

CITY OF SAN MARCOS



PURCHASING POLICY

(Conformed to include Amendments through 08.20.2021)

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CHAPTER 1. INTRODUCTION

This policy establishes and describes the basic procurement policies under which the City of San Marcos (the “City”) operates. This policy is effective immediately upon issuance, and supersedes all previous purchasing policy instructions or directives.

The Purchasing & Contracting Division (a division of the Finance Department) functions as the City’s agent for buying, contracting, the acquisition and disposal of goods, the procurement of services and construction.

CHAPTER 2. PURCHASING & CONTRACTING DIVISION POLICY STATEMENT

As the chief executive officer for the City, the City Manager is responsible for the administrative affairs of the City. The City Manager has delegated purchasing responsibility within the guidelines established in this policy to the Purchasing Manager. The Purchasing Manager is authorized to perform all purchasing related functions on behalf of the City within these policies. For purchasing related functions utilizing Federal funds, the City will comply with Section 2 CFR200.318(a) through 200.326 of the Code of Federal Regulations. In the event of a conflict between this policy and the corresponding guidelines, the City Manager will issue a decision on the resolution of the conflict as necessary for the effective operation of the Purchasing & Contracting Division. Should a conflict arise between federal, state, and local laws regarding procurement, the more restrictive law will apply.

CHAPTER 3. CONTRACTING AUTHORITY {rev amendment 6 22October2018}

The City Manager delegates concurrent signature authority to execute, renew and/or amend contracts on behalf of the City are as follows:

\$0 to \$2,999.99	Department Director
\$3,000 to \$49,999.99	Purchasing Manager (or in the absence of the Purchasing Manager, the Finance Director)
Over \$50,000	City Manager or authorized designee

The City Manager designates the Purchasing Manager with authority to issue termination letters for convenience upon the written approval of the Department Director or the City Attorney. {rev amendment 5 25June2018}

CHAPTER 4. CONTRACT MANAGEMENT {rev amendment 11 20August2021}

A. GENERAL

The Purchasing & Contracting Division (“P&C”) is responsible for assisting Departments with the administration/management of all City contracts. This includes those that may not require a procurement process but will involve invoicing or payment by the City such as developer participation agreements, land acquisitions and non-purchasing interlocal agreements. P&C will enter all contracts into Tyler-Munis which is the repository for contract documents. Additionally, P&C will maintain the official digital files to include procurement records, City Council actions, award and post award documentation to include change orders, authorization of change in services (“ACIS”), and final payment requests. P&C will review for contract compliance and seek Legal Department’s guidance as needed.

B. VENDOR PERFORMANCE EVALUATION

City Project Managers/Representatives will review vendor performance to ensure the vendor is performing in accordance with the contract requirements and terms and conditions. For contracts utilizing Federal funds, vendor-oversight will comply with 2 CFR 200.318 (b). The City Manager or designee is responsible for the settlement of all contractual and administrative issues arising out of procurements. The Purchasing & Contracting Division will maintain oversight of Vendor performance.

Construction Contractors: City Project Manager/Representative will complete a “Contractor Performance Evaluation Form” to be submitted to P&C with the final payment. Resulting evaluations will be used to help determine vendor responsibility and experience on bid responses to new solicitations.

Consultants (Engineer/Architect): City Project Manager/Representative will complete a “Consultant Performance Evaluation Form” to be submitted to P&C with the final payment. Performance evaluation scores will be used when evaluating consultant’s statement of qualifications in response to Request for Qualifications (“RFQ”). Overall quality of design services, performance of services, and cooperation with the City and the Contractor will be considered in the evaluation.

C. CONTRACTS REQUIRING COUNCIL APPROVAL

For all contracts that require approval by City Council, P&C will obtain and maintain in the contract files, the following required documents: 1) Certificate of Interested Parties Form 1295, 2) non-disclosure statements for any employee or participant involved in the creation of specifications, evaluation of a bid/proposal or award of a contract; 3) HB89 Certificate if over \$100,000, and any subsequently required documentation.

CHAPTER 5. PURCHASE CATEGORIES AND TYPES {rev amendment 11 20August2021}

The City’s purchasing categories and primary purchase types are outlined below. San Marcos City Charter, Section 8.17 provides that "Before the City makes any purchase or contract for supplies, material, equipment, or contractual service, opportunity shall be given for competition" in accordance with the Purchasing Policy and City Charter. City employees will make every reasonable effort to engage in procedures which produce the highest level of competition in procuring goods and services on behalf of the City. Purchasing and Contracting Division (“P&C”) will document methods of competition.

All purchases utilizing Federal funds will comply with 2 CFR 200.318(b) and 2 CFR 200.323 – 324, and 2 CFR 200.326. A cost or price reasonableness analysis must be performed in connection with every procurement transaction utilizing Housing and Urban Development (“HUD”) federal funds including contract modifications, in accordance with 2CFR 200.323. For purchases utilizing Housing and Urban Development (“HUD”) or other Federal aid or reimbursement, competitive quotes are recommended. For construction projects it is recommended that the general contractor make a good faith effort to utilize Historically Underutilized Businesses (“HUB”) or Disadvantaged Business Enterprise (“DBE”) subcontractors or suppliers. Purchasing requirements associated with other state and federal funding sources such as TxDOT, FHWA, and TWDB may be required for contract compliance. It is the responsibility of the contracting department to investigate and provide such requirements to P&C.

A. GOODS AND OTHER SERVICES

PURCHASES LESS THAN \$3,000

Department Directors may exercise discretion regarding the procurement of goods or services, when the

estimated expenditure is less than \$3,000. Competitive quotations or formal bidding are not required, but competition is recommended.

Cooperative Purchasing Programs: Goods and services may be obtained from approved Interlocal Agreements (“ILA”) and approved Purchasing Cooperative vendors. P&C will assist in the identification and selection of vendors, as needed.

Purchase Order: These purchases will be accomplished by means of a Purchase Order (“PO”) approved by the Purchasing & Contracting Division (“P&C”). Departments will enter a requisition in Tyler Munis and include any written quotes received, although not required. The Cooperative vendor quote must include the cooperative contract number. P&C will review the requisition for completeness and compliance with Purchasing Policy before converting (or approving) it to a Purchase Order. The Department requisitioner will be notified in Munis at which time the PO may be issued to the vendor.

P-Card: Purchase may be made through the use of the City P-Card as appropriate and as per Chapter 23, Purchase Card Policy and Procedures.

PURCHASES MORE THAN \$3,000 BUT LESS THAN \$15,000

Informal Quotes: Departments are responsible for obtaining a minimum of three written (email is acceptable) informal quotes for goods or services within this purchase range with exceptions as authorized by this policy manual. Per Local Government Code, 252.0215, opportunity will be given to Historically Underutilized Businesses (“HUBs”) in Hays County. (Notify Purchasing & Contracting Division if the purchase is considered to be exempt per Chapter 7, General Exemptions.)

Cooperative Purchasing Programs: Goods and services may be obtained from approved Interlocal Agreements (“ILA”) and approved Purchasing Cooperative vendors. P&C will assist in the identification and selection of vendors, as needed.

Purchase Order: The Purchasing & Contracting Division will assist with reviewing the scope or specifications in advance of the solicitation, as well as providing a list of HUBs. Departments will enter a requisition in Tyler Munis and include the written scope of work, written communications or evidence of requesting quotes, all written quotes received (including any “no bids”). The Cooperative vendor quote must include the cooperative contract number. P&C will review the requisition for completeness and compliance with Purchasing Policy before converting (or approving) it to a Purchase Order. The Department requisitioner will be notified in Munis at which time the PO may be issued to the vendor.

PURCHASES MORE THAN \$15,000 BUT LESS THAN \$50,000

Cooperative Purchasing Programs: Goods and services may be obtained from approved Interlocal Agreements (“ILA”) and approved Purchasing Cooperative vendors. P&C will assist in the identification and selection of vendors, as needed.

Purchase Order: Only for goods and services procured through an ILA or Purchasing Cooperative vendor, the Departments will enter a requisition in Tyler Munis and include the written scope of work, written communications or evidence of requesting quotes, and the Cooperative vendor’s quote with the cooperative contract number. P&C will review the requisition for completeness and compliance with Purchasing Policy before converting (or approving) it to a Purchase Order. The Department requisitioner will be notified in Munis at which time the PO may be issued to the vendor.

