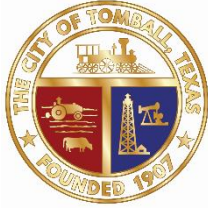


**NOTICE OF WORKSHOP/REGULAR
CITY OF TOMBALL, TEXAS**



**Monday, November 02, 2026
5:00 P.M.**

Notice is hereby given of a Workshop and Regular meetings of the Tomball City Council, to be held on Monday, November 02, 2026 at 5:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): **+1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 897 7576 7805 Passcode: 153790.** The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- C. General Discussion
 - 1. A quorum of the Tomball Economic Development Corporation Board of Directors may be present and participate in discussions and deliberations with the City Council regarding funding for the Alleyway Capital Improvement Project.
 - 2. Review and discussion on the Tomball Archive and History Center (TAHC) Fiscal Year 2026 accomplishments and Fiscal Year 2027 goals and objectives.
 - 3. Review and discussion on the updated City Procurement Policy and Manual.

- D. Proposed Future Agenda Items *[The following items are provided for informational purposes for City Council and public review. Any item may be pulled for separate discussion at Council's request.]*
1. Workshop Discussion Only – Approve services agreement renewal with Senergy Petroleum, LLC for operating and emergency fuel purchases for an annual not-to-exceed amount of \$600,000 (RFP No. 2025-17), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the Fiscal Year 2026-2027 budget.
 2. Workshop Discussion Only – Approve a Professional Services Agreement with Dunham Engineering, LLC for the design of Ulrich Elevated Storage Tank Rehabilitation, Project Number 2027-10003, for a not-to-exceed amount of \$127,500, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. The expenditure was included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.
 3. Workshop Discussion Only - Approve an agreement with H.E.A.T. Safety Equipment, LLC for the purchase of thirty-seven (37) 3M Scott Air-Pak X3 units and associated equipment through the Houston-Galveston Area Council cooperative purchasing agreement (H-GAC Contract # EE11-24), for a not-to-exceed amount of \$416,000.00, authorize the expenditure of funds exceeding \$100,000 therefor, and authorize the City Manager to execute any and all documents related to the expenditure. This amount is included in the FY 2026-2027 budget.
- E. Recess/Reconvene at 6:00 p.m.
- F. Invocation led by Pastor Alonso Blanchet, Real Life Ministries
- G. Pledges to U.S. and Texas Flags
- H. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*
- I. Presentations
1. Presentation of Proclamation for Municipal Court Week.

2. Presentation of Proclamation for Congressman Wesley Hunt.

J. Reports and Announcements

1. Announcements

I. Announcements

Upcoming Event:

- November 7, 2026 – Depot Day Fall Fest from 11:00 a.m.-5:00 p.m. at Tomball Depot Plaza
- November 12, 2026 – Kaffeeklatsch from 8:30-10:00 a.m. at Tomball Community Center
- November 14, 2026 – 2nd Saturday at the Depot from 5:00-8:00 p.m. at Tomball Depot Plaza
- November 21, 2026 – 61st Annual Tomball Holiday Parade from 10:00 a.m.-Noon on Main St

2. Reports by City staff and members of council about items of community interest on which no action will be taken:

K. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Approve Minutes of October 19, 2026, Workshop/Regular City Council meeting.

2. Approve the updated City Procurement Policy and Manual.

3. Approve a professional services agreement with Langford Community Management Services for grant administration services related to the Community Development Block Grant – Mitigation Reallocation Program (CDBG-MRP) grant for an amount not-to-exceed 7.5% of the total grant award, therefor, and authorize the City Manager to execute any and all documents related to the services. These expenditures are to be paid from grant funds received from the Community Development Block Grant – Mitigation Recovery Reallocation Program.

4. Approve a Professional Services Agreement with Freese & Nichols, Inc. for Project Number 2027-10002, updates to the Water and Wastewater Master Plan and Impact Fees, for a not-to-exceed amount of \$525,000. This expenditure is included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.

L. Old Business

1. Adopt, on Second Reading, Ordinance No. 2026-43, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.16 acres of land situated within the Revised Map of Tomball from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29. The property is located at the northeast intersection of South Cherry Street and McPhail Street (208 McPhail Street). The applicant is requesting to utilize the property as a real estate office, within the City of Tomball, Harris County, Texas; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

M. New Business

1. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.

Sec. 551.074 – Personnel Matters: To deliberate the appointment of Assistant City Manager.
2. Consideration of and Action on a variance request from Kohrville Rd LLC for alcohol sales at 22623 Hufsmith-Kohrville Road, Tomball, Tx, due to proximity to a public school property.
3. Consideration of and action on Resolution No. 2026-46. A Resolution of the City Council of the City of Tomball, Texas, designating the City’s representative and alternative to the General Assembly of the Houston-Galveston Area Council for the year 2027.
4. Consideration of and action on changing 2027 July 4th Celebration and Street Fest to be held on Saturday, July 3, 2027.

N. Adjournment

C E R T I F I C A T I O N

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 27th day of October 2026 by 5:00 p.m., and remained posted for at least three consecutive business days preceding the scheduled time of said meeting.

Thomas Harris III, TRMC
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 2, 2026

Topic:

A quorum of the Tomball Economic Development Corporation Board of Directors may be present and participate in discussions and deliberations with the City Council regarding funding for the Alleyway Capital Improvement Project.

Background:

Origination: City Secretary Office

Recommendation: Review of and discussion on the Fiscal Year 2026 progress of the Tomball Archive and History Center (TAHC).

Party(ies) responsible for placing this item on agenda: Thomas Harris III, City Secretary,

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To # _____
account _____

Signed _____ Approved by _____
Staff Member Date City Manager Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Review and discussion on the Tomball Archive and History Center (TAHC) Fiscal Year 2026 accomplishments and Fiscal Year 2027 goals and objectives.

Background:

Established in Fiscal Year 2023-24, the Tomball Archive and History Center preserves, protects, and facilitates access to historical municipal records generated by the City of Tomball as well as special collections donated by the greater Tomball area. These areas include Rosehill, Decker's Prairie, Hufsmith and Willow communities. The Center is a joint project funded by the City of Tomball through the City Secretary's office, with in-kind services provided by Lonestar College and Harris County Public Library.

The TAHC serves the City of Tomball, its citizens, community area members, and researchers as a repository of historical municipal records and special collections to encourage the discovery of our local history and heritage within the state of Texas.

