



CITY COUNCIL
October 4, 2021

WORK SESSION: 7:00 PM

1. Call to Order and roll call.
2. Discussion of all items on the agenda.
3. Work Session discussion items:
 - A. Discuss with staff the City's financial policies and procurement process.
 - B. Discuss with staff the City Administrator's delegated supervisory duties.
 - C. Discuss with staff the City's franchise agreement with Frontier Waste Solutions to include monthly bulk trash pickup services.
 - D. Discuss with staff the executive summary of the deep dive audit.
 - E. Discuss with staff the streets improvement project.
4. Adjournment.

REGULAR SESSION: 7:00 PM or immediately following the Work Session.

5. Call to Order and roll call.
6. Pledge to the flags.
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
7. **EXECUTIVE SESSION:** The City Council will conduct a closed session pursuant to Section 551.087 (Deliberation Regarding Economic Development Negotiations) of the Texas Government Code to (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1) for the following: (a) Settler's Glen; (b) Paloma Ranch; and (c) Satellite City Holdings, LLC.

8. **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.

9. **CONSENT ITEMS:** 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.
 - A. Accept the minutes for the September 13 and 27, 2021, City Council meetings.

10. **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 1st day of October, 2021 at 7:00 PM at least 72 hours preceding the meeting time.

Brooke Boller, Interim Deputy 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 Interim Deputy City Secretary at city hall 817-638-5366 or fax 817-638-5369 or by email at citysecretary@newfairview.org for further information.



City Council Agenda October 4, 2021

Agenda Item:

(Work Session Item)

Agenda Description:

Discuss with staff the City's financial policies and procurement process.

Background Information:

The City Council established the position of City Administrator and delegated certain duties and responsibilities, including human resources, and purchasing. Two Council members requested that these two delegated duties be brought to the Council for review and consideration of alternative scenarios.

The specific areas requested for discussion were:

- Multiple signatures on checks over a certain dollar amount
- The limit on the City Administrator's spending

City Contact and Recommendation:

Ben Nibarger, City Administrator

Attachments:

City Administrator Ordinance
Financial Policies / Procurement Policy

ORDINANCE NO. 2020-02-197

AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS CREATING THE OFFICE OF CITY ADMINISTRATOR AND ESTABLISHING JOB DUTIES AND QUALIFICATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; 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 Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, historically the Mayor has served as the chief administrative officer of the City; and

WHEREAS, the City Council now believes that it is in the best interest of its citizens to create the office of City Administrator.

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

SECTION 1.

That the City Council of New Fairview, Texas hereby creates the office of City Administrator who shall serve as the chief administrative officer of the City. The general duties and qualifications of the City Administrator shall be as provided for in the attached job description marked as "Exhibit A". The City Council, by a majority vote, shall appoint a competent person as City Administrator as soon as reasonably possible after the creation of this office who meets the established job requirements. Likewise, any person appointed as City Administrator shall serve at the discretion of the City Council and may be removed by a majority vote.

SECTION 2.

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 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid

judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 24 **DAY OF** February,
2020.

Joe Max Wilson, Mayor

Scott Johnson, Mayor Pro Tem

Rick White
Rick White, Councilman

Bill Payne
Bill Payne, Councilman

Rebecca McPherson
Rebecca McPherson, Councilwoman

Charlie Stumm
Charlie Stumm, Councilman

ATTEST:

Monica Rodriguez
Monica Rodriguez, City Secretary

EXHIBIT 'A'

CITY OF NEW FAIRVIEW, TEXAS

CITY ADMINISTRATOR

GENERAL DESCRIPTION

To plan, organize and direct the overall administrative activities and operations of the City; to assist the Mayor, to advise and assist the City Council; to represent the City's interest with other levels and agencies of government, business interests, and the community at large; and to exercise independent judgment and initiative.

SUPERVISION RECEIVED AND EXERCISED

1. Receive policy direction from the City Council.
2. Receive general supervision from the Mayor.
3. Exercise direct and indirect supervision over professional, technical and clerical City staff.

ESSENTIAL FUNCTIONS

1. Participate in the development, implementation and review of City goals, objectives, policies and procedures.
2. Assist and coordinate with the Mayor and City Council in the development of the annual City budget; monitor monthly expenditures and report significant variances to the Mayor and City Council; develop alternate revenue sources for City Council projects.
3. Participate in the preparation of long-term plans of capital improvements with plans for their financing.
4. Confer with department heads concerning administrative and operational problems; make appropriate recommendations.
5. Communicate with departments on City procedures and policies; respond to questions from City Councilmembers, City employees and the public.
6. Conduct surveys research and studies; gather, compile, analyze and evaluate data; prepare reports on complex and highly visible projects.