Request for Bids/Quotes: Departments will contact P&C with a procurement need within this expenditure range. P&C will coordinate with the Department in the development of the solicitation documents and advertise in multiple outlets for three weeks but no less than two. Opportunity will be given to HUBs in Hays County, as required, and the solicitation will be posted on the City's On-Line Bidding System "EProcurement." The Purchasing & Contracting Division will also post all tabulations and award information on EProcurement. It is the Department's responsibility to evaluate the bids/quotes and submit all evaluation documentation to P&C for contract award.

Contract Award/Execution: Purchasing & Contracting Division will facilitate contract award/execution and enter the Contract in Tyler Munis including all supporting bid documents. P&C will provide a copy of the executed contract to the Project Manager and to the Contractor.

The City Manager may waive the Request for Quote requirement for non-exempt procurements that are not purchases utilizing Federal funds. This will be documented by a memo through the Purchasing Division and signed by the City Manager. {rev amendment 2 26September2017}

PURCHASES MORE THAN \$50,000

The Texas Local Government Code requires either competitive bidding or competitive Requests for Proposals ("RFP") for city purchases exceeding \$50,000.00 with few exceptions. City employees are prohibited from making "separate, sequential, or component purchases to avoid the competitive bidding requirements". A violation of these prohibitions is a Class B misdemeanor (\$1,000 fine and/or 180 days in jail), and conviction results in immediate removal from office or employment and ineligibility for other public office or employment for four years after the date of conviction.

City Council approval is required for the purchase of goods and services of over \$50,000.00.

B. PERSONAL/ PROFESSIONAL /PLANNING SERVICES

Per Local Government Code 252.022(4), personal, professional and planning services are exempt from competitive sealed bidding procedures.

Personal Services – Services provided by an individual contracted to perform such services where compensation is mainly to pay the individual for providing the service.

Professional Services – Services which involve mental or intellectual skills, requiring special knowledge or attainment and a high order of learning, skill, and intelligence usually accompanied by formal certification or licensing by a state agency, such as accounting, architecture, land surveying, engineering, medicine, and real estate appraisal services.

Planning Services – Services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the city.

Section 2254 of the Texas Government Code prohibits the purchase of professional services using competitive bidding requirements. Through a Qualifications-Based Selection ("QBS") process, professional services are selected through a Request for Proposal ("RFP") or Request for Qualifications ("RFQ") method which are evaluated and scored on the basis of demonstrated competence and qualifications, and then on negotiated fair and reasonable pricing, rather than on a "low bid" basis.

Both pricing and qualifications may be considered for professional or consulting services EXCEPT for the services of an Architect, Engineer, or Surveyor.

PURCHASES LESS THAN \$50,000

Purchasing & Contracting Division will assist Departments in developing and executing the contract using the City's standard contract templates approved by the Legal Department. The Department must provide a written justification for the selection of the professional service provider based on most qualified to provide the services. Contract templates will be available to Departments through the Intranet or may be provided by P&C. Assistance or direction from the Legal Department will be obtained as needed.

PURCHASES MORE THAN \$50,000

Request for Proposal/Request for Qualifications: Purchasing & Contracting Division will assist Departments by facilitating and overseeing the QBS process for selection of personal/professional services using the City's established procedures. Personal and Planning Services are typically procured utilizing the RFP selection process where Professional Services will be procured using the RFQ selection process.

Purchasing & Contracting Division will develop the solicitation documents, advertise in the local newspaper, if required, and publicize in multiple outlets for least four weeks. Opportunity will be given to HUBs in Hays County, as required, and the solicitation will be posted on the City's On-Line Bidding System "EProcurement." The Purchasing & Contracting Division will also post proposal acknowledgement tabulation and award information on EProcurement. The solicitation calendar will be approved by the Department Director or Department representative prior to issuance of the RFP/RFQ.

Note: Departments are encouraged to use the RFP/RFQ process, but it is not mandatory. If the RFP/RFQ solicitation process is not used, the Department must obtain approval from the City Manager and City Council. The Agenda Request Form ("ARF") must include a detailed explanation of the need to be exempt from a solicitation process including the Certificate of Exemption form, and the ARF will include a written justification for the selection of the professional service provider based on most qualified to provide the services per Government Code 2254.

P&C will assist Departments in developing and executing the contract using the standard contract templates approved by the Legal Department. Contract templates will be available to Departments through the Intranet or from P&C. Assistance or direction from the Legal Department will be obtained as needed. When utilizing "HUD" or other Federal aid or reimbursement the contract must be lump sum, not-to-exceed, cost plus fixed fee, or unit price not-to-exceed. Contracting mechanisms which reduce risk on the side of the grantee and set caps on the consultant/contractor is required.

Council Approval: Contract award must be approved by City Council. Purchasing and Contracting will coordinate with the Department before initiating the Agenda Request Form ("ARF") in Legistar for internal approvals and placement on City Council Agenda. The exception to P&C initiating the ARF is capital improvement projects managed by CIP/Engineering.

The Qualifications-Based Selection ("QBS") for selecting Architects/Engineers/Surveyors is as follows:

1. Pursuant to Government Code 2254, in procuring architectural, engineering, or surveying services a two-step process will be followed. The first step involves the initial selection of the most highly qualified provider of the services based on demonstrated competence and qualifications (and not considering price); and
2. The second step involves negotiation of a fee with the selected provider at a fair and reasonable price.

3. If a contract cannot be successfully negotiated with the most highly qualified provider of services, then the contract negotiations will be formally ended and negotiations with the second most qualified provider may be undertaken, and so forth. It is important to keep in mind that price may not be considered in the initial selection of an engineer, architect, or surveyor.

Professional Engineer/Architect is required pursuant Section 1001.407 of the Texas Occupations Code for public works construction projects as follows:

1. An architect is required for new building construction for education, assembly, or office occupancy where construction costs will exceed \$100,000.
2. An architect is required for any alteration or addition to a City building for education, assembly, or office occupancy where the construction cost will exceed \$50,000, and the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit(s) is involved.
3. Some construction projects require an architect and an engineer, such as new building construction involving electrical, air conditioning, heating, or plumbing installations.
4. If the contemplated construction costs exceed \$8,000 and involves any electrical or mechanical engineering, plans and specifications will be prepared by a registered professional engineer licensed in the State of Texas.
5. If the contemplated construction costs exceed \$20,000 and does not involve any electrical or mechanical engineering, plans and specifications will be prepared by a registered professional engineer licensed in the State of Texas.

Contract Amendments: All contract amendments will be approved by the City Council if the contract was originally approved by the City Council. Amendments not originally approved by the City Council and not involving the expenditure of additional money in excess of \$50,000 may be approved by the City Manager.

Authorization of Change in Services (“ACIS”): The ACIS form is used to amend professional services, personal services, or high technology agreements, etc., in order to change the time of completion, the scope of work, to add planned services or phases, or to add funds to the overall contract amount contained in an Engineering or Architectural Master Agreement.

1. **Approval:** Consultants will receive written approval from the City prior to initiating any additional work. Pursuant to City Code 2.566, additional services for which compensation exceeds \$50,000 will be approved by the City Council. All changes in services for which compensation is less than \$50,000 will be administratively approved by the City Manager or designee. In the event that an ACIS causes the agreement to increase in excess of the \$50,000 threshold, the change will be ratified by the City Council.
2. **Master Agreements:** Engineering and Architecture agreements are designed in phases so that the scope can be properly defined as additional information is uncovered through analysis at each phase. An ACIS for professional engineering and architectural services is used to control the phases and budget to the overall Master Agreement by authorizing the next or additional planned phases of the engineering or architectural process.

For each significant phase of engineering services, the City Staff Project Manager/Engineer will evaluate it for compliance with overall scope and will negotiate proposed hours and fee, as required, before completing an ACIS form.

