

## CITY COUNCIL AGENDA

May 18, 2020

7:00 P.M.

New Fairview City Hall

999 Illinois Ln.

New Fairview TX 76078

### AGENDA

#### 1. VIDEO CONFERENCE

A. This City Council Meeting will be held via Videoconference. The City Council will participate remotely via videoconference. The facility will not be open to the public. Members of the public are entitled to participate remotely via broadcast through Cisco Webex at the following URL location.

<https://meetingsamer11.webex.com/join/cnfcclerks>

Instructions on how to change the settings within the meeting app to call in are below. Please note that if you do not call in through the Cisco Webex app with the Access Code and Attendance ID you will only be able to hear the meeting and will not be able to participate. It is highly recommended that everyone follows the instructions attached. We will still be streaming the meeting so that everyone will have a visual as well.

[Calling in using a computer and telephone](#)

[Calling in using an Android device](#)

[Calling In using an Apple device](#)

Access Code: 298-437-804

#### 2. CALL TO ORDER

#### 3. ROLL CALL

#### 4. EXECUTIVE SESSION

**Advice from City Attorney:** Pursuant to Sec. 551.071 of the Texas Government Code, the Board of Aldermen reserves the right to convene in Executive Sessions(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.

#### 5. CONSENT AGENDA:

All matters listed as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

#### 6. OPEN FORUM

The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.

**7. NEW BUSINESS:**

**A. Public hearing on the proposed annexation by the City of New Fairview, Texas of approximately 11.41 acres of land in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.**

**B. Discuss, consider and act on ordinance annexing into the City of New Fairview approximately 11.41 acres in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.**

**C. Public hearing on the proposed zoning by the City of New Fairview, Texas of approximately 11.41 acres of land in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.**

**D. Discuss, consider and act on ordinance zoning approximately 11.41 acres in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.**

**E. Discuss consider and act on resolution calling Public Hearing to consider the zoning by the City of New Fairview, Texas of approximately 140.246 acres of land situated in the James C. Jack Survey, Abstract No. 679, Denton County, Texas located on the southeast corner of the City—bordered on the north by Dove Hollow Lane and bordered on the west by South County Line Road.**

**F. Discuss, consider and act on resolution accepting petition for the voluntary annexation by the City of New Fairview, Texas of approximately 140.246 acres of land situated in the James C. Jack Survey, Abstract No. 679, Denton County, Texas located on the southeast corner of the City—bordered on the north by Dove Hollow Lane and bordered on the west by South County Line Road.**

**G. Discuss, consider and act on approving a Resolution adopting Financial Procedures.**

**H. Discuss, consider and act on approving an Ordinance adopting a Procurement Policy.**

**I. Discuss, consider and act to approve a Resolution adopting a Debt Management Policy.**

**8. ADJOURN:**

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and said notice posted this 15<sup>th</sup> day of May 2020 at 7:00 PM at least 72 hours preceding the meeting time.

  
Monica Rodriguez, City Secretary

SEAL:

This facility is wheelchair accessible; parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at city hall 817-638-5366 or fax 817-638-5369 or by email at [citysecretary@newfairview.org](mailto:citysecretary@newfairview.org) for further information.



**City Council Agenda**  
**May 18, 2020**

**Agenda Item: 7A**

**Annexation**

**(Public Hearing)**

**Agenda Description:**

Public hearing on the proposed annexation by the City of New Fairview, Texas of approximately 11.41 acres of land in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.

**Background Information:**

The property owner, FM 407 Development, LLC (Mr. Kenny Ozee), is requesting voluntary annexation of the remainder of the overall Falcon Ridge property. The annexation includes the 10.98-acre tract which is the southeast portion of the overall 138.101-acre Falcon Ridge Preliminary Plat, plus the northern half of the FM 407/Illinois Street. This portion of the property extended beyond the City of New Fairview extraterritorial jurisdiction (ETJ) and could not be annexed, zoning, final platted and developed until the ETJ boundary adjustment agreement was approved between the City of New Fairview and the City of Fort Worth.

**City Contact and Recommendation:**

Barry Hudson AICP, Consulting City Planner

**Attachments:**

## NOTICE OF PUBLIC HEARINGS ON PROPOSED ANNEXATIONS

The City Council of the City of New Fairview, Texas will conduct public hearings on the 18th day of May, 2020 at 7:00 p.m. in the City Hall located at 999 Illinois Lane, New Fairview, Texas 76078 where all interested persons will have the right to appear and be heard on the proposed annexation by the City of New Fairview, Texas of approximately 11.41 acres of land. The area proposed to be annexed is located east of the City—bordered on the on the south by F.M. 407 and is a part of the Falcon Ridge Estates— and is contiguous to the current city limits of New Fairview, Texas, in the City's exclusive extraterritorial jurisdiction. A map of the area proposed for annexation is available at City Hall. Due to the state of disaster ordered to address Covid-19, this public hearing may be held remotely in compliance with applicable laws and orders of the state of Texas.



**City Council Agenda  
May 18, 2020**

**Agenda Item: 7B**

**Ordinance**

**(Action Item)**

**Agenda Description:**

Discuss, consider and act on ordinance annexing into the City of New Fairview approximately 11.41 acres in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.

**Background Information:**

The property owner, FM 407 Development, LLC (Mr. Kenny Ozee), is requesting voluntary annexation of the remainder of the overall Falcon Ridge property. The annexation includes the 10.98-acre tract which is the southeast portion of the overall 138.101-acre Falcon Ridge Preliminary Plat, plus the northern half of the FM 407/Illinois Street. This portion of the property extended beyond the City of New Fairview extraterritorial jurisdiction (ETJ) and could not be annexed, zoning, final platted and developed until the ETJ boundary adjustment agreement was approved between the City of New Fairview and the City of Fort Worth.

**Financial Information:**

Annexation of the property will allow the City to access property taxes on the land/lots and the houses constructed on those lots.

**City Contact and Recommendation:**

Barry Hudson AICP, Consulting City Planner

Recommendation is that the City Council approve the requested voluntary annexation.

**Attachments:**

Annexation Ordinance

**ORDINANCE NO. 2020-14-200**

**AN ORDINANCE PROVIDING FOR THE ANNEXATION INTO THE CITY OF NEW FAIRVIEW OF PROPERTY DESCRIBED BELOW AND DEPICTED ON EXHIBIT "B", LOCATED WITHIN THE CURRENT ETJ OF THE CITY OF NEW FAIRVIEW, TEXAS, FOR ALL MUNICIPAL PURPOSES; DIRECTING AMENDMENT OF THE OFFICIAL MAPS; ESTABLISHING THE RIGHTS AND DUTIES OF INHABITANTS IN THE ANNEXED AREA; PROVIDING FOR FILING NOTICE OF THIS ANNEXATION IN DEED RECORDS OF DENTON COUNTY AND WITH THE DENTON COUNTY APPRAISAL DISTRICT; APPROVING A SERVICE AGREEMENT FOR SUCH TERRITORY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE EXCLUSION OF AREAS EXCEPTED FROM ANNEXATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview, Texas is a Type A general-law municipality located in Wise and Denton Counties, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the property owner has submitted a proper petition requesting the annexation of the hereinafter described property; and

**WHEREAS**, after proper notice was provided in accordance with Chapter 43 of the Texas Local Government Code and a public hearing on the proposed annexation was held before the City Council of the City of New Fairview; and

**WHEREAS**, all of the property described herein is adjacent to and within the exclusive extraterritorial jurisdiction of the City of New Fairview; and

**WHEREAS**, a Services Agreement has been negotiated and entered into with the owner of the property for the provision of services in the area; and

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

**SECTION 1.  
ANNEXATION**

That all portions of the following parcel (the "Territory") located in Denton County, Texas, are hereby annexed to the City of New Fairview as a part of the city for all municipal purposes, and the city limits are extended to include such Territory: being a portion of Lots 5 and 6, of the partition deed recorded in Volume 171, Page 494, Deed Records, Denton County,

Texas, and a portion of the tracts of land described in a deed to Walter S. Miller and wife, Mary Rita Miller, recorded in Volume 265, Page 68, Deed Records, Denton County, Texas as more particularly described in Exhibit "A" and depicted on Exhibit "B," attached to and incorporated in this Ordinance for all purposes.

**SECTION 2.  
RIGHTS AND DUTIES OF OWNERS AND  
INHABITANTS IN NEWLY ANNEXED AREA**

The owners and inhabitants of the Territory are entitled to all of the rights and privileges of all other citizens and property owners of the City of New Fairview, and are bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be subsequently adopted.

**SECTION 3.  
OFFICIAL MAP**

The official map and boundaries of the City, previously adopted, are amended to include the Territory as a part of the City of New Fairview, Texas. The City Secretary is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the city to add the territory annexed as required by law. A copy of the revised map shall be filed with the Wise and Denton County Appraisal Districts.

**SECTION 4.  
FILING CERTIFIED COPY**

The City Secretary is directed to file or cause to be filed a certified copy of this ordinance in the office of the county clerk of Wise County and Denton County, Texas and with the Wise and Denton County Appraisal Districts.

**SECTION 5.  
SERVICE AGREEMENT**

The City has entered into a Service Agreement with FM 407 Development, LLC concerning the services to be provided in the Territory.

**SECTION 6.  
CUMULATIVE CLAUSE**

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

**SECTION 7.  
SEVERABILITY CLAUSE**

Should any section or part of this ordinance be held unconstitutional, illegal or invalid, or the application thereof, the unconstitutionality, illegality, invalidity or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof, but as to such remaining portions, the same shall be and remain in full force and effect.

**SECTION 8.  
AREAS EXCEPTED FROM ANNEXATION**

Should this ordinance for any reason be ineffective as to any part of the area hereby annexed to the City of New Fairview, such ineffectiveness of this ordinance as to any such part or parts of any such area shall not affect the effectiveness of this ordinance as to the remainder of such area. The City Council hereby declares it to be its purpose to annex to the City of New Fairview every part of the area described in Section 1 of this ordinance, regardless of whether any part of such described area is hereby not effectively annexed to the City. Provided, further, that if there is included within the general description of territory set out in Section 1 of this ordinance to be hereby annexed to the City of New Fairview any lands or area which are presently part of and included within the limits of any other City, Town or Village, for which permission is not granted for New Fairview to annex the same is hereby excluded and excepted from the territory to be annexed hereby as fully as if such excluded and excepted area were expressly described herein, if permission has not been granted.

**SECTION 9.  
ENROSS AND ENROLL**

The City Secretary of the City of New Fairview is directed to engross and enroll this ordinance by copying the caption, publication clause and effective date clause in the minutes of the City Council and by filing the ordinance in the ordinance records of the City.

**SECTION 10.  
EFFECTIVE CLAUSE**

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

**PASSED AND APPROVED ON THIS 18TH DAY OF MAY 2020.**

\_\_\_\_\_  
Joe Max Wilson, Mayor

**ATTEST:**

\_\_\_\_\_  
Monica Rodriguez, City Secretary



**EXHIBIT "A"  
DESCRIPTION**

Falcon Ridge, Phase II (Annex)

Property Description

Being a tract of land situated in the R.A. Walker Survey, Abstract No. 1392, in Denton County, Texas, and being a portion of Lot 5 of the partition deed recorded in Volume 171, Page 494, Deed Records, Denton County, Texas, (DRDCT), and a portion of the tracts on land described in a deed to Walter S. Miller and wife, Mary Rita Miller, recorded in Volume 265, Page 68, DRDCT, and being more particularly described by metes and bounds as follows;

Beginning at 1/2 inch capped iron rod found, said point being in the East line of said Lot 5, and the West line of Lot 3 of said partition deed, and a tract of land described in a deed to Melonie L. DeVinney, recorded in Document No. 2007-147385, Real Property Records, Denton County, Texas, (RPRDCT), said point being in the North right of way (R-O-W) line State Highway F.M. 407, ( a 90 foot right of way), from said point a 3/8 inch iron rod found in the East line of said Lot 3 bears North 89 deg. 54 min. 56 sec. East, a distance of 832.69 feet, (Deed Call: East, 299 varas), and a rail road spike found at the Southwest corner of said Lot 5, bears South 00 deg. 07 min. 14 sec. West, 45.00 feet and South 89 deg. 54 min. 56 sec. West, 1648.53 feet, (Deed Call: West, 592 varas);

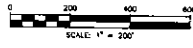
Thence South 00 deg. 07 min. 14 sec. West, along said common line, a distance 45.00 feet to a point in the center line of said F.M. 407 for corner;

Thence South 89 deg. 54 min. 56 sec. West, along the center line of said F.M. 407, a distance of 348.66 feet to a point for corner, from said point a 1/2 inch capped iron rod found for corner, said point being the Southeast corner of Lot 18, Block 1, Falcon Ridge, Phase One, according to the plat recorded in Document No. 2019-208, RPRDCT, bears North 00 deg. 08 min. 00 sec. East, a distance of 45.00 feet;

Thence along said Phase One the following, North 00 deg. 08 min. 00 sec. East, a distance of 594.61 feet to a 1/2 inch capped iron rod found for corner, North 89 deg. 52 min. 00 sec. West, a distance of 154.90 feet to a 1/2 inch capped iron rod set for corner, North 00 deg. 08 min. 00 sec. East, a distance of 589.60 feet to a 1/2 inch capped iron rod found for corner, South 89 deg. 52 min. 00 sec. East, a distance of 254.90 feet to a 1/2 inch capped iron rod found for corner, South 00 deg. 08 min. 00 sec. West, a distance of 28.09 feet to a 1/2 inch capped iron rod found for corner, South 89 deg. 52 min. 00 sec. East, a distance of 248.41 feet to a 1/2 inch capped iron rod found for corner, said point being in the in the common line between said Lots 3 and 5 of said partition deed;

Thence South 00 deg. 07 min. 14 sec. West, along said common line a distance of 1109.79 feet to the Point of Beginning, and containing 11.41 acres of land, more or less.

**EXHIBIT "B"**  
**DEPICTION**



Glen P. Sloop, Trust  
Vol. & Pg. Unknown  
Deed Date: 1-14-1992  
A. PULEN SURVEY  
ABST. NO. 1057

James & Elizabeth Monchess  
Vol. 414, Pg. 2566  
DRDCT

Chin L. Worin  
Vol. 4656, Pg. 612  
DRDCT

A. SMITH CO.  
SCHOOL LAND SURVEY  
ABST. NO. 1137

Curtis P. Worin  
Vol. 4956, Pg. 616  
DRDCT

Truett Wilson and wife  
Betty Lee Wilson  
Vol. 367, Pg. 228  
DRDCT

Truett Wilson  
Conversion Deed  
Vol. 367, Pg. 228  
DRDCT

B. Judge Lane

A. Pulen Survey, Abst. No. 1057  
R.A. Walker Survey, Abst. No. 1392

R.A. WALKER SURVEY  
ABST. NO. 1392

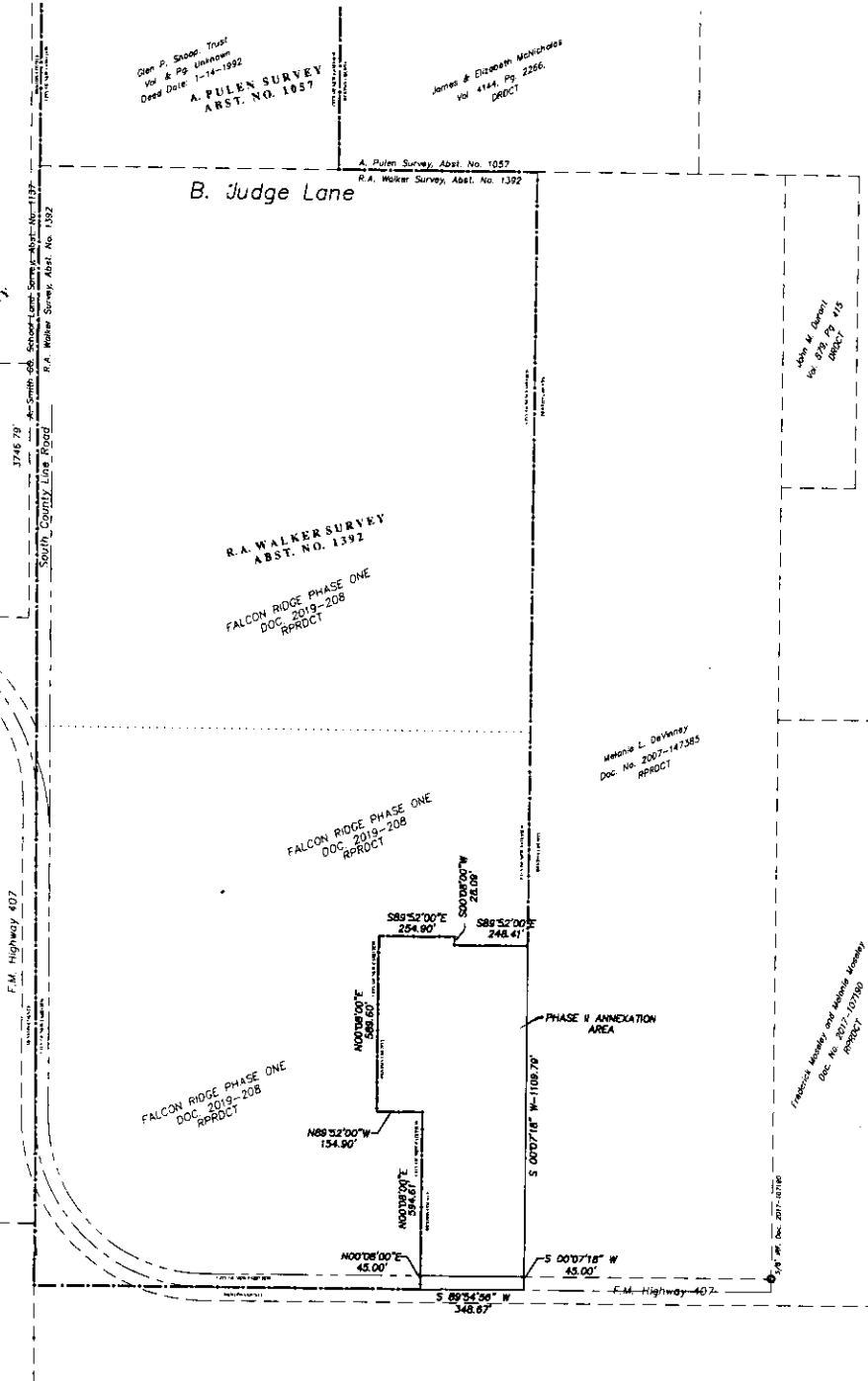
FALCON RIDGE PHASE ONE  
DOC. 2019-208  
RPRDCT

FALCON RIDGE PHASE ONE  
DOC. 2019-208  
RPRDCT

FALCON RIDGE PHASE ONE  
DOC. 2019-208  
RPRDCT

Wanda L. DeWeney  
Doc. No. 2007-147385  
RPRDCT

Frederic Mackay and Marlene Mackay  
Doc. No. 2017-10750  
RPRDCT



**DENVER:**  
DORRIS CONSULTING, INC.  
1587 Elm Jay Drive  
Lawton, Texas 76077  
972-748-0028

**OWEN:**  
78407 DEVELOPMENT, L.L.C.  
5846 Brent Club Blvd., Ste 400  
21 East Tarrant 76179  
817-388-0760

**SURVEY:**  
MAY & BRIDGEMAN, INC.  
7702 BARSON MILL ROAD  
ARLINGTON, TEXAS 76010  
817-466-7245

ANNEXATION EXHIBIT  
**FALCON RIDGE ESTATES**

DENTON COUNTY, TEXAS  
R.A. WALKER SURVEY, ABSTRACT NO. 1392  
11.41 ACRES OF LAND.  
DATE: 3/18/20



**City Council Agenda**  
**May 18, 2020**

**Agenda Item: 7C**

**Zoning**

**(Public Hearing)**

**Agenda Description:**

Public hearing on the proposed zoning by the City of New Fairview, Texas of approximately 11.41 acres of land in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.

