

**RESOLUTION NO. R-2020-78**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING THE CITY OF BASTROP PURCHASING POLICY, WHICH IS ATTACHED AS EXHIBIT A; PROVIDING FOR A REPEALING CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the responsibility of local government to ensure that public funds are managed in a prudent and financially sound manner; and

**WHEREAS**, the City of Bastrop Purchasing Policy was last adopted by City Council on September 24, 2019; and

**WHEREAS**, at the August 25, 2020 City Council Meeting, the Chief Financial Officer presented the Purchasing Policy for Annual Review by the City Council; and

**WHEREAS**, the City Attorney has reviewed the City of Bastrop Purchasing Policy and found it to be in compliance with all State procurement laws; and

**WHEREAS**, the City Council requests that the Purchasing Policy be reviewed and adopted annually by Council as a part of the budget adoption process to ensure this policy is current with State Law and appropriately addresses operational needs.

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

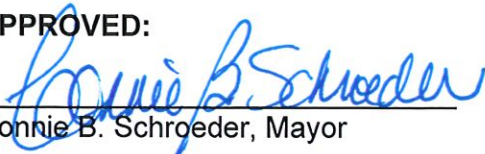
**Section 1.** The City Council hereby approves the City of Bastrop Purchasing Policy, which is attached as Exhibit A, and requests that it be reviewed and adopted annually as a part of the budget adoption process.

**Section 2.** All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

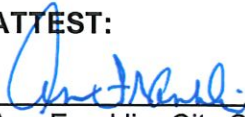
**Section 3.** This resolution shall take effect immediately from and after its passage, and it is duly resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Bastrop this 8<sup>th</sup> day of September 2020.

**APPROVED:**

  
\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

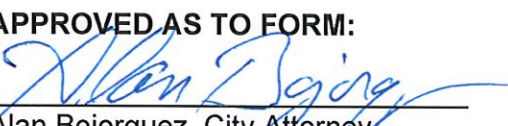
  
\_\_\_\_\_  
Alan Bojorquez, City Attorney

EXHIBIT A

# City of Bastrop, Texas

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## Purchasing Policy

**Draft**  
**September 8, 2020**



# **City of Bastrop Purchasing Policy**

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## I. DEFINITION OF TERMS

**Component Purchases** – Purchases of component parts of an item that in normal purchasing practices would be accomplished by one purchase. (Purchasing parts and assembling a finished product.)

**Pecuniary Benefit** – Any form of economic gain (money, gifts, etc.).

**Fixed Assets** - A piece of equipment with a value of \$5,000 or more and a life expectancy of two (2) year or more.

**Separate Purchases** – Purchases made separately of items that in normal purchasing practices would be accomplished by one consolidated purchase. (Multiple purchase orders of similar items to avoid bidding procedures.)

**Sequential Purchases** – Purchases, made over a period, of items in normal purchasing practices would be combined and bid as one purchase. (Similar to above but multiple purchases of the same items to avoid bids.)

## II. PURPOSE

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

The City of Bastrop intends to maintain a cost-effective purchasing system conforming to good management practices. The establishment and maintenance of a good purchasing system is possible only through cooperative effort. It must be backed by proper attitudes and cooperation of not only every Department Director and official, but also every Supervisor and Employee of the City of Bastrop.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. In order to accomplish timely purchasing of products and services at the least cost to the City of Bastrop, all departments must cooperate fully. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to assure that the process is orderly and lawful.

This Policy reaffirms the City of Bastrop's commitment to strengthen purchasing and property controls to reasonably assure that assets are received and retained in the custody of the City of Bastrop.