TAHC's mission is to preserve, protect, and share the historical municipal records of the City of Tomball as well as special collections from the surrounding communities documented in our collecting areas to support ongoing historic preservation.

To accomplish this mission, the Tomball Archive and History Center will:

- Identify, acquire, and maintain the permanent records of the City of Tomball in accordance with established retention schedules and archival standards.
- Collect and steward special collections, manuscripts, photographs, and other materials that reflect the social, cultural, and historical development of the greater Tomball area.
- Implement and maintain procedures for secure, long-term preservation and management of physical and digital materials in accordance with professional standards and legal requirements.
- Provide equitable access to physical and digital archival materials through research appointments, reference materials, and online resources.
- Collaborate with partners to support the discovery of collections and showcase local history within the community.

Origination: City Secretary Office

Recommendation: Review of and discussion on the Fiscal Year 2026 progress of the Tomball Archive and History Center (TAHC).

Party(ies) responsible for placing this item on agenda:

Thomas Harris III, City Secretary,
Shannon Bennett, Assistant City
Secretary, and Allison LaRoca,
Historical Archivist

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____

To #
account _____

Signed _____

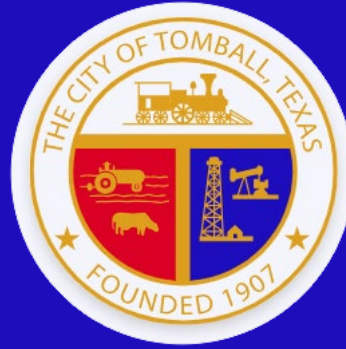
Staff Member

Date

Approved by _____

City Manager

Date



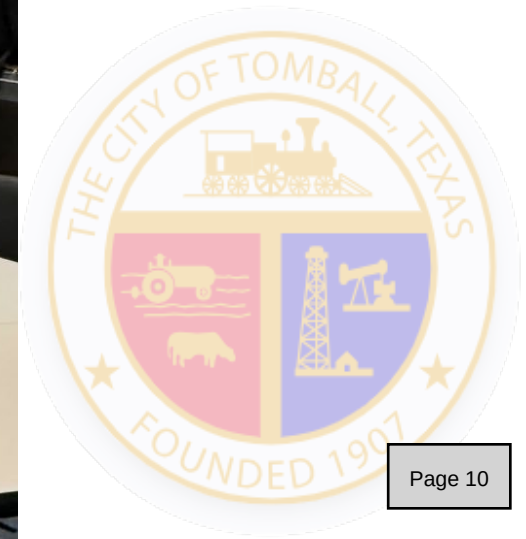
TOMBALL ARCHIVE AND HISTORY CENTER YEAR-IN-REVIEW

Covering Oct. 2025 – Oct. 2026

Presented: November 1, 2026

OUR MISSION

The Tomball Archive and History Center preserves, protects, and facilitates access to historical municipal records generated by the City of Tomball as well as special collections donated by the surrounding communities that make up the greater Tomball area.



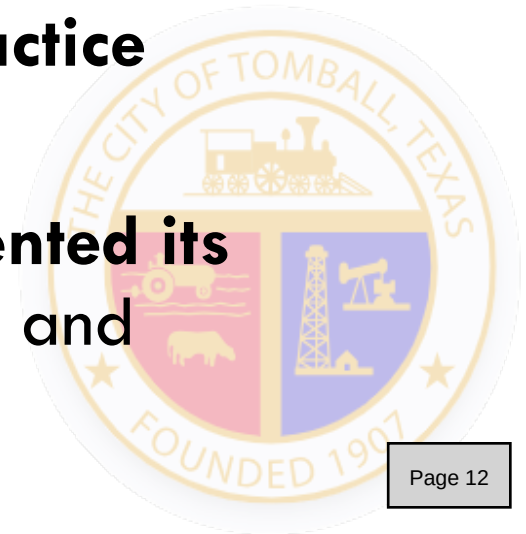
TAHC YEAR-IN-REVIEW

- Collection Development
- Operational Improvements
- Digital Initiatives
- Outreach and User Services
- Next Steps & Goals

KEY MILESTONES AND ACCOMPLISHMENTS

Building a foundation for a successful program.

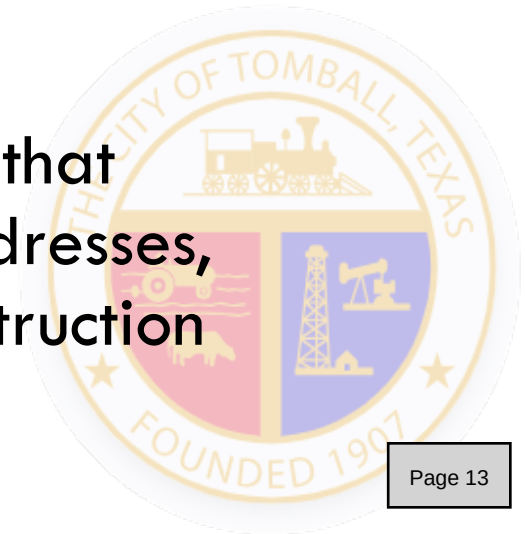
1. Developed **core archival policies and workflows** for processing, digitization, inventorying, and digital file management, refining them to improve efficiency and consistency.
2. Organized and equipped the physical archive space, set up **equipment and supplies to support standard archival practice and long-term preservation** of collections.
3. Launched the Archive's public webpage and **fully implemented its digital cataloging and repository systems**, ArchivesSpace and DSpace Direct.



KEY MILESTONES AND ACCOMPLISHMENTS

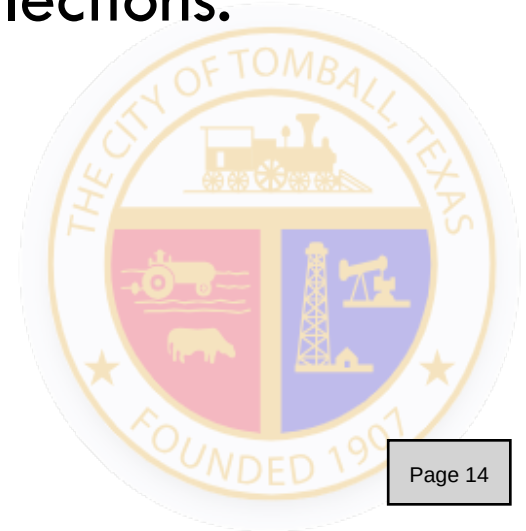
Building a foundation for a successful program.