**Background Information:**

The property owner, FM 407 Development, LLC (Mr. Kenny Ozee), through his agent, Mark Donahue P.E., has requested voluntary annexation of 11.41 acres (see related City Council agenda item). When property is annexed into the City of New Fairview it is automatically considered to be in the "A" Agricultural district (ZO Section 6.1). The Zoning Ordinance has a provision which allows a petitioner requesting annexation to propose alternative zoning (ZO Section 6.2). The applicant has requested "PD" Planned Development matching the "PD" zoning approved for Phase 1 of the Falcon Ridge Addition.

These "PD" regulations are:

1. One-family detached residential dwelling units only
2. Minimum Lot Area shall be 0.5 acre
3. Minimum House size shall be 2,300 square feet
4. Minimum Front Yard Setback shall be 25 feet
5. Minimum Side Yard Setback shall be 10 feet
6. Minimum Rear Yard Setback shall be 10 feet
7. No direct (driveway) access to FM 407 from the lots adjacent shall be allowed.
8. 300' gas well setback
9. No sidewalks or handicap ramps will be required.
10. The minimum standard street section shall be 31' back-to-back pavement with rollover curbs
11. Minimum street right-of-way shall be 50 feet
12. No fire hydrants will be required.

**Financial Information:**

Approval of "PD" Planned Development zoning will require the builders to construct houses which are a minimum of 2,300 square feet; rather than the 1,200 square feet minimum required in the "A" Agricultural or the "SF" Single Family Residential zoning districts. This will result in higher property taxes to the City.

**City Contact and Recommendation:**

Barry Hudson AICP, Consulting City Planner

**Attachments:**

## NOTICE OF PUBLIC HEARING ON PROPOSED ZONING AMENDMENT

The City Council of the City of New Fairview, Texas will conduct a public hearing on the 18<sup>th</sup> day of May, 2020 at 7:00 p.m. in the New Fairview City Hall located at 999 Illinois Ln., New Fairview, Texas, 76068, where all interested persons will have the right to appear and be heard on the proposed zoning by the City of New Fairview, Texas of approximately 11.05 acres of land on the east of the City—bordered on the south by F.M. 407 and is a part of the Falcon Ridge Estates. A complete legal description of the property that is the subject of the zoning amendment is on file in the office of the City Secretary for review. Due to the state of disaster ordered to address Covid-19, this public hearing may be held remotely in compliance with applicable laws and orders of the state of Texas.

## **PLANNED DEVELOPMENT DISTRICT**

### **FALCON RIDGE**

**CITY OF NEW FAIRVIEW, TEXAS**

Unless otherwise stated, all requirements of the SF District shall apply:

1. Development shall be limited to one-family, detached use only
2. Minimum Lot Area shall be 1/2 Acre
3. Minimum House size shall be 2300 SF
4. Minimum Front Yard Set Back shall be 25 FT
5. Minimum Side Yard Set Back shall be 10 FT
6. Minimum Rear Lot set back shall be 10 FT
7. No direct access to FM 407 from the lots adjacent shall be allowed.
8. All terms used herein are defined in the 2003-02-088 City of New Fairview Ordinance. The Operator of the Well(s), and any future Wells, on Lot 2, Block 2 and Lot 9, Block 7 of Falcon Ridge Subdivision shall be exempted from the setback requirements for all Well operations and activities set forth in the current 2003-02-088 City of New Fairview Ordinance, notwithstanding any amendment, change or modification of the requirements therein and any other ordinance within the City of New Fairview governing operations on the Wells. Operator may drill, develop minerals from, produce, and operate Wells from Well surface locations on Lot 2, Block 2 and Lot 9, Block 7 of Falcon Ridge Subdivision and all current and future Wells shall have a setback of 300' measured from the wellhead for both new and existing habitable structures. Further, no habitable structure shall be constructed or placed within 300' from the wellhead of any Well. The setback will be considered in perpetuity and exclusive of both present city ordinances and any ordinance that the City of New Fairview may enact in the future. This exemption and the waiver set forth herein constitutes a covenant running with the land and binds this Planned Development District, and creates an equitable servitude in favor of and appurtenant to this Development District benefited thereby, and inures to the benefit of, and is binding upon the parties hereto, and their successors and assigns.

The following standards shall apply:

1. No sidewalks or handicap ramps will be required
2. The minimum standard street section shall be 31' b-b pavement with rollover curbs (See attached Exhibit A)
3. Minimum ROW shall be 50'
4. No fire hydrants will be required.





**City Council Agenda**  
**May 18, 2020**

**Agenda Item: 7D**

**Ordinance**

**(Action Item)**

**Agenda Description:**

Discuss, consider and act on ordinance zoning approximately 11.41 acres in the R.A. Walker Survey, Abstract #1392, Denton County, Texas, as Phase II of Falcon Ridge Estates.

**Background Information:**

The property owner, FM 407 Development, LLC (Mr. Kenny Ozee), through his agent, Mark Donahue P.E., has requested voluntary annexation of 11.41 acres (see related City Council agenda item). When property is annexed into the City of New Fairview it is automatically considered to be in the "A" Agricultural district (ZO Section 6.1). The Zoning Ordinance has a provision which allows a petitioner requesting annexation to propose alternative zoning (ZO Section 6.2). The applicant has requested "PD" Planned Development matching the "PD" zoning approved for Phase 1 of the Falcon Ridge Addition.

These "PD" regulations are:

1. One-family detached residential dwelling units only
2. Minimum Lot Area shall be 0.5 acre
3. Minimum House size shall be 2,300 square feet
4. Minimum Front Yard Setback shall be 25 feet
5. Minimum Side Yard Setback shall be 10 feet
6. Minimum Rear Yard Setback shall be 10 feet
7. No direct (driveway) access to FM 407 from the lots adjacent shall be allowed.
8. 300' gas well setback
9. No sidewalks or handicap ramps will be required.
10. The minimum standard street section shall be 31' back-to-back pavement with rollover curbs
11. Minimum street right-of-way shall be 50 feet
12. No fire hydrants will be required.

**Financial Information:**

Approval of "PD" Planned Development zoning will require the builders to construct houses which are a minimum of 2,300 square feet; rather than the 1,200 square feet minimum required in the "A" Agricultural or the "SF" Single Family Residential zoning districts. This will result in higher property taxes to the City.

**City Contact and Recommendation:**

Barry Hudson AICP, Consulting City Planner

Recommendation is that the City Council approve the "PD" Planned Development zoning.

**Attachments:**

Zoning Ordinance

**CITY OF NEW FAIRVIEW, TEXAS**  
**ORDINANCE NO. 2020-15-207**

**AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS, AMENDING THE ZONING MAP OF THE CITY OF NEW FAIRVIEW ADOPTED BY ORDINANCE NO. 2010-01-149 BY DESIGNATING THE ZONING CLASSIFICATION OF A PARCEL OF LAND BEING 11.41 ACRES IN THE R.A. WALKER SURVEY, ABSTRACT 1392, WHICH WAS RECENTLY ANNEXED INTO THE CITY OF NEW FAIRVIEW FOR THE DEVELOPMENT OF PHASE II OF FALCON RIDGE ESTATES, LOCATED NORTHEAST OF THE REVERSE CURVE OF FM 407 (ILLINOIS LANE) AT THE INTERSECTION WITH SOUTH COUNTY LINE ROAD AND ON THE SOUTH SIDE OF B. JUDGE LANE, AS PD – PLANNED DEVELOPMENT FOR SINGLE FAMILY RESIDENTIAL. THE PARCEL IS SHOWN GRAPHICALLY ON EXHIBIT “A” AND DESCRIBED BY THE LEGAL DESCRIPTION PROVIDED ON EXHIBIT “B”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City is authorized by Section 211.005, “Districts” of the Texas Local Government Code to zone property into districts in accordance with a Comprehensive Plan; and

**WHEREAS**, the owner of the parcel of land within the extraterritorial jurisdiction of the City of New Fairview, being 11.41 acres in the R.A. Walker Survey, Abstract 1392, requested that the land be annexed into the City of New Fairview for the development of Phase II of the Falcon Ridge Estates, and being located northeast of the reverse curve of FM 407 (Illinois Lane) at the intersection with South County Line Road and on the south side of B. Judge Lane (the “Property”), initiated this amendment to the City of New Fairview Zoning map to assign a zoning classification to the Property; and,

**WHEREAS**, the City Council of the City of New Fairview has advertised and mailed notices of the public hearings in compliance with Chapter 211 of the Local Government Code; and,

**WHEREAS**, a public hearing was held by the City Council of the City of New Fairview, Texas, on the 18th day of May, 2020, with respect to the zoning described herein; and,

**WHEREAS**, the City Council of the City of New Fairview, Texas, finds that the proposed zoning changes are in accordance with the city’s comprehensive plan; and,

**WHEREAS**, the City Council of the City of New Fairview, Texas, finds that the proposed zoning changes are necessary to lessen the congestion on streets, to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; and avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewers, schools, parks and other

public requirements; to conserve the value of property and to encourage the most appropriate use of land throughout the City.

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

**Section 1**

That the zoning for the Property, as described herein, is designated as PD - Planned Development for Single Family Residential. The Property consists of 11.41 acres in the R.A. Walker Survey, Abstract 1392, which was recently annexed into the City of New Fairview for the development of Phase II of the Falcon Ridge Estates, and is located northeast of the reverse curve of FM 407 (Illinois Lane) at the intersection with South County Line Road and on the south side of B. Judge Lane. The Property is shown graphically on Exhibit "A," which exhibit consists of 1 page and is incorporated into this ordinance for any and all purposes, and is described by legal description on Exhibit "B," which exhibit consists of 1 page and is incorporated into this ordinance for any and all purposes.

Development of the Property shall be in accordance with the standards set forth in the City of New Fairview Subdivision Ordinance, except that the following standard shall apply in the place of any conflicting standard in the Subdivision Ordinance:

- a. There will be no sidewalks and no handicap ramps required on the Property.
- b. The minimum standard street section shall be 31' b-b pavement with rollover curbs, as shown on the attached Exhibit "C," which exhibit consists of 1 page and is incorporated into this ordinance for any and all purposes.
- c. The minimum right-of-way shall be 50'.
- d. There will be no fire hydrants required on the Property.

Development of the Property shall be in accordance with the SF – Single Family zoning district regulations, except as those regulations conflict with the terms set forth in this ordinance. The following regulations shall apply to the Property:

- a. Development shall be limited to single-family, detached use only;
- b. Minimum lot area shall be one-half acre;
- c. Minimum house size shall be 2300 SF;
- d. Minimum Front Yard Set Back shall be 25 FT;
- e. Minimum Side Yard Set Back shall be 10 FT;
- f. Minimum Rear Lot set back shall be 10 FT;
- g. No direct access to FM 407 from the lots adjacent shall be allowed;
- h. Development of the Property shall be in accordance with the attached final plat, attached hereto as Exhibit "D," which exhibit consists of 1 page and is incorporated into this ordinance for any and all purposes; and

- i. If any term used herein is defined in the Ordinance No. 2003-02-088 of the City of New Fairview, the definition contained in that ordinance applies to this provision. The Operator of the Well(s), and any future Wells, on Lot 2, Block 2 and Lot 9, Block 7 of Falcon Ridge Subdivision shall be exempted from the setback requirements for all Well operations and activities set forth in Ordinance 2003-02-088 of the City of New Fairview, notwithstanding any amendment, change or modification of the requirements therein and any setback requirements in any other ordinance within the City of New Fairview governing operations on the Wells. Operator may therefore drill, develop minerals from, produce, and operate Wells from Well surface locations on Lot 2, Block 2 and Lot 9, Block 7 of Falcon Ridge subdivision and all current and future Wells shall have a setback of 300' measured from the wellhead for both new and existing habitable structures. Further, no habitable structure shall be constructed or placed within 300' from the wellhead of any Well. Further, if any new drilling is done on the Property, the Operator must have noise screening in place during all drilling, and the Operator must install a permanent cyclone fence with green screening, a berm, and landscaping to completely enclose the entire well surface location.

## **Section 2**

The City Secretary is hereby directed to amend the official zoning map to reflect the changes in zoning referenced in this ordinance.

## **Section 3**

That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

## **Section 4**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

## **Section 5**

All rights or remedies of the City of New Fairview, Texas, are expressly saved as to any and all violations of the city's zoning ordinance, as amended, or any other ordinance affecting zoning and land use thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

## **Section 6**

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portion of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 7**

The City Secretary of the City of New Fairview, Texas, is hereby directed to publish in the official newspaper of the City of New Fairview, the caption, penalty clause, publication clause, and effective date clause of this Ordinance for two (2) days as required by section 52.012 of the Texas Local Government Code.

**Section 8**

This Ordinance shall take effect from and after its date of passage in accordance with law, and it is so ordained.

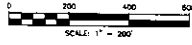
**PASSED AND APPROVED ON THIS 18TH DAY OF MAY, 2020.**

\_\_\_\_\_  
Joe Max Wilson, Mayor

**ATTEST:**

\_\_\_\_\_  
Monica Rodriguez, City Secretary

**Exhibit A**  
**Property Depiction**



Gen. P. School Trust  
Vol. & Pg. Unknown  
Deed Date: 1-14-1992  
**A. PULEN SURVEY**  
ABST. NO. 1057

James & Elizabeth Monnichous  
Vol. 414, Pg. 2256  
DRDCT

Oh L. Martin  
Vol. 4634, Pg. 812  
DRDCT

**A. SMITH CO.**  
**SCHOOL LAND SURVEY**  
ABST. NO. 1137

Curtis P. Martin  
Vol. 4958, Pg. 618  
DRDCT

3746.79'  
F.M. Highway 407  
South County Line Road  
R.A. Walker Survey, Abst. No. 1392

**B. Judge Lane**

A. Pulen Survey, Abst. No. 1057  
R.A. Walker Survey, Abst. No. 1392

John W. DeWitt  
Vol. 4912, Pg. 415  
DRDCT

**R.A. WALKER SURVEY**  
ABST. NO. 1392

FALCON RIDGE PHASE ONE  
DOC. 2019-208  
RPRDCT

Truett Wilson and wife  
Beryl L. Wilson  
Vol. 367, Pg. 228  
DRDCT

FALCON RIDGE PHASE ONE  
DOC. 2019-208  
RPRDCT

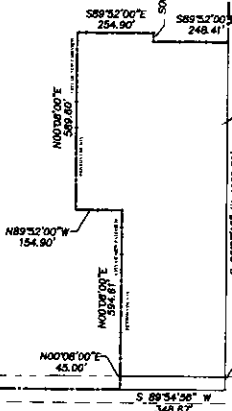
Melanie L. DeWitt  
Doc. No. 2007-14735  
RPRDCT

FALCON RIDGE PHASE ONE  
DOC. 2019-208  
RPRDCT

PHASE II ANNEXATION AREA

Frederick Mackay and Melissa Mackay  
Doc. No. 2017-10718  
RPRDCT

Truett Wilson  
Conversion Deed  
Vol. 367, Pg. 228.  
DRDCT



**SUCCESSORS:**  
CORNERSTONE COMMUNITY, INC.  
1887 Blue Sky Drive  
Louisville, Texas 76077  
978-746-0888

**OWNER:**  
PH 407 DEVELOPMENT, L.L.C.  
6544 West Oak Road, Box 434  
P.O. Box 1, Dallas, Texas 75219  
817-982-9700

**SURVEYOR:**  
MARI & ASSOCIATES, INC.  
7708 BARBER MILL ROAD  
ARLINGTON, TEXAS 76010  
817-989-7816

**ANNEXATION EXHIBIT**  
**FALCON RIDGE ESTATES**

DENTON COUNTY, TEXAS  
R.A. WALKER SURVEY, ABSTRACT NO. 1392  
11.41 ACRES OF LAND.  
DATE: 3/18/20



**Exhibit B**  
**Property Description**

Falcon Ridge, Phase II (Annex)

Property Description

Being a tract of land situated in the R.A. Walker Survey, Abstract No. 1392, in Denton County, Texas, and being a portion of Lot 5 of the partition deed recorded in Volume 171, Page 494, Deed Records, Denton County, Texas, (DRDCT), and a portion of the tracts on land described in a deed to Walter S. Miller and wife, Mary Rita Miller, recorded in Volume 265, Page 68, DRDCT, and being more particularly described by metes and bounds as follows;

Beginning at 1/2 inch capped iron rod found, said point being in the East line of said Lot 5, and the West line of Lot 3 of said partition deed, and a tract of land described in a deed to Melonie L. DeVinney, recorded in Document No. 2007-147385, Real Property Records, Denton County, Texas, (RPRDCT), said point being in the North right of way (R-O-W) line State Highway F.M. 407, ( a 90 foot right of way), from said point a 3/8 inch iron rod found in the East line of said Lot 3 bears North 89 deg. 54 min. 56 sec. East, a distance of 832.69 feet, (Deed Call: East, 299 varas), and a rail road spike found at the Southwest corner of said Lot 5, bears South 00 deg. 07 min. 14 sec. West, 45.00 feet and South 89 deg. 54 min. 56 sec. West, 1648.53 feet, (Deed Call: West, 592 varas);