### III. CODE OF ETHICS

It is important to remember that when employees are participating in the purchasing process, they represent the City of Bastrop. By participating in the purchasing process, employees of the City of Bastrop agree to:

- A. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- B. Demonstrate loyalty to the City of Bastrop by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- C. Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Bastrop.
- D. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.
- E. Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- F. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- G. Expose corruption and fraud wherever discovered.
- H. Texas Law prohibits *component purchasing, separate purchasing and sequential purchasing* of any kind. An employee commits an offense by intentionally or knowingly making or authorizing component, separate or sequential purchasing to avoid the competitive bidding requirements.
- I. Adherence to the City's Ethics Ordinance is mandatory. If there is a conflict between the two Ethics policies, the stricter of the two would apply.

### IV. COMPETITIVE PURCHASING REQUIREMENTS

The City of Bastrop policy requires three quotes for purchases over \$3,000. The only exceptions to this rule are for items purchased under a cooperative contract, sealed bid award, sole source purchases or purchases for an emergency situation.

Under no circumstances shall multiple requisitions be used in combination to avoid otherwise applicable bidding requirements or City Council approval.

#### **A. Who is authorized to make purchases?**

Purchases will only be processed if authorized by a Department Head or approved representative in an employee's direct chain of command.

#### **B. Instructions for Soliciting Bids**

When soliciting bids, City of Bastrop buyers must follow the steps below:

1. Give the same exact specifications to each vendor.

2. Give each bidder same deadline for turning in bids.

City of Bastrop buyers must inform vendors that bids submitted are all inclusive. Any charges for freight and handling, fuel fees or other costs must be included in the bid. In order to obtain contract status, the Department Head is responsible for first adhering to the procurement requirements stated below. City Manager approval or his designee is required.

### **C. Purchasing Control**

Authorization levels established within INCODE for appropriations previously approved by the City Council are as follows:

- Directors' or their designee not to exceed \$9,999.99
- Chief Financial Officer or designee up to \$14,999.99
- City Manager or designee approving purchases exceeding \$15,000.00

All purchases requiring a purchasing summary must have an approved purchase order before placing the order.

### **D. Fleet Purchases**

The Finance Department will create a Fleet Appropriations List at the beginning of every fiscal year based on the adopted budget. A unit number will be assigned to each vehicle and equipment included on this list. This list will be distributed to each department with vehicles and equipment on the list.

Each department will complete and submit their purchasing summaries to the Finance Department, which should include the unit number assigned, as close to October 1<sup>st</sup> as possible. The purchasing summaries will be checked against the Fleet Appropriations List and reviewed for accuracy and completeness. Once reviewed by the Finance Department, the summaries will go to the City Manager for approval.

Upon approval by the City Manager, a purchase order will be created and authorized by the Finance Department for each approved purchasing summary. At the time of issuance of the purchase order, budgeted funds will be encumbered to prevent the funds from being reallocated.

Approved purchase orders will be sent to each department with authorized vehicles and equipment on the Fleet Appropriations List. Once the department has received the approved purchase order, fleet orders can be placed with the selected vendor.

### **E. Dollar Limitations**

The following dollar limitations should be used as a guideline. These limitations may not apply in all cases. Dollar limitations pertain to total purchase or invoice total not per single item cost. It is the Department Directors responsibility to insure Purchasing policies are being adhered to.

**\$0.01-\$3,000:** Purchases of non-contract goods or services totaling \$3,000 or less require no quotation but are recommended.

If invoices for a single service contractor combine to total greater than \$3,000 in a fiscal year, the city will require the standards of \$3,001 to \$49,999 for purchasing to apply. As clearly identified in the II. Code of Ethics H. Texas Law prohibits *component purchasing, separate purchasing and sequential purchasing* of any kind. An employee commits an offense by intentionally or knowingly making or authorizing component, separate or sequential purchasing to avoid the competitive bidding requirements.

Note that an employee does not commit an offense by making or authorizing component, separate, or sequential purchasing to address unexpected circumstances (such as unanticipated repairs) rather than to avoid competitive bidding requirements. Accordingly, if invoices for a single service contractor combine to total greater than \$3,000 in a fiscal year due to unexpected circumstances (and not to avoid competitive bidding requirements), the standards that apply to purchase totaling \$3,001 to \$49,999 will not apply.