7. Serve as liaison to advisory committees as needed.
8. Make independent decisions on problems encountered within assigned areas of responsibility
9. Prepare and submit to the Mayor and City Council reports of finances and administrative activities; keep the Mayor and City Council advised of financial program progress, and present and future needs of the City.
10. Upon delegation from the Mayor, provides personal leadership, direction and supervision to senior level City department heads and staff; establish performance objectives, monitors progress and evaluates results.
11. Assist in the selection, supervision, training and evaluation of City personnel. At the direction of Mayor and City Council, develop and implement personnel rules and regulations, including discipline and termination procedures, as necessary.
12. Oversee the enforcement of all City ordinances.
13. Direct the preparation of plans and specifications for work which the City Council orders.
14. Interpret, analyze, and explain policies, procedures and programs. Confer with residents, taxpayers, businesses and other individuals groups, and outside agencies having an interest or potential interest in affairs of City concern. Respond to the most difficult complaints and requests for information.
15. Represent the City in the community and at professional meetings as required.
16. Coordinate City activities with other governmental agencies and outside organizations.
17. Perform all duties as may be prescribed by the Mayor and/or City Council action, including assisting in the City Council meeting presentation/discussions as required.

DEVELOPMENT ACTIVITIES

1. Work with Planning and Zoning Commission and advise council on annexation, subdivision, zoning issues.
2. Work with developers and citizens on annexation, subdivision, zoning, and related complaints with applicable ordinances, statutes and in conformity with standards, specifications and assurance of quality control.

3. Negotiate community facilities agreements (CFA) with developers for extension of City infrastructure to serve the development.
4. Identify developing properties and provide appropriate enforcement of the Subdivision Ordinance.
5. Correspond with engineers regarding capital improvements, subdivision and various projects on infrastructure improvements and advise the Council.
6. Research, develop and obtain easements, right-of-way or right of entry to facilitate construction of capital improvements.
7. Develop and maintain infrastructure maps and databases and coordinate efforts to move toward geographical information systems (GIS).
8. Update and maintain zoning and city limit maps.

PROVIDES MANAGERIAL OVERSIGHT FOR THE FOLLOWING

1. City Secretary's Office
2. Municipal Court
3. Police
4. Fire
5. Street Services/Public Works
6. Building Inspection / Code Compliance
7. Parks & Recreational Services
8. Utilities

OTHER AREAS OF OVERSIGHT RESPONSIBILITY

1. Human Resources
2. Records and Information Management
3. Engineering
4. Finance
5. Information Technology
6. Audit
7. Legal
8. Public Events
9. Building Services
10. Risk Management
11. Solid Waste Contract Compliance
12. Environmental Management
13. Intergovernmental Affairs
14. Purchasing
15. Health
16. Housing

QUALIFICATIONS

1. Knowledge of:

- a. Modern municipal administrative methods and procedures, organizations, and functions.
- b. Principles of municipal management, administration and policy development.
- c. Techniques used to forecast and implement municipal activities.
- d. Budgeting and fiscal management as it relates to the operations of a city.
- e. Current social, political, and economic trends and operating problems of municipal government.
- f. Applicable Federal, State and local laws, rules and regulations regarding local government operations.
- g. Principles of effective public relations and interrelationships with community groups and agencies, private businesses and firms, and other levels of government.
- h. Techniques used to motivate subordinate personnel, maintain high employee morale and promote teamwork.
- i. Principles of supervision to interview, direct train and evaluate of subordinates.
- j. Grant and funding sources for municipal governments.
- k. Public relations techniques.

2. Ability to:

- a. Effectively present both orally and in writing material requiring precision, diplomacy and considerable skill in explaining concepts.
- b. Write complex reports, and review and prepare Council agenda reports.
- c. Assess and resolve employee relations problems.

- d. Coordinate City programs; plan activities; assign projects and responsibilities; deploy personnel; evaluate performance; and maintain an effective leadership role.
- e. Identify and analyze City needs and develop and implement plans and programs to meet those needs.
- f. Establish and maintain effective and cooperative relations with the community.
- g. Analyze information from a variety of sources, examine alternatives, draw logical conclusions and recommend and/or direct a course of action.
- h. Provide effective leadership and coordinate the activities of the municipal organization.
- i. Analyze, interpret, summarize and present administrative and technical information and data in an effective manner.
- j. Appraise situations and people accurately and quickly and adopt an effective course of action.
- k. Manage multiple projects.
- l. Serve effectively as the administrative agent of the City Council.
- m. Serve as a liaison to committees; answer policy questions and explain City procedures; accept and review committee input.
- n. Communicate clearly and concisely, both orally and in writing.
- o. Establish and maintain effective working relationships with those contacted in the course of work.
- p. Lead in the formulation, implementation and coordination of City policies.
- q. Maintain effective audio-visual discrimination and perception needed for:
 - i. making observations;
 - ii. communicating with others;
 - iii. reading and writing;
 - iv. monitoring assigned activities and operations; and
 - v. operating assigned equipment.
- r. Maintain mental capacity which permits:

- i. making sound decisions and using good judgment;
 - ii. prioritizing work activities; and
 - iii. demonstrating intellectual capabilities.
- s. Maintain physical condition appropriate to the performance of assigned duties and responsibilities, which may include the following:
- i. walking, standing or sitting for extended periods of time
 - ii. lifting or carrying light to moderate objects
 - iii. operating assigned equipment

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

1. **Experience:** Four years of progressively responsible experience in an administrative, managerial, or staff capacity in a municipal organization, involving the responsibility for the planning, organization, implementation and supervision of varied work programs. Experience as an Assistant to the City Administrator or City Administrator is desired.
2. **Training:** Equivalent to a Bachelor's degree from an accredited college or university with major course work in public or business administration or a closely related field. Masters Degree is desirable.

Supplemental training in areas of responsibility, i.e. subdivision and zoning, budget and finance, etc.

3. **License or Certificate:** Must possess, or have the ability to obtain, an appropriate, valid Texas driver's license.

WORKING CONDITIONS

1. **Environmental Conditions:** Office environment; work with computers.
2. **Physical Conditions:** Essential functions may require maintaining physical condition necessary for lifting, standing, walking or sitting for prolonged periods of time and operating motorized vehicles.



City of New Fairview
Procurement Policy
August 16, 2021

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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:

Amount	Approval Requirements			
\$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.

SECTION 9: Contract Types, Requirements & Management Procurement Policy

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

	Steps	Responsibility
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"> • Email to all departments/users • Allow a minimum of seven days 	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"> • Requesting department must pick up the equipment within seven days. 	Designated Department employee
4.	If no interest, notify Procurement. <ul style="list-style-type: none"> • Complete Disposition form and send to Procurement 	Designated Department employee
5	Procurement will determine the best method of disposal through: <ul style="list-style-type: none"> • Auction • Trade In • Recycling • Donation • Destruction 	Procurement

AUCTION

	Steps	Responsibility
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"> • For vehicles & equipment, take a minimum of four pictures (one on each side). • Additional pictures of the inside, damage to exterior or interior, etc. • The more information/pictures provided will help with the sell and less questions will be generated by the public. 	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)

	Steps	Responsibility
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

	Steps	Responsibility
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

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

CHOOSING A PROCUREMENT METHOD

Procurement Method	Use When	Advantages	Disadvantages
Invitation to Bid	<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>
Request for Proposal	<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>
Request for Information	<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>	
Request for Qualifications	<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

Task	Suggested Lead Time from Start of Contract Date	Example
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 October 4, 2021

Agenda Item:

(Work Session Item)

Agenda Description:

Discuss with staff the City Administrator's delegated supervisory duties.

Background Information:

The City Council established the position of City Administrator and delegated specific authority for the day-to-day operations of the City. The following is copied directly from the ordinance creating the City Administrator position and delegation of authority.

GENERAL DESCRIPTION: To plan, organize and direct the overall administrative activities and operations of the City; to assist the Mayor, to advise and assist the City Council; to represent the City's interest with other levels and agencies of government, business interests, and the community at large; and to exercise independent judgment and initiative.

SUPERVISION RECEIVED AND EXERCISED / ESSENTIAL FUNCTIONS:

- Receive policy direction from the City Council.
- Receive general supervision from the Mayor that is clearly aligned with the direction of the City Council; if there is a potential conflict, the Mayor shall bring the item up at a future City Council meeting.
- Exercise direct and indirect supervision over professional, technical and clerical City staff, including consultants.
- Provide personal leadership, direction and supervision to senior level City department heads and staff; establish performance objectives, monitors progress and evaluates results.

PROVIDES MANAGERIAL OVERSIGHT FOR THE FOLLOWING AREAS OF RESPONSIBILITY:

- City Secretary's Office
- Municipal Court
- Police
- Fire
- Street Services/Public Works
- Building Inspection / Code Compliance
- Parks & Recreational Services
- Utilities
- Human Resources
- Records and Information Management
- Engineering
- Finance
- Information Technology
- Audit
- Legal
- Public Events
- Building Services
- Risk Management
- Solid Waste Contract Compliance
- Environmental Management
- Intergovernmental Affairs
- Purchasing
- Health
- Housing

City Contact and Recommendation:

Ben Nibarger, City Administrator

N/A

Attachments:

City Administrator Ordinance

ORDINANCE NO. 2020-02-197

AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS CREATING THE OFFICE OF CITY ADMINISTRATOR AND ESTABLISHING JOB DUTIES AND QUALIFICATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; 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 Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, historically the Mayor has served as the chief administrative officer of the City; and

WHEREAS, the City Council now believes that it is in the best interest of its citizens to create the office of City Administrator.