4. **Digitized materials across multiple collections**, including completing the Trinity Evangelical Lutheran Church ledgers and Tomball Garden Club scrapbooks.
5. **Supervised and mentored the Archive's first intern**, expanding processing capacity and developing training materials.
6. Built **strong partnerships with local and regional experts** that supported conservation, exhibition planning for Mrs. Ball's dresses, and historical/land-use research for the North Walnut construction site.



ACTIVITIES FROM THE LAST QUARTER (JULY – SEPT. 2026)

- Completed implementation and training for DSpace Direct.
- Collaborated with other City, county, and state groups to research land-use and biographical data connected with N. Walnut site.
- Implemented 8-week intern program and supervised the first intern.
- Expanded online catalog with descriptive records for two collections.
- Digitized and published files for Garden Club scrapbooks.
- Coordinated with colleagues and local experts to advance preservation of Mrs. Ball's dresses.



COLLECTION DEVELOPMENT

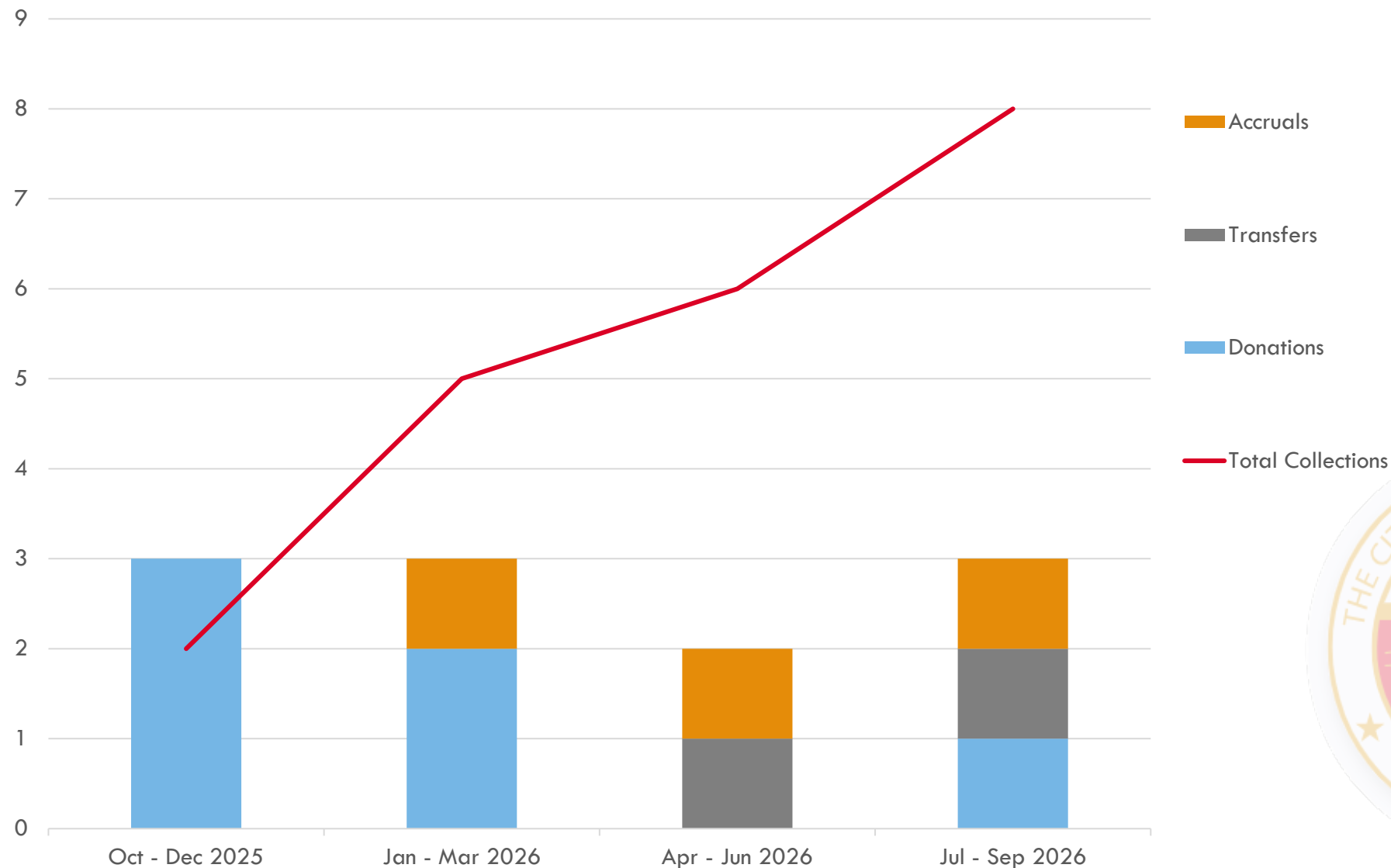
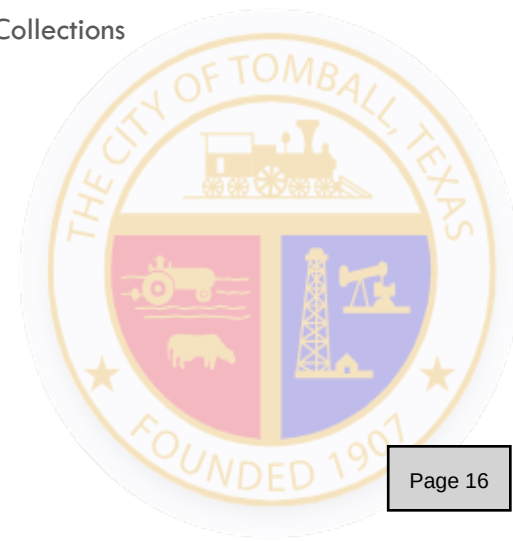
8 Total Collections