If you have questions about which standards apply, contact the Finance Department.

**\$3,001-\$49,999:** Except where otherwise exempted by applicable State law, purchases totaling \$3,001 to \$49,999 require three (3) written quotes attached to a Purchasing Summary Form and a purchase order provided to the Finance Department.

No purchase orders of non-contract goods or services will be issued in excess of \$15,000 without City Manager or his designee prior approval.

If the lowest responsible quote is not selected, an explanation should be provided on the Purchasing Summary Form and approval by the City Manager will be required, no matter the dollar amount. Only the City Manager or his designee may determine "Best Value". The City Manager may elect to accept less than three quotes from a Director if due diligence has been documented by the Director in trying to adhere to the purchasing policy. A memo will be required from the Director providing a reason for their inability to obtain three written quotes and the scope of services being provided if applicable. It must be approved and signed by the City Manager and attached to each Purchasing Summary Form and purchase order provided to the Finance Department.

According to State Law, two (2) Historically Underutilized Businesses (HUBs) are to be contacted on a rotating basis. HUB vendors are obtained from the Texas Comptroller of Public Accounts website. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt.

If purchasing through a cooperative purchasing alternative, i.e. BuyBoard, DIR, TXMAS provide only one (1) written quote; proof or identification that the quote is from a cooperative source, complete a Purchasing Summary Form and a purchase order. Any vendor specific contracts should be on file with the Finance Department prior to final



approval being given if applicable. It is the Department Director's responsibility to ensure the cooperative information is on file with the Finance Department.

**\$50,000+:** Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is more than \$50,000 must be processed as competitive solicitations (e.g. sealed bids, request for proposals, and request for offers). Texas Local Government Code, Subchapter B, Section 252.021 defines the requirements for competitive bids.

The Code requires that sealed bids and request for proposals (RFP) are advertised in a local newspaper for two consecutive weeks prior to the bid opening. All bids must be received sealed and turned in to the City Secretary's Office by the date and time listed in the bid. Any bids received after the stated time will be returned unopened. The bid opening process is open to the public and all vendors that respond to the specific are invited to attend. Questions concerning pricing will not be addressed at the opening. Contracts for services require Errors & Omissions coverage.

If purchasing through a cooperative purchasing alternative, i.e. BuyBoard, DIR, TXMAS provide only one (1) written quote; proof or identification that the quote is from a cooperative source, complete a Purchasing Summary Form and a purchase order. All cooperative vendor specific contracts should be on file with the Finance Department prior to final approval being given if applicable. It is the Department Director's responsibility to ensure the cooperative information is on file with the Finance Department. City Manager written approval is required.

Rental Agreement: Vendors who provide rental items to the city are required to carry insurance. The type and amounts of insurance required vary based on the item rented. The Chief Financial Officer must review all rental contracts before the contract is awarded.

## **F. Personal or Professional Services**

Under the Professional Services Procurement Act, a contract for the purchase of a personal or professional service is exempt from competitive bidding requirements. The City also provides exemption for the purchasing of planning services.

The City may not select providers of professional services based on competitive bids. In these situations, the City must make the selection and award based on demonstrated competence and qualifications for performing the services for a fair and reasonable price.

Professional services may include:

- Accounting.
- Architecture.
- Landscape architecture.
- Land surveying.

- Medicine.
- Optometry.
- Engineering.
- Real estate appraisal.
- Nursing.

According to the Texas Attorney General's Office professional services may include "members of disciplines requiring special knowledge or attainment and a high order of learning, skill and intelligence,"

### **G. Other Exemptions**

State law authorizes other categories of exempt purchases. Purchases from other governments, some auctions and going-out-of-business sales, and other purchases are exempt under provisions of the Local Government Code and Vernon's Statutes.