1. Additional Requirements for Federal Funding: An ACIS to an agreement, including Engineering and Architecture, which is federally funded will comply with 2 CFR 200.318 through 2 CFR 200.326. A cost or price reasonableness analysis must be performed in connection with the transaction.
2. Review Process: The City Project Manager/Engineer will submit the ACIS for Engineering and Architectural agreements, the Request for Signature Cover Memo, and the Cost Reasonableness memo (if federally funded) to the Director of Engineering for review and approval before forwarding it to the Purchasing Manager. All ACIS items will be reviewed by the Purchasing Manager for contract compliance. ACIS items being funded with CDBG-DR federal funds will be reviewed by the Director of Finance. Final approvals by City Council or City Manager or designee will follow the policy established in Part c) 1) above.

C. CONSTRUCTION CONTRACTS

Purchasing & Contracting Division will assist Departments by soliciting construction services and in developing and executing construction contracts using the City's standard contract templates approved by the Legal Department. Assistance or direction from the Legal Department will be obtained as needed. When utilizing HUD funds, cost plus percent of construction and cost-plus percent of cost are prohibited. Construction contracts should be fixed price with lump sum or unit price.

1. Prevailing Wage Rates and Insurance: Construction projects require prevailing wage rates, comprehensive liability, worker's compensation, and auto liability insurance. Prevailing wage rates will be either Building or High/Heavy, dependent upon the type of construction.
2. Public Work Requirement: State law (Section 1001.407 of the Texas Occupations Code) provides that, in general, any public work project which impact the public health, safety, and welfare must be designed and overseen by a registered professional engineer or architect, who can be either a City employee (CIP/Engineering Department) or a third-party contracted consultant. Technical specifications and plans are developed by an architect or engineer, as required.
3. Change Orders: After a construction contract is awarded, if changes are necessary in the scope of work, the contract price, or the contract time, the Contractor, the Engineer/Architect of record, or the Project Manager will prepare a change order on a City approved Change Order form. Changes to the work are not effective until all reviews and approvals are made to the Change Order form by signature of all required parties as identified on the Change Order form. Purchasing & Contracting Division will process the Change Order by distributing executed copies to the parties and by revising the contract amount in Tyler Munis, accordingly.

The following limitations pertain to Construction Change Orders per State law and City Ordinance.

- a. Twenty-Five Percent Threshold: The net amount of all Change Orders cannot increase the original contract price by more than 25%. The net amount of all Change Orders cannot decrease the original contract price by more than 25% without the Contractor's consent.
- b. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, subsequent Change Orders may not increase the revised contract amount by more than 25%.
- c. Change Orders Less than \$50,000: Change Orders involving an increase of less than \$50,000 or involving a decrease in funds will be executed by the City Manager or designee.
- d. Change Orders Over \$50,000: Change orders involving an increase of \$50,000 or more will be approved by City Council after review by the Purchasing & Contracting Division, Finance Department, and Legal Department.

- e. Emergency Change Orders: The City Manager has the authority to approve individual Change Orders in amounts not to exceed \$100,000 each in circumstances involving a public calamity, unforeseen damage to public machinery, equipment, or property, or when otherwise necessary to preserve or protect the health or safety of City residents. If the Change Order exceeds \$100,000, the City Council must ratify the Change Order.
4. Payments for Construction: It is the responsibility of the Project Manager, the project engineer/architect, and the project inspector (when required), to ensure that the work is completed in accordance with the contract documents and that the correct payment requisition forms are obtained from the City and are properly completed. After the Department Director and the Purchasing Manager signatures are obtained on final payments, it will be reviewed and signed by the City Attorney.
5. Asbestos Abatement: If the project involves renovation or demolition work on an existing City building, State law requires an asbestos abatement survey to be conducted by an individual licensed to perform these services, and material samples will be collected and submitted for analysis by a State certified laboratory. If asbestos is found, the Project Manager will contact the City's Facilities Manager for additional information regarding asbestos abatement. All demolition projects will be reported to the Texas Department of Health regardless of whether asbestos is present.

CONSTRUCTION LESS THAN \$50,000

Minor construction includes improvements, repairs, renovations, and upgrades to City facilities (building and civil or horizontal work) with an estimated construction cost of less than \$50,000. Minor construction requires prevailing wage rates, comprehensive liability, worker's compensation, and auto liability insurance.

The City's Facilities Manager, Public Works Department will serve as Project Manager for most minor construction projects for City buildings and facility improvements. Engineering Department and Public Works Department will serve as Project Manager responsible for minor construction projects that do not involve City buildings, i.e. street repairs, maintenance, drainage improvements, fencing, etc.

Request for Bids/Quotes: When a Department identifies a need within this expenditure range, Purchasing & Contracting Division will develop the solicitation documents and advertise in multiple outlets for three weeks but no less than two. Opportunity will be given to HUBs in Hays County, as required, and the solicitation will be posted on the City's On-Line Bidding System "EProcurement." The Purchasing & Contracting Division will also post all tabulations and award information on EProcurement. It is the Department's responsibility to evaluate the quotes and submit all evaluation documentation to P&C for contract award.

Cooperative Purchasing: For some scopes of work, bids may be obtained from Cooperative vendors. Purchasing and Contracting will assist in the identification and selection of vendors, as needed, and will develop and execute the contract documents.

A Change Order cannot be executed on a minor construction contract where the increase would cause the contract amount to exceed \$50,000.

CONSTRUCTION MORE THAN \$50,000

Major Construction projects include new construction or major repairs and renovations to City facilities and infrastructure improvements. In addition to insurance and prevailing wage rates, payment and performance bonds are required. A Payment Bond is required for contracts exceeding \$50,000 and a Performance Bond for contracts exceeding \$100,000.

The CIP/Engineering Department manages most of the City's infrastructure projects. Infrastructure projects are also managed by the Utilities and Public Works Departments. For building or facility construction projects, the City Manager will designate a City employee, usually a Department Director, to serve as Project Manager. These projects sometimes involve the acquisition by the City of real property, right-of-way, or easements, which should be completed before the project solicitation is advertised. All construction projects utilizing Federal funds will comply 2 CFR 200.318 (g) and 2 CFR 200.325.

Competitive Sealed Bidding: Purchasing & Contracting Division will develop the solicitation documents and advertise in the local newspaper for two consecutive weeks and in multiple outlets for a minimum of three weeks. Opportunity will be given to HUBs in Hays County, as required, and the solicitation will be posted on the City's On-Line Bidding System "EProcurement." The Purchasing & Contracting Division will also post all tabulations and award information on EProcurement. It is the Department's responsibility to evaluate the bids and submit all evaluation documentation to P&C for contract award.

Competitive Sealed Proposals ("CSP"): Per Texas Government Code 2269, a project may be solicited utilizing the CSP method. This method of solicitation and selection is a similar process to the RFP evaluation and selection process described above and includes 100% complete plans and specifications. Purchasing & Contracting Division will develop the solicitation documents and advertise in the local newspaper for two consecutive weeks and in multiple outlets for a minimum of three weeks. Opportunity will be given to HUBs in Hays County, as required, and the solicitation will be posted on the City's On-Line Bidding System "EProcurement." The Purchasing & Contracting Division will also post all tabulations and award information on EProcurement. The solicitation calendar will be approved by the Department Director or Department representative prior to issuance of the CSP. Purchasing & Contracting Division will assist Departments by facilitating and overseeing the CSP process for selection of construction services using the City's established procedures.

Cooperative Purchasing: For very limited scopes, bids may be obtained from Cooperative vendors. Purchasing and Contracting will assist in the identification and selection of vendors, as needed, and will develop and execute the contract documents.

Council Approval: Contract award must be approved by City Council. Purchasing and Contracting will coordinate with the Department before initiating the Agenda Request Form ("ARF") in Legistar for internal approvals and placement on City Council Agenda. The exception to P&C initiating the ARF is capital improvement projects managed by CIP/Engineering.

Elimination of Architectural Barriers: If the project involves construction or renovation of a building with an estimated construction cost of \$50,000 or more, the City's project engineer/architect is required to submit all plans and specifications for the construction or renovation to the Texas Department of Licensing and Regulation for review and approval.

D. HIGH TECHNOLOGY PURCHASES

Purchasing & Contracting Division will assist Departments by soliciting for high technology purchases and in developing and executing contracts using the City's standard contract templates approved by the Legal Department. Contract templates will be available to Departments through the Intranet or may be provided by P&C. Assistance or direction from the Legal Department will be obtained as needed. High Technology purchases and contracting will be reviewed and approved by the Information Technology Department and will follow the City's IT Policy.