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

SECTION 1.

That the City Council of New Fairview, Texas hereby creates the office of City Administrator who shall serve as the chief administrative officer of the City. The general duties and qualifications of the City Administrator shall be as provided for in the attached job description marked as "Exhibit A". The City Council, by a majority vote, shall appoint a competent person as City Administrator as soon as reasonably possible after the creation of this office who meets the established job requirements. Likewise, any person appointed as City Administrator shall serve at the discretion of the City Council and may be removed by a majority vote.

SECTION 2.

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 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid

judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 24 **DAY OF** February,
2020.

Joe Max Wilson, Mayor

Scott Johnson, Mayor Pro Tem

Rick White
Rick White, Councilman

Bill Payne
Bill Payne, Councilman

Rebecca McPherson
Rebecca McPherson, Councilwoman

Charlie Stumm
Charlie Stumm, Councilman

ATTEST:

Monica Rodriguez
Monica Rodriguez, City Secretary

EXHIBIT 'A'

CITY OF NEW FAIRVIEW, TEXAS

CITY ADMINISTRATOR

GENERAL DESCRIPTION

To plan, organize and direct the overall administrative activities and operations of the City; to assist the Mayor, to advise and assist the City Council; to represent the City's interest with other levels and agencies of government, business interests, and the community at large; and to exercise independent judgment and initiative.

SUPERVISION RECEIVED AND EXERCISED

1. Receive policy direction from the City Council.
2. Receive general supervision from the Mayor.
3. Exercise direct and indirect supervision over professional, technical and clerical City staff.

ESSENTIAL FUNCTIONS

1. Participate in the development, implementation and review of City goals, objectives, policies and procedures.
2. Assist and coordinate with the Mayor and City Council in the development of the annual City budget; monitor monthly expenditures and report significant variances to the Mayor and City Council; develop alternate revenue sources for City Council projects.
3. Participate in the preparation of long-term plans of capital improvements with plans for their financing.
4. Confer with department heads concerning administrative and operational problems; make appropriate recommendations.
5. Communicate with departments on City procedures and policies; respond to questions from City Councilmembers, City employees and the public.
6. Conduct surveys research and studies; gather, compile, analyze and evaluate data; prepare reports on complex and highly visible projects.

7. Serve as liaison to advisory committees as needed.
8. Make independent decisions on problems encountered within assigned areas of responsibility
9. Prepare and submit to the Mayor and City Council reports of finances and administrative activities; keep the Mayor and City Council advised of financial program progress, and present and future needs of the City.
10. Upon delegation from the Mayor, provides personal leadership, direction and supervision to senior level City department heads and staff; establish performance objectives, monitors progress and evaluates results.
11. Assist in the selection, supervision, training and evaluation of City personnel. At the direction of Mayor and City Council, develop and implement personnel rules and regulations, including discipline and termination procedures, as necessary.
12. Oversee the enforcement of all City ordinances.
13. Direct the preparation of plans and specifications for work which the City Council orders.
14. Interpret, analyze, and explain policies, procedures and programs. Confer with residents, taxpayers, businesses and other individuals groups, and outside agencies having an interest or potential interest in affairs of City concern. Respond to the most difficult complaints and requests for information.
15. Represent the City in the community and at professional meetings as required.
16. Coordinate City activities with other governmental agencies and outside organizations.
17. Perform all duties as may be prescribed by the Mayor and/or City Council action, including assisting in the City Council meeting presentation/discussions as required.

DEVELOPMENT ACTIVITIES

1. Work with Planning and Zoning Commission and advise council on annexation, subdivision, zoning issues.
2. Work with developers and citizens on annexation, subdivision, zoning, and related complaints with applicable ordinances, statutes and in conformity with standards, specifications and assurance of quality control.

3. Negotiate community facilities agreements (CFA) with developers for extension of City infrastructure to serve the development.
4. Identify developing properties and provide appropriate enforcement of the Subdivision Ordinance.
5. Correspond with engineers regarding capital improvements, subdivision and various projects on infrastructure improvements and advise the Council.
6. Research, develop and obtain easements, right-of-way or right of entry to facilitate construction of capital improvements.
7. Develop and maintain infrastructure maps and databases and coordinate efforts to move toward geographical information systems (GIS).
8. Update and maintain zoning and city limit maps.