The following is a list of other areas that are exempt from competitive bidding requirements:

1. Land or right-of-way.
2. Items that can be obtained from only one source, including:
  - a. items for which competition is precluded because of the existence of patents, copyrights, secret processes or monopolies;
  - b. films, manuscripts or books;
  - c. electric power, gas, water, and other utility services; and
  - d. captive replacement parts or components for equipment;
3. Food
4. Personal property sold:
  - a. at an auction by a state licensed auctioneer;
  - b. at a going-out-of-business sale; or
  - c. by a political subdivision of the state, a state agency, or an entity of the federal government.
5. Any work performed and paid for by the day is exempt from the competitive bidding process.
6. Work performed under a contract for community and economic development made by a county designed to reasonably increase participation by historically underutilized businesses in public contract awards by establishing a contract percentage goal for HUB businesses.

### **H. Sole Source Purchases**

Sole Source purchases must be approved by the City Manager before purchasing. These conditions occur when the purchase involves compatibility of equipment, accessories or replacement parts or when the goods or services is a one-of-a kind or protected by a patent, copyright, secret process. The product is only available from a regulated or natural monopoly. The product is a component or repair part that may only

be purchased from the original supplier. The following items are necessary to provide sufficient justification for sole source purchase:

1. A memorandum to the City Manager with a statement must be attached to the Purchasing Summary Form that says a sufficient number of vendors have been contacted to determine that only one practical source of supply exists or states the reasons only one source exists. This memorandum should include the City Manager's signature signifying his approval.
2. A bid from the sole source provider on company letterhead.
3. A letter from the vendor stating they are the sole supplier of the good.

A Purchasing Summary Form and purchase order is still required with the above information attached.

### **I. Change Orders**

According to purchasing law, the City of Bastrop may make changes to plans, specifications or quantities after award of the contract, if necessary. However, no increase may exceed 25% of the original contract amount and any decrease of 25% or more must have the consent of the contractor.

Increases that cause a change in dollar limitations or purchasing law may supersede the 25% rule:

Example: If a contract is awarded for \$45,000, the allowable increase under the 25% rule would be \$11,250. However, this would cause the new price to exceed \$50,000, which by State law requires sealed bids and advertising. Increase would be limited.

Any change in a purchasing contract that exceeds 25% of the original amount will void the original contract.

### **J. Making the Purchase**

City of Bastrop buyers are responsible for making sure that the purchased good or service is received as specified. Under no circumstance should a buyer accept more goods or services than ordered. Employees are only authorized to purchase items that have been approved by their Department Head. A purchase over the original amount requires additional approval.

### **K. 30 Day Accounts Payable Cycle**

Texas law requires municipalities to pay invoices within 30 days or be subject to the payment of interest.

It is the responsibility of each department to make sure the signed invoices, purchase orders and any other required paperwork is submitted to the Finance Department as soon as the product is received, or service rendered.

It is the responsibility of Accounts Payable to pay all vendor invoices within 30 days of the date the services or products are received. If the invoice date is different from the service/product receipt date, the department will need to note on the invoice the date of receipt of the product or service. Any Variance between the purchase order and the vendor invoice must be reconciled and documented on the purchase order. Vendor payments can only be made for the original or modified purchase order amount.

#### **L. Emergency Procedures**

Valid emergencies are those that occur as a result of the breakdown of equipment which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. It is required to get City Manager or his designee approval on any emergency purchases.

The Legislature exempted certain items from sealed bidding in the Texas Local Government Code Section 252.022(a), including, but not limited to:

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

The following steps must be taken when making emergency purchases:

1. Employee must receive approval from the City Manager or his designee.
2. Employee will make every effort to solicit bids unless circumstances prevent employee from doing so.
3. A written statement concerning the emergency must be provided following the incident to provide necessary documentation in Accounts Payable and must include the City Managers signature or his designees.