6 Donations

3 Accruals

2 Transfers

COLLECTIONS GROWTH BY QUARTER

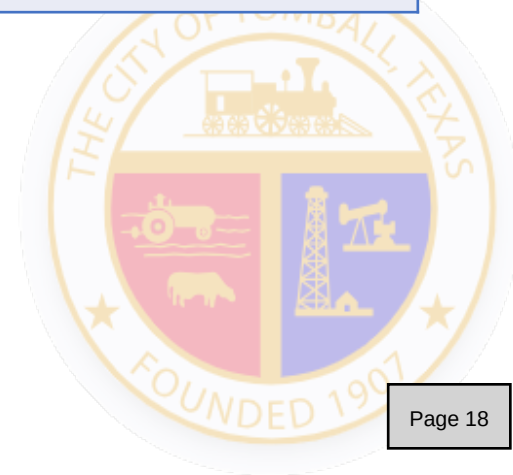


PROCESSING STATUS

Title	Dates	Extent	Status
Tomball Garden Club Collection (MS 001)	1957-2025	9.25 cu.ft.	Processed, online finding aid; Open for research.
First Baptist Church Collection (MS 002)	1884-2014	44.5 cu.ft.	Processed, online finding aid; Open for research.
Office of the Mayor Records (MS 003)	1912-	7.875 cu. ft.	Processed, online finding aid; Open for research.
Community of Tomball Collection (MS 004)	1965	0.5 cu.ft.	Unprocessed, online finding aid; Open for research.
Trinity Evangelical Lutheran Church Ledgers (MS 005)	1902-1974	16.2 GB	Processed, online finding aid and objects; Open for research.

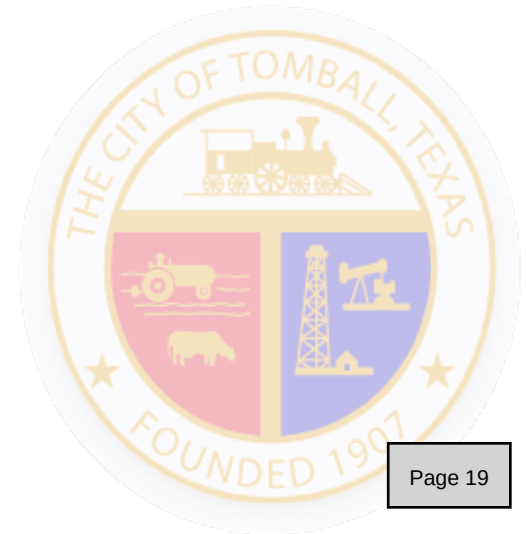
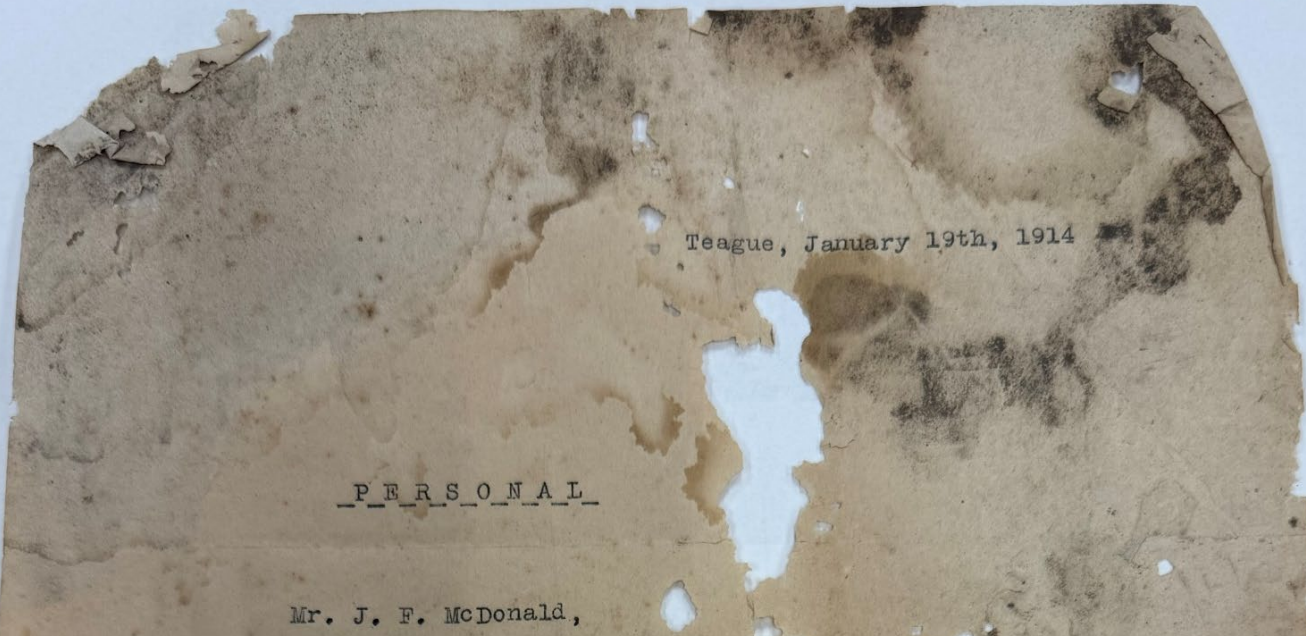
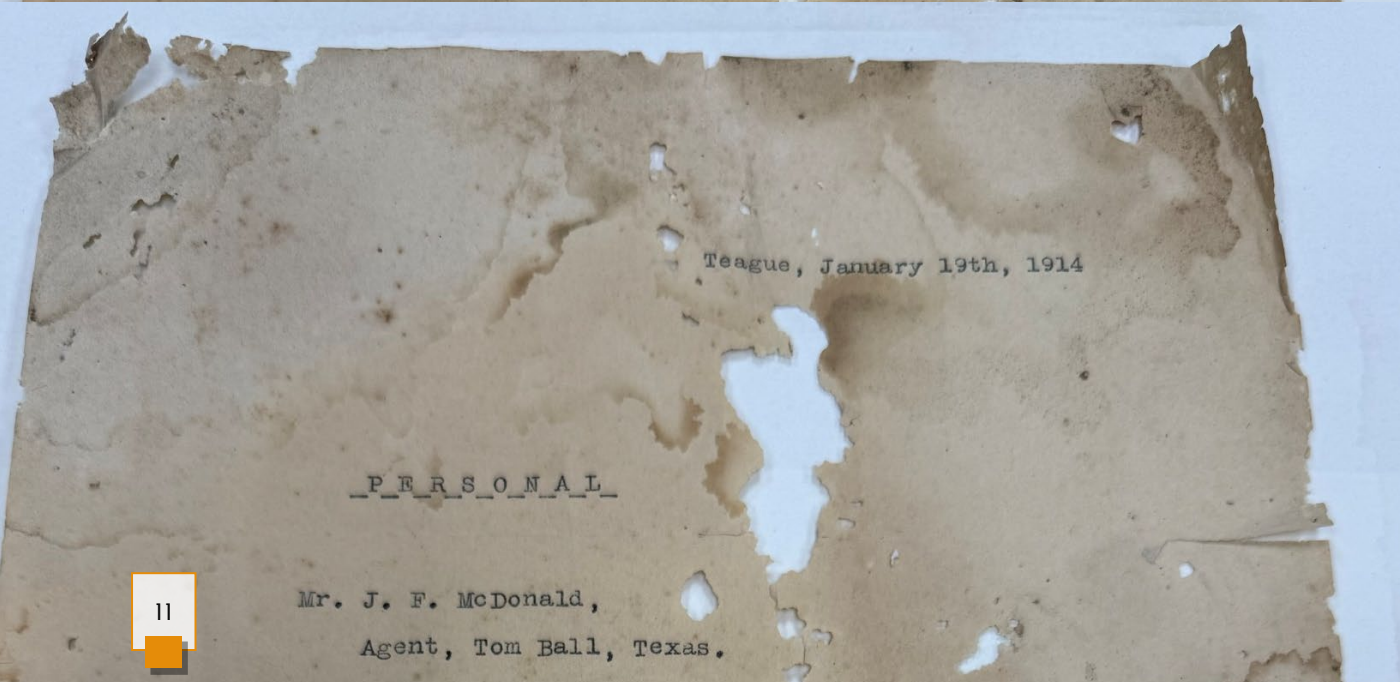
PROCESSING STATUS CONTINUED