PURCHASES LESS THAN \$50,000

Request for Proposal Process: High technology purchases may be made using a Request for Proposal ("RFP") process where the anticipated expense is in less than \$50,000. The Texas Local Government Code

requires that the relative importance of price and other evaluation factors be specified in the RFP. The RFP process will adhere to the general practices of the Qualifications-Based Selection (“QBS”) process but will include relevant pricing. RFPs will be reviewed and approved by the Department Director or representative, and the Information Technology Director, and the Legal Department, prior to issuing the solicitation for advertisement.

Cooperative Purchasing or State Contract: Technology hardware and software may be purchased through a Cooperative vendor or from the State Department of Information Resources (“DIR”) contract.

Purchase Order One-Time Purchase: Technology hardware and software that is a one-time purchase (no additional subscription or renewal fee) may be initiated by Purchase Order. Refer to Chapter 17, Purchase Order Policy for more direction.

PURCHASES MORE THAN \$50,000

Request for Proposal Process: High technology purchases will be made using a Request for Proposal (“RFP”) process where the anticipated expense is in excess of \$50,000. The Texas Local Government Code requires that the relative importance of price and other evaluation factors be specified in the RFP. The RFP process will adhere to the general practices of the Qualifications-Based Selection (“QBS”) process but will include relevant importance on pricing. RFPs will be reviewed and approved by the Department Director or representative, the Information Technology Director, and the Legal Department, prior to issuing the solicitation for advertisement.

Cooperative Purchasing or State Contract: Technology hardware and software may be procured through a Cooperative vendor or from the State Department of Information Resources (“DIR”) contract.

Council Approval: Contract award must be approved by City Council. Purchasing and Contracting Division will coordinate with the Department before initiating the Agenda Request Form (“ARF”) in Legistar for internal approvals and placement on City Council Agenda.

E. ART/ARTISTS CONTRACTS WAIVER{rev amendment 11 20August2021}

The Texas Local Government Code allows for the exemption of bidding or competitive proposals for personal services, including the provision of individual artists.

The City will be procuring the personal services of different individual artists for the design and creation of art installations around the City. This waiver will only apply to art and/or artists selected by the San Marcos Arts Commission which already meet the exemption under 252.022(a)(4) of the Texas Local Government Code.

Under the authority granted under 2.566(b) of the San Marcos City Ordinances, this waiver is approved and the project/purchase is exempt from the requirements described under the City’s Purchasing Policy. The project/purchase of art/artists contracts is still bound by all applicable State and Local laws.

F. SEPARATE, SEQUENTIAL, OR COMPONENT PURCHASES

Texas Local Government Code, 252.062(a) prohibits employees from making "separate, sequential, or component purchases to avoid the competitive bidding requirements". Separate, sequential, or component purchasing means purchases made over a period, or made separately, when they would in normal purchasing practices be made in one purchase.

A violation of these prohibitions is a Class B misdemeanor (\$1,000 fine and/or 180 days in jail), and conviction results in immediate removal from office or employment and ineligibility for other public office or employment for four years after the date of conviction.

CHAPTER 6. GENERAL EXEMPTIONS {rev amendment 11 20August2021}

Chapter 252.022, General Exemptions, Local Government Code, requires that municipalities comply with competitive sealed bids or proposals procedures with few exceptions.

The most commonly claimed exemptions which require additional approvals are for emergencies, personal, professional, or planning services, and sole source. (Refer to Chapter 5, Purchase Categories and Types, Section B for information on personal, professional, or planning services.)

General Exemption approvals for Emergencies and Sole Source must be documented on the “Certificate of Exemption” form and attached to the resulting Contract or Purchase Order in order to maintain a proper audit trail. The Certificate of Exemption form will be initiated by the Department originator of the purchase and coordinated with the Purchasing & Contracting Division.

PURCHASES LESS THAN \$50,000

If the anticipated expenditure is less than \$50,000, the Certificate of Exemption will be approved by the Department Director and the Purchasing Manager.

PURCHASES MORE THAN \$50,000

If the anticipated expenditure is more than \$50,000, the Certificate of Exemption will be approved by the Department Director, the Finance Director, and City Manager before seeking City Council’s approval. Emergency purchases will be ratified by the City Council due to the necessity for immediate repairs or work. Purchasing and Contracting Division will coordinate with the Department before initiating the Agenda Request Form (“ARF”) in Legistar for internal approvals and placement on City Council Agenda. The ARF will provide detailed information and justification for the general exemption. (Refer to Chapter 5, Purchase Categories and Types, Section B, Personal/Professional/Planning Services, for information on personal, professional, or planning services.)

A. EMERGENCY EXEMPTIONS

Emergency purchases are those procurements necessary due to:

- A public calamity which requires the immediate appropriation of money to relieve the necessity of the municipality’s residents or to preserve the property of the City;
- Need to preserve or protect the public health or safety of the City’s residents; and/or
- Unforeseen damage to public machinery, equipment, or other property.

When a bona fide emergency occurs, the Department should take the necessary action to remedy the emergency while making efforts to obtain the best possible price. As soon as possible, at the onset of the emergency situation, a Certificate of Exemption will be completed and approval routing initiated.

In the instance of a declared emergency, the City will comply with City Ordinance Chapter 26, Civil Emergencies.

Purchasing & Contracting will issue a purchase order number verbally upon request in the event an emergency purchase is necessary. For those occasions when it is not feasible to obtain a verbal emergency purchase order number, the Department will follow-up with a requisition as soon as time permits. The Department will submit a requisition in Tyler-Munis within 48 hours after the issuance of an emergency purchase order number.

An emergency requiring construction must comply with regulations pertaining to insurance, bonds, wage rates, including compliance with federal or grant-related requirements, if any.

B. SOLE SOURCE PURCHASES

Competitive bidding is exempt when the procurement is available from one source which includes:

- Items that are available from one source because of patents, copyrights, secret processes, or natural monopolies;
- Films, manuscripts, or books published and available from only one source;
- Gas, water, and other utility services;
- Captive replacement parts or components for equipment; and
- Books, papers, and other library materials for public library that are available only from the persons holding the exclusive rights to the materials.

A common sole source exists when a product is eligible from one source due to a significant functional difference between the needed product and other similar products on the market, and when the item is available only from one vendor. This occurs with the existence of patents, copyrights, secret processes, or natural monopolies.

Another common sole source exists when one source or product is available meeting the requirements for interface, interchangeability, or replacements parts or components with existing City machinery, equipment, or property.

Some of the questions to ask when considering sole source are:

- Why is the procurement a sole source?
- Why is the vendor the only viable solution?
- Are there other resellers, distributors, or dealers in the market?
- Is the item also available directly from the manufacturer?
- Has this procurement been competitively solicited in the past? How has the City been procuring this item or service previously?
- Are there any other acceptable alternative solutions (e.g. brands)? If not, what makes them unacceptable?
- Is there a concern regarding warranty, compatibility, health and public safety, and/or routine safety?
- Are there territorial or geographic restrictions for the product distribution and sale?
- What other suppliers or products/services were considered?

CHAPTER 7. REVIEW OF EQUIPMENT AND VEHICLE PURCHASES

All rolling capital equipment and vehicle specifications will be reviewed by the Fleet Division Manager prior to bidding or a purchase is approved. The Purchasing & Contracting Division will forward all requests to the Fleet Division for review.

CHAPTER 8. RENTAL AND LEASE EQUIPMENT

All lease agreements for goods or services are accomplished by sealed bids/proposals if the amount of the lease is expected to exceed \$50,000 over the **term** of the lease agreement. A lease of equipment is subject to the requirements for competition that apply to purchases. Rental or lease equipment agreements will be processed on a standard purchase order.

The user department will identify the source of funds to cover payments of lease charges for the entire period of the lease.

CHAPTER 9. INTERGOVERNMENTAL PURCHASES

It is the policy of the City to facilitate joint purchasing arrangements on an inter-governmental basis. The Purchasing Manager will work with other governmental entities to take advantage of the benefits of joint purchasing arrangements. In addition, the Purchasing Manager will utilize various cooperative programs available to the City. All Interlocal agreements require City Council approval prior to utilizing the cooperative program.