#### **M. Federal Programs**

The City of Bastrop has adopted Federal 2 CFR 200.318 - 200.326 and Appendix II to Part 200 for federal programs to ensure City procures materials and services in an efficient and economical manner that is in compliance with the applicable provisions of federal, state and local laws and executive orders. Federal 2 CFR 200 section 318 to 326 cover the following regulations:

- 200.318 – General Procurement Standards
- 200.319 – Competition
- 200.320 – Methods of Procurement to be followed
- 200.321 – Contracting with Small & Minority businesses, women business enterprises & labor surplus area firms
- 200.322 – Procurement of Recovered Materials
- 200.323 – Contract Cost & Price
- 200.324 – Federal awarding agency or pass-through entity review
- 200.325 – Bonding requirements
- 200.326 – Contract Provisions

## **V. ASSET CONTROL**

### **A. Inventory Control**

The purpose of inventory control is to create and maintain a record/inventory of all fixed assets of the City of Bastrop. Fixed assets include all items over \$5,000 with a life expectancy of two (2) or more years. “Minor Capital Outlay” items must also be inventoried. These items will include assets purchased for \$1,000 to \$4,999.

When a fixed asset is received by the city, it is tagged with a City of Bastrop property tag (if feasible) and added to the Departments master list.

Each Department shall keep an inventory list of all fixed assets permanently assigned to employee.

A wall to wall inventory of all fixed assets shall be performed every year or as deemed necessary. It is recommended that Departments perform an annual fixed assets inventory of equipment permanently assigned to employees.

### **B. Use of Property**

City of Bastrop employees should be aware that the use of City property for personal gain is strictly prohibited. City vehicles should only be used for official City business. City Personnel Policies list theft and unauthorized use of City property as grounds for immediate dismissal.

In addition, employees are not to use personal property for the performance of their job or at their work site. Personal items such as radios, coffee pots, picture frame, books, etc. is permissible: however, the City of Bastrop is not responsible for damage to or theft of these items.

### **C. Disposal of Surplus Materials and Equipment/ Donations**

City surplus materials and equipment (a/k/a ‘surplus items’) includes any City owned personal property such as furniture, fixtures, equipment, computers, vehicles, tools,

clothing, or other such items, which have lost useful value to the City, have become non-functional or are obsolete. Such surplus items may be disposed of by one of the following methods:

- Sold competitively, by accepting sealed bids or by public auction;
- Traded in for acquisition of new equipment;
- Donated by the City to a recognized charitable organization;
- Provided to other governmental entities (donation or exchange).
- Sold as 'scrap' (for cash), if the items have no value except for salvage and the City Manager or his designee has authorized the sale for scrap; or
- Disposed of through solid waste collection services, if the item has no salvage or other value and the City Manager or his designee has authorized such disposal.

Trade-In or Donation: Before *trading-in* and/or *donating* surplus items, the Department Head must prepare a memorandum to the City Manager and remit a copy to the Finance Department stating: 1) the identity of the surplus items to be disposed of, traded-in or donated, 2) the reasons for the surplus items being declared surplus, 3) the original purchase price (if ascertainable) of the surplus items, and 4) the value of proposed "trade-in" or "donation", in the estimation of the Department Head. If the Department Head receives approval by City Manager to proceed, the Department Head must coordinate their *trading-in* and/or *donating* surplus items with the Finance Department to insure a Disposed Fixed Asset Form is completed and any other ancillary paperwork.

[Note: All property is owned in the name of the City of Bastrop and is not vested in any specific department.]

Sales: If the surplus items are to be sold, then the Department Head must prepare a memorandum to the City Manager and remit a copy to the Finance Department. The memo should include: 1) the identity of the items to be sold to include year, make, model, and any other identification characteristics, 2) a brief description providing why it is necessary to dispose of the item. The Department Head having received approval to sell a surplus item may then utilize one of the following options: 1) post notice in the local newspaper and/or through an approved on-line auction provider 2) advertise in the local newspaper, 3) request sealed bids, or 4) sell through a public auction, which may take place at a specified location or, by means of an on-line sale.