Title	Dates	Extent	Status
Railroad Depot Ledgers (MS 006)	1907-1979	5.875 cu. ft.	In Process, no finding aid; Limited research.
Texas Sesquicentennial Celebration Collection (MS 007)	1984-1986	7 cu. ft.	Unprocessed, no finding aid; Limited research.
Tomball Community Center Scrapbooks (MS 008)	1983-2003	2 cu. ft	Unprocessed, no finding aid; Limited research.



MS 006 RAILROAD DEPOT LEDGERS

1. Extensive cleaning and rehousing
2. Basic conservation work
3. Building inventory file for import



OPERATIONAL IMPROVEMENTS

Storage and environmental updates

Implementation of online cataloging and hosting systems

Volunteer and intern coordination

Refined workflows and policies

STORAGE UPDATES



STORAGE UPDATES



Full Shelves
001-004



Shifting in Process
006-007



Open for Intake



AV
Storage



NP
Storage



Oversize
Storage



STORAGE UPDATES

A photograph of an empty metal shelving unit with two shelves. The unit is green and has a power outlet on the back wall.

Open for Intake

A photograph of a shelf containing various pieces of processing equipment, including a large white box and some smaller items.

Processing Equipment

A photograph of a shelf containing several white boxes and some papers, labeled as deaccessions.

Deaccessions

A photograph of a shelf containing several white boxes and some papers, labeled as sleeves and item housings.

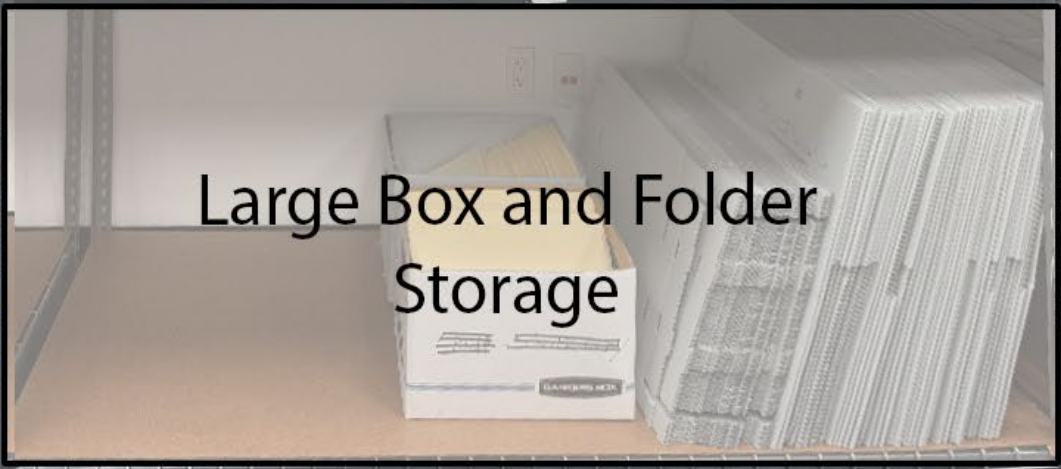
Sleeves and Item Housings

A photograph of a shelf containing several white boxes, labeled as metal edge box storage.

Metal Edge Box Storage

A photograph of a shelf containing several large white boxes, labeled as oversize storage.

Oversize Storage

A photograph of a shelf containing several large white boxes and a stack of folders, labeled as large box and folder storage.

Large Box and Folder Storage

TAHC volunteers are required to fulfill the requirements of standard City volunteers including a **background check**. Additionally, volunteers who wish to assist with digitization must **complete digitization training** through LSC-Tomball Community Library.

- Two groups of volunteers from the Tomball Garden Club have completed the required trainings to assist us in digitizing their complete collection. We have begun hosting a small group every Wednesday to help make these materials publicly accessible.
- Various CSO staff and student interns have also helped sort, weed, and inventory materials throughout the year.

We were fortunate to host our inaugural TAHC student intern, Hayden Coogan (William & Mary College) this summer. She participated in an 8-week program where she learned the foundational principals of archival practice and gained hands-on experience with collections.

