An occasional unsolicited non-pecuniary gift, insignificant in value;  
or
- b. An award publicly presented in recognition of public service; or
- c. Any gift which would have been offered or given to him if he were not a City officer, employee or advisory board member, or their spouses.

(2) Grant in the discharge of his or her official duties any improper favor, service or thing of value to any person, group or business entity;

(3) Disclose any confidential information gained by reason of the position of the officer, employee or advisory board member concerning the property, operations, policies or affairs of the City, or use such confidential information to advance any personal interest, financial or otherwise, of such officer, employee or advisory board member, or others. This subsection shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this article.

(4) Use one's position or office of employment or City facilities, personnel, equipment or supplies to secure special privileges or exemptions for oneself or others or for the private gain of the City officer, employee, advisory board member or spouse.

(5) Engage in any exchange, purchase or sale of property, goods or services with the City, except:

(a) Rendering services to the City as an officer, employee or advisory board member;

(b) Paying taxes, fines, utility service or filing fees;

(c) Advisory board members who are not otherwise officers or employees of the City may engage in any exchange, purchase or sale of property, goods or services with the City, or enter into a contract with the City, provided that the board on which they are a member has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage.

(6) Hold himself or herself out as representing the City in any capacity other than that for which he or she was appointed, elected or hired.

(7) Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independent judgment in the performance of his or her official duties.

(8) Make or permit the unauthorized use of City owned vehicles, equipment, materials or property.

(9) Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(10) After termination of service or employment with the City, appear before any board or commission of the City in relation to any case, proceeding or application in which he or she personally participated or which was under his or her active consideration, during the period of his or

her service or employment.

(11) Transact any business in his or her official capacity with the City with a business entity in which he or she has a substantial interest.

(12) Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the City or that reflects discredit upon the government of the City.

(13) Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of City ordinances, rules or regulations or the achievement of official City programs.

(b) No member of the City council, salaried City officer or City employee shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before the City council or any department, agency, board or commission of the City;

(2) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board or commission thereof is a party; or

(3) In any action or proceeding in the municipal courts of the City which was instituted by a City officer or employee in the course of his or her official duties, or a criminal proceeding in which any City officer or employee is a material witness for the prosecution.

(c) No member of a City board or commission shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before the City council or the board or commission of which he or she is a member;

(2) Before a board or commission which has appellate jurisdiction over the board or commission of which he or she is a member;

(3) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board or commission thereof is a party; or

(4) In any action or proceeding in the municipal courts of the City which was instituted by a City officer or employee in the course of his or her official duties, or a criminal proceeding in which any City officer or employee is a material witness for the prosecution.

(d) The restrictions in this section do not prohibit the following:

(1) A City employee or member of a City board or commission (other than City council), or his or her spouse, appearing before the City council or a City department, agency, board or commission to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall appear before the board or commission of which he or she is a member; or

(2) A City employee or officer of an employee organization appearing before the City council or a City department, agency, board or commission to address employment matters.

(e) The restrictions in this section do not apply to business associates of officers, employees or advisory board members, but only personally to the officers, employees and advisory board members themselves.

#### **Sec. 2-455. Disclosure of interest.**

(a) if any City officer, employee or advisory board member has a substantial interest in a business entity or real property involved in any decision pending before such officer, employee, or advisory board member, or the body of which he or she is a member, such officer, employee, or advisory board member shall disclose such interest as provided in subsection (c) of this section and shall not, except as provided in subsection (b) of this section, discuss the substance of the matter at any time with any other member of the board of which he is a member or any other body which will vote on or otherwise participate in the consideration of the matter, and shall leave the room or chambers where the discussion or consideration of the matter is occurring.

(b) If any of the following interests are involved in any decision pending before any City officer, employee, or advisory board member, or the body of which he or she is a member, such officer, employee, or advisory board member must disclose such interest as provided in subsection (c) of this section, but he or she shall be permitted to vote on and participate in the consideration of such matter:

(1) A decision concerning a bank or other financial institution from which the officer, employee, or advisory board member has a home mortgage, automobile loan, or other installment loan, if the loan is not currently in default, was originally for a term of more than two years and cannot be accelerated except for failure to make payments according to the terms thereof;

(2) A decision concerning a bank or other financial institution in which the officer, employee, or advisory board member holds a savings account, checking account or certificate of deposit and which is fully insured by the U.S. government or an agency thereof

(3) A decision concerning a business entity with which the officer, employee, or advisory board member has a retail or credit card account;