Thence South 00 deg. 07 min. 14 sec. West, along said common line, a distance 45.00 feet to a point in the center line of said F.M. 407 for corner;

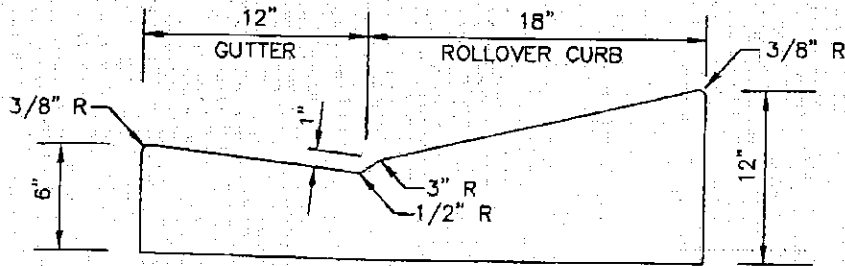
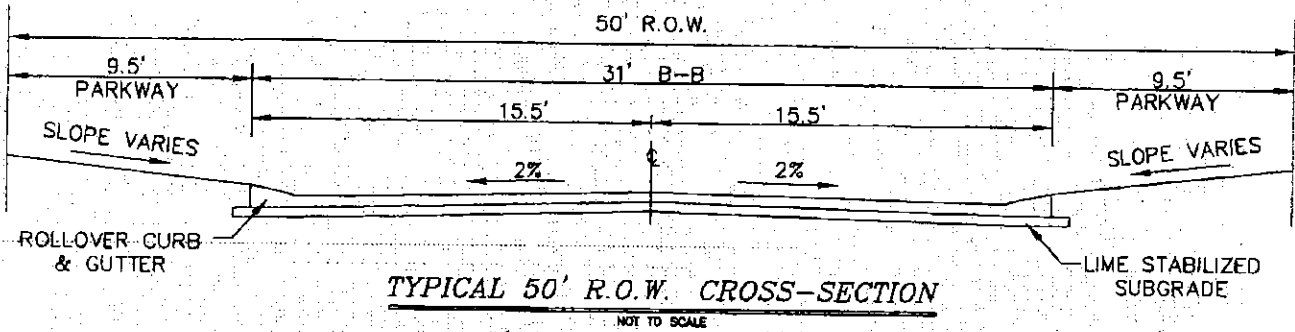
Thence South 89 deg. 54 min. 56 sec. West, along the center line of said F.M. 407, a distance of 348.66 feet to a point for corner, from said point a 1/2 inch capped iron rod found for corner, said point being the Southeast corner of Lot 18, Block 1, Falcon Ridge, Phase One, according to the plat recorded in Document No. 2019-208, RPRDCT, bears North 00 deg. 08 min. 00 sec. East, a distance of 45.00 feet;

Thence along said Phase One the following, North 00 deg. 08 min. 00 sec. East, a distance of 594.61 feet to a 1/2 inch capped iron rod found for corner, North 89 deg. 52 min. 00 sec. West, a distance of 154.90 feet to a 1/2 inch capped iron rod set for corner, North 00 deg. 08 min. 00 sec. East, a distance of 589.60 feet to a 1/2 inch capped iron rod found for corner, South 89 deg. 52 min. 00 sec. East, a distance of 254.90 feet to a 1/2 inch capped iron rod found for corner, South 00 deg. 08 min. 00 sec. West, a distance of 28.09 feet to a 1/2 inch capped iron rod found for corner, South 89 deg. 52 min. 00 sec. East, a distance of 248.41 feet to a 1/2 inch capped iron rod found for corner, said point being in the in the common line between said Lots 3 and 5 of said partition deed;

Thence South 00 deg. 07 min. 14 sec. West, along said common line a distance of 1109.79 feet to the Point of Beginning, and containing 11.41 acres of land, more or less.

**Exhibit C**  
**Minimum Standard Street Section**

**EXHIBIT C**  
**TYPICAL STREET ROW W/ ROLLOVER CURB**  
**FALCON RIDGE SUBDIVISION**  
**CITY OF NEW FAIRVIEW**



**DONOHUE CONSULTING, INC.**  
 1327 Blue Jay Drive  
 Lewisville, Texas 75077  
 (972) 746-0832  
 F-16207

**OWNER/DEVELOPER:**

**FM 407 DEVELOPMENT, LLC.**  
 5848 Boat Club Road, Ste 456  
 Ft. Worth, Texas 76179  
 817-382-0765

**Exhibit D**  
**Falcon Ridge Final Plat**





**City Council Agenda  
May 18, 2020**

**Agenda Item: 7E                      Resolution                      (Action Item)**

**Agenda Description:**

Discuss consider and act on resolution calling public hearing to consider the zoning by the City of New Fairview, Texas of approximately 140.246 acres of land situated in the James C. Jack Survey, Abstract No. 679, Denton County, Texas located on the southeast corner of the City—bordered on the north by Dove Hollow Lane and bordered on the west by South County Line Road.

**Background Information:**

The developer of this property is requesting a development agreement from the City, which anticipates the development of the property in one acre lots. The development agreement proposed the annexation and zoning of the property. In anticipation of the consideration of the development agreement for this development, this resolution will call a public hearing for the consideration of the zoning of this property.

**Financial Information:**

NA

**City Contact and Recommendation:**

Alan Guard, Interim City Administrator

Recommend approval of this resolution call a public hearing on the zoning of this property.

**Attachments:**

Resolution

RESOLUTION NO. 2020-14-104

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, CALLING PUBLIC HEARINGS TO RECEIVE PUBLIC COMMENT ON PROPOSED ZONING APPLICATION; AUTHORIZING AND DIRECTING THE PUBLICATION OF NOTICES OF THE PUBLIC HEARING, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview, Texas (the "City") is a Type A general law municipal corporation duly organized and lawfully existing under the laws of the State of Texas and located within Wise and Denton Counties, Texas; and

**WHEREAS**, on May 4, 2020, the owner of real property delivered to the City an application for zoning of approximately 140.246 acres of land situated in the James C. Jack Survey, Abstract No. 679, Denton County, Texas (the "Property"), a description of said Property being attached to this Resolution as Exhibit A; and

**WHEREAS**, prior to the adoption of an ordinance zoning the Property, the City Council must conduct a public hearing to allow persons interested in the zoning of the Property the opportunity to be heard; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to call a public hearing at which the City Council will hear from persons interested in the zoning of the Property.

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

**SECTION 1.**

The recitals set forth in the WHEREAS clauses of this Resolution are true and correct and are incorporated as part of this Resolution.

**SECTION 2.**

A public hearing to hear from persons interested in the zoning of the Property will be held on June 15, 2020, at 7:00 P.M. at the New Fairview City Hall, 999 Illinois Ln., New Fairview, Texas 76068. All persons interested in the zoning of the Property will have the right to appear and be heard related to the proposed zoning of the Property.

**SECTION 3.**

During or at the conclusion of the public hearing, the City Council may consider an ordinance adopting zoning of this Property.



**SECTION 4.**

The City Secretary is hereby authorized and directed to give all notices of the public hearing as required by law, including notices required by the Texas Open Meetings Act and the published notices required by the Act.

**SECTION 5.**

This Resolution shall become effective from and after its date of passage and approval in accordance with law.

**PASSED AND APPROVED THIS THE 18TH DAY OF MAY, 2020.**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary

**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**



**City Council Agenda**  
**May 18, 2020**

**Agenda Item:** 7F                      **Resolution**                      **(Action Item)**

**Agenda Description:**

Discuss consider and act on resolution accepting petition for the voluntary annexation by the City of New Fairview, Texas of approximately 140.246 acres of land situated in the James C. Jack Survey, Abstract No. 679, Denton County, Texas located on the southeast corner of the City—bordered on the north by Dove Hollow Lane and bordered on the west by South County Line Road.

**Background Information:**

The developer of this property is requesting a development agreement from the City, which anticipates the development of the property in one acre lots. The development agreement proposed the annexation and zoning of the property. In anticipation of the consideration of the development agreement for this development, this resolution will accept the petition or annexation of this property and call a public hearing for consideration of the annexation of this property.

**Financial Information:**

NA

**City Contact and Recommendation:**

Alan Guard, Interim City Administrator

Recommend approval of this resolution to accept the petition for voluntary annexation and call a public hearing for same.

**Attachments:**

Resolution

Petition for Voluntary Annexation

## Exhibit A

All that certain lot, tract, or parcel of land, situated in a portion of the James C. Jack Survey, Abstract No. 679, Denton County, Texas, being part of that certain called 322.98 acre tract described in a deed to SEF Holdings, Ltd. recorded in Instrument No. 2015-100230 of the Deed Records of Denton County, Texas (DRDCT), and being more completely described as follows, to-wit:

**BEGINNING** at a railroad spike found for the Northwest corner of said 322.98 acre tract, the Southwest corner of a called 723.822 acre tract described in a deed to Royal Crest Properties, LLC recorded in Instrument No. 2017-121257 (DRDCT), being the recognized Northwest corner of said James C. Jack Survey, the recognized Southwest corner of Robert A. Walker Survey, Abstract No. 1392, and being in the recognized East line of the Green B. Buchanan Survey, Abstract No. 32, said point also being at the intersection of South County Line Road and Dove Hollow Lane;

**THENCE** South 89 deg. 50 min. 15 sec. East along the North line of said 322.98 acre tract, the South line of said 723.822 acre tract, the recognized North line of said James C. Jack Survey, and the recognized South line of said Robert A. Walker Survey, a distance of 1,215.91 feet;

**THENCE** South 00 deg. 06 min. 41 sec. West departing said North and South lines, a distance of 3,537.20 feet to a Point of Curvature of a non-tangent circular curve to the right, having a radius of 2,640.00 feet, a central angle of 56 deg. 22 min. 29 sec., and being subtended by a chord which bears South 28 deg. 12 min. 06 sec. West - 2,494.05 feet;

**THENCE** in a southwesterly direction along said curve to the right, a distance of 2,597.57 feet to the West line of a called 1.789 acre right-of-way dedication for South County Line Road recorded in a deed to Denton County, Texas recorded in Instrument No. 2018-30901 (DRDCT);

**THENCE** in a northerly direction along the East line of said 1.789 acre tract the following six (6) courses;

North 00 deg. 32 min. 58 sec. East, a distance of 535.12 feet to a 5/8" capped iron rod found stamped "TNP" for a Point of Curvature of a circular curve to the left, having a radius of 2,530.00 feet, a central angle of 0 deg. 59 min. 35 sec., and being subtended by a chord which bears North 00 deg. 03 min. 11 sec. East - 43.85 feet;

Continue in a northerly direction along said curve to the left, a distance of 43.85 feet to a 5/8" capped iron rod found stamped "TNP";

North 00 deg. 26 min. 37 sec. West tangent to said curve, a distance of 204.37 feet to a 5/8" iron rod found;

North 02 deg. 25 min. 07 sec. East, a distance of 100.12 feet to a 5/8" capped iron rod found stamped "TNP";

North 00 deg. 26 min. 37 sec. West, a distance of 325.85 feet;

North 00 deg. 15 min. 33 sec. East, a distance of 179.87 feet to a 5/8" capped iron rod found stamped "TNP" for the most northerly corner of said 1.789 acre tract and being in the East line of a called 0.495 acre right-of-way dedication described in a deed to Denton County, Texas recorded in Instrument No. 2016-95239 (DRDCT);

**THENCE** in a northerly direction along the East line of said 0.495 acre tract the following five (5) courses;

North 22 deg. 8 min. 51 sec. East, a distance of 38.15 feet;

North 0 deg. 20 min. 46 sec. East, a distance of 150.00 feet to a 5/8" capped iron rod found stamped "TNP";

North 21 deg. 26 min. 19 sec. West, a distance of 53.85 feet to a 5/8" iron rod found "bent";

North 0 deg. 20 min. 46 sec. East, a distance of 21.44 feet to a 5/8" iron rod found;

North 01 deg. 35 min. 51 sec. West, a distance of 50.03 feet to a 5/8" iron rod found "bent" for the Northeast corner of said 0.495 acre tract;

**THENCE** North 89 deg. 55 min. 32 sec. West along the North line of said 0.495 acre tract, a distance of 28.50 feet to the West line of said 322.98 acre tract and the approximate centerline of said South County Line Road;

**THENCE** North 0 deg. 15 min. 48 sec. East along said West line and centerline, a distance of 391.10 feet to a P.K. nail set with washer at a previously found railroad spike now obliterated;

**THENCE** North 0 deg. 3 min. 54 sec. West along said West line and centerline, a distance of 3,651.53 feet to the **POINT OF BEGINNING**, containing 6,109,122 square feet or 140.246 acres of land, more or less.

*Bearings are referenced to Texas State Plane Coordinate System, North Central Zone (4202), North American Datum of 1983 as derived from GPS observation.*

RESOLUTION NO. 2020-11-101

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, CALLING PUBLIC HEARINGS TO RECEIVE PUBLIC COMMENT ON PROPOSED ZONING APPLICATION; AUTHORIZING AND DIRECTING THE PUBLICATION OF NOTICES OF THE PUBLIC HEARING, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview, Texas (the "City") is a Type A general law municipal corporation duly organized and lawfully existing under the laws of the State of Texas and located within Wise and Denton Counties, Texas; and

**WHEREAS**, on May 4, 2020, the owner of real property delivered to the City an application for zoning of approximately 140.246 acres of land situated in the James C. Jack Survey, Abstract No. 679, Denton County, Texas (the "Property"), a description of said Property being attached to this Resolution as Exhibit A; and

**WHEREAS**, prior to the adoption of an ordinance zoning the Property, the City Council must conduct a public hearing to allow persons interested in the zoning of the Property the opportunity to be heard; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to call a public hearing at which the City Council will hear from persons interested in the zoning of the Property.

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

**SECTION 1.**

The recitals set forth in the WHEREAS clauses of this Resolution are true and correct and are incorporated as part of this Resolution.

**SECTION 2.**

A public hearing to hear from persons interested in the zoning of the Property will be held on June 15, 2020, at 7:00 P.M. at the New Fairview City Hall, 999 Illinois Ln., New Fairview, Texas 76068. All persons interested in the zoning of the Property will have the right to appear and be heard related to the proposed zoning of the Property.

**SECTION 3.**

During or at the conclusion of the public hearing, the City Council may consider an ordinance adopting zoning of this Property.

**SECTION 4.**

The City Secretary is hereby authorized and directed to give all notices of the public hearing as required by law, including notices required by the Texas Open Meetings Act and the published notices required by the Act.

**SECTION 5.**

This Resolution shall become effective from and after its date of passage and approval in accordance with law.

**PASSED AND APPROVED THIS THE 18TH DAY OF MAY, 2020.**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary

**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**





**City Council Agenda**  
**May 18, 2020**

**Agenda Item: 7G Resolution (Action Item)**

**Agenda Description:**

Discuss, consider and possible action approving a Resolution adopting Financial Procedures.

**Background Information:**

Organizations including local government typically adopt financial procedures. Staff has prepared financial procedures that conform to Texas state law. Financial procedures establish internal controls that protect municipal funds and help staff and City Council uphold their fiduciary responsibilities. This policy has been reviewed by the City Attorney. These procedures address a procurement policy, budget policies for revenue and expenditure estimates, amending the budget, appropriations, the annual audit and taxes. Adopting these procedures is a best practice recommended by the Government Finance Officers of America.

**Financial Information:**

NA

**City Contact and Recommendation:**

Alan Guard, Interim City Administrator

Staff recommends that Council approve the resolution and adopt the financial procedures.

**Attachments:**

Resolution

Financial procedures



City of New Fairview, Texas  
Resolution No. 2020-12-102

**A RESOLUTION OF THE CITY OF NEW FAIRVIEW, TX ADOPTING FINANCIAL PROCEDURES**

**WHEREAS,** the City of Fairview is an incorporated city in the State of Texas; and

**WHEREAS,** the City of New Fairview is a General Law city as classified by the Texas Municipal Code; and

**WHEREAS,** the City desires to be in have written financial procedures in conformance with best practices of the Government Finance Officers of America; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY NEW FAIRVIEW:**

1. The City Council of New Fairview has reviewed the financial procedures and determines it to be acceptable; and
2. That this Resolution shall cause the financial procedures to take effect immediately upon its approval.

PRESENTED AND PASSED on this **18th day of May**, at a meeting of the New Fairview City Council.

APPROVED:

\_\_\_\_\_  
Joe Max Wilson  
Mayor

ATTESTED:

\_\_\_\_\_  
Monica Rodriguez  
City Secretary



City of New Fairview  
Financial Procedures  
June 1, 2020

## **Financial Procedures**

### **Section 1.01 Fiscal Year**

The fiscal year of the City shall begin on the first day of October and end on the last day of September of the succeeding year. Such fiscal year shall also constitute the budget and accounting year.

State law references – General fiscal power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 105.

### **Section 1.02 Submission of Budget and Budget Message**

On or before the fifteenth (15<sup>th</sup>) day of August of the fiscal year, the City Administrator shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message.

### **Section 1.03 Budget Message**

The City Administrator's budget message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the City's debt position and include other such material as the City Administrator deems desirable.

### **Section 1.04 Budget a Public Record**

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the City Council and shall be open to public inspection by anyone interested.

### **Section 1.05 Public Hearing on Budget**

At the City Council meeting when the budget is submitted, the City Council shall name the date, time and place of a public hearing and shall have published in the official newspaper of the City, at least twice, the date, time and place, which will be not less than ten (10) days nor more than thirty (30) days after the date of the notice. At this hearing, interested citizens may express their opinions concerning the budget, including their reasons for wishing to increase or decrease any items of expense.

State law reference – Public hearings on proposed budget, V.T.C.A., Local Government Code, sec. 102.006; special notice by publication for budget hearing, V.T.C.A., Local Government Code, sec. 102.0065

### **Section 1.06 Proceeding on Adoption of Budget**

After public hearing, the City Council shall analyze the budget, making any additions and deletions which they feel appropriate, and shall adopt the budget by the affirmative vote of a majority of the full membership of the City Council. Should the City Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted.

State law reference – Adoption of budget, V.T.C.A., Local Government Code, sec. 102.007.