- Basic procedural and processing work: accessioning, sorting, weeding, inventorying.
- Assistance with historical research for city needs.
- Shadowed during consultations with conservators and other local archives professionals.
- Capstone Project: Create a mock exhibit or educational experience for the Railroad Depot

DIGITAL INITIATIVES

5 Digital objects published online

1 090 Processed digital files

386 In-process digital files

149 GB Processed Storage

302 GB Total External Storage

OUTREACH AND SERVICE

9 Requests or inquiries

4 Research service hours

4 On-site visits

1 Exhibit of materials

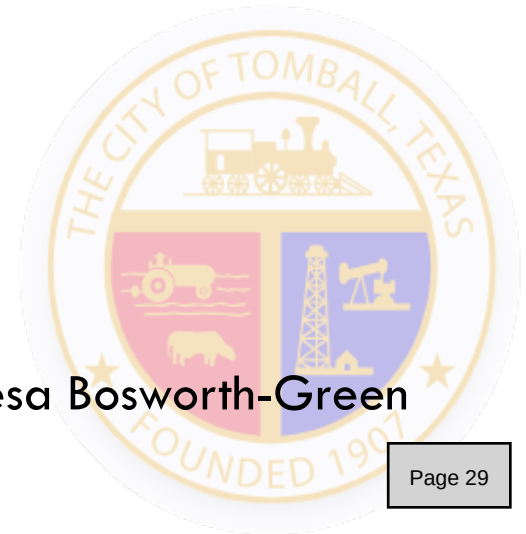
CELEBRATING 70 YEARS OF TOMBALL GARDEN CLUB



The exhibit included materials gathered over the course of the club's 70-year history including:

- 50th Anniversary scrapbook
- Photos from events and activities
- News clippings
- Annual yearbooks
- Meeting minutes and membership logs

(Left) Tomball Garden Club President Teresa Bosworth-Green next to the 70th Anniversary exhibit.



Mrs. Minnie Ball's Inauguration Gowns (c.1890s)

For over a year, the Depot staff have been working tirelessly to coordinate the creation of new cases for these historic dresses. The creation of the individual cases along with the glass panes were generously donated by local community members, Mr. Kyle Stallones and Mr. Ray Highsmith.

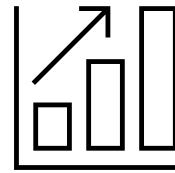
- April 2026: Dress evaluation with textile conservator.
- July 2026: Cases delivered to City.
- October 2026: Additional case modifications to support preservation completed.
- November 2026: Dresses stabilized and moved to cases



NEXT STEPS AND LONG-TERM GOALS

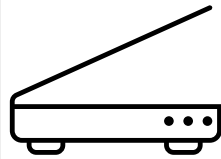
NEXT STEPS FOR THE ARCHIVE

Steady, Intentional Growth



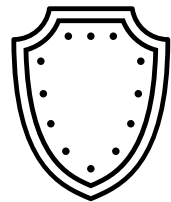
Grow collections while reducing the backlog of unprocessed collections.

Digital Access of More Collections



Digitize and publish the MS 001 Tomball Garden Club with support from existing volunteers.

Stabilize Historical Objects

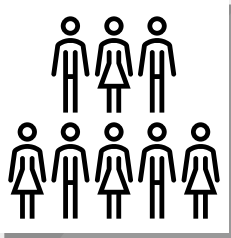


Stabilize historic dresses and other high-priority objects in support of their long-term preservation and access.



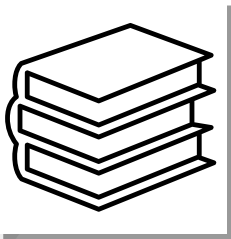
LOOKING TO THE FUTURE

Strengthen Community Partnerships



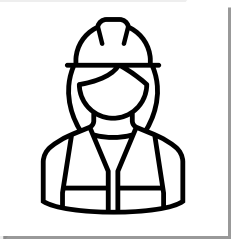
Strengthen partnership across city department and local entities.

Grow Institutional Collections



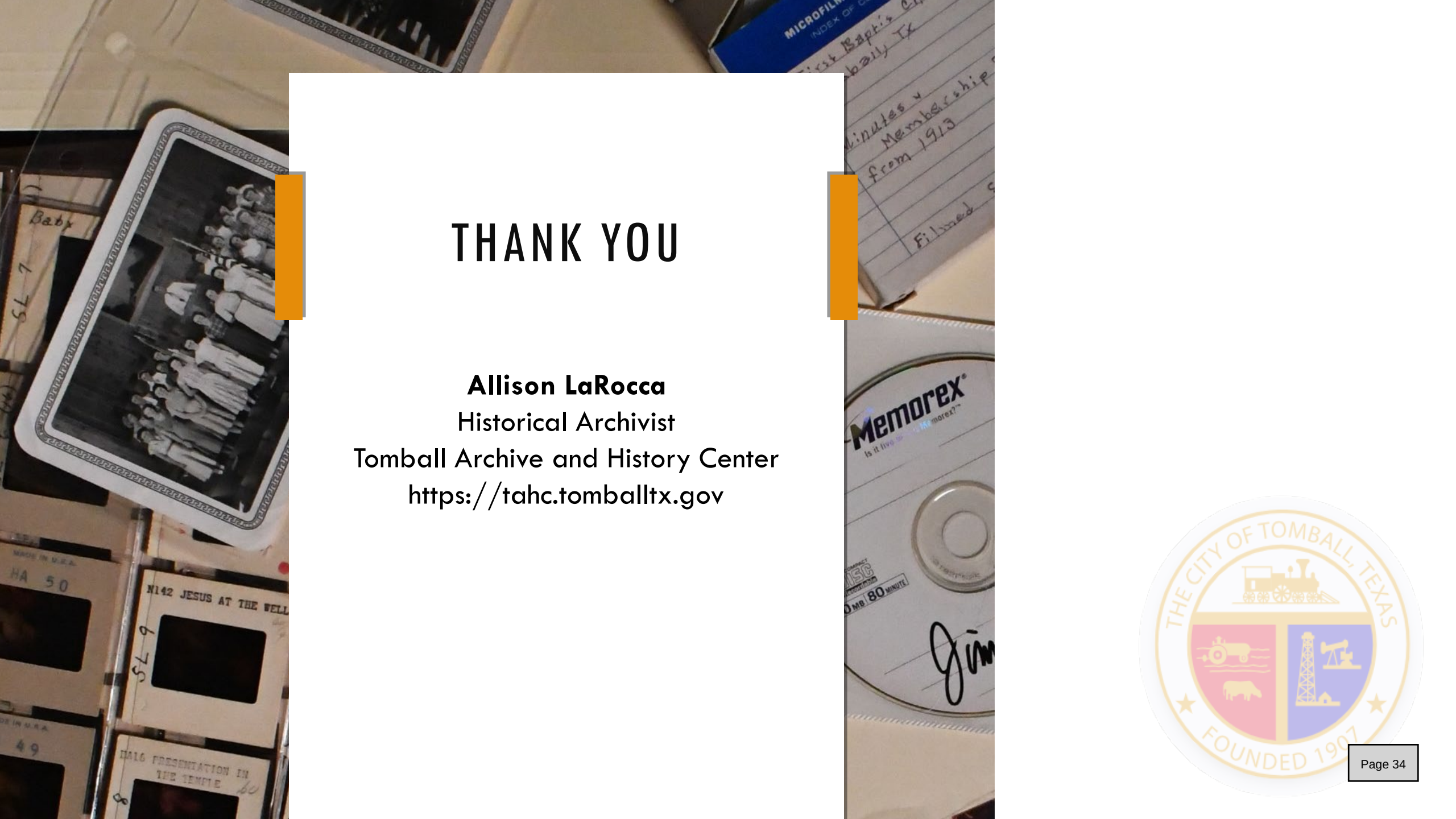
Grow collections documenting city governance and development.