PROVIDES MANAGERIAL OVERSIGHT FOR THE FOLLOWING

1. City Secretary's Office
2. Municipal Court
3. Police
4. Fire
5. Street Services/Public Works
6. Building Inspection / Code Compliance
7. Parks & Recreational Services
8. Utilities

OTHER AREAS OF OVERSIGHT RESPONSIBILITY

1. Human Resources
2. Records and Information Management
3. Engineering
4. Finance
5. Information Technology
6. Audit
7. Legal
8. Public Events
9. Building Services
10. Risk Management
11. Solid Waste Contract Compliance
12. Environmental Management
13. Intergovernmental Affairs
14. Purchasing
15. Health
16. Housing

QUALIFICATIONS

1. Knowledge of:

- a. Modern municipal administrative methods and procedures, organizations, and functions.
- b. Principles of municipal management, administration and policy development.
- c. Techniques used to forecast and implement municipal activities.
- d. Budgeting and fiscal management as it relates to the operations of a city.
- e. Current social, political, and economic trends and operating problems of municipal government.
- f. Applicable Federal, State and local laws, rules and regulations regarding local government operations.
- g. Principles of effective public relations and interrelationships with community groups and agencies, private businesses and firms, and other levels of government.
- h. Techniques used to motivate subordinate personnel, maintain high employee morale and promote teamwork.
- i. Principles of supervision to interview, direct train and evaluate of subordinates.
- j. Grant and funding sources for municipal governments.
- k. Public relations techniques.

2. Ability to:

- a. Effectively present both orally and in writing material requiring precision, diplomacy and considerable skill in explaining concepts.
- b. Write complex reports, and review and prepare Council agenda reports.
- c. Assess and resolve employee relations problems.

- d. Coordinate City programs; plan activities; assign projects and responsibilities; deploy personnel; evaluate performance; and maintain an effective leadership role.
- e. Identify and analyze City needs and develop and implement plans and programs to meet those needs.
- f. Establish and maintain effective and cooperative relations with the community.
- g. Analyze information from a variety of sources, examine alternatives, draw logical conclusions and recommend and/or direct a course of action.
- h. Provide effective leadership and coordinate the activities of the municipal organization.
- i. Analyze, interpret, summarize and present administrative and technical information and data in an effective manner.
- j. Appraise situations and people accurately and quickly and adopt an effective course of action.
- k. Manage multiple projects.
- l. Serve effectively as the administrative agent of the City Council.
- m. Serve as a liaison to committees; answer policy questions and explain City procedures; accept and review committee input.
- n. Communicate clearly and concisely, both orally and in writing.
- o. Establish and maintain effective working relationships with those contacted in the course of work.
- p. Lead in the formulation, implementation and coordination of City policies.
- q. Maintain effective audio-visual discrimination and perception needed for:
 - i. making observations;
 - ii. communicating with others;
 - iii. reading and writing;
 - iv. monitoring assigned activities and operations; and
 - v. operating assigned equipment.
- r. Maintain mental capacity which permits:

- i. making sound decisions and using good judgment;
 - ii. prioritizing work activities; and
 - iii. demonstrating intellectual capabilities.
- s. Maintain physical condition appropriate to the performance of assigned duties and responsibilities, which may include the following:
- i. walking, standing or sitting for extended periods of time
 - ii. lifting or carrying light to moderate objects
 - iii. operating assigned equipment

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

1. **Experience:** Four years of progressively responsible experience in an administrative, managerial, or staff capacity in a municipal organization, involving the responsibility for the planning, organization, implementation and supervision of varied work programs. Experience as an Assistant to the City Administrator or City Administrator is desired.

2. **Training:** Equivalent to a Bachelor's degree from an accredited college or university with major course work in public or business administration or a closely related field. Masters Degree is desirable.

Supplemental training in areas of responsibility, i.e. subdivision and zoning, budget and finance, etc.

3. **License or Certificate:** Must possess, or have the ability to obtain, an appropriate, valid Texas driver's license.

WORKING CONDITIONS

1. **Environmental Conditions:** Office environment; work with computers.

2. **Physical Conditions:** Essential functions may require maintaining physical condition necessary for lifting, standing, walking or sitting for prolonged periods of time and operating motorized vehicles.



City Council Agenda October 4, 2021

Agenda Item:

(Work Session Item)

Agenda Description:

Discuss with staff the City's franchise agreement with Frontier Waste Solutions to include monthly bulk trash pickup services.

Background Information:

Staff discussed with the Council their willingness to consider executing an updated contract with Frontier Waste Solutions, as Frontier inherited the current agreement through acquisition of our previous service provider. The Council stated that they were willing to consider this and staff has been working with Frontier Waste Solutions to develop a new contract.

City Contact and Recommendation:

Ben Nibarger, City Administrator

Attachments:

Contract delivered under separate cover



**City of New Fairview, Texas
Resolution No. 202108-01-178**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, ADOPTING TRANSPORTATION IMPACT FEES; DEFINING DEVELOPMENT TYPES AND ESTABLISHING THE FEES FOR EACH DEVELOPMENT TYPE.

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 have growth pay for growth and minimize the impact of new development on existing residents; and

WHEREAS, the Council has previously adopted the Capital Improvement Plan and finds it in the best interest of the citizens of New Fairview to establish transportation impact fees.