### **Section 1.07 Budget Appropriation and Amount to be Raised by Taxation**

On final adoption, the budget shall in effect for the budget year. Final adoption of the budget by the City Council shall constitute the official appropriations as proposed by expenditure for the budget year and shall constitute the basis of official levy of the property tax as the amount to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus undesignated fund balance from the previous fiscal year. Unused appropriations may be transferred to any item required for the same general purpose.

State law reference – Levy of taxes and expenditures of funds under budget, emergency expenditures, V.T.C.A., Local Government Code, sec. 102.009

### **Section 1.08 Amending the Budget**

Under conditions which may arise, and for municipal purposes, the City Council may, by an affirmative vote of a majority of the full membership of the City Council, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance and shall become attached to the original budget.

### **Section 1.09 Certification; Copies Made Available**

A copy of the budget, as finally adopted, shall be filed with the City Secretary and such other places required by state law or as the City Council shall designate. The final budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, and for the use of interested persons and civic organizations.

### **Section 1.10 Revenue Policy**

- (a) The City will strive to maintain as diversified and stable a revenue system as permitted by state law to shelter it from short run fluctuations in any one revenue source. The revenue mix should combine elastic and inelastic revenue sources to minimize the effect of an economic downturn.

- (b) Because revenues are sensitive to local and regional economic activities, revenue estimates provided to the City Council shall be conservative.
- (c) The City will estimate its revenues by an objective, analytical process using best practices as defined by the Government Finance Officers Association.
- (d) The City will project revenues for the next five years and will update this projection annually.
- (e) The City will establish all user charges at a level related to the cost of providing the service and within the policy guidelines of the City Council.

### **Section 1.10 Capital Program**

The City Administrator shall submit a five-year (5-year) capital program as an attachment to the annual budget. The program as submitted shall include:

- (a) A clear general summary of its contents; and
- (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements; and
- (c) Cost estimates, method of financing, and recommended time schedules for each improvement; and
- (d) The estimated annual cost of operating and maintaining any facilities to be constructed or acquired.

The information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

### **Section 1.11 Defect Shall Not Invalidate the Tax Levy**

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or tax rate.

### **Section 1.12 Lapse of Appropriations**

Every appropriation, except an appropriation for a capital expenditure, dedicated grant awards, or program specific enterprise funds shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure, dedicated grant awards, or specific enterprise funds shall continue in force until the purpose for which it was made had been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three (3) years pass without disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

### **1.13 Borrowing**

The City shall have the power to borrow money on the credit of the City and to issue or incur bonds and other evidences of indebtedness to finance public improvements or any other purpose not prohibited by the Constitution and the laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the City previously issued.

All such bonds and other evidences of indebtedness shall be issued in conformity with the laws of the State of Texas and may be secured by or paid, in whole or in part, from ad valorem tax revenue, revenues derived from other taxing powers of the City, revenues derived by the City from any fee or service charge, including revenues derived from the operations of any public utility, utility system, recreational facilities or any other municipal function to the extent not prohibited by the Constitution and laws of the State of Texas. Such bonds or evidences of indebtedness may be a charge upon and payable from properties, or interest therein pledged, or the income therefrom, or both to the extent not prohibited by the Constitution or laws of the State of Texas. The proceeds of bonds or other evidences of indebtedness issued or incurred by the City shall be used only for the purposes for which the bonds or other indebtedness was issued or incurred.

State law references – Public Security Procedures Act, V.T.C.A., Government Code, ch. 1201; refunding bonds, V.T.C.A., Government Code, ch. 1207; bond elections generally, V.T.C.A., Government Code, ch. 1251; municipal bonds, V.T.C.A., Government Code, ch. 1331; authority of municipality to issue bonds for public improvements, V.T.C.A., Government Code, sec. 1331.052.

### **Section 1.14 Purchasing**

- (a) The City Council may by ordinance, give the City Administrator general authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding limits set by the City Council within the ordinance.
- (b) All contracts for expenditure or purchases involving more than the limits given by the City Council to the City Administrator must be expressly approved by the City Council.
- (c) Emergency contracts as authorized by law and the ordinance may be negotiated by the City Council or City Administrator if given authority by the City Council, without competitive bidding, and in accordance with state law. Such emergency may be declared by the City Administrator and approved by the City Council or declared by the City Council.
- (d) Spending, purchasing, and sale of real or personal property guidelines shall be set by policy approved by the City Council and shall be consistent with state law.

State law reference – Purchasing and contracting authority of municipality, V.T.C.A., Local Government Code, chs. 252, 271.

### **Section 1.15 Administration of the Budget**

- (a) No payment shall be made or obligation incurred against any allotment or appropriation unless the City Administrator or City Administrator's designee, first certifies that there is sufficient unencumbered balance. The City Administrator may transfer any part of the unencumbered appropriation balance expenditures within an office department, agency or organizational unit. At any time during the fiscal year, at the request of the City Administrator, the Council may by resolution transfer any part of the unencumbered appropriation balance or the entire balance thereof from one office, department, agency, or organizational unit to another.
- (b) The City Administrator shall submit to the City Council each month a report covering the revenues and expenditures of the City in such form as requested by the City Council.

### **Section 1.16 Depository**

All monies received by any person, department or agency of the City for or in connection with the affairs of the City shall be deposited promptly in the City depository or depositories. The City depositories shall be designated by the City Council in accordance with such regulations and subject to the requirements as to security for deposits and interest thereon as may be established by ordinance and State law. Procedures for withdrawal of money or the disbursements of funds from the City depositories shall be prescribed by ordinance.

State law references – Depositories of municipal funds, V.T.C.A., Local Government Code, ch. 105.

### **Section 1.17 Independent Audit**

At the close of each fiscal year, and at such times as may be deemed necessary, the City Council shall call for an independent audit to be made of all accounts of the City by a certified public accountant. No more than five consecutive annual audits shall be completed by the same accountant or accounting firm. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. The report of audit, with the auditor's recommendations will be made to the City Council. Upon completion of the audit, the summary shall be published within thirty (30) days in the official newspaper of the City and copies of the audit placed on file in the office of the City Secretary as a public record.

State law references – Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

### **Section 1.18 Power to Tax**

- (a) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas.
- (b) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.



State law references – Texas Property Tax Code supercedes municipal charter, V.T.C.A., Tax Code, sec. 1.02; local taxation, V.T.C.A., Tax Code, ch. 301 et seq.; property taxes authorized, V.T.C.A., Tax Code, sec. 302.001; occupation taxes, V.T.C.A., Tax Code, 302.101; tax collection powers, V.T.C.A., Tax Code, sec. 302.102.

### **Section 1.19 Office of the Tax Collector**

There may be an office of taxation to collect taxes, the head of which shall be the City Tax Collector. The City Council may contract for such services.

### **Section 1.20 Taxes; When Due and Payable**

- (a) All taxes due in the City shall be payable at the office of the City Tax Collector, or at such location or locations as may be designated by the City Council, or its contractor, and may be paid at anytime after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent and shall be subject to penalty and interest as the City Council shall provide by ordinance.
- (b) Failure to levy and assess taxes through omission in preparing the appraisal roles shall not relieve the person, firm partnership, company, corporation or legal entity so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

### **Section 1.21 Tax Liens, Liabilities and Suits**

- (a) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing such property on or after January 1 in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of the property subject to taxation by the City shall be personally liable for the taxes due for that year.
- (b) The City shall have the power to sue for and recover personal judgement for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgement and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a sufficient description to be assessed, to prove the same, and to have its judgement foreclosing the tax lien or for personal judgement against the owners for such taxes.

State law references – Tax liens and personal liability. V.T.C.A., Tax Code, ch. 32.



**City Council Agenda  
May 18, 2020**

**Agenda Item: 7H**

**Ordinance**

**(Action Item)**

**Agenda Description:**

Discuss, consider and possible action approving an Ordinance adopting a Procurement Policy.

**Background Information:**

Organizations including local government typically adopt a procurement policy. Staff has prepared a procurement policy that conforms to Texas state law. Procurement policies also help cities get the best value in the acquisition of goods and services. This policy has been reviewed by the City Attorney. The policy sets forth spending authority limits for staff and City Council, identifies methods of procurement including phone quotes, written quotes, sealed bid, request for proposals and sole source purchases. Emergency purchase procedures are included as well as exceptions to the bidding process allowed under state law.

**Financial Information:**

NA

**City Contact and Recommendation:**

Alan Guard, Interim City Administrator

Staff recommends that Council approve the ordinance and adopt the procurement policy.

**Attachments:**

Ordinance

Procurement Policy



City of New Fairview, Texas

Ordinance No. 2020-16-208

**AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TX ADOPTING A  
PROCUREMENT POLICY**

**WHEREAS**, the City of Fairview is an incorporated city in the State of Texas; and

**WHEREAS**, the City of New Fairview is a General Law city as classified by the Texas  
Municipal Code; and

**WHEREAS**, the City desires to be in compliance with Texas State Law for purchasing goods  
and services and receive the best value for taxpayers; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY  
NEW FAIRVIEW:**

1. The City Council of New Fairview has reviewed the procurement policy and determines  
it to be acceptable; and
2. That this Ordinance shall cause the procurement policy to take effect immediately upon  
its approval.

**PRESENTED AND PASSED** on this **18th day of May**, at a meeting of the New Fairview City  
Council.

APPROVED:

ATTESTED:

\_\_\_\_\_  
Joe Max Wilson  
Mayor

\_\_\_\_\_  
Monica Rodriguez  
City Secretary



City of New Fairview

Procurement

Policy

# PROCUREMENT POLICY

DESCRIPTION	DATE	RESOLUTION #
Adopted by Resolution on:		
Initial Effective Date		
<b>REVISIONS</b>		
Revision # 1		
Revision # 1 Council Adopted Date		

TABLE OF CONTENTS

Section 1:	Purpose _____	1
Section 2:	Authority _____	3
Section 3:	Statute _____	7
Section 4:	Ethics _____	9
Section 6:	Grants _____	11
Section 7:	Miscellaneous Guidelines _____	12
Section 8:	Bonds, Insurance and Indemnification _____	15
Section 9:	Contract Types, Requirements, and Management _____	16
Section 10:	Surplus Property _____	17
Section 11:	Public Works Projects (CIP) _____	20
Section 12:	Professional Services _____	22
Section 13:	Emergency Procurement _____	24
Section 14:	Disaster Procurement _____	25
Section 15:	Sole Source Purchases _____	29
Section 16:	Cooperative Purchases _____	30
Section 17:	Procurement Card _____	31
Appendix A	References _____	34
Appendix B	Definitions _____	35
Appendix C	Acronyms _____	39
Appendix D	Choosing a Procurement Method _____	40
Appendix E	Lead Times _____	41

**PURPOSE**

The Purchasing Division will serve as the central procurement office of the City and will determine which method of procurement provides the best value for the City, adopt operational procedures consistent with sound business practices and state law which govern the procurement and management of all materials, services and construction to be procured by the City, and to manage disposal of materials.

The purpose of the Purchasing Policy is to provide the City with the requisite parameters for purchasing goods and services under applicable state statutes. More specifically, the purposes are:

- A. Simplify and clarify the laws governing purchasing by the City;
- B. Permit the continued development of purchasing policies and practices;
- C. Provide consistency in the purchasing practices of the City;
- D. Increase public confidence in public purchasing;
- E. Ensure the fair and equitable treatment of all persons who participate in the purchasing process;
- F. Provide increased economy and efficiency in purchasing activities by avoiding unnecessary, unwarranted, and duplicative purchases;
- G. Provide safeguards for the maintenance of a purchasing system;
- H. Ensure that full accounting is available and given for all purchases.

**POLICY**

It is the policy of the City to conduct procurement functions efficiently, effectively, and in full compliance with all federal and state laws, City Charter, and administration policy and procedures. The City Council's authority to contract for all goods and services and make all sales is delegated to the City Administrator as set forth in this manual and to those employees to whom the City Administrator delegates that responsibility. The City Administrator may delegate a Purchasing Administrator to contract for the City in accordance with this manual. Additionally, selected personnel in the City's requesting departments are authorized to make purchases as provided herein.

Personnel who attempt to contract in the name of the City, or personnel making authorized or unauthorized purchases outside of the scope of this manual, may be subject to disciplinary action up to and including termination, legal action, and personal financial liability.

If a person fails to comply with the competitive bidding or competitive proposal procedures required by law, that person may be convicted of a Class B misdemeanor. This includes a situation in which a person knowingly or unknowingly makes or authorizes separate, sequential, or component purchases in an attempt to avoid the competitive bidding requirement.

**ENFORCEMENT**

It shall be the responsibility of the City Administrator or the designated Purchasing Administrator to enforce all procurement procedures.

- A. A violation is defined as an employee's action or omission that indicates disregard for purchasing laws, policy, or procedures. A violation also may be noted if the employee's action was unintentional but violates federal law, state law, City charter, ordinance, policies, or procedures.
- B. Texas Local Government Code § 252.062, 252.063 and 271.029 provide criminal penalties for officers and employees who knowingly violate state statutes.

**PERSONAL USE PROHIBITIONS AND PERMISSIONS**

- A. If an employee acquires merchandise or services for the employee's personal use from a vendor doing business with the City, such merchandise or services may not be delivered to the employee or another City employee unless the acquisition is paid directly to the vendor by the employee. No

personal invoices are to be mailed to an employee (or another City employee for or on behalf of the employee) at the employee's (or other employee's) place of work. Employee is responsible for payment of applicable sales tax.

- B. Employees may purchase merchandise or services from a vendor doing business with the City provided that the price at which the item is purchased is the same price charged to all officers and employees of the City. Employees cannot use the City's business accounts for personal purchases. Employees that are involved in contract negotiations should not purchase merchandise or services for personal use with a vendor that is currently working, seeks to work, or has worked for the City.
- C. Employees shall **NOT** use the City of New Fairview tax exemption forms for personal use.

**POLICY UPDATES**

This policy may be amended at any time with Council approval. Any amendments to State or Federal law will automatically take effect on the date stated in the legislative update.



This Section covers delegated authority for all Procurement related issues.

### **CITY COUNCIL**

City Council as required by Local Government Code, §252, must authorize:

- A. All Anticipated expenditures exceeding \$50,000
- B. All Change Orders greater than \$50,000 or 25% of the contract amount; and
- C. Purchases not budgeted and greater than \$50,000.

### **CITY ADMINISTRATOR**

The City Administrator shall establish the rules and regulations for the purchase of all goods and services by means of this manual.

#### **Delegated Authority – City Administrator:**

The City Administrator as authorized by City Council may authorize:

- A. All items less than \$50,000
- B. Authorize Change Orders less than \$50,000
- C. Procure and Authorize Items budgeted and less than \$50,000
- D. Execute all Purchase Orders under \$50,000 and those over \$50,000 that have been approved by the City Council.
- E. Execute all contracts and change orders under \$50,000 and those over \$50,000 that have been approved by City Council.

### **PURCHASING ADMINISTRATOR**

The Purchasing Administrator oversees all procurement requirements for goods and services and ensures all are in accordance with all federal, state and local procurement laws. The Purchasing Administrator ensures all procurement activities are conducted with the highest level of ethical standards, provide suppliers a fair opportunity to compete for City business and to protect public funds.

#### **Delegated Authority – Purchasing Administrator:**

***The City Administrator delegates to the Purchasing Administrator the authority to procure all goods and services, to dispose of all salvage, surplus and seized property, to execute contracts and agreements for all departments and to administer the rules and regulations as established by all federal, state and local procurement laws.***

The Purchasing Administrator as authorized by the City Administrator may:

- A. Execute all Purchase Orders under \$50,000 and those over \$50,000 that have been approved by the City Council.
- B. Execute all Interlocal or Cooperative Purchasing agreements.
- C. Purchase budgeted goods or services from an Interlocal or Cooperative Agreements competitively bid contract, as approved by the City Council, City Administrator, and/or other appropriate staff.
- D. Execute contracts and change orders up to \$50,000 and those over \$50,000 that have been approved by the City Council.
- E. Reject any and all bids, in concurrence with requesting department, when in the best interest of the City, and make recommendation to the City Administrator and/or City Council, as appropriate. Items over \$50,000 require a formal rejection by City Council.
- F. Manage the solicitation process in collaboration with the responsible department including:

1. Solicitation documents and methods
  2. Ensure competition.
  3. Facilitate the evaluation and recommendations for award.
  4. Concurrence with staff prior to Council recommendations.
  5. Prepare and submit Council Agenda
- G. Determine which method of procurement provides best value for the City.
- H. Approve all required ratings for bonds and insurance.
- I. Review all insurance certificates for compliance.
- J. Determine and implement the most appropriate method of disposal of salvage, surplus, and seized property in accordance with applicable laws.
- K. Review and question requisition/solicitation documents. Review and update, as needed, all procurement forms, templates, policies, and procedures and ensure compliance.
- L. Purchasing Administrator may consult with the City Attorney for review of all procurement related issues.
- M. Provide guidance and assistance for all City employees regarding the purchasing process;
- N. Ensure the City acquires, stores, disburses, utilizes and disposes of goods and services in the best interest of the City and its citizens;
- O. Provide the City with quality products and services at the best possible price;
- P. Guide all departments in the use and understanding of established purchasing procedures;
- Q. Conduct procurement in fair, open, inclusive, and transparent environment.

**DIRECTORS**

Directors are responsible for ensuring procurement related activities are completed in a timely basis, within policy compliance, and to promote conduct that fosters public confidence by:

- A. Ensuring adequate funds are appropriated. If appropriations are exceeded a budget transfer request must be submitted before the expenditure is captured.
- B. Expenditures not included in the budget must have approval of the City Administrator and Finance Director. Evidence of the approval shall be in the form of either:
- A memo or email issued by the City Administrator, or
  - Approval of a memo or email to the City Administrator requesting approval of the expenditure.
- C. Manage, review, and approve department credit cards.
- D. Utilize the electronic bid system and the Purchasing Administrator for purchases between \$3,000 and \$50,000 when possible.
- E. Goods or services requiring insurance/indemnification or a pre-bid conference will be managed and solicited by the Purchasing Agent.
- F. Ensure Historically Underutilized Business (HUB) participation in accordance with the provisions of Texas Local Government Code Chapter 252.
- G. Assist in specification development and provide vendor sources.
- H. Provide names of departmental staff authorized to use the requisitions system including first level approval and any changes in delegation of such authority.