Planning for Emergencies



Utilize state resources and guidance along with local expertise to build an emergency response plan for our collections.





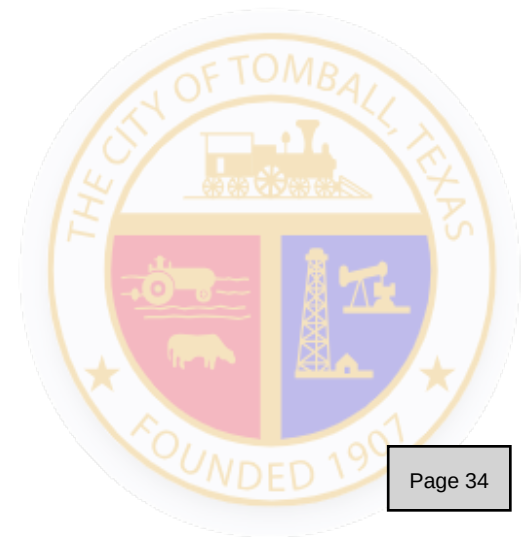
THANK YOU

Allison LaRocca

Historical Archivist

Tomball Archive and History Center

<https://tahc.tomballtx.gov>



Tomball Archive and History Center

Annual Report – November 2, 2026

October 2025 – September 2026

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Executive Summary

Over the past year, the Tomball Archive and History Center (TAHC) transformed from a developing program into a fully operational and increasingly sophisticated research and preservation resource. Foundational policies, workflows, and physical infrastructure were established in our first quarter of operation late in 2025.

Major collections such as the Tomball Garden Club, First Baptist Church, Trinity Evangelical Lutheran Church Ledgers, and the Office of the Mayor's Records were accessioned and processed. Public access and use were also established through the digitization and publishing of prioritized items via ArchivesSpace and DSpace Direct (new systems purchased and configured at the beginning of 2026). Both of these systems are publicly-accessible and linked from the TAHC's webpage on the City of Tomball website (published this past spring).

The organizational capacity of the center expanded briefly thanks to the City's summer internship program. Over the course of nine weeks, Hayden Coogan assisted with digitization, research, and processing work. Her efforts allowed us to fully publish our first digital collection (Trinity), update records for two collections, and intake two new accessions. This summer also saw the advancement of communications with external partners and colleagues where work began in earnest to prepare Mrs. Ball's dresses for long-term preservation through collaboration and consultation with a local conservator, Kathleen Kiefer, and carpenter, Jeff Sturm. This project is ongoing and is projected to be completed in November 2026.

This year the TAHC has also seen an increase in awareness by the surrounding communities. In addition to fielding three individual research requests, the center also played a key role in researching individuals and land use regarding the construction site at 110 North Walnut Street under the advisement and support of the Texas Historical Commission and the Harris County Archives.

Administrative and Organizational Needs

Since its inception, the Archive has focused on building the core administrative, physical, and digital foundation necessary for a sustainable, professionally managed municipal archive. This work included establishing policies and workflows, organizing physical and digital infrastructure, creating systems for accessioning and description, establishing governance and stakeholder relationships, and launching platforms for public access.

Considerable effort also went into developing operational tools, training materials, and documentation to standardize practice and support future staff, volunteers, and interns. Collectively, these initiatives moved the Archive from an emerging program into a structured and functional archival operation aligned with best practices.

As the lone staff member, balancing a wide range of responsibilities, ongoing prioritization was essential across digitization, processing, exhibit planning, cataloging preparation, researcher support, volunteer

coordination, and administrative tasks. Intern supervision and collaborative follow-through needs sometimes further limited available capacity.

Major Accomplishments Supporting This Work

1. Established core archival policies, workflows, and documentation.
2. Organized and equipped the physical archive space.
3. Implemented the Archive's digital infrastructure.
4. Accessioned, inventoried, and processed the Archive's first collections.
5. Built strong administrative and community partnerships.
6. Established a structured intern and volunteer program.

Processing and Access Work

Since its establishment, the Archive has focused on building comprehensive systems to ensure collections are processed, described, preserved, and made accessible according to professional archival standards. This work has involved developing and refining processing workflows, establishing accessioning and inventory practices, creating descriptive metadata structures, and implementing digital platforms for discovery and access. Significant effort has also gone into digitization, rehousing, arrangement, and quality control to transform legacy materials and new accessions into well organized, accessible collections.

Unexpected issues—such as mold discovery or fragile paper materials—periodically required shifting focus to address preservation needs. Older or inconsistently processed collections, including railroad ledgers and scrapbook series, required careful handling, reorganization, and additional cleanup.

Major Accomplishments Supporting This Work

1. Four collections were fully organized, inventoried, and added to ArchivesSpace.
2. Trinity Ledgers were digitized and published through DSpace to enable public access.
3. Conservation needs were identified for Railroad Ledgers requiring future treatment.
4. Additional historical materials were identified through audits of digital files, expanding future accession pipelines.
5. Completed professional development to learn more about paper conservation practices and care.

Digitization and Digital Infrastructure

Digitization and digital infrastructure efforts focused on improving the preservation, organization, and accessibility of digital archival resources through securing DSpace Direct as a digital access tool. Specific digitization activities included capturing additional images of scrapbook pages and inclusions from the Tomball Garden Club collection.