Preferred Disposition: Whenever reasonably feasible, it is the City's preference that the Department Head dispose of the surplus equipment by means of a public auction or sale held in cooperation with other City departments and surrounding government entities.

Procedures: The City Manager shall have the authority to approve the disposal, sale, trade-in or donation of surplus items when the value of same is less than \$50,000, in total. If the total value exceeds \$50,001, then the City Manager shall obtain Council approval of the proposed disposal, sale, trade-in or donation of surplus items.

Once approved by either the City Manager or Council, as appropriate, in order to document the disposal, sale, trade-in or donation of surplus items a Disposed Fixed Asset Form must be prepared and submitted to the Finance Department in addition to providing the license plates for any vehicles or equipment disposed of. The Finance Department manages the change of ownership and the receipt of funds.

City decals must be removed from all surplus City vehicles, machinery, and equipment before disposal, donation, trade-in or sale.

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

#### **D. Lost Property**

After conducting an annual inventory and property is discovered to be lost, an explanation for the lost must be provided immediately to the Department Head using the Fixed Asset Form. Property losses that come to the attention of the employee before the annual inventory should be reported within 24 hours using the Fixed Asset Form.

All thefts are to be reported to a supervisor or Department Head as soon as possible. The City of Bastrop, Police Department must be notified immediately. Stolen fixed asset must be removed from the Master Inventory List and a copy of the police report attached to the Fixed Asset Form.

#### **E. Security Measures**

All equipment will be kept in a secure area when not in use. Access to this area will be limited to the employees assigned to the secure area. In case of theft, the security of the area should be evaluated to determine if changes or re-keying of locks should be necessary.

### **VI. RESPONSIBILITIES OF PARTIES**

#### **A. Department Heads**

1. Monitor and approve overall purchases to ensure that funds are spent judiciously and that budgeted resources are within their control and available for all procurement.
2. Reject requests for purchases that do not have proper authorization or include required documentation.
3. Approve all purchases up to \$9,999 excluding budgeted capital.
4. Adhere to the Purchasing Policies and the Code of Ethics.
5. Place cooperative agreements and RFP's on file with Finance and monitor purchases to ensure that supply agreements are used.
6. Ensure that sole source requests meet the guidelines and include required documentation.

7. Inventory all fixed assets every year.
8. Verify goods and services are received as ordered before approving payment.
9. Annually inventory equipment assigned to employee.
10. Keep records of losses occurring in their areas to detect patterns of theft in one area or individual employee.

B. Supervisors

1. Maintain security of equipment on-site
2. Keep a log of equipment issued to employees on a long-term basis.
3. Keep a log of equipment issued to employees on a short-term basis.
4. Forward all receipts and invoices to Department Head as soon as possible.
5. Check that equipment and supplies are returned upon termination of an employee.

C. City of Bastrop Accounts Payable

1. Pay bills in an accurate and timely manner.
2. Reject requests for purchases that do not have proper authorization or include required documentation.
3. Monitor purchases to ensure that supply agreements are used.
4. Ensure that purchasing policy requirement guidelines are met and required documentation included.

D. City of Bastrop Accounting

1. Maintain the master fixed asset property list.
2. Assign inventory tags for fixed assets.
3. Provide Fixed Assets Forms.
4. Produce Master Inventory List as needed.
5. Process fixed asset transfers and retirements.
6. Review, approve and enter all purchase orders for budgeted fleet purchases.

**VII. ANNUAL REVIEW AND REPORTING**

These policies will be reviewed administratively by the City Manager at least annually, prior to preparation of the operating budget. The Chief Financial Officer will report to the City Manager on compliance with these policies.

  
Tracy Waldron, Chief Financial Officer

  
Paul Hofmann, City Manager

History of Purchasing Policy:

Previously Approved 09/23/2014

Previously Approved 10/23/2018

Previously Approved 09/24/2019