- I. Permanent authorization will remain in effect until written notification of a change is received by Purchasing.
- J. Guard against misappropriation of City funds by safeguarding public funds and ensure fair, open, and transparent processes by providing equal opportunities to all vendors.

**DEPARTMENT STAFF**

Delegated individuals within a department who have been properly trained may submit requisitions and manage PCard reconciliation in accordance with this manual.

**FINANCE DEPARTMENT**

The Finance Director and/or Purchasing Administrator are responsible for ensuring the proper expenditures of funds, both budgeted and unbudgeted, and for verifying the availability of funds prior to making a recommendation to City Council.

**APPROVAL AUTHORITY**

The following approval levels shall be utilized in all procurement related matters.

- A. All procurement card (PCard) transactions must be approved by the respective department Director.
- B. All other Procurement Related Expenses:

<b>Amount</b>	<b>Approval Requirements</b>			
\$0 - \$2,999	Authorized Staff	Purchasing Mgr.		
\$3,000-\$49,999	Authorized Staff	Director	Purchasing Mgr.	
\$25,000 +	Authorized Staff	Director	City Administrator	Purchasing Mgr.
\$50,000 +	Authorized Staff	Director	City Council	Purchasing Mgr.

**All Fixed Asset purchases (\$5,000 or greater) will be processed by Procurement.**

**Quote - Purchases Less Than \$3000 for Supplies**

A onetime purchase or cumulative purchase by a single department or from multiple departments for supplies requires a single written quote. Purchase may be made with the purchasing card or by obtaining a purchase order prior to placing the order.

**Quote - Purchases More Than \$3000 and Less Than \$50,000 for Supplies**

A onetime purchase or cumulative purchase by a single department or from multiple departments for supplies requires three written quotes and two must be from HUB vendors as required by statute. Purchase may be made by obtaining a purchase order prior to placing the order.

**Quote - Purchases Less Than \$3000 for Service**

A onetime purchase or cumulative purchase by a single department or from multiple departments requires a single written quote. If service is performed on City property, all vendors should be given a copy of the standard insurance requirements and a certificate of insurance obtained. Work should not be started until a purchase order has been issued and a copy of the insurance verified by Purchasing.

**Quote - Purchases More Than \$3000 and Less Than \$50,000 for Service**

A onetime purchase or cumulative purchase by a single department or from multiple departments requires three written quotes and two must be from HUB vendors as required by statute. If service is performed on City property, all vendors should be given a copy of the standard insurance requirements and a certificate of insurance obtained. Work should not be started until a purchase order has been issued and a copy of the insurance verified by Purchasing.

**Bid/RFP/RFQ – Purchases Greater Than \$50,000 for Supplies or Service**

A onetime purchase or cumulative purchase by a single department or for multiple departments must be processed by Purchasing. The appropriate process will be used and a standard contract/purchase order will be issued.

All purchases greater than \$50,000 must include a contract, insurance, bonds (if needed), and a purchase order. City Council approval is required and will be processed by Purchasing.

**ENFORCEMENT**

It shall be the responsibility of the City Administrator to enforce all procurement procedures.

- A. A violation is defined as an employee's action or omission that indicates an intentional or reckless disregard for purchasing laws, policy, or procedures. A violation may be noted if the employee's action was unintentional but violates federal law, state law, City charter, ordinance, policies, or procedures.
- B. A Non-Compliance form will be used as a means of obtaining and sharing violation information with appropriate staff.
- C. Repetitive violations of purchasing policy by one department or individual will be communicated by the City Administrator or the Purchasing Administrator.
  - a. First infraction – warning
  - b. Second infraction – Suspension of procurement duties / access / disciplinary action
- D. Texas Local Government Code § 252.062, 252.063 and 271.029 provide criminal penalties for officers and employees who knowingly violate state statutes.

The Procurement policy is based on Texas statutory provisions as found in the Texas Government Code, Texas Local Government Code, Texas Insurance Code, and Texas Labor Code, as amended. Although all such provisions apply to the policies and procedures set forth in this policy, selected statutes are provided herein for guidance, as follows:

**DEFINITIONS, Texas Local Government Code, §252.001**

1. **Component Purchases** – purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
2. **High Technology Procurement** – the procurement of equipment, goods, or services of a highly technical nature, including:
  - a. data processing equipment and software and firmware used in conjunction with data processing equipment;
  - b. telecommunications equipment and radio and microwave systems;
  - c. electronic distributed control systems, including building energy management systems; and
  - d. technical services related to those items.
3. **Separate Purchases** – purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
4. **Sequential Purchases** – purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

**QUOTES/BIDS THRESHOLD, Texas Local Government Code, §252.021**

Expenditures of more than \$3,000, but less than \$50,000, require the buyer to obtain a minimum of three quotes. Two of the quotes must be from Historically Underutilized Businesses (HUB).

The City must competitively bid or accept sealed proposals for any goods/services over \$50,000.

**PAYMENTS, Texas Government Code, §2251.021 through 2251.030**

A payment by a governmental entity under a contract is overdue on the **31st day after the later of:**

- A. the date the governmental entity receives the goods under the contract; or
- B. the date the performance of the service under the contract is completed; or
- C. the date the governmental entity receives an invoice for the goods or service.

If goods or services are incomplete City staff must document any issues/shortages and notify the vendor in writing. All deliveries should be verified upon receipt. **Payments are not made until goods and services are accepted.**

Interest on overdue payments accrues at the interest rate established by law.

Departments are encouraged to take advantage of prompt or early payment discounts.

**Payments will only be made to vendors that have a valid purchase order or through use of a procurement card (PCard). Violations will be treated as follows:**

1. A form letter will be sent to the vendor notifying it of policy requirements.
2. Employee will be sent a statement of non-compliance form to be completed.

**Vendors / Contractors** must pay subcontractor or supplier who supplies goods/services for which payment is made within ten (10) days after receipt of payment from the City.

**CRIMINAL PENALTIES, Texas Local Government Code, §252.062**

- a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.
- b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.
- c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described in Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

**REMOVAL / INELIGIBILITY, Texas Local Government Code, §252.063**

- a) The final conviction of a municipal officer or employee for an offense under Section 252.062 (a) or (b) results in the immediate removal from office or employment of that person.
- b) For four years after that date of the final conviction, the removed officer or employee is ineligible:
  - 1. to be a candidate for or to be appointed or elected to a public office in this state;
  - 2. to be employed by the municipality with which the person served when the offense occurred; and
  - 3. to receive any compensation through a contract with that municipality.

**INSURANCE REQUIREMENTS, Texas Labor Code, §406.096**

All contractors and subcontractors shall have insurance coverage including worker's compensation. Proof of coverage must be provided prior to any work beginning. *Certificates must be issued to the City and submitted to Purchasing.*

Minimum Required Insurance: Workers Compensation, General Liability, and Auto Liability. Other types of insurance may be required depending on the type of work or service requested.

"Building or construction" includes:

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance; or
- (B) remodeling, extending, repairing, or demolishing a structure; or
- (C) otherwise improving real property or an appurtenance to real property through similar activities.

**PUBLIC RECORDS**

Vendors or the public may request a copy of a Bid Tabulation that is compiled when bids are opened in accordance with Chapter 552 of the Texas Government Code.

The City will not release copies of submitted bids or bid evaluations until after the contract has been awarded in accordance with §552.104 of the Texas Government Code. This is not a waiver of any exception to the requirements of public disclosure contained in the Texas Public Information Act including, but not limited to, trade secrets or other commercial or financial information that is made confidential by law.

**PROCUREMENT CODE OF ETHICS**

A special responsibility is imposed on all City of New Fairview employees entrusted with the allocation of City funds. In government procurement, employees are held to the highest degree of integrity, to secure best economic results, and to comply with the procurement process.

It is critical that employees involved in procurement and procurement-related functions remain independent, free of obligation or suspicion, and completely fair and impartial. Credibility and public confidence are vital. A shadow of doubt can be as harmful as the conduct itself. It is with this in mind that the following procedures are set forth. Every person employed by the City of New Fairview and performing public purchasing and purchasing-related functions shall abide by this code of ethics.

**PERCEPTION**

- A. Avoid the intent and/or appearance of unethical or compromising practice in relationships, actions, and communications. If a situation is perceived as real, then it is in fact real in its consequences.
- B. Avoid business relationships with personal friends and relatives. Request a reassignment of responsibility if the situation occurs.
- C. Avoid noticeable displays of affection, which may give an impression of impropriety.
- D. Avoid holding business meetings with suppliers outside the office. If such a meeting is necessary, carefully choose the location so there will be no perception by others in the business community or your peers of impropriety.

**RESPONSIBILITY TO YOUR EMPLOYER**

- A. Demonstrate loyalty to the City of New Fairview by adhering to lawful instructions, using reasonable care, and only granted authority.
- B. Follow the letter and spirit of all laws, policies, and procedures. Interpretation of the law should be left to legal counsel.
- C. Understand the authority granted by the City of New Fairview.
- D. Refrain from conducting any private business or professional activity that would result in a conflict of interest between the employee and employer.

**NO EMPLOYEE OF THE CITY MAY:**

- A. Have any financial or other interest, directly or indirectly, in any proposed or existing contract, purchase, work, sale, or service to, for, with, or by the City. The City Administrator may, at his discretion, waive this requirement.
- B. Use City employment, authority, or influence in any manner for personal betterment, financial or otherwise;
- C. Have a financial interest, directly or indirectly, in the sale to the City of any materials, supplies, or services.
- D. Have discussions or participate in discussions of any City agency, board, commission or instrumentality if the employee has a personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision, except as noted below:
  - 1) Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a City employee or that might impair independent judgment in the performance of duties to the City; or
  - 2) Accept monetary payment or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the City.

**CONFLICT OF INTEREST**

City employees and officials must become familiar with the requirements in Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers; and Texas Local Government Code Chapter 171, Regulation of Conflicts of Interest of Officers of Municipalities; and the penalties provided therein.

**GRATUITIES (GIFTS AND ENTERTAINMENT)**

Employees of the City must:

- Refrain from soliciting and/or accepting gifts of any kind from vendors, actual or potential;
- Never provide special favors or privileges to anyone, either as payment or under any other circumstance;
- Never accept for self, friends, or family any favors or benefits which might be construed as influencing the performance of duties;
- Adhere to City of New Fairview Personnel Policy regarding ethics/gifts.

**SUPPLIER/VENDOR RELATIONS**

Employees of the City must:

- Promote positive vendor relations through courtesy and impartiality in all phases of the procurement process;
- Handle confidential or proprietary information belonging to the City, fellow employees, or vendors with care and proper consideration of ethical and legal ramifications, and governmental regulations;
- Never use information gained confidentially in the performance of duties for profit;
- Exhibit a friendly, cooperative and yet objective relationship to all suppliers; this will help avoid the appearance of partiality in business dealings; and
- Actively strive to comply with City policies and federal and state laws regarding purchases from small businesses and those owned by minorities and other disadvantaged groups.

City employees must discharge their duties impartially so as to assure fair competitive access to government procurement by responsible suppliers. City employees must conduct themselves in such a manner as to foster public confidence in the integrity of the City of New Fairview procurement organization. It is each employee's duty to report any potential violations to the proper authorities.



This policy establishes the responsibility for ensuring compliance and provides for a review process that shall be completed before signing any grant or award document and acceptance of said grant or award.

Identification and application – Departments seeking grants must provide advance notice to Finance. This ensures grant requirements can be reviewed and understood by those affected including budget, procurement, and audit.

1. Copies of all award documents, applications, funding agreements, etc., must be submitted to Procurement prior to the bidding process.
2. Grant account number must be set up and financial concerns addressed before submitting/requesting any procurement process.
3. § CFR 200.318
  - (a) The City (Non-Federal entity) must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.
  - (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
  - (c) Conflict of Interest – No employee, officer, or agent may participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contactors or parties to subcontracts.

**BID PROTESTS**

All protests regarding the bid solicitation process must be submitted in writing to the Purchasing Administrator within five (5) working days following the opening of bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the Texas Local Government Code, as well as protests relating to alleged improprieties or ambiguities in the specifications.

The 5-day limitation does not apply to protests relating to staff recommendations as to award of a bid. Protests relating to staff recommendations may be directed to the City Council by contacting the City Secretary PRIOR to Council Award.

**BUDGETED FUNDS**

Funds must be available and in the proper account prior to issuance of a purchase order and before the use of a purchasing card.

**CHECK REQUEST**

Check requests are used for the following purchases:

- **Refunds** – Include the reason for request and attach documentation indicating the person or organization name; date of original purchase, contract date or class date; and reason for refund.
- **Contract Labor** – Include the reason for request and attach as backup, a copy of the employee contract for a one-time payment, jury duty, or for instructors. Submit proper documentation such as a copy of the instructor contract.
- **Reimbursements** – Include copy of detailed invoice or receipt.

Check requests must be submitted with proper documentation such as an agreement or detailed receipt. Invoices are not paid by check requests and check requests do not require a purchase order.

**DEBRIEFING**

A debriefing is a review of the vendor's quote, bid, or proposal. It is normally provided to unsuccessful vendors. Debriefings are normally requested during the proposal process, but may be done for any type of solicitation that evaluates factors other than price. The process may be formal (face-to-face) or informal (over the phone/email).

Outline the vendor's strengths and weaknesses. This provides detailed information for the vendor to learn from and to better prepare for future proposals.

Do not discuss competing proposals.

**FREIGHT CHARGES AND FEES**

Include freight costs and fees in the total cost when obtaining quotes. Freight and fees must be considered in determining the award.

All freight should be requested as FOB Destination (delivery address) freight pre-paid and allowed.

**INVOICES**

All invoices must be submitted to Accounts Payable within five days of receipt. Invoices shall be documented and the following information included.

- Receiving information (received in full / received partial)
- Signature of department representative
- PO Number

The authorized purchaser is responsible for verifying that all materials/services are received in working order and meet specifications. Once materials/services have been received and verified to be correct, indicate

receipt of materials on the invoice by noting "received in full" or "received partial" for each line item on the Purchase Order.

- If the quantity received does not agree with the vendor's packing slip or the material does not conform to specification, the vendor must be notified immediately.

### **INFORMATION TECHNOLOGY PURCHASES**

All IT-related purchases/contracts, including software, hardware, copier and printer purchases, rentals, and leases, must be initiated by the City Administrator to ensure proper security controls are met.

### **NEW VENDORS**

The authorized purchaser should provide the vendor with a new vendor packet. This should be submitted to accounts payable when received.

### **NON-DISCRIMINATION POLICY**

It is the policy of the City of New Fairview to afford all suppliers an equal opportunity to bid on any contract being issued.

This policy prohibits discrimination against any person because of race, color, sex, religious affiliation, age, disability, or national origin, in the award or performance of any contract.

The policy requires its officers, employees, agents, and contractors to adhere to this Policy.

### **PETTY CASH**

Petty cash is limited to \$25.00. Detailed receipts and a petty cash voucher must be submitted to receive reimbursement.

### **PLACING ORDERS**

**Purchase Orders** - When placing orders, provide the vendor with a copy of the Purchase Order, name of person placing the order, department name, and the City's billing address.

Billing Address:           City of New Fairview  
                                  Accounts Payable  
                                  999 Illinois Rd  
                                  New Fairview, TX 76078

Billing Email:             CNFClerks@gmail.com

Instruct vendors to clearly display the name of the person placing the order, the department, and the Purchase Order Number on all invoices, delivery slips, cases, cartons, boxes, packing slips and bills of lading.

A Purchase Order must be obtained prior to placing the order and sent to the vendor when order is placed.

**PCard** – Purchasing card (credit card) may be used for any amount under \$3000. When placing an order, card information must be given at the time orders are placed. **Invoices may not be paid with a credit card.**

### **SALES TAX EXEMPTION**

The City is exempt from sales, excise and use taxes under Texas Tax Code, § 151.309. End users are responsible for ensuring tax is not paid. If a mistake occurs, end users are responsible for correcting the tax or reimbursing the tax.

The City is NOT exempt from sales tax for food, lodging or transportation-related purchases for employees during travel.

**TIE BIDS**

If all factors and conditions relating to the bids are equal, then the tie bid will be awarded to the local vendor. If more than one vendor is local or none are local, then a coin toss will be conducted by the Purchasing Administrator with at least one witness.

**VENDOR PERFORMANCE**

Vendors play a crucial role in the City's day-to-day operations. As such, maintaining communication during the vendor obligation period is important. Both City staff and the vendor should provide open communication on project status, current issues, and potential issues.

**NON-PERFORMING VENDORS**

When a vendor fails to perform according to the Agreement (Purchase Order, Annual Agreement, Contract, and/or Specification), the Department Director, or designee will:

1. Document the issues in writing to the vendor and to the City Administrator or Purchasing Administrator.
2. Schedule a meeting to discuss the issues.
3. Document the resolution to the issue, as agreed upon by the department and the vendor. Documentation shall be in writing and signed by the department and the vendor and a copy forwarded to Purchasing.

If a vendor's performance remains non-compliant or otherwise unsatisfactory, the department will notify the City Administrator or Purchasing Administrator who will attempt to facilitate a resolution. If the issue cannot be resolved, the Purchasing Administrator and the Department Director will make a joint determination to cancel the contract per its terms and conditions. Purchasing will then work with the department to obtain a substitute vendor or issue a new solicitation in accordance with purchasing policy.

**BOND POLICY**

Bidders may be required to provide certain bonds for Public Works Contracts. § 2269.001 (6) A public work contract means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

The City will only accept corporate sureties duly qualified and authorized. Personal sureties will not be accepted. All required bonds must be approved by the Purchasing Administrator prior to contractors or vendors commencing work.

- A. The City may require bonding on other projects to mitigate risk.
- B. The City of New Fairview requires payment, performance, and maintenance bonds to be provided on City approved forms in accordance with statute.

**Types of Bonds**

**Bid Bonds** –The Bid Bond minimum limit is five percent (5%) of the total amount bid and would typically apply to construction contracts. It is the City's option to require a bidder to provide a Bid Bond. This ensures the City will not suffer loss if the bidder attempts to withdraw his or her bid after the bid is accepted.

Personal, Certified or cashier's checks will NOT be accepted in lieu of a Bid Bond. Bid Bonds are provided on surety forms. Bid Bonds will be returned to the issuing vendor upon request. Bond must be requested within ten days of award.