CHAPTER 10. CITY COUNCIL AUTHORIZATION

Under Section 2.566 of the City Code, contracts for the purchase of goods and services involving an expenditure in excess of \$50,000 require the approval of the City Council, whether or not the purchase has been obtained through a competitive bidding or RFP procedure. The Purchasing Manager is responsible along with the user department director for timely processing of City Council Agenda Request forms when Council approval is necessary for a purchase.

CHAPTER 11. BUYING LOCALLY

The City encourages purchases from vendors in San Marcos when the needs of the City and the requirements for competition in this policy can be met. State law, however, does not permit purchases to be limited to San Marcos vendors when competition is afforded by out-of-town vendors who can meet the City's delivery and/or service requirements.

For purchases utilizing HUD monies the use of statutorily or administratively imposed state or local geographic preferences in the evaluation of bids/proposals is prohibited.

CHAPTER 12. ETHICS CODE RESTRICTIONS

Because the City is a major purchaser of goods and services in the San Marcos community, and because the City Council encourages service on City boards and commissions by business persons in the community, the process of selecting vendors for goods and services will include a review and determination of compliance with State and local restrictions.

The City Charter and Ethics Ordinance provide that the City cannot make purchases from a vendor where a City Council member, a City employee, or their immediate family would have a financial interest in the sale.

The City adopted ethical criteria for award of City contracts for each procurement process, these are located on the City website, under the Purchasing & Contracting Division section.

All purchases utilizing Federal funds will comply with 2 CFR 200.318 (c),

CHAPTER 13. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB'S)

The City is taking the following actions to assist Historically Underutilized Businesses (HUB's) in doing business with the City.

A. The Purchasing & Contracting Division insures that HUB's are given a fair and equal opportunity to participate in City contracts.

B. The Purchasing & Contracting Division ensures that, before the City makes an expenditure of more than \$3,000 but less than \$50,000, at least two HUB's in Hays County are contacted on a rotating basis, based on information available from the Texas Comptroller of Public Accounts.

It is the City's intent that these actions help in securing further participation from HUB's within the City.

BIDDER'S LIST: The Purchasing & Contracting Division is the single point of contact for businesses requesting to be added to the City's bidder's list (EProcurement is used for all types of procurements.)

All purchases utilizing Federal funds will comply with 2 CFR 200.321 regarding contracting with small and minority businesses, women's business enterprises and labor surplus area firms.

CHAPTER 14. FIXED ASSETS

The City is responsible for keeping records of all of its fixed assets. All new assets which have an original cost of \$5,000 or more and an estimated three year life span are fixed assets and will be added to the fixed assets records. All duties and responsibilities related to fixed assets inventory records are supervised by the Finance Department. Cooperation from department directors and division managers throughout the City is necessary if the system is to work; however, this effort is centrally organized, monitored, and reported by the Finance Department staff.

CHAPTER 15. SURPLUS

All surplus computer hardware and software will be returned to the I.T. Department. For all other surplus goods, contact the Purchasing & Contracting Division for disposal either by on-line auction or City garage sale. The donation of all surplus goods to other entities will be approved by City Council resolution.

The City Manager has the authority to authorize the donation of surplus material to a governmental entity. This will be documented by a memo through the Purchasing Division and signed by the City Manager. {rev amendment 1 21September2017}

CHAPTER 16. RECYCLED PRODUCTS

The Purchasing & Contracting Division encourages all user departments to assist in the purchase of recycled products and to support recycling efforts.

CHAPTER 17. PURCHASE ORDER POLICY{rev amendment 11 20August2021}

The Purchase Order ("PO") is a binding written agreement between the City and a vendor obligating the City to pay for specified goods or services when delivered and acceptable and binds the City and the vendor

to the City Standard Terms and Conditions.

Purchase Orders are generally for supplies, goods, and services when the purchase amount is up to \$50,000 and for purchases made from authorized purchasing Cooperative vendors. For software or services which may be renewed annually, a "Contract" developed by Purchasing & Contracting Division is the appropriate mechanism which includes additional terms, conditions, requirements, and renewal terms and will be entered in Tyler Munis by P&C.

A Purchase Order is required for the purpose of obligating or encumbering funds for those contracts which are established in Tyler Munis as "not-to-exceed,"

POs originate with a requisition entered by the Department, are approved through a designated workflow process, and converted by the Purchasing & Contracting Division only. P&C reviews requisitions and POs daily, and the average timeframe to convert (approve) a Purchase Order is 24-48 hours once received by P&C. Refer to Chapter 5, Purchase Categories and Types for more information.

NO EMPLOYEE SHALL VERBALLY CONSENT TO AN ORDER BEFORE A PURCHASE ORDER OR CONTRACT HAS BEEN EXECUTED.

CHAPTER 18. DEBARMENT

A. SUSPENSION/DEBARMENT

The City of San Marcos may suspend or debar Vendors from the consideration for award of contracts. All purchasing utilizing Federal funds will comply with 2 CRF 200.213. Grounds for suspension/debarment are included, but will not be limited to the following:

1. If the Vendor misrepresents its qualification, experience or provides false information on a bid/proposal/quote response to the City;
2. If the Vendor is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department, State Department or local government;
3. If the Vendor, within a three year period preceding an Agreement, has been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
4. If the Vendor is indicted at the time of submitting a bid/proposal/quote response for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of other similar services or contracts;
5. If the Vendor, within a three year period preceding the bid/proposal/quote due date, had one or more public transactions (Federal, State or local) terminated for cause or default; and
6. If the Vendor violates any Federal, State and local governmental laws, rules and regulations relating to its responsibilities, as set forth in the bid/proposal/quote documents or agreement.

The Vendor may appeal the Purchasing Manager's decision to remove the Vendor from the City's Vendor list by submitting a protest to the City of San Marcos Purchasing & Contracting Division.

The Purchaser & Contracting Division will verify debarment status of all vendors prior to initiating contract award, using the EPLS system (<https://www.SAM.Gov>). {rev amendment 8 18May2020}

B. PROCEDURES FOR DOCUMENTATION

Each fund expense purchase using federal funds or in excess of minimum contract or purchasing price amounts must be able to provide evidence that the debarment status of vendors has been verified before funds have been committed for a purchase or contract to the vendor. For purposes of federal reimbursements and advances a screen print of the SAM.Gov page indicating the vendor is not debarred provides that evidence.

Before funds may be spent, the Purchasing & Contracting Division will:

1. Go to the EPLS Website (<https://www.SAM.Gov>) and search the EPLS system for the vendor.
3. If the vendor is found to be debarred, the vendor may not be used for procurements utilizing Funds.
4. If the vendor is found not be debarred, print the screen page and retain with the procurement documentation.
5. A copy of the screen print indicating the vendor is not debarred, at the time of the procurement, will be included with the supporting documentation submitted.

CHAPTER 19. DEMOLITION/SALVAGE POLICY

The City is a strong proponent of minimizing waste and maximizing the reuse and recycling of building materials (such as windows, doors, lighting fixtures, hardware, flooring, plumbing fixtures and fittings) and to support our citizens to build, remodel and repair their homes, and our community.

The City does not believe that every City-owned structure can or should be saved. Through neglect, time, and damage some structures are no longer structurally sound or economically viable and need to be demolished. The City does believe that materials from these structures should be recycled whenever possible.

Recycled materials reduce landfill waste and allow pieces of old buildings to serve a useful purpose. Many of these components have architectural, historical or design details in these structures and are difficult to reproduce, even at a high cost, and can very safely and easily be removed before demolition.

A. DEFINITIONS

1. Deconstruction: The selective dismantlement of building components, specifically for re-use, recycling, and waste management.
2. Demolition: The act or process of reducing a structure, as defined by State or local code, to a collapsed state.
3. Demolition debris: Materials including building materials and personal effects that are deposited as a result of the demolition process.
4. Salvage: Materials saved that were in danger of damage or destruction.
5. Unsafe structures: A structure found to be dangerous to the life, health or safety of the public because such structure is so damaged or structurally unsafe as a direct result of the declared disaster

that partial or complete collapse is imminent.