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

1. That, all matters stated in the recitals herein above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
2. That the City Council does hereby approve the transportation impact study and establishes the fees for the development types as follows:

Development Type	Maximum Accessible Fee
Single Family	\$2,828.79 / Dwelling Unit
Multi Family	\$1,994.10 / Dwelling Unit
Retail	\$10,283.78 / 1,000 SQFT

Basic	\$474.01 / 1,000 SQFT
Service	\$2,653.35 / 1,000 SQFT

3. That, if any applicant is replacing a manufactured housing unit with a stick-built housing unit on a concrete foundation, their fee shall be adjusted to 50% of the Maximum Accessible Fee for Single Family.
4. That, if any portion of this resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determined that it would have adopted this Resolution without the invalid provision.
5. That this Resolution shall become effective from and after its date of passage.

PRESENTED AND PASSED on this **13th day of September, 2021**, at a meeting of the New Fairview City Council.

Nolan Schoonmaker
Mayor

ATTEST:

Brooke Boller
Interim Deputy City Secretary



City Council Agenda October 4, 2021

Agenda Item:

(Work Session Item)

Agenda Description:

Discuss with staff the executive summary of the deep dive audit.

Background Information:

The City Council received allegations from a city employee regarding the theft of public funds. The City Administrator was informed of this claim on August 10, 2021, and requested that the City engage its auditor to complete a more “in-depth” audit. Mayor Schoonmaker agreed and instructed the City Attorney to work with the Council members that had received the allegations and provide the necessary materials to the auditor for review. The City Council was informed of the auditor being engaged on August 11, 2021.

The auditor received the materials and completed his review of the specific 140 transactions and presented his findings to the Council on August 16, 2021, during a personnel executive session that the City Administrator pulled into open session. The auditor provided a limited statement, related only to the specific items provided by the City attorney for review, stating that there were no irregularities found. Following the auditor’s report, the Mayor asked if this was sufficient and Council members Julie Burger and Steve Misner stated that the review was too narrow in scope and needed to be expanded.

The Mayor asked the Council, if the review is expanded, when we get the answers back, will we be done with this. Councilwoman Julie Burger was uncertain. Councilwoman Julie Burger presented bank statements to the auditor as evidence of wrongdoing. The City Attorney asked that all materials be delivered to him and he would compile and forward to the auditor. The City Administrator stated that he had requested a deep dive audit of the Mayor as well, and the Council agreed to expand the audit to include a review of 100% of the FY 2020-2021 transactions. The auditor requested that the Council members provide him with “all their concerns” so that when he completed his review and presented his report, there would

not be additional items added at that time. The City Attorney agreed to collect “all concerns” from the Council members and forward to the auditor.

The auditor completed his review on September 29, 2021, and presented an initial verbal report that there were no irregularities found, but there were a few transactions that needed to be recoded. The transactions that had been coded incorrectly, either through data entry errors or coding of the transaction, but all support documentation for the transactions were present.

The auditor is going to be out of town starting this weekend and has agreed to make a presentation and deliver the full report to the Council on October 18, 2021. The auditor will also begin the end of year audit in November or December 2021.

City Contact and Recommendation:

Ben Nibarger, City Administrator

N/A

Attachments:

Summary of deep dive audit (will be delivered by auditor on Sunday)



City Council Agenda October 4, 2021

Agenda Item:

(Work Session Item)

Agenda Description:

Discuss with staff the streets improvement project.

Background Information:

The City's contractor for the streets improvement project started the drainage work and construction at the end of August 2021. At this time, all but one of the drainage structures have been installed on Hilltop Trails and connecting streets. The first payment of \$234,046.75 has been requested and paid.

This does not include Wilson Court or Creasser Lane, which were excluded from the contract award due to potential \$350,000 in funding from the Community Development Block Grant (CDBG) application that staff completed and submitted. At this time, the state has graded the CDBG grant applications and allocated funding for the top 20 applications. New Fairview's CDBG grant application was scored as number 16, placing it within the funding allocation for the CDBG program. Once the City receives confirmation of the award, we will begin the procurement process to go out for bid and award the contract for Wilson and Creasser.

Currently, drainage work is being completed on Branding Iron Road and will then move to Chisholm Hills Drive. Thus far, the weather has been cooperative and we are making good progress on the drainage work.

An issue regarding nine large culverts (six to seven feet) that move stormwater under Hilltop are under discussion. These culverts have been approximately 50% silted in and when cleared, they have substantially corroded away. The cost estimate to replace these large culverts is \$350,000 and would essentially use all of the project's contingency, which staff is hoping to use towards gapping the current funding shortfall. Staff is working with the engineers and construction company to determine options and best paths forward.

City Contact and Recommendation:

Ben Nibarger, City Administrator

N/A

Attachments:

N/A



City Council Agenda October 4, 2021

Agenda Item:

(Consent Item)

Agenda Description:

Accept the minutes for the September 13 and 27, 2021, City Council meetings.