**Payment Bonds** are required for Public Works Contracts in excess of fifty thousand dollars (\$50,000) and must be written for one hundred percent (100%) of the total bid price. The Payment Bond is for the protection of those performing work as subcontractors or suppliers for the prime vendor/contractor. See *Texas Government Code § 2253.021*

**Performance Bonds** are required for all Public Works Contracts when the vendor's bid exceeds one hundred thousand (\$100,000), and they must be written for one hundred percent (100%) of the total bid price. These bonds are solely for the protection of the City in the event of a contractor/vendor default under Contract terms and conditions. See *Texas Government Code § 2253.021*

**Maintenance Bonds** can be written for a term relevant to the project. The coverage provided by a Maintenance Bond guarantees against defective workmanship and materials.

**INSURANCE AND INDEMNIFICATION POLICY**

Contractors performing work on City property or public right-of-way shall provide indemnification and certificates of insurance or a copy of their insurance policy(s) including a copy of the endorsements. The required language is inserted in solicitation documents by the Purchasing division or owner of the specifications.

Contractual agreements must contain a provision that transfers the risk of the project from the City to the contractor. Because the contractor may not have the financial resources to handle the risks that are transferred in the contract, the City requires that insurance be purchased and maintained by the contractor for financial security.

**Workers' Compensation Insurance** – Contractors and subcontractors hired for building and construction projects must provide Workers' Compensation Insurance for their employees regardless of the project's cost. Texas Labor Code, § 406.096.

Purchasing must verify and approve all insurance documents prior to the contract, purchase order, or commencement of work to be performed.

**CONTRACTS**

A contract is a written, legally binding document or obligation.

A **Purchase Order is a contract**. Purchase orders are written and approved before goods or services are ordered and received. This ensures purchases are approved and within budget. A Purchase Order or Contract is **required** when insurance and indemnification is required.

All guidance provided to a contractor must be within the scope of the contract.

**Contracts Greater than \$10,000**

All purchases greater than \$10,000 must include a standard contract, insurance, bonds (if needed), and a purchase order.

City Attorney review is required for all non-standard and City Council approval is required and will be processed by Purchasing.

**Annual/Term Contracts.** The City may use an annual fixed price contract to obtain required goods or services from a chosen vendor for a specified time period. These contracts eliminate the necessity of bidding commodities each time they are needed. Annual contracts require a bid solicitation, award process, and purchase order.

**CAUTION:** Items or a service purchased from a vendor other than the vendor awarded the work is a direct violation of purchasing policy and the contract.

**CONTRACT MANAGEMENT**

The City has purchased contract management software to assist in the management of all City contracts. The software shall be used by all departments to manage all City-related contracts. Failure to manage and control changes can result in an unintentional attempted modification to the scope of work, extension of the schedule, increase in the contract cost, circumvention of management controls, and diminished contractor accountability.

**Purchasing Responsibility**

Purchasing will be responsible for setting up all contracts that are issued through an informal or formal solicitation. The following documents will be added to the electronic file.

- |  |                   |
|--|-------------------|
| Bid related documents  | Insurance         |
| General Terms & Conditions   | Bonds             |
| The Contract   | Notice to Proceed |
| Payment requests   | Change Orders     |
| Lien Releases  | Correspondence    |
| Blank Forms: Payment Request, Change Order Request, Release of Liens, etc. |                   |

**Staff Responsibility**

Staff will be responsible for uploading all documents relating to the following:

- |   |                        |
|---|------------------------|
| Monitoring                              | Meetings Minutes/Notes |
| Reporting                               | Request for Payments   |
| Correspondence                          | Inspection /Testing    |
| Acceptance                              | Site Visit Schedules   |
| Correspondence Relating to the Contract | Change Orders          |
| Lien Releases                           | Bonds changes          |

The City of New Fairview is committed to ongoing monitoring and periodic review of surplus and obsolete materials. The purpose of the policy is to ensure disposal is completed in a consistent manner throughout the organization.

**DEFINITIONS**

**Disposal** – The sale, donation or destruction of surplus property or equipment.

**Item** – Surplus or obsolete movable assets such as vehicles and equipment, materials and unclaimed property.

**Surplus** – All supplies, assets, materials and unclaimed property that are either obsolete, at the end of their life cycle or not required by operations.

**Obsolete** – going out of functional use or out of date.

There are multiple formats for the disposal process. These include auction, trade-in, recycling, and destruction. All methods require written approval.

- All fixed assets and capital equipment must be disposed of through Procurement. Departments should complete the required disposition form prior to submitting to Procurement. The current capital / fixed asset amount is \$5000.00.
- Any item that is still operable and has a potential value shall be auctioned or traded during the replacement process or as they become obsolete.
- Scrap Metal – Staff shall obtain from Procurement a letter of authorization to recycle specific items. Funds received for the recycling must be submitted to Procurement and will be deposited. Written receipts from the recycling center must be provided with the payment.
- Disposition forms / Fixed Asset Forms are available from Finance or on the City web site.

**POLICY PROCEDURES**

	<b>Steps</b>	<b>Responsibility</b>
1	Identify surplus property	Department Director or designated employee
2	Notify all departments of the availability of the surplus property. <ul style="list-style-type: none"> <li>• Email to all departments/users</li> <li>• Allow a minimum of seven days</li> </ul>	Designated Department employee
3	If a department is interested, complete the City's Surplus Property Form and submit to Procurement. <ul style="list-style-type: none"> <li>• Requesting department must pick up the equipment within seven days.</li> </ul>	Designated Department employee
4.	If no interest, notify Procurement. <ul style="list-style-type: none"> <li>• Complete Disposition form and send to Procurement</li> </ul>	Designated Department employee
5	Procurement will determine the best method of disposal through: <ul style="list-style-type: none"> <li>• Auction</li> <li>• Trade In</li> <li>• Recycling</li> <li>• Donation</li> <li>• Destruction</li> </ul>	Procurement

**AUCTION**

	<b>Steps</b>	<b>Responsibility</b>
1	Prior to Sale: Department must remove all City of New Fairview identification, markings, or equipment (logo, department numbering, equipment that will be used on other equipment, etc.)	Designated Department Employee
2	Move item to a secure location	Designated Department Employee
3	Take pictures and submit to Procurement <ul style="list-style-type: none"> <li>• For vehicles &amp; equipment, take a minimum of four pictures (one on each side).</li> <li>• Additional pictures of the inside, damage to exterior or interior, etc.</li> <li>• The more information/pictures provided will help with the sell and less questions will be generated by the public.</li> </ul>	Designated Department Employee
3	Create a log with the identification, location, value and date.	Procurement
4	Proceed with auction. Auctions will be completed quarterly or sooner, IF needed.	Procurement
5	Receive funds and close out auction.	Procurement

**DESTRUCTION/RECYCLING (IT Equipment)**

	<b>Steps</b>	<b>Responsibility</b>
1	Confirm items are eligible for destruction.	IT
2.	Complete the destruction form	IT
3.	Send form to vendor and Procurement	IT
4	Copy procurement on all correspondence.	IT
5	Bring proceeds to Procurement for deposit.	IT

**UNCLAIMED, SEIZED, OR LOST PROPERTY**

	<b>Steps</b>	<b>Responsibility</b>
1	Confirm items are eligible for sale	Designated Department Employee
2	For Lost and Unclaimed Property, provide documentation that all internal policies have been followed.	Designated Department Employee
3.	For Seized property, follow Auction Procedures and provide copy of Court Order which indicates property has been awarded to the City of New Fairview.	Police Department

**PERSONAL USE PROHIBITIONS AND PERMISSIONS**

City employees may purchase items from City issued third party auctions.

**PURCHASE OF CITY EQUIPMENT NOT SOLD THROUGH AUCTION.**

Used “disposable” equipment such as cell phones and other electronic equipment may be sold to an employee when available and approved by the IT Administrator at a cost equal to the current fair market



value. Equipment must be close to or eligible for replacement.

Public Works projects are those projects that require the construction, repair, or renovation of a structure, building, street, highway, bridge, park, water and wastewater distribution facility, airport runway or taxiway, drainage project, or other improvement or addition to real property.

**BID TYPE**

Texas Government Code Chapter 2269 requires the City Council or its designee to determine which method of procurement provides the best value for the City. This policy designates the Purchasing Administrator such authority.

**PREVAILING WAGE RATES**

- A. Texas Government Code Chapter 2258 mandates that any Public Work contract awarded by the City include the requirement to pay prevailing wage rates. The statute requires the payment of a prevailing wage rate for laborers and mechanics and applies to both contractors and subcontractors. Wages for workers on construction projects shall not be paid less than the schedule of general prevailing rates of per diem wages as mandated.

The City has adopted the U.S. Department of Labor's Wage Determinations for Collin County, Texas, for use in all Public Works projects. Rates may be accessed at: <http://www.wdol.gov/dba.aspx>.

- B. The prevailing wage rate or a link to the wage rates with the date shall be included in public works projects.
- C. Rates shall be verified by the Purchasing Administrator.

**BONDING REQUIREMENTS**

Bonds shall be in accordance with Texas Government Code Chapter 2253.

- A. The bond must be executed by a corporate surety in accordance with the policies and approved by the City of New Fairview.
- B. The corporate surety must be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.
- C. A Power of Attorney must be included.
- D. Bonding shall be verified by the Purchasing Administrator prior to award.

**INSURANCE AND INDEMNIFICATION REQUIREMENTS**

- A. The minimum insurance required are specified by the City of New Fairview.
- B. For construction-related projects, all contractors and sub-contractors, including those delivering equipment or materials or performing a service shall provide workers' compensation for all employees. General contractors are responsible for ensuring that sub-contractors carry the same or higher insurance amounts as those required.
- C. All contractors shall provide proof of coverage satisfactory to the City. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage. Texas Labor Code § 406.096

**AWARD OF CONTRACT/AGENDA ITEM**

- A. Staff in conjunction with Purchasing will review and prepare a recommendation for award. Purchasing will prepare the agenda.
- B. Contracts will be processed by Purchasing and added to the contract management software.

A change order is the written documentation and approval process that must be performed when changes in the scope of a project are proposed after the performance of a contract has begun. Such changes may include a significant change in the quantity of work to be performed, the cost of work to be performed, or of the materials, equipment, or supplies to be furnished. A change order is usually written for a construction contract but may be necessary in other types of contracts.

Refer to Texas Local Government Code Chapters 252 and 271.

### **Threshold for Change Orders**

A "threshold" is defined as a financial limit on the amount of expenditures which can be authorized by the City Administrator on a construction project before requiring City Council approval. (Texas Local Government Code Chapters 252 and 271.

- A. **Change Orders Greater than \$50,000** – If the change order is greater than \$50,000 it must be approved by the City Council.
- B. **Change Orders Less than \$50,000** – If the change order is less than \$50,000 it may be approved by the City Administrator or designee.
- C. Once the total of all approved change orders on a project (including the contingency amount) totals more than \$50,000, all subsequent change orders must be approved by the City Council.
- D. The original contract price may not be decreased by more than 25% without the consent of the contractor.
- E. The original contract price may not be increased by more than 25% without approval by Council.
- F. Change order forms must be used to document each change.
- G. Change orders shall be listed in number sequence on the Purchase Order.

### **APPROVAL FOR CHANGE ORDERS**

- A. If a change order is greater than \$50,000 and is extremely time sensitive and qualifies as an emergency, the City Administrator may approve such a change order prior to City Council approval; however, such change order must be presented to City Council as soon as possible for approval. Emergency conditions are defined in this manual.

### **CONTINGENCY FUNDS**

The City Council may establish a contingency fund for a construction project at the time of award of a bid to be used during the course of a project. A contingency fund may be established at any dollar amount above the bid award provided that is reasonable and prudent.

10% or less as determined by staff/budget.

### Purpose of Policy

The following policies are designed to assist the City's staff in the selection of individuals or firms to perform professional services. The desire is to establish fairness and consistency in the selection process while obtaining the best value (quality services at a reasonable price) for the City in accordance with applicable legal requirements.

Departments are required to seek proposals or qualifications for professional services at least every five years to help ensure the greatest and fairest competition in the selection of professional services by the City of New Fairview.

### Definition of Professional Services

- A. Professional services generally refer to those services performed by an individual or group of individuals where education, degrees, certification, license, and/or registration are required for qualification to perform the service. The term "professional services" includes labor and skill that is predominantly mental or intellectual, rather than physical or manual, in nature. (See Texas Attorney General Opinion No. JM-940, at p. 3 (1988)).
- B. Certain professions are specifically named in the Professional Services Procurement Act (ACT), Texas Government Code Chapter 2254, Subchapter A. This includes services within the scope of the practice, as defined by state law, of:
  - 1. accounting
  - 2. architecture
  - 3. landscape architecture
  - 4. land surveying
  - 5. medicine
  - 6. optometry
  - 7. professional engineering
  - 8. real estate appraising
  - 9. professional nursing
  - 10. Interior Design Services
- C. If a department is not sure if a service is a "professional service," the department should contact the Purchasing Administrator before securing such services.

### Procurement of Architectural, Engineering, or Land Surveying Services

When procuring architectural, engineering or land surveying services, the City shall use a two-step selection process (see Texas Government Code § 2254.004):

- A. First, the City shall select, through the RFQ process, the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- B. Second, attempt to negotiate with that provider a contract at a fair and reasonable price. Negotiations will be facilitated by Purchasing as lead for a team of stakeholders.

If the City is unable to negotiate a satisfactory contract with the most highly qualified provider of architectural, engineering or land surveying services:

- A. First, the City shall formally end negotiations with that provider;
- B. Second, select the next most highly qualified provider; and

- C. Third, attempt to negotiate a contract with that provider at a fair and reasonable price. The City must continue this process until a contract is entered into.
- D. A purchase order must be issued upon award of contract.

**Fees Estimated to be under \$25,000 per Year**

- A. The Department and/or Purchasing Administrator may solicit proposals from qualified professionals. Proposals will be ranked based on the demonstrated competence and qualifications of the individual or company. Negotiations may be entered into with the most highly qualified according to rank. Selection will follow the procedures established by the Professional Services Procurement Act.
- B. A Purchase Order is required.

**Fees Estimated to be \$50,000 or Greater per Year**

- A. The solicitation process will be managed by the Purchasing Agent.
- B. The process shall contain sufficient information to inform potential Professional service vendors as to the type of project, scope of services to be performed, the selection criteria to be used and weighting assigned to each of the criteria.
- C. After the evaluation of submitted Requests for Proposals, it may be necessary (as determined by the Purchasing Agent) to interview several of the firms and further evaluate them on the basis of the interview or a presentation, narrowing the field until one firm is selected for negotiations. Negotiations will be facilitated by the Purchasing Agent as lead for a team of stakeholders.
- D. When negotiations are concluded, a recommendation will be made to the City Council.
- E. A Purchase Order is required.

**Procurement of Other Professional Services**

- A. Professional services may be contracted through the use of Request for Proposals (RFP) or Competitive Sealed Proposal (CSP) and selection should be made as listed above, however, cost is an additional criterion.
- B. Services with fees under \$50,000 per year may be solicited, evaluated, and awarded by the using department's director and/or the Purchasing Agent.
- C. Over \$50,000, the solicitation process will be managed by the Purchasing Agent. The solicitation may be advertised in one edition of the newspaper to run at least one week prior to the due date for RFP or CSP.
- D. The selection process will be similar to that used for professional engineers, architects, and land surveyors, and after negotiations are successfully concluded the City Council shall be asked to award a contract.
- E. To determine the best solicitation process to use when procuring "other" professional services or if the service is considered "members of disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence" contact the Purchasing Agent.
- F. A Purchase Order is required.

**EMERGENCY PURCHASES, Texas Local Government Code §252.022**

An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and that seriously threatens the functioning of the City or the protection of property or the health or safety of any person.

Emergency purchases are for critical, unforeseen government need. Because the City's ability to serve the public would be impaired if purchases are not made immediately, emergency purchases are exempt from standard procurement procedures.

True emergencies almost always occur as a result of parts and labor needed for unforeseen repairs to equipment that must be kept operational. When an emergency occurs, the need for quotes will be eliminated; however, written explanation must be indicated on the Statement of Compliance for Irregular Purchases.

1. If the product or services is over \$3,000 and under \$50,000, obtain the City Administrator's authorization. Once authorization has been received, submit a requisition to Procurement and obtain a purchase order, call the vendor to initiate repair services or order the needed materials. Immediately or as soon as feasible, submit a copy of the invoice, delivery ticket and the irregular purchase form to Purchasing.
2. In the event the emergency expenditure exceeds \$50,000, follow the same procedures outlined in item 1 above, and prepare an agenda item and/or resolution for City Council approval prior to payment for the products or services purchased.
3. In extreme cases involving a disaster, an emergency declaration will be made. All purchases must be documented through proper state & federal forms and authorized by the Emergency Operations Center or designated employee. Refer to Disaster Procurement Policy below.

**An emergency created through neglect will not be processed as an emergency.****Typical examples of such neglect are:**

- a. Depletion of stock due to lack of planning.
- b. Building or equipment needing repairs for some time, suddenly becoming an emergency overnight.
- c. Orders of materials for projects most of which must be planned weeks or months ahead of time, and requested just before desired use.

**DISASTER PROCUREMENT POLICY (FEDERAL)**

1. **PURPOSE** - This policy modifies the City of New Fairview's normal procurement practices to assure that, in both emergency and exigent circumstances caused by a proclaimed disaster or emergency, the City of New Fairview is able to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improve public and private property through cost-effective measures while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws. Where the City is included in a major disaster or emergency declared by the President of the United States, this policy also assures that City procurements comply with Federal regulations applicable to FEMA disaster grant reimbursement as defined in Title 2 of the Code of Federal Regulations, Part 200. (2CFR Part 200)
2. **DEFINITIONS:**

For the purposes of this policy,

  - A. A proclaimed disaster or emergency exists if:
    1. The Governor has declared a state of emergency for an area which includes the geographic territory of the City of New Fairview, or
    2. The Chief Executive Officer (Mayor, City Administrator) of the City of New Fairview has declared an emergency in the City.
  - B. Exigent Circumstances are situations in which:
    1. A disaster or emergency has been proclaimed, and
    2. The public exigency for goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures will not permit competitive solicitation.
3. **DELEGATIONS OF PURCHASING AUTHORITY IN EXIGENT CIRCUMSTANCES**
  - A. **Delegation** - If the City Administrator determines that goods and services must be procured before the City Council is able to assemble and approve purchases, the City Administrator has the authority, subject to the limitation set forth in subparagraph A(1) and A(2), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.
    1. **Limits of Single Purchase Authority** - The City Administrator, shall have the authority to make individual purchases up to \$10,000 on his or her signature alone. The City Administrator shall have the authority to make purchases in excess of \$10,000 up to a maximum of \$250,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
    2. **Limits of Aggregate Purchase Authority** - The City Administrator shall have the authority to make aggregate purchases up to \$10,000 on his or her signature alone. The City Administrator shall have the authority to make purchases in excess of \$10,000 up to a maximum of \$250,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
  - B. **Sub-Delegation to the EOC Director** - The EOC Director shall be a designee of the City Administrator at any time that the City Administrator is not available to approve purchases as allowed in this section.