B. INSPECTION OF STRUCTURE

The Chief Building Official will inspect the structure to provide determination as to whether the structure can be sold and moved or whether it must be demolished. The City will consider alternative measures to eliminate threats to life, public health, and safety posed by damaged unsafe structures, including fencing off unsafe structures and restricting public access, when evaluating requires for demolition. The following factors relating to the feasibility of selling existing structures on the site will be considered:

1. The level of intactness of the original structure and the quality of extensions and renovations undertaken in the past.
2. The structural integrity and condition of the existing building. This assessment is based on both external condition (including the existence of hazardous materials), and internal condition (including the condition of existing services such as plumbing and electricity).

C. HISTORICAL SIGNIFICANCE: The Development Services Director will determine if the structure has any historical or cultural significance.

D. SALE OF STRUCTURE: If the structure has been approved by the Chief Building Official, the structure will first be sold either through a public auction or through a formal bidding process. If no bids are received, the City will proceed with the demolition/salvage process.

E. DEMOLITION OF STRUCTURE: If the structure is not able to be sold, the City will complete the following:

1. Asbestos Abatement: If the project involves demolition work on an existing City building, state law requires an asbestos abatement survey to be conducted by an individual licensed to perform these services, and material samples will be collected and submitted for analysis by a State certified laboratory. If asbestos is found, the Project Manager will contact the Facilities Manager located in the Community Services Department, Parks and Recreation Division for additional information regarding asbestos abatement. All demotion projects will be reported to the Texas Department of Health regardless of whether asbestos is present.
2. Invitation to Bid (“IFB”): Issue an IFB or Request for Quote (“RFQ”) (depending on the total dollar value of the resulting contract) for the structure through the Purchasing & Contracting Division.

F. SALVAGE MATERIALS: The contractor will donate all salvageable materials to local organizations for disbursement to citizens to meet the City’s mission **OR “G” BASED ON THE SPECIFIC SITUATION.**

G. OWNERSHIP OF MATERIALS: The City has the right to retain ownership of any salvaged material or equipment. The contractor will notify the City prior to the disposal of any salvageable material.

H. HISTORIC STRUCTURES: The City will not issue a contract for the demolition of any building, structure, site or object which is being considered by the Texas Historic Commission for designation as historic or which is located within a district being considered by the Texas Historic Commission for designation as historic where the permit application is filed on or after the date that notices of proposed designation have been mailed. The City may issue a contract if the Texas Historic Commission has not taken final action on designation of a district if more than ninety (90) days have elapsed from the date the permit application was filed with the Texas Historic Commission.

Any building, structure, site or object that is designated at historical and is being considered for demolition

requires approval by City Council for use of funds.

CHAPTER 20. PREPAYMENT/ADVANCE PAYMENTS

{rev amendment 7 28November2018}

As a rule, the City should not pay for goods and services prior to receiving them from the vendor. To do so puts the City of San Marcos at risk of paying for goods/services which may not be delivered or that do not meet the City's specifications or expectations. Additionally, it places liability on the employee who authorized the prepayment.

There are few exceptions to this rule and the following items may be considered and appropriate for prepayment:

- payments to federal, state or other local agencies
- books
- initial purchase or renewal of subscriptions
- initial purchase or renewal of professional memberships
- professional license fees
- registration fees
- lease/rent payment
- maintenance agreements
- software or software renewals
- publications such as pamphlets, brochures, or reprints
- classified advertising
- postage
- exhibit booth fees
- accreditation fees
- exam fees

If a vendor is persistent about prepayment, contact the Purchasing Manager to assist in mitigating the situation.

CHAPTER 21. NON-DISCRIMINATION POLICY {rev amendment 8 18May2020}

Effective May 15, 2020, any bidder or proposer who wants to do business with the City of San Marcos must certify that their business is an Equal Opportunity Employer that does not and will not discriminate in employment and in subcontracts based on race, color, sexual orientation, gender identity, national origin, sex, age, disability or economic condition, and prohibits retaliation, discharge, or discrimination against any employee or applicant for employment or against any subcontractor or supplier. All bidding and contract documents are modified to reflect this requirement.

CHAPTER 22. PROTEST PROCEDURES {rev amendment 8 18May2020}

Effective May 15, 2020, the following protest procedures will be in all bidding and contract documents:

Protest Procedures: The purpose of the protest procedures is to protect the public interest in the purchasing process. This section is intended to give a bidder, proposer, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract the opportunity to protest. The City's objective is to resolve protests as soon as practical.

Any protest or complaint to the City's consideration must be submitted in writing and received by the Purchasing Manager no later than 5:00 PM on the fifth (5th) calendar day after the City notifies the bidder or proposer: 1) that it is deemed non-responsive; 2) that it is deemed not responsible; 3) the name of the apparent winning bidder; or 4) the City's intent to award a contract. If the protest or complaint does not contain the following information, it may be dismissed by the Purchasing Manager:

- Protestor's name, address, telephone number, and email address;
- The solicitation number;
- Identification of the statute or policy that is alleged to have been violated;
- A precise statement of the relevant facts;
- Identification of the issues to be resolved; and
- Supporting documentation.

The protest must be concise and presented logically and factually to help with the City's review and determination as to whether the grounds for the protest are sufficient. The Purchasing Manager will notify the protesting party that the protest has been received and make every effort to resolve the protest before contract award.

If it is determined that the grounds for the protest are insufficient and no violation of a statute or policy has occurred, the Purchasing Manager will provide a written decision to the protesting party setting forth the reasons for the determination.

If, after conferring with the City Attorney's Office, it is decided that the grounds for the protest are sufficient and it is determined that a violation of a statute or policy has occurred, the Purchasing Manager will inform the protesting party by letter setting forth the reasons for the determination and the remedial action that will be taken.

When a protest is filed, the City will not make an award until a decision on the protest is made except, as determined by the City Manager, when a delay would jeopardize urgently needed goods or services, or a delay in making an award will unduly delay delivery or performance of urgently needed services.

CHAPTER 23. PURCHASE CARD POLICY AND PROCEDURES

{rev amendment 9 01March2021}

A. OBJECTIVES: Minimize the City's financial risk while providing an efficient cost-effective method of making small purchases through the following:

- ❖ Implementing policy and procedures for the acceptable use of the procurement card (P-Card) which supports a public purpose and the core values of the City of San Marcos
- ❖ Limiting and monitoring the number of P-Cards in distribution throughout the City by: 1) designating Department P-Card Coordinator to make those infrequent purchases for staff; and 2) encouraging an alternate Employee Travel Card program for infrequent travel expenses
- ❖ Defining roles and responsibilities
- ❖ Providing mandatory and refresher trainings for cardholders
- ❖ Providing procedures for monitoring the Program based on generally acceptable accounting procedures and best practices
- ❖ Implementing controls and disciplinary actions for fraud, misuse, or misappropriation of public funds

B. INTRODUCTION

The City of San Marcos P-Card Program is intended to provide an additional method of purchasing and paying for "informal" (below \$3,000) transactions of goods and services, and in emergencies when authorized by the

City Manager as required below. The P-Card program is not intended to circumvent existing City of San Marcos Purchasing Policy or state and local procurement regulations.

Pursuant to Chapter 17 of the City of San Marcos Purchasing Policy, the primary purchasing document used by the City to secure goods and services is the Purchase Order ("PO"). The PO is a binding written agreement between the City and a vendor obligating the City to pay for specified goods or services when delivered in accordance with the purchase order terms.

The P-Card Program is established through a contract by the State of Texas Comptroller of Public Accounts with a financial institution. The P-Card program is a function of the City's Purchasing and Contracting Division within the Finance Department.

Issuance of a P-Card represents trust in personnel and requires employees to act as responsible fiduciary agents to safeguard and protect the City of San Marcos. Discretion should be adhered to in assigning P-Cards to employees whose position responsibilities do not require purchasing goods and services.

A number of unique controls have been developed for the City's P-Card Program. These controls ensure that the cards will be used only for official operational purchases and within specific dollar limits. The Finance Department, through the P-card Program Administrator (Program Administrator), is responsible for daily auditing functions, assessments, trainings, and overall maintenance of the program.

Prudent, good business judgment must be exercised at all times when making any purchase with public funds. Before making a purchase, the Cardholder should ask, "How will this transaction be perceived by the public we serve?"