- (4) A decision concerning the approval of substitution of collateral by a City depository bank; and
  - (5) A decision concerning real property in which the officer, employee or advisory board member has a substantial interest if it is not reasonably foreseeable that such decision would have a special economic effect on the value of the property, distinguishable from the effect on the public (see Section 171.004, Texas Local Government Code).
- (c) A City officer, employee or advisory board member shall disclose the existence of any substantial interest in a business entity or real property involved in any decision pending before such officer, employee or advisory board member, or the body of which he or she is a member.
- (1) To comply with this subsection, a City officer or advisory board member, prior to any discussion or determination of the matter, shall either:
    - a. file an affidavit of disclosure as required by Section 171.004 of the Texas Local Government Code or, if not so required,
    - b. publicly disclose in the official records of the body or of the City secretary the nature of the interest.
  - (2) To comply with this subsection, a City employee shall notify his or her superior in writing of the nature of any substantial interest he or she may have in a business entity or real property which would be affected by an exercise of discretionary authority by the City employee and such superior shall assign the matter to another employee.

Sec. 2~56. Enforcement of article.

- (a) The City council shall have the responsibility for the enforcement of this article as it applies to a City officer or advisory board member. The City manager shall have the responsibility for the enforcement of this article as it applies to a City employee.
- (1) The City council or City manager, as appropriate, may investigate any alleged violation of this article and may take such disciplinary action as deemed appropriate.
  - (2) At the direction of the City council or City manager, the City attorney shall have the power to investigate any complaint, to initiate any suit, and to prosecute any action on behalf of the City where such action is appropriate.
- (b) Any person who believes that a violation of any portion of the article has

occurred may file a complaint with the City council or City manager, who may then proceed as provided in subsection (a), above. However, nothing in this article shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

(c) The penalties and enforcement provisions of this article shall not be applied to permit a City council member from being removed from office without compliance with the procedures for recall or removal of council members as provided in the City charter.

(d) In the event the City council determines that any advisory board or committee member has violated this article, the City council may impose a sanction or penalty as provided for herein, including forfeiture or removal from his or her office or position, provided that such removal is in compliance with the provisions of Chapter 2 of the City Code of the City of Haltom City.

#### **Sec. 2-457. Distribution of copies of article.**

The City secretary shall cause a copy of this Code of Ethics to be distributed to every officer, employee and advisory board member of the City within thirty days after enactment of this article. Each officer, employee and advisory board member thereafter elected, hired or appointed shall be furnished a copy before entering upon the duties of his or her office or employment. Each officer, employee, and advisory board member shall sign a written statement acknowledging receipt of the copy of the Code of Ethics.

### **SECTION 2.**

This ordinance shall be cumulative of all provisions of ordinances of the City of Haltom City, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

### **SECTION 3.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION 4.**

The City Secretary of the City of Haltom City is hereby authorized to publish this

ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

#### **SECTION 5.**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING ON THIS 26<sup>th</sup> DAY OF FEBRUARY, 2001.

PASSED AND APPROVED ON SECOND READING ON THIS 12<sup>TH</sup> DAY OF MARCH, 2001.



**RESOLUTION NO. R-2002-036-03**

**A RESOLUTION OF THE CITY OF HALTOM CITY, TEXAS,  
GRANTING AUTHORITY TO THE CITY MANAGER IN  
ACCORDANCE WITH SECTION 271.114 OF THE LOCAL  
GOVERNMENT CODE TO SELECT THE METHOD OF  
AWARDING FACILITY CONSTRUCTION CONTRACTS IN  
ACCORDANCE WITH SECTION 271.113 OF THE LOCAL  
GOVERNMENT CODE; AND PROVIDING AN EFFECTIVE DATE:**

**WHEREAS**, the City Council has an ongoing goal of seeking the best value for the expenditure of City monies;

**WHEREAS**, the 77<sup>th</sup> legislature has passed legislation contained in Chapter 271, of the Local Government Code, (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments) which provides for alternate delivery methods, other than traditional competitive bidding, for contracts for construction of certain facilities (as defined in Chapter 271);

**WHEREAS**, in order to consider construction contracts using such an alternate delivery method, the City Council, or its designee, must before advertising, determine which alternate method provides the best value for the City; and

**WHEREAS**, the City Council desires to delegate its authority to the City Manager to determine which alternate delivery method provides the best value for the City for such construction contracts.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS, THAT:**

**SECTION 1.**

That, in accordance with section 271.114 of the Local Government Code, the City Council hereby delegates to the City Manager the authority to determine which alternate delivery method for a contract for construction of a facility provides the best value for the City, in accordance with section 271.113 of the Local Government Code, in order to achieve the best value in the expenditure of City funds.

**SECTION 2.**

That this resolution shall be effective immediately from and after its passage.

**PASSED AND APPROVED ON THIS 28th DAY OF October, 2002.**

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Calvin White, Mayor

ATTEST:

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Brenda Staab, City Secretary