- C. **Sub-Delegation of Purchasing Authority** - If neither the City Administrator or the EOC Director is available, the following department heads have authority to rent or purchase from the nearest available source any equipment, supplies, services, or other items necessary for this or her department to respond to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures, up to a maximum of \$10,000.

**Department Heads:**

Police Chief	Assistant Police Chief	
Fire Chief	Assistant Fire Chief	Division Fire Chief
Public Works Director	Assistant Public Works Director	

D. **Administrative Procedures:**

*Reporting Requirements.*

1. As soon as possible after purchases are made under this section 3, the City Administrator, EOC Director, or department head shall submit to the Purchasing Administrator a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated.
2. The Purchasing Administrator will inform the City Administrator and the Elected governing board of any individual purchase under this section with a contract amount greater than \$10,000, and also whenever the aggregate of purchases under this section is greater than \$250,000 dollars.
3. The Purchasing Officer will obtain the City Administrator's (or EOC Director as the City Administrator's designee) approval prior to any purchase by a department head if the amount is \$10,000 thousand dollars or more.
4. If the City Administrator/EOC Director is unavailable, and the delay in getting his/her signature would imperil life, safety or improved property, the department heads as listed in C1 above may approve the emergency purchase of \$10,000 dollars or more.
5. The Purchasing Administrator shall have the authority to approve all disaster related purchases under \$250,000 dollars.
6. The Purchasing Administrator will expedite the verification of funds available and complete the preparation of the purchase order

4. **PROCUREMENT PROCEDURES IN EXIGENT CIRCUMSTANCES**

Upon receipt of requisitions under Section 3, the Purchasing Administrator shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.

- A. **Exempt Purchases** - Purchases below \$250,000 shall not be required to be formally bid. Purchases greater than \$250,000 may be made following the procedures specified in this section. The signature(s) of the City Administrator, Purchasing Administrator, and/or Department Head are still required as provided in Section 3.
- B. **Justification of Sole Source or No-bid Contracts** - Where exigent circumstances require immediate procurement from the nearest available source,
1. The Purchasing Administrator shall use the "Justification Form for Emergency Sole Source or No-Bid Purchase."
  2. Procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work.



3. "Sole source" or "no-bid" acquisitions shall be necessary for one of the following reasons: placement of emergency protective measures, procurement of a scarce commodities, goods, or services or acquisition or rental of emergency equipment, emergency consulting services, emergency road clearance or other emergency requirements.
- C. **Provision for Alternate Bid Solicitation Procedures** - The City's normal requirements for sealed bids shall not apply to acquisitions under Section 3. However, the Procurement Officer shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in lieu of written and/or sealed bids, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances.
- D. **Locations of Postings for Request for Proposals or Invitation to Bids** - The Procurement Officer may waive normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the City's designated Emergency Operations Center.
- E. **Length of Time for Posting Requests** - The Procurement Officer may shorten the normal bid period from xx days to expedite the award of contracts for emergency equipment, goods, or services. The Procurement Officer should seek to assure that the shortened bid period allows multiple suppliers to submit bids.
- F. **Number of Bids Required** - Solicited bids that are non-responsive shall count towards the minimum number of bids required when there is a declared emergency or disaster in the Jurisdiction. All such no-bids must be documented as to time, date, and person/company contacted, with a reason for no-bid, if possible.

#### NOTIFICATION AND RATIFICATION

- A. **Posting of Contracts and Awards** - Under this section, all contracts awarded that exceed \$50,000 shall be presented to City Council for ratification and publicly posted within sixty (60) days.
- B. **Authority to Cancel Emergency Procurements** - the City has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance presents an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.
- C. **Notification Requirement for Emergency Purchases** - For any purchase in excess of \$50,000 the Purchasing Administrator shall report all such purchases to City Council within thirty (30) days of the onset of the disaster.
- D. **Requirement for Separate Invoicing** - All purchases or rentals made during proclaimed emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the goods or services were delivered. All invoices shall specify the locations where the goods or services were used if at all possible.
- E. **Auditing of Invoices for Debris Clearance Prior to Payment** - All invoices for debris clearance and removal shall be audited by the City prior to payment to the vendor. Vendors shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide.
- F. **Limitations of Disaster Purchasing Policy** - For the purposes of this section, an emergency or disaster shall be deemed to exist when a condition exists that presents an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat

of significant damage to improved public and private property through cost-effective measures and a local emergency or disaster has been proclaimed. Any purchases that do not meet the standard of being necessary for responding to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures shall follow the City's regular purchasing provisions.

Notwithstanding the terms of this policy, nothing contained herein shall conflict with Federal procurement regulations as currently defined in 2 CFR Part 200.

**SOLE SOURCE PURCHASES**

Sole source purchases are goods and services available from only one supplier. There may be one vendor because of patents, copyrights or simply because the vendor is the only one which supplies the good or service.

Examples: Patented products, monopolized items, rare books, captive replacement part, or component for equipment, and software with exclusive distribution rights.

Items that are only available from one manufacturer are not a sole source, if the items can be purchased from distributors. Similarly, books available from multiple sources are not sole source.

Regulated or natural monopolies such as utilities, gravel from the only pit in the area.

Replacement components

Staff is responsible for obtaining and retaining documentation from the vendor that clearly states the reasons the purchase must be made on a "sole source" basis.

**WRITTEN JUSTIFICATION**

All sole source purchases require written justification in the form of an affidavit which must be completed by the vendor and notarized. This form must be submitted to and approved by the Purchasing Administrator prior to the purchase being made.

Be sure that the function the user department is asking for is a "need" and not a "want." For example, only one vendor sells equipment with the special function. Other vendors have a similar function but not exactly the same. Ask the question: do we need the specific function and why would a similar function not work.

**NOTICE OF INTENT TO AWARD A SOLE SOURCE PROCUREMENT**

All purchases in excess of \$50,000 shall be made in conjunction with the Purchasing Agent and may post a Notice of Intent to purchase a sole source item in the e-pro system for public review.

**COOPERATIVE PURCHASES**

Texas Government Code, Chapter 791, and Texas Local Government Code, Chapter 271, authorize the use of cooperative purchasing programs. These chapters authorize the City to use another entity's bid and likewise allows another entity to use the City's contracts. Additionally, the statutes allow the City to use a cooperative contract issued by an established cooperative agency.

The following must be included and established to utilize a cooperative contract.

3. The bid specifications / contract must have cooperative language.
4. The awarded vendor must have agreed to the language (term).
5. An interlocal agreement must be in place between the City and the issuing/awarded entity.

The City has established memberships and entered into interlocal agreements which promotes participation in cooperative purchasing programs. Current Interlocal Agreements and Contracts are available on the e-procurement website at [www.New Fairview-tx.gov/bids](http://www.NewFairview-tx.gov/bids).

**PURPOSE**

The Procurement Card (PCard) Program is designed for procuring goods and services that do not exceed \$3,000. It provides the City with an efficient and controllable method for monitoring small dollar purchases, reducing paperwork, and paying vendors in a timely manner. Cards are requested by department Directors and issued through JP Morgan Chase by the Program Administrator. Cardholders must agree and adhere to the guidelines listed below and those set forth in the City's Procurement Policy. The card is intended to replace petty-cash, small dollar purchases purchase orders, and emergency purchases. Any usage outside of this policy is a violation and subject to revocation of PCard, purchasing privileges, and discipline up to and including termination.

**USAGE**

After activating and signing the back of the card, cardholders may use their PCard for City purchases only. When in doubt as to whether a purchase is allowable, the cardholder should contact their Director or the Program Administrator prior to making the purchase. The card may be used for most transactions not exceeding the cardholder's transaction limit, including, but not limited to:

- "Brick and mortar" retail purchases;
- Telephone or online orders;
- Travel (including lodging, conference fees, and training); and
- Services.

While quotes are not required, care should be taken to ensure the taxpayers' dollars are used efficiently and the best value is obtained.

**PAYMENTS**

Purchases made with a PCard must be paid for when the order is placed. If the exact amount is not known or the vendor does not accept credit cards, a requisition should be entered and a PO issued and submitted to the vendor prior to placing the order.

Invoices received must be processed through the Accounts Payable. Invoices may **not** be paid with a credit card.

**RECEIPTS**

An original, itemized receipt for every purchase must be obtained from the vendor each time the card is used. Restaurant purchases must include the credit card receipt with the total, including tip, in addition to the itemized receipt. Online and telephone purchases must also be documented by a receipt, which may be emailed, faxed, or mailed to the cardholder.

Vendors should not send invoices for PCard purchases to Accounts Payable, as this may result in duplicate payments.

Receipts must be scanned and uploaded.

**CARD SECURITY**

Each cardholder is responsible for all charges to their assigned PCard and must maintain the card in a safe and secure manner that prevents unauthorized or improper use. The PCard is not to be loaned or made available to another employee, friend, or family member under any circumstance.

**RESTRICTIONS**

PCards may not be used for personal purchases of any kind. If a personal purchase is made accidentally, and caught at time of payment, request the vendor reverse/refund the purchase. If the transaction is not caught, a personal check for the full amount of the purchase must be included with the monthly expense report. Other restrictions include, but are not limited to:

- Alcohol or liquor;
- Spouse or family member expenses incurred while traveling;
- Circumventing the Purchasing Process by splitting transactions to avoid quote or bid requirements;
- Entertainment, such as theatre, movies, etc.;
- Services such as contracts and agreements
- Cash refunds or advances
- Fuel purchases for a personal vehicle;
- Computer hardware, communications hardware, software, and services without prior written approval from the IT Administrator. IT Purchase Form must be uploaded to Incode as part of the receipt process.

Each procurement card has an individual transaction limit, a monthly spending limit, and restrictive merchant codes (MCC). Each card may be restricted as to the number of swipes that may be made for a given period of time and by vendors. PCards may also be restricted as to the daily, monthly, or transaction amounts of card purchases. A card transaction will be denied when swiped if the transaction exceeds any of the limits. These limits and restrictions can be adjusted online by the Program Administrator and will take effect immediately.

### **SALES TAX**

As a tax-exempt government agency, the City of New Fairview does not pay sales tax. PCards display the City's tax-exempt number. Cardholders are responsible for ensuring that the City is not charged sales tax by alerting the merchant in advance that the transaction is tax exempt. If tax is included, the Cardholder is responsible for the reversal or reimbursement of the sales tax charge.

### **TRAVEL EXPENSE REPORTS**

It is the City's policy to pay for, or reimburse, all reasonable and necessary expenses incurred when an employee travels for City-related business. Direct payment of travel expenses with a PCard is encouraged, as permitted. This section supplements the Travel Policy in the City's employee policy manual.

Travel expense reports allow for the itemization of PCard purchases as "prepaid expenses."

As outlined in travel policy, meals are paid for via per diem and meal charges are not permitted. Per Diem is requested on Travel Expense form.

### **CARDHOLDER DUTIES AND RESPONSIBILITIES**

Cardholders, or an assigned Admin, are responsible for reconciling their transactions. The cardholder must ensure each transaction is within the guidelines, sales tax was not applied, and the original "detailed" receipt is included. Once the transactions have been reconciled and approved, print the expense report, attach detailed receipts, and submit to the Program Administrator with Cardholder signature by the designated date each month.

The cardholder is responsible for processing returns, verifying credits are received, tracking card balances, and disputing charges directly with the vendor. The transaction in dispute must be noted in the item's description in STW. Cash refunds for returns are not allowed. The cardholder must verify the credit is received and attach documentation such as a return receipt or email from the vendor to the expense report. If a cardholder finds a discrepancy, they should contact the vendor and attempt to resolve the problem directly. If a cardholder cannot resolve a disputed item directly with a vendor, the cardholder should contact Program Administrator for assistance.

The cardholder is responsible for immediately notifying JP Morgan Chase, their supervisor, and the Program Administrator if the card is lost or stolen. The contact number at **JP Morgan Chase is 800-316-6056**. The cardholder shall also complete the Lost Card Form and submit it to the Program Administrator promptly. If fraud is suspected, the same steps should be followed.

### **DEPARTMENT DIRECTOR DUTIES AND RESPONSIBILITIES**

The Department Director is responsible for auditing and approving all transactions after cardholder reconciliation.

PCards must be returned to the Program Administrator immediately upon notice of resignation, transfer, or termination of the cardholder. In the event of unauthorized or inappropriate purchases, the City reserves the right to withhold final paychecks until this is resolved.

In the event a cardholder has used the card fraudulently, the Department Director shall immediately retrieve the card and report the misuse to the Program Administrator. Fraudulent activity of any kind is cause for immediate termination administered by the City's Human Resources Department.

#### **PROGRAM ADMINISTRATOR DUTIES AND RESPONSIBILITIES**

The PCard program is administered and maintained by a Program Administrator in the Finance Department and is the City's point of contact for the program. Upon approval, monthly expense reports and receipts are submitted to the Program Administrator for review, general ledger updating, and filing for audit purposes. The Program Administrator orders and terminates the PCards, provides training to cardholders, maintains card limits and documentation, reconciles the expense reports, and audits the expense reports and receipts for compliance.

The Program Administrator will report to the Department Director and Chief Financial Officer (CFO) any cardholder infractions. Misuse and/or abuse of card privileges will be dealt with as follows:

- **1st Occurrence:** The Program Administrator, Chief Financial Officer (CFO), and Department Director will determine if the cardholder will continue in the card program. Department Director will take the necessary, documented steps, to prevent further issues. Documentation will be submitted on the Statement of Non-Compliance form.
- **2nd Occurrence:** The Program Administrator and Chief Financial Officer (CFO) will terminate the cardholder's privileges with deferral to the Human Resources Department for disciplinary action.

#### **REVOCAION OF THE PURCHASING CARD**

The purchasing card is subject to revocation at any time at the discretion of the Department Director and the Chief Financial Officer (CFO). Each cardholder must acknowledge receipt of the purchase card, understand the rules of usage, and sign the Cardholder Agreement Form. Failure to abide by this policy will result in revocation of their card and disciplinary action up to termination of employment. The cardholder will be required to reimburse any unauthorized transactions and the City reserves the right to withhold final paychecks until all purchases are satisfactorily reconciled.

The Program Administrator will recommend to the Chief Financial Officer (CFO) and Department Director that the card be revoked following any violation of the Procurement Card policy. The Program Administrator is authorized to temporarily suspend use of the card if unauthorized use is discovered and poses a threat to internal financial controls.

**APPENDIX A**

References

**State of Texas Statutes**

1. Texas Local Government Code; Chapter 252, 253 271
2. Texas Government Code; Chapter 552, 791, 2251, 2252, 2253, 2254, 2258, 2269
3. Texas Labor Code, Chapter 406
4. Texas Insurance Code, Chapter 1811



**DEFINITIONS**

**Addendum:** An addition, change, or supplement to a solicitation document issued prior to the opening date.

**Advertise:** To make a public announcement of the intention to purchase goods or services.

**Agency:** The City of New Fairview or another governmental office/entity.

**Amended:** A status change to an RFP, IFB, RFO, RFI, RFQ or Contract that indicates a modification to that document.

**Amendment:** Written addition or change to a contract.

**Assignment:** Transfer of contractual rights from one party to another party.

**Best Value:** Factors to be considered in determining lowest overall cost and value in making certain purchases.

**Bid:** An offer to contract with the City, submitted in response to a bid invitation.

**Bid Bond / Deposit:** A deposit required of bidders to protect the City in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the City. Acceptable forms of bid deposits are limited to: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on the United States Department of the Treasury's listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

**Bid Opening:** The public opening of bids, in which the names of the bidders responding to a bid solicitation and prices of the bidders are publicly read and recorded.

**Bid Tabulation:** The recording of bids and bid data submitted in response to a solicitation. The bid tabulation is used for comparison, analysis, and record keeping.

**Bidder:** An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees, and representatives.

**Bidders List:** A list of potential vendors who have expressed an interest in doing business with the City.

**Bond:** A document providing evidence of obligation issued in temporary or definitive form

**Change Order:** A document which is used when it becomes necessary that amends, clarifies, changes, or cancels contract issues and/or provisions.

**Centralized Master Bidders List (CMBL):** The CMBL is a list maintained by the Texas Comptroller of Public Accounts (CPA) containing the names and addresses of prospective bidders.

**Competitive Sealed Bidding:** Process of advertising an invitation for bids (ITB), conducting a public bid opening, and awarding of a purchase order/contract to the lowest responsive, responsible bidder in accordance with state law.

**Competitive Sealed Proposals:** Process of advertising a request for proposal (RFP), the evaluation of submitted proposals and awarding of the contract.

**Consultant:** A person that provides or proposes to provide a consulting service.

**Consulting Services:** The practice of studying and advising the City.

**Contract:** A written agreement where a contractor provides goods or services and the agency pays for such goods and services in accordance with the established price, terms and conditions.

**Contract Administration:** This generally refers to the processes that occur after a contract is signed.

**Contract Management:** This refers to the entire contracting process from planning through contract administration.

**Contract Administrator:** A person who is: 1) employed by the City, 2) has significant contract management duties.

**Contractor:** A business entity or individual that has a contract to provide goods or services to the City. Used interchangeably with the term "vendor".

**Deliverable:** A unit or increment of work required by the contract, including such items as goods, services, reports, or documents.

**Emergency:** A purchase made when unforeseen and/or a sudden unexpected occurrence creates a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

**Goods:** A transportable article of trade or commerce that can be bartered or sold. Goods do not include services or real property.

**Historically Underutilized Business:** A minority or women-owned business as

**Independent Contractor:** A person working for an entity under contract and not an employee of the contracting entity. The contracting entity does not pay unemployment, disability, or worker's compensation insurance or withholding taxes from payments to the person. An independent contractor normally follows the contracting agency's direction on the results of the work but not on the means of accomplishing the work.

**Invitation to Bids (ITB):** Procurement process used when the requirements are clearly defined, negotiations are not necessary and price is the major determining factor for selection. The FIB uses the competitive sealed bid method.