C. ROLES / RESPONSIBILITIES

1. Finance Department | Purchasing and Contracting Division:

Develop policies and procedures for the use of P-Cards in compliance with State law. Administer the Purchasing Card Program, to include the following responsibilities:

- Maintain and update P-Card policies and procedures.
- Approve and process applications for the issuance of P-Cards.
- Maintain and monitor a current list of cardholders, card numbers, and card limits.
- Process changes to cardholder limits and restrictions.
- Manage and adjust spending limits as required for emergency purchases.
- Cancel and suspend cards as required by the City's Purchasing and P-Card policies, or as requested by Department Directors and/or City Manager.
- Conduct random audits of P-Card transactions to ensure compliance with State law, City policies, and to ensure the proper use of City funds.
- The Program Administrator will serve as primary contact with the financial institution for the purchasing card program and with Cardholders.
- The Program Administrator will coordinate and conduct training on P-Card usage and transaction processing.

2. Finance Department | Accounting Division:

- Review monthly billing statements from the financial institution and supporting documentation from departments ensuring timely payment of monthly indebtedness.
- Process general ledger interface for monthly P-Card purchases. Coordinate any system updates needed to interface with the City's financial system.
- Review or perform necessary accounting transactions to process all departmental charges and ensure the reconciliation account zeroes out monthly.

3. Department Director or Designee:

Department Directors or Designee are solely responsible for identifying employees whose job duties require frequent routine procurement transactions and for designating approval workflow for transactions. Responsibilities include:

- Review P- Card applications prior to submission.
- Sign the Cardholder Agreement form which indicates a complete understanding of the P-Card Program, accountability, and established guidelines.
- Authorize employee limits and changes including temporary limit increase.
- Monitor purchases made by Cardholders and review receipts for compliance.
- Enforce requirements for timely coding and entering transactions into the City's financial system.
- Review and approve all departmental transactions in the City's financial system workflow in a timely manner.
- Recommend to Purchasing Manager any suspension or cancellation of cards as needed.

4. Cardholder:

Cardholders are considered purchasing agents of the City. Job responsibilities require frequent or routine purchases of goods and services. Responsibilities consist of the following:

- Attend initial P-Card training and demonstrate competence and understanding by successfully completing a written examination.
- Acknowledge by reading and signing the Cardholder Agreement form prior to receiving a P-Card.
- Attend refresher training every two (2) years and demonstrate understanding of the process by successfully completing a written examination.
- Responsible for cardholder purchases made, adhering to this policy, and ensuring to the extent possible, that no unauthorized purchases are made.
- Inform merchant of City's tax-exempt status. Efforts should be made to ensure purchases do not include tax with exception of meals, lodging and airfare purchases.
- Validate that merchandise is received, inspected, and accepted.
- Secure card number and personal information. Do not write card number on outgoing email, unless encrypted, or faxed orders.
 - **Do not** keep credit card numbers on file with infrequently-used vendors.
 - Verify internet orders are made only on a secured site.
 - Do not provide access to credit card number/PIN to others.
- Upload receipts and update transactions to the City's financial system on a weekly basis. Cardholder may be held personally responsible for items purchased without supporting documentation.
- Immediately report lost or stolen cards to the financial institution toll-free number, Department Director, Program Administrator and Purchasing Manager by email.
- Make every reasonable effort to resolve disputed purchases with the vendor, and provide documentation of such efforts.
- Immediately report all unresolved disputed purchases to Department Director and Purchasing Manager.

All P-Card resources can be found on the Employee Portal at sanmarcostx.gov/2774/P-Cards.

D. SPENDING CONTROLS / LIMITS

1. General Use: The P-Card may be used for purchases of goods or services under \$3,000 including freight or shipping. It is recommended that reasonable efforts be made to seek competitive pricing for any expenditure.

2. Travel Expenses: Travel expenses using the P-Card must align to the City's Travel Policy and Federal GSA regulations when Federal reimbursement as applicable. Refer to City's travel policy, Chapter 7, Section 7.70 of the Employee Handbook.
3. Split Transactions: Purchases will not be split into multiple transactions for the purpose of circumventing Purchasing Policy and Local Government Code thresholds.
4. Use Fee: The City will not pay additional credit card use fees. A purchase order will be issued.
5. Temporary Increase: All temporary limit increase requests will be reviewed on a case-by-case basis. P-Card limit increases are to be submitted on the *Temporary Increase Request* form to the P-Card Administrator at PCardadmin@sanmarcostx.gov. The form requires Department Director signature and approval by the Purchasing Manager. The Cardholder and supervisor will be notified of approval. The P-Card Limit Change Request Form is located on the Employee Portal at sanmarcostx.gov/2774/P-Cards. Approved increases are for a specified timeframe. At the end of the timeframe, spending controls will revert back to their original limits.
6. Credit Limit Increases: All P-Cards have a per cycle credit limit. Cycle limits will reset on the 4th of each month. All cycle limit requests that exceed the standard cycle limit of \$3,000 **MUST** be accompanied with an explanation detailing the need and authorized by the Cardholder's Department Director. The P-Card Limit Change Request Form is located on the Employee Portal at sanmarcostx.gov/2774/P-Cards.
7. Inactivity: If a P-Card shows no activity for six (6) months, transaction limits will be reduced to \$1 and the Cardholder will be notified; unless authorized by Director to remain active. If a P-Card shows no activity for nine (9) months or longer, the P-Card will be permanently closed. If a Cardholder has an extended absence from work, the Cardholder or Cardholder's supervisor will contact the Program Administrator (pcardadmin@sanmarcostx.gov) so that a temporary suspension is applied to the P-card.
8. Tax Exempt: All purchases made with the P-Card are exempt from State of Texas sales tax (**except meals, lodging and airfare purchases**). The Cardholder will inform the Vendor of our agency's tax-exempt status prior to placing an order. Sales tax cannot be resolved through the financial institution (Citi Bank) as this is a request conducted with the vendor. A copy of the Sales Tax Exemption Certificate is available on the City's Employee Portal.
9. Lost Receipts: If a credit card receipt has been lost, the Missing Card Receipt form must be completed by the Cardholder detailing the transaction, the Vendor, and the amount. After obtaining a supervisor or Director's signature, submit the completed form to the Program Administrator (pcardadmin@sanmarcostx.gov). The Missing P-Card Receipt Form is located on the Employee Portal at sanmarcostx.gov/2774/P-Cards.
10. Accidental Personal Use: If a personal charge is made, a Reimbursement Memo will be completed by the Cardholder. The memo will be signed by the Department Director and submitted to the Program Administrator with reimbursement check made payable to the City of San Marcos. The P-Card Reimbursement Memo is located on the Employee Portal at sanmarcostx.gov/2774/P-Cards.
11. State of Emergency: The City Manager and the Purchasing Manager maintain a higher transaction limit for use in situations during a declared disaster or state of emergency. The City Manager or the Director of Finance will determine which additional card limits may be increased during such emergency situations.

12. Allowable Purchases: P-Cards may be used to purchase any good or service for immediate use not prohibited by law, this policy, or other policies approved by the City Manager and/or City Council. The total purchase with a P-Card will not exceed the limits established for that card. Allowable purchases include the following:

- Point of sale/single vendor purchases as allowable by individual P-Card limits.
- Expenditures to City Business Accounts such as Amazon, Staples, Office Depot, and Sam's Club.
- Travel expenses, which must align with the City's Travel Policy.
- Professional dues and subscriptions.
- Registrations for conferences, workshops, and training.
- Food/Meals/Gifts for significant external constituents by City Clerk, City Manager's office, or Conventions and Visitor's Bureau.
- Food/Meals for business travel in conjunction with training, workshops, conferences.
- Food/Meals for business purposes to include employee award ceremonies, teambuilding events, employee recognition events [that may include one or more external (non-City staff) participants], strategic planning retreats, working lunches, City-wide events or Public Meetings, Emergency Operations, etc.