Background Information:

Please review the minutes and be prepared to amend or add any clarification that the Council may deem necessary for the minutes.

Financial Information:

Ben Nibarger, City Administrator

City Contact and Recommendation:

Ben Nibarger, City Administrator

Review, make recommendations for comments/changes, and accept the meeting minutes

Attachments:

September 13, 2021, City Council Meeting minutes

September 27, 2021, City Council Meeting minutes



CITY COUNCIL MINUTES

September 27, 2021

STATE OF TEXAS

COUNTY OF WISE

CITY OF NEW FAIRVIEW

THE CITY COUNCIL CONVENED INTO A CITY COUNCIL MEETING THE SAME BEING OPEN TO THE PUBLIC, THE 27TH DAY OF SEPTEMBER IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENT CODE WITH THE FOLLOWING MEMBERS PRESENT:

CITY COUNCIL

Mayor Nolan Schoonmaker

Councilman John Taylor

Councilwoman Cindy Poe

Councilwoman Julie Burger

Councilman Scott Johnson

Councilman Steve Misner

STAFF

Ben Nibarger, City Administrator

Brooke Boller, Interim Deputy City Secretary / City Clerk

Larry Collister, City Attorney

ABSENT

REGULAR SESSION: 7:00 PM

1. Call to Order and roll call. **(Regular Session called to order by Mayor Nolan Schoonmaker at 7:00 pm; Roll call with the above-mentioned names present.)**
2. Pledge to the flags. **(Mayor Nolan Schoonmaker led the pledges of allegiance to the United States and Texas Flags.)**
3. **EXECUTIVE SESSION:** The Council will conduct an executive, or closed, session pursuant to Section 551.074 (Personnel Matters) and Section 551.071 (Consultation with Attorney) of the Texas Government Code to (i) deliberate the appointment, employment, evaluation, duties, discipline, or removal of the City Secretary and (ii) discuss legal matters and potential legal issues related to the same. **(Adjourned to Executive Session at 7:02 pm; Adjourned to Regular Session at 8:52 pm)**
4. **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. **(No public comments.)**
5. **NEW BUSINESS:** All matters listed as New Business will be discussed and considered separately. **(Called Regular Session back to order at 8:59 pm)**
 - A. Consider action on a resolution removing the City Secretary for lack of confidence as allowed under Texas Local Government Code, Section 22.077(b). **(A motion was made by Councilman Steve Misner to table this item until the next meeting; the motion was seconded by Councilman Scott Johnson; Mayor called for a vote, resulting with two in favor and three in opposition of tabling the item; Mayor Schoonmaker asked for other motions and received none.)**

Motion: Councilman Steve Misner
Second: Councilman Scott Johnson
Vote: 2 in favor; 3 in opposition; 0 abstained
Result: Motion to table failed; no additional motions made, no action was taken on the item.
6. **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 23rd day of September, 2021 at 2:00 PM at least 72 hours proceeding the meeting time.

Motion: Mayor Pro Tem John Taylor

Second: Councilman Scott Johnson

Vote: 5 in favor; 0 in opposition; 0 abstained

Result: Meeting was adjourned at 8:59 pm.

An audio recording of this meeting will be retained in the City Secretary's office.

MINUTES APPROVED ON THIS, THE 4TH DAY OF OCTOBER 2021:

Mayor Nolan Schoonmaker

Place 2 Councilman Scott Johnson

Mayor Pro Tem John Taylor

Place 3 Councilman Steve Misner

Place 1 Councilwoman Julie Burger

Place 4 Councilwoman Cindy Poe

ATTEST:

**Brooke Boller,
Interim Deputy City Secretary**



CITY COUNCIL MINUTES

September 13, 2021

STATE OF TEXAS

COUNTY OF WISE

CITY OF NEW FAIRVIEW

THE CITY COUNCIL CONVENED INTO A CITY COUNCIL MEETING THE SAME BEING OPEN TO THE PUBLIC, THE 13TH DAY OF SEPTEMBER IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENT CODE WITH THE FOLLOWING MEMBERS PRESENT:

CITY COUNCIL

Mayor Nolan Schoonmaker

Councilman John Taylor

Councilwoman Cindy Poe

Councilwoman Julie Burger

Councilman Scott Johnson

STAFF

Ben Nibarger, City Administrator

Brooke Boller, Interim Deputy City Secretary / City Clerk

Larry Collister, City Attorney

ABSENT

Councilman Steve Misner

WORK SESSION: 7:00 PM

1. Call to Order and roll call. **(Work Session called to order by Mayor Nolan Schoonmaker at 7:00 pm; Roll call with the above-mentioned names present.)**
2. Discussion of all items on tonight's meeting agenda.
 - A. Review and discuss the deep dive audit report with the city auditor. **(The city auditor, Bill Spore, presented the Council with an update on the deep dive audit; Bill informed the Council that he has finished the review of all expenditures and documents through March 2021 and that has seen nothing out of the ordinary; Bill informed the Council that he has investigated all the specific questions presented to him by the City Attorney and provided the invoices and support documentation for each of the transactions that had occurred, finding nothing out of the ordinary; Bill informed the Council that he would complete the audit in the near future and prepare a formal report for their review.)**
3. Adjournment.