**Liquidated Damages:** A specified contract provision which entitles the City to demand a set monetary amount determined to be a fair and equitable repayment to the City for loss of service due to vendor's failure to meet contract requirements.

**Negotiations:** A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the "dealings conducted between two or more parties for the purpose of reaching an understanding."

**Opening Date:** The day and time, after submission of proposals, when sealed bid responses are opened.

**Owner:** The City of New Fairview.

**Payment Bond:** A bond executed in connection with a contract which secures the payment requirements of the contractor.

**Performance Bond:** A surety bond which provides assurance of a bidder's performance of a certain contract.

**Professional Services:** Services directly related to professional practices as defined by the Professional Services Procurement Act. These include services within the scope of the practice of: accounting; architecture; optometry; medicine; land surveying; and professional engineering. Services provided by professionals outside the scope of their profession, e.g., management consulting services provided by accounting firms, are not considered professional services.

**Proposal:** An executed offer submitted by a respondent in response to a Request for Proposals (RFP) and intended to be used as a basis to negotiate a contract award.

**Proposal Opening:** The public opening of proposals, in which the names of the respondents to a solicitation are publicly read and recorded. No prices are divulged at a proposal opening as these types of solicitations are subject to negotiation.

**Proprietary Purchase:** A purchase request of a product that is proprietary to one vendor and does not permit an equivalent product to be supplied.

**Renewal:** When an existing contract is renewed for an additional time period in accordance with the terms and conditions of the original contract.

**Request for Information (RAFI):** A general invitation to contractors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

**Request for Proposal (RFP):** A solicitation requesting submittal of a proposal in response to the required scope of services and usually includes some form of a cost proposal. The RFP process allows for negotiations between a proposer and the issuing agency.

**Request for Qualifications (RFQ):** A solicitation document requesting submittal of qualifications or specialized expertise in response to the scope of services required. No pricing is solicited with an RFQ.

**Request for Quote (RFQ):** An informal solicitation document requesting pricing on small dollar purchases.

**Responsive:** The respondent has complied with all material aspects of the solicitation document, including submission of all required documents.

**Respondent:** An entity submitting a proposal in response to a solicitation. (See Bidder)

**Responsible:** The respondent has the capability to fully perform and deliver in accordance with the contract requirements. The City may include past performance, financial capabilities, and business management as criteria for determining if a bidder or proposer is capable of satisfying the contract requirements.

**Service:** The furnishing of labor by a contractor which may not include the delivery of a tangible end product.

**Solicitation:** A document requesting submittal of bids or proposals for goods or services in accordance with the advertised specifications.

**Solicitation Conference:** A meeting chaired by state agency personnel which is designed to help potential bidders/respondents understand the requirements of a solicitation. Also known as a pre-bid or proposal conference.

**Specification:** Any description of the physical or functional characteristics or of the nature of supplies or service to be purchased. It may include a description of any requirements for inspecting, testing, or preparing supplies or services for delivery.

**Statute:** A law enacted by a legislature.

**Strategic Sourcing:** A concept of purchasing with the objective to purchase goods or services that will minimize costs, increase Administrator effectiveness and improve operational efficiency.

**Surety:** A person or entity providing a bond to a contractor to indemnify the City against all direct and consequential damages suffered by failure of the contractor to perform the contract and to pay all lawful claims of subcontractors, materials suppliers and laborers as applicable.

**Term Contract:** A Contract that addresses the estimated requirements for a number of agencies for supplies or services that are used repeatedly or in significant quantities over a period of time. Also known as an annual contract.

**Vendor:** A business entity or individual that has a contract to provide goods or services to the City. Used interchangeably with the term "contractor."

**ACRONYMS**

<b>CIP:</b>	Capital Improvement Project
<b>CM:</b>	Contract Management
<b>CO-OP:</b>	Cooperative Purchasing Program
<b>CSB:</b>	Competitive Sealed Bid
<b>CSP:</b>	Competitive Sealed Proposal
<b>GSA:</b>	General Services Administration (Federal)
<b>HUB:</b>	Historically Underutilized Business
<b>ITB:</b>	Invitation to Bid
<b>ITQ:</b>	Invitation to Quote
<b>M/WBE:</b>	Minority/Women Business Enterprise
<b>NIGP:</b>	National Institute of Governmental Purchasing
<b>REQ:</b>	Requisition
<b>RFI:</b>	Request for Information
<b>RFP:</b>	Request for Proposal
<b>RFQ:</b>	Request for Qualifications
<b>SOW:</b>	Statement of Work
<b>SOQ:</b>	Statement of Qualifications

## CHOOSING A PROCUREMENT METHOD

Procurement Method	Use When	Advantages	Disadvantages
<b>Invitation to Bid</b>	<p>Lots of competition exists.</p> <p>The product or service is available from more than one source.</p>	<p>Award process is simpler.</p> <p>Award is made to the lowest responsive, responsible bidder providing the best value to the State.</p>	<p>Defined specifications may be difficult to develop.</p> <p>Does not encourage innovative solutions</p>
<b>Request for Proposal</b>	<p>When factors other than price are evaluated.</p> <p>When negotiations are desired.</p> <p>Vendor is expected to provide innovative ideas.</p>	<p>Allows factors other than price to be considered.</p> <p>Allows for customized proposals suggesting different approaches to the same business need.</p> <p>Allows for negotiations in order to obtain the best value for the state.</p>	<p>Lead times for procurement are much greater.</p> <p>Evaluations are more complex and subjective.</p>
<b>Request for Information</b>	<p>There is insufficient information to write specifications for any procurement method</p>	<p>Provides information to prepare a complete bid or proposal document.</p> <p>Allows the business community to have input into the agency's solicitation document based on current industry practices and market factors.</p> <p>Informs agency of any potential problems early in the procurement.</p>	
<b>Request for Qualifications</b>	<p>Selection is made solely on the skills and qualifications of the contractor.</p> <p>Price is not a factor until after a vendor is selected.</p>	<p>Emphasizes the competency of the proposed contractors.</p>	<p>Contractor is selected before price is negotiated.</p>

Table courtesy of the State of Texas Contract Management Guide version 1.10.

## SAMPLE LEAD TIME FOR A COMPLEX PROJECT

<b>Task</b>	<b>Suggested Lead Time from Start of Contract Date</b>	<b>Example</b>
Begin Preparation of Specification and contract.	180 days	March 1
Final approval of Specifications	150 days	April 1
Advertise and Issue Solicitation (Bid/RFP/RFQ)	120 days	May 1
Receipt of Responses	90 days	June 1
Evaluation of Responses	5 – 30 days	July 1
Contract Negotiation	30 days	August 1
Council Award	10 days	August 10
Contract Execution - City	3-10 days	August 20
Contract Execution / Bonding	Minimum 10 days	August 30
Contract Begins		September 1



**City Council Agenda**  
**May 18, 2020**

**Agenda Item:** 7I                      **Resolution**                      **(Action Item)**

**Agenda Description:**

Discuss, consider and possible action approving a Resolution adopting a Debt Management Policy.

**Background Information:**

Staff has prepared a debt management policy that conforms to Texas and federal law. The City may be in a position in the next year to sell debt to fund capital projects. Prior to selling debt the City should have a debt management policy in place. Debt management policy establish internal controls that protect municipal funds and help staff and City Council uphold their fiduciary responsibilities. This policy has been reviewed by the City Attorney. These procedures address objectives of the policy, methods of acquiring debt, selecting financial advisors and bond counsel, working with bond rating agencies and required disclosures. Adopting these procedures is a best practice recommended by the Government Finance Officers of America.

**Financial Information:**

NA

**City Contact and Recommendation:**

Alan Guard, Interim City Administrator  
Staff recommends that Council approve the resolution and adopt the debt management policy.

**Attachments:**

Resolution  
Debt management policy





City of New Fairview, Texas  
Resolution No. 2020-13-103

**A RESOLUTION OF THE CITY OF NEW FAIRVIEW, TX ADOPTING A DEBT  
MANAGEMENT POLICY**

**WHEREAS,** the City of Fairview is an incorporated city in the State of Texas; and

**WHEREAS,** the City of New Fairview is a General Law city as classified by the Texas  
Municipal Code; and

**WHEREAS,** the City desires to be in have written debt management policy in conformance  
with best practices of the Government Finance Officers of America; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY  
NEW FAIRVIEW:**

1. The City Council of New Fairview has reviewed the debt management policy and  
determines it to be acceptable; and
2. That this Resolution shall cause the debt management policy to take effect immediately  
upon its approval.

**PRESENTED AND PASSED** on this **18th day of May**, at a meeting of the New Fairview City  
Council.

**APPROVED:**

**ATTESTED:**

\_\_\_\_\_  
Joe Max Wilson  
Mayor

\_\_\_\_\_  
Monica Rodriguez  
City Secretary



City of New Fairview  
Debt Management Policy  
June 1, 2020

## Debt Management Policy

### **Section 1.1 Purpose**

The City of New Fairview recognizes that the foundation of any well-managed debt program is a comprehensive debt management and post issuance policy outlining the parameters for issuing new debt and managing the existing debt portfolio, identifying the types and amounts of permissible debt, providing guidance to decision makers regarding the purposes for which debt may be issued, and verifying that the IRS regulations regarding post issuance compliance are met to preserve the tax exempt status of the City's bonds.

### **Section 1.2 Policy**

Adherence to a debt management policy helps ensure that the City maintains the current or improved bond rating in order to minimize borrowing costs and preserve access to credit.

The City's Debt Management Policy ("the Debt Policy") provides guidance for staff to:

- (a) Ensure high quality debt management decisions; and
- (b) Ensure support for debt issuance both internally and externally; and
- (c) Impose order, discipline in the debt issuance process; and
- (d) Promote consistency and continuity in the decision-making process; and
- (e) Ensure that the debt management decisions are viewed positively by rating agencies, investment community and taxpayers; and
- (f) Demonstrate a commitment to long-term financial planning objectives.

### **Section 1.3 Scope**

This policy applies to all debt instruments issued by the City regardless of funding source. Funding sources can be derived from, and debt secured by, ad valorem taxes, general City revenue, or any identifiable sources of revenue that may be identified for appropriate pledging for bonded indebtedness.

### **Section 1.4 Objectives**

The primary objective of this policy is to ensure that the City establishes and maintains a solid position with respect to its debt service and bond proceeds funds, and that proceeds from long-term debt will not be used for current operations but rather capital improvements, and related expenses, and other long-term assets in accordance with state law and City ordinances.

The City will seek all possible federal and state reimbursements for mandated programs and projects. The City will pursue a balanced relationship between issuing debt and pay-as-you-go financing dictated by prevailing economic factors and as directed by the City Council.

Other objectives include:

- (a) Bonds shall be paid back within a period not to exceed, and preferably sooner than, the expected useful life of the capital project.
- (b) Decisions shall be made on a number of factors and will be evaluated against long-term goals rather than a short-term fix; and
- (c) Debt service and bond proceed funds shall be managed and invested in accordance with all federal and state laws and in conjunction with the Tax Compliance Certificate of each bond issue to assure availability to cover project costs and debt service payments when due.

### **Section 1.5 Implementation**

The policy requires:

- (a) Payment of principal and interest on all outstanding debt in full and timely manner.
- (b) Incurrence of debt for those purposes permissible under state law and the ordinances of the City.
- (c) Development, approval and financing of capital improvements in accordance with City codes and the capital improvement budgeting process.
- (d) Structuring of principal and interest retirement schedules to (1) achieve a low borrowing cost for the City; (2) accommodate the debt service payments of existing debt, and (3) respond to perceptions of market demand. Shorter maturities shall always be encouraged to demonstrate to rating agencies that debt is always being retired at a sufficiently rapid pace.
- (e) Selection of a method of sale that shall maximize the financial benefit to the City.
- (f) Effective communication with bond rating agencies to ensure complete and clear understanding of the credit worthiness of the City.
- (g) Full, complete and accurate disclosure of the financial condition and operating results in every financial report, bond prospectus and Annual Information Statement (AIS). All reports shall conform to guidelines issued by the Government Finance Officers Association (GFOA), Securities and Exchange Commission (SEC), and the Internal Revenue Service (IRS) to meet the disclosure needs of rating agencies, underwriters, investors and taxpayers.

### **Section 1.6 Structure of Debt**

Debt service shall be structured to the greatest extent possible to:

- (a) Match projected cash flows and pledged revenues.
- (b) Minimize impact of future tax levies.
- (c) Maintain a consistent and as rapid as feasible payment of principal,
- (d) Maintain a level overall annual debt service payment structure; and
- (e) Equal the lesser of the useful life of the asset being financed or the maximum legal maturity for the obligations issued to finance the acquisition and construction of the asset.

### **Section 1.10 Continuing Disclosure**

The City will take all appropriate steps to comply with federal securities law, including but not limited to, Securities and Exchange Commission (SEC) Rule 15c2-12 ("the Rule"). The City will make annual and event disclosure filings to the MSRB via EMMA as required by the Rule and its continuing disclosure undertakings.

### **Section 1.11 Selection of Financial Advisors**

The City shall retain an independent financial advisor for advice on the structuring of new debt, financial analysis of various options, including refunding opportunities, the rating review process, the marketing and marketability of City debt obligations, issuance and post-issuance services, the preparation of offering documents (each "Official Statement") and other services as necessary. The City will seek advice of the financial advisor on an ongoing basis. The financial advisor will perform other services as defined by the agreement approved by the City Council. The financial advisor will not bid on or underwrite any City debt issues in accordance with MSRB rules.

### **Section 1.12 Selection of Bond Counsel**

The City shall retain bond counsel for legal and procedural advice on all debt issues. Bond counsel shall advise the City Council in all matters pertaining to bond ordinance(s) and/or resolution(s). No action shall be taken with respect to any obligation until a written instrument (e.g., Certificate or Ordinance or other legal instrument) has been prepared by the bond attorneys certifying the legality of the proposal. The bond attorneys shall prepare all ordinances and other legal instruments required for the execution and sale of any bonds issued which shall then be reviewed by the City Attorney and City Administrator. The City will also seek the advice of bond counsel on all other types of debt and on any other questions involving federal tax or arbitrage law. Special counsel may be retained to protect the City's interest in complex negotiations.

### **Section 1.13 Debt Management Policy Review**

This policy shall be reviewed at least once every two years by the City Council. Any modifications to this policy, at any time, shall be approved by the City Council.

## **Section 1.7 Methods of Sale**

The City's debt obligations may be sold by competitive or negotiated sale methods. The selected method of sale depends upon the option which is expected to result in the lowest cost and most favorable terms to the City given the financial structure used, market conditions and prior experience. When considering the method of sale, the City may consider the following issues:

- (a) Financial conditions.
- (b) Market conditions.
- (c) Transaction-specific conditions.
- (d) City-related conditions.
- (e) Risks associated with each method.
- (f) Complexity of the Issue – Municipal securities with complex security features require greater marketing and buyer education efforts on the part of the underwriter to improve the investors' willingness to purchase.
- (g) Volatility of Bond Yields – If municipal markets are subject to abrupt changes in interest rates, there may be a need to have flexibility in the timing of the sale to take advantage of positive market changes or to delay a sale in the face of negative market changes.
- (h) Familiarity of Underwriters with the City's Credit Quality – If underwriters are familiar with the City's credit quality, a lower True Interest Cost (TIC) may be achieved. Awareness of the credit quality of the City has a direct impact on the TIC an underwriter will bid on the issue. Therefore, where additional information in the form of presale marketing benefits the interest rate, a negotiated sale may be recommended. The City strives to maintain an excellent bond rating. As a result, the municipal Bond Market is generally familiar with the City's credit quality.
- (i) Size of the Issue – The City may choose to offer sizable issues as negotiated sales so that pre-marketing and buyer education efforts may be done to more effectively promote the bond sale.

### **Section 1.7.1 Competitive Sales**

In a competitive sale, bonds are awarded in a sealed bid sale to an underwriter or syndicate of underwriters that provide the lowest TIC bid. TIC is defined as the rate, which will discount the aggregate amount of debt service payable over the life of the bond issue to its present value on the date of delivery. It is customary for bids to be submitted electronically through a secure website.

### **Section 1.7.2 Negotiated Sale**

In a negotiated sale, the City chooses an underwriter or underwriting syndicate that is interest in reoffering a particular series of bonds to investors. The terms of the sale, including the size of the underwriter's discount, date of sale, and other factors, are negotiated between the two parties. Although the method of the sale is termed negotiated, individual components of the sale may be competitively bid. The components are subject to a market analysis and reviewed prior to a recommendation by staff. Negotiated sales are more advantageous when flexibility in the sales date is needed or when less conventional bond structures are being

sold. Negotiated sales are often used when the issue is particularly large or if the sale of the debt issuance would be perceived to be more successful with pre-marketing efforts.

### **Section 1.7.3 Private Placement**

A private placement is a negotiated sale of debt securities to a limited number of selected investors including financial institutions or government agencies or authorities. The City may engage a placement agent to identify likely investors if deemed necessary. A private placement may be beneficial when the issue size is small, when the security of the bonds is somewhat weaker, or when a governmental lending agency or authority can provide beneficial interest rates or terms compared to financing in the public market.

## **Section 1.8 Refunding of Debt**

All forms of refunding debt shall be approved by the City Council in accordance with City ordinances and state law.

### **Section 1.8.1 Taxable Advance Refunding**

Taxable advance refunding and forward delivery refunding transactions for savings may be considered when the net present value savings as a percentage of the par amount of refunded bonds is approximately three percent (3.0%).

### **Section 1.8.2 Current Refunding**

Current refunding transactions issued for savings may be considered when the net present value savings as a percentage of the par amount of refunded bonds is approximately three percent (3.0%).

### **Section 1.8.3 Refunding for Debt Restructuring**

From time to time, the City may also issue refunding debt for other purposes, rather than net present value savings, such as restructuring debt, changing covenants, or changing the repayment source of the bonds.

## **Section 1.9 Ratings**

Adherence to a debt management policy helps to ensure that the City maintains the current or improved bond rating in order to minimize borrowing costs and preserve access to credit.

Toward that end, the City will take the following steps:

- (a) Strive to maintain good relationships with bond rating agencies as well as disclose financial reports and information to these agencies and to the public.
- (b) Obtain a rating from at least one nationally recognized bond-rating agency on all issues being sold in the public market.
- (c) Make timely disclosure of annual financial information or other requested information to the rating agencies