13. Prohibited Purchases: The P-Card will not be used for the following expenditures:

- Personal expenditures.
- Cash advances, refunds, and gift cards/certificates for employees.
- Transactions greater than Cardholder's limit, unless prior written approval is obtained from the Purchasing Manager.
- Sales tax, except in cases where State law does not exempt local governments from hotel tax and meals. (Note: Sales tax of any kind is not reimbursable by federally-funded programs.)
- Firearms and ammunition. (P-card purchases of ammunition must have written approval from the Director of Public Safety, City Manager's Office.)
- Fleet vehicle gasoline/fuels.
- Consulting or professional services.
- Computer/technology equipment (except small items such as keyboards, mice, monitors), Software, Licenses, and Maintenance (These purchases must be approved and coordinated with Information Technology Department and will follow the Purchasing Policy.)
- Purchases involving equipment trade-ins.
- Temporary personnel.
- Maintenance agreements/warranties.
- Alcoholic beverages (beer, wine, etc.) unless for approved law enforcement training purposes.
- Entertainment, including the purchase of alcohol or patronage of drinking establishments unless by law enforcement personnel for covert operations.
- Purchases of items/services under contract, unless for the purpose of making payments by the Finance Department Accounts Payable section or unless an emergency exception is granted by the City Manager in a state of emergency determination.
- Separate, sequential, and component purchases or transactions made with the intent to circumvent State law or City policy. Refer to IV. (C) Split Transactions, above.
- Other purchases specifically excluded in other City policies or state law

14. Exemptions/Waivers: On a case-by-case basis, a Department Director may approve certain exceptions to the list of allowable and disallowable purchases, dependent upon specific City-business requirements. Cardholder MUST obtain PRIOR written approval from the Department Director and Purchasing Manager.

The exception request must state the reason, including the date of the event, the nature of the event and, if applicable, the names of the participants at the event. The request must be submitted to the Program Administrator (pcardadmin@sanmarcostx.gov) a minimum of two (2) business days PRIOR to the intended purchase date for final approval. The waiver request MUST be signed by the Cardholder, the Department Director, and the Purchasing Manager. **A waiver request must be submitted for each event. There are no “blanket” waivers.**

E. P-CARD ISSUANCE

Department Directors are primarily responsible for identifying employees whose job duties require frequent/routine procurement transactions for the purpose of issuing a P-Card. Requests for P-Cards must be submitted on the P-Card Application and emailed to pcardadmin@sanmarcostx.gov.

P-Card Applications can be downloaded from the City’s Employee Portal at sanmarcostx.gov/2774/P-Cards.

1. **Cardholder Training:** Approved applications are entered on the 1st of each month to be followed up with Cardholder training within two (2) weeks. (Exceptions must be approved by the Purchasing Manager.) The approved Cardholder will receive an Outlook Calendar invitation. Training is required before the employee is provided a P-Card. Upon receipt of the card, the Cardholder is required to sign the P-Card Policy Acknowledgment Agreement and successfully complete a written examination.

Cardholders must participate in initial training and in refresher training every two (2) years. An examination will be administered after both the initial training and refresher training to ensure knowledge and understanding of policies and procedures of the P-Card program.

2. **P-Card Activation:** Prior to the initial use of the P-Card, the cardholder must activate the card. Activation procedures are provided at the mandatory Cardholder training. If the P-Card has not been picked up from the Program Administrator after thirty (30) days from the date of notification that the P-Card is ready for pick-up, the P-Card will be cancelled and a new application will be required. It is the sole responsibility of the Cardholder to set the PIN as well as maintain the PIN. The Cardholder will contact the financial institution to resolve any PIN issues.

F. PROCUREMENT DUE DILIGENCE

1. City employee shall make efforts to obtain the best price that offers the best value to the City of San Marcos. Ways to achieve this may include:
 - Obtain price quotes from vendors in writing (email is acceptable).
 - Quote or estimate will include a clear and complete description of the goods or service to be provided, including shipping or freight.
 - Quote or estimate will be on the vendor’s official form and include a contact name, email address, and telephone number.
 - If placing an online order, itemized pricing and freight will be documented with a screen print, PRIOR to *finalizing the transaction*.
 - It is required that sales receipt must be sent to the Cardholder – NOT Accounts Payable, Finance Department, or any other employee or department.
 - It is required that Cardholder must maintain an itemized sales receipt to be submitted when coding the P-Card purchase in the City’s financial system. (A credit card charge slip displaying only the total amount of the purchase is not adequate documentation.)
 - It is the Cardholder’s responsibility to ensure receipt of goods and follow up with Vendors to resolve any problems with delivery, discrepancies, and/or damaged goods.

- If a handwritten quote, estimate, invoice, and/or receipt is provided by the vendor, it must be legible for documentation and audit purposes.

G. P-CARD CODING AND DEADLINES

1. **Every Monday**, transactions are imported into the City's financial system by the Accounting Department.
2. **On a weekly-basis but no later than Friday of each week**, Cardholder is responsible for ensuring purchase transaction are coded in the City's financial system including attaching supporting documentation and ensuring appropriate GL.

H. MISUSE/FRAUD/ABUSE - DISCIPLINARY ACTIONS

The P-Card is for official City business only, must have a public purpose, and must support the core values of the City of San Marcos. It must never be used for personal transactions. Improper use, or abuse may result in suspension of the P-Card and/or disciplinary action consistent with City Human Resources Policy.

1. **Repayment**: Employee will be required to repay the City of San Marcos for any unauthorized transaction made by the employee.
2. **Fraud or Illegal Activity**: A P-Card may be suspended or terminated if Cardholder is suspected of fraud, theft, or illegal activity. The rules of personal conduct and ethical standards set forth in the Employee Handbook will be followed and appropriate action will be taken in accordance with the City Human Resources Policy.
3. **Misuse**: In those cases where there is evidence of misuse, the Cardholder. The rules of personal conduct and ethical standards set forth in the Employee Handbook will be followed.
4. **Termination Clause**: The P-Card is issued to an employee for the City's convenience and may be terminated at any time.
5. **Separation from Employment**: It is important to cancel a P-Card immediately upon an employee's separation from employment. The respective department will be responsible for payment of charges incurred on a terminated employee's P-Card.
6. **Reporting Violations**: Any employee having knowledge of violations of this policy and procedure or any other procedure or policy governing the use of the P-Card must immediately report such activity to the Department Director. Department Director will notify Purchasing Manager and Finance Director. If appropriate, an employee may instead report anonymously to the City's Abuse/Fraud hotline at 1-800-398-1496.

I. SANCTIONS

Sanctions provide a framework to address program violations. Non-adherence to these requirements will result in a notification of infraction with temporary revocation of individual cardholder privileges or permanent revocation of the P-Card.

LEVEL ONE - NOTIFICATION

A P-Card Audit Memo notification will be sent to the Cardholder, the Manager, and the Department Director in the form of an email which will outline the transaction in question.

The Cardholder will be required to provide a thorough explanation of the transaction as well as a plan of action for resolution, if applicable. If an action plan is required, the Cardholder must provide all requested

documentation by the deadline stated in the audit memo.

First-time occurrences resulting in Level One sanctions include, but are not limited to, the following:

- Purchasing items for personal use.
- Purchasing items which are prohibited by this Policy, Purchasing Policy, City policies, or by law.
- Failing to comply with the guidelines set forth in these policies and procedures.
- Failing to code and document transaction in the City's financial system with the two (2) week timeframe required.
- Purchasing from a restricted vendor or purchase of a restricted item without prior authorization.
- Providing the P-Card or P-Card number/PIN to a non-cardholder, including another person, for their use.
- "Splitting" of purchases to circumvent P-Card limits and Purchasing Policy.
- Failing to provide requested documentation to the Finance Department and/or Auditors.

LEVEL TWO - SUSPENSION

Cardholder privileges will be suspended for at least thirty (30) days from the date the violation was found, and remedial training must be completed before suspension is lifted.

Occurrences resulting in Level Two sanctions include, but are not limited to, the following:

- Two (2) Level One violations within a six-month period.
- Failing to code and document transaction in the City's financial system within three (3) weeks post import: Cardholder, Manager, and Director will be contacted and P-Card will be suspended.
- Losing a P-Card twice in a fiscal year.

LEVEL THREE - ACCOUNT CLOSURE

Level Three violations are typically a result of multiple instances of lower level violations found in consecutive reviews/audits or within the same fiscal year. The P-Card account will be closed, which may include the Cardholder no longer being eligible to obtain a P-Card.

- More than three (3) Level One Infraction within a fiscal year or in consecutive reviews/audits will result in Level Three sanctions being issued.
- Three (3) occurrences of losing P-Card within a fiscal year.