Motion: Councilman John Taylor

Second: Councilwoman Cindy Poe

Vote: 4 in favor; 0 in opposition; 0 abstained

Result: Work Session adjourned at 8:26 pm.

REGULAR SESSION: 7:00 PM or immediately following the Work Session.

3. Call to Order and roll call. **(Regular Session called to order by Mayor Nolan Schoonmaker 8:31 pm; Roll call with the above-mentioned names present.)**
4. Pledge to the flags. **(Mayor Nolan Schoonmaker led the pledges of allegiance to the United States and Texas Flags.)**
5. **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.

Matt Spaethe - presented materials to the Council regarding the transportation impact fees; wanted to know how it would specifically impact him if he built a metal building with a living space and then built a home at a later time; stated that the city needed to incorporate service areas no greater than six-miles.

Steven King - asked if the transportation fees would impact the existing development or only new projects; City Administrator responded these would be forward looking only.

6. CONSENT ITEMS: 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.

A. Accept the July and August 2021 Financial Reports.

B. Accept the July 16, and 19, 2021 City Council Meeting Minutes; the August 2, 16, 23, and 30, 2021 City Council Meeting minutes.

Motion: Councilman Scott Johnson

Second: Councilwoman Cindy Poe

Vote: 3 in favor; 0 in opposition; 1 abstained (Councilwoman Julie Burger)

Result: The City Council accepted the consent items as presented.

7. NEW BUSINESS: All matters listed as New Business will be discussed and considered separately.

A. Conduct a public hearing on the adoption of impact fees. The purpose of the hearing is to consider the adoption of a transportation impact fee. The proposed impact fee per residential service unit is \$2,828.79. Any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee. **(Public hearing opened at 8:48 pm. No comments. Public hearing closed at 8:54 pm.)**

B. Discuss, consider and act on a resolution adopting the Transportation Impact Fees. **(Council discussed the required public notification that was missed prior to their consideration in August 2021 and why this was back on the agenda. Councilwoman Julie Burger stated the fee was high. The Council discussed the possibility of making exemptions for the impact fee, considering several scenarios, including the one presented in the open forum by Matt Spaethe. The Council discussed how they could change this fee at a future time if needed. The Council discussed how this places the cost of transportation improvement onto those individuals that are making the new roads necessary.)**

Motion: Councilman John Taylor

Second: Councilwoman Cindy Poe

Vote: 4 in favor; 0 in opposition; 0 abstained

Result: The Council approved the resolution, adopting the transportation impact fee, provided that, if any applicant is replacing a manufactured housing unit with a stick-built housing unit, on a concrete foundation, the Maximum Fee for Single Family Unit fee shall be adjusted to 50%.)

- C. Discuss, consider, and select the Mayor Pro Tem by majority vote of the City Council from among its own membership; providing that the mayor pro tem's term is one year; providing that the mayor pro tem retains the right to vote on all matters before the Council while performing the duties of the mayor (Local Government Code Sections 22.037 and 23.027). **(The Mayor discussed the duties of the Mayor Pro Tem, their responsibility to act as the mayor in their absence; Councilwoman Cindy Poe made a motion to nominate Councilman Scott Johnson but received no second; Councilwoman Julie Burger made a motion to nominate John Taylor and received a second from Councilman Scott Johnson.)**

Motion: Councilwoman Julie Burger

Second: Councilman Scott Johnson

Vote: 4 in favor; 0 in opposition; 0 abstained

Result: Councilman John Taylor was appointed to the position of Mayor Pro Tem for a term of one year.

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 10th day of September, 2021 at 7:00 PM at least 72 hours preceding the meeting time.

Motion: Councilman Scott Johnson

Second: Mayor Pro Tem John Taylor

Vote: 4 in favor; 0 in opposition; 0 abstained

Result: Meeting was adjourned at 9:11 pm.

An audio recording of this meeting will be retained in the City Secretary's office.

MINUTES APPROVED ON THIS, THE 4TH DAY OF OCTOBER 2021:

Mayor Nolan Schoonmaker

Place 2 Councilman Scott Johnson

Mayor Pro Tem John Taylor

Place 3 Councilman Steve Misner

Place 1 Councilwoman Julie Burger

Place 4 Councilwoman Cindy Poe

ATTEST:

**Brooke Boller,
Interim Deputy City Secretary**