Digitization guidelines were used to train the intern on the proper process to digitize items and then manage files for both preservation and access. These efforts strengthened the archive's digital

preservation practices by providing the opportunity to refine documented steps and lay the groundwork for more efficient long-term management of digital collections.

Learning new platforms (such as DSpace Direct) while training others, navigating metadata corrections, resolving ArchiveSpace/DSpace integration issues, and applying consistent descriptive standards all required significant time and troubleshooting.

Major Accomplishments Supporting This Work

1. Launched the Archive's public webpage and fully implemented its digital repository systems, ArchivesSpace and DSpace Direct.
2. Digitized a wide range of materials across multiple collections, including completing the Trinity Evangelical Lutheran Church ledgers and major legacy projects such as the Garden Club 50th Anniversary Scrapbook and Humble oil maps held at the Tomball Community Library.
3. Enhanced digital metadata by adding descriptive information, subject headings, and authority records to the First Baptist Church collection.

Partnerships and Researcher Engagement

Railroad Depot Collaborations and Projects

Working closely with textile conservator Kathleen Keifer, we evaluated the existing plans for new dress cases as well as the condition of the historic dresses held at the Railroad Depot museum. Together, we identified critical preservation concerns, including the need for structural modifications to allow safe access and environmental stability. Coordination with local carpenter Jeff Sturm, moved the project toward improved designs that support both display and conservation requirements.

Parallel to the physical preservation work, we prepared tools, workflows, and cataloging plans for a broader Depot Collection project, laying the groundwork for systematic documentation and long-term stewardship of museum-held materials. This will be an expansion of our current work on the MS 006 Railroad Ledger Collection.

Major Accomplishments Supporting This Work

1. Identification and hire of conservation expertise.
2. Mitigation of risks to long-term preservation.
3. Scheduled session to stabilize and transfer dresses to new cases.

Volunteer Processes and Requests

Following the last presentation to City Council, several individuals expressed interest in volunteering with the Archives Center. In response, we created a Microsoft Form to collect volunteer inquiries and confirmed the appropriate approval process required by the City of Tomball. Despite subsequent follow-up communications with these individuals, none have yet completed the necessary steps to obtain volunteer approval through the City. In addition, volunteers interested in digitization work must complete training with the Tomball Community Library.

Major Accomplishments Supporting This Work

1. Created volunteer request forms; coordinated with City of Tomball HR on correct processes.
2. Set up regular volunteering sessions with Tomball Garden Club.

Research Engagement and Outreach

Over the past year, TAHC provided a growing level of research support and public service to both municipal departments and community members. Staff responded to a variety of reference and research requests, supplying historical documentation, collection access, and subject expertise to support ongoing City projects, public inquiries, and partner organizations. Significant progress was also made in developing exhibit-related initiatives, including preparatory work for rotating displays at the Depot Museum and the Tomball Garden Club's 70th Anniversary.

These efforts strengthened public engagement while ensuring that interpretive projects are grounded in accurate historical context and sound preservation practices, reflecting the Center's expanding role as a resource for historical information, cultural stewardship, and community outreach.

Major Accomplishments Supporting This Work

1. Supported individual researchers through preparation of materials, retrieval of relevant images and documents
2. Supported city departments with research related to North Walnut construction
3. Facilitated multiple onsite visits
4. Planned and prepared for public-facing exhibits, including the Garden Club 70th anniversary display and Railroad Depot exhibit (pending)

Looking Ahead

Priorities for Next Quarter

Looking forward, we have clear goals for both the near term and the years ahead. In the next quarter, we plan to prioritize key collection areas while reducing our growing backlog of unprocessed collections. We also plan to advance digitization efforts utilizing volunteers for much of this work. Finally, we are focused on continuing to develop community-driven historical projects offering support and expertise where we can.

Longer term, we aim to strengthen community and city partnerships to grow our institutional collections. We also have a vision to create an emergency response plan for the management and protection of historical objects in our care as well as across the community.

Tasks that will help us reach these goals include:

1. Establish a formal environmental monitoring and emergency response plan.
 - a. Develop a minor-treatment preservation toolkit and identify additional partners for advanced needs.

- b. Develop resources to train and support city and community colleagues with preservation needs and assessments.
- 2. Create a model public-facing digital exhibits program.
 - a. Develop semi-automated workflows to improve efficiency in digitization.
 - b. Build out sustainable program with prioritization workflows.
- 3. Build long-term succession planning for continuity.
 - a. Formalize working agreement with HCPL.
 - b. Develop online tools and resources to support research and access.
- 4. Implement public awareness communications efforts.
 - a. Develop recurring exhibit and outreach cycles.
 - b. Expand and solidify partnerships with local groups and institutions.

Appendices

New Documents/Processes

1. Outgoing Loan Agreement
2. Processing Loans/Exhibit Requests/Material Separations
3. How to build and import SAF packages to DSpace Direct
4. (Draft/Proposed) Research and Service Model

New Accessioning Logs

2026-06: Texas Sesquicentennial Records

- Date Received: 7/22/2026
- Donated By: Jose Flores
- Location: 1.3
- Acquisition Type: Transfer
- Deed of Gift/Transfer of Ownership: Yes, Signed
- Custodial Note: These boxes were stored in the vault at City Hall after being marked as permanent records on 10/23/2023.
- Date(s) of Materials: 1984-1986
- Creator(s): City of Tomball Sesquicentennial Committee
- Extent: 5 banker boxes
- Type(s) of Materials: Paper; Manuals; Administrative Records (Bylaws, Reports, Minutes, etc.); Correspondence; Financial Documents, photographs and ephemera.
- Scope and Contents: This collection contains documents, correspondence, photographs, newspaper clippings, flags, and other objects that both document the planning of and the actual activities of the 1986 Texas Sesquicentennial Celebration in Tomball from 1984 to 1986.
- Physical Condition: Good
- Condition Notes: n/a
- Potential Restrictions: further assessment needed.
- Restriction Note: n/a

2026-07: Accrual for Tomball Garden Club

- Date Received: 8/10/2026
- Donated By: Teresa Bosworth-Green
- Location: 1.2
- Acquisition Type: Accrual
- Deed of Gift/Transfer of Ownership: Yes, Signed
- Custodial Note: Given to archivist by Teresa Bosworth Green (TGC President) after digitization training. To be added to existing collection.
- Date(s) of Materials: 2026

- Creator(s): Tomball Garden Club
- Extent: 1 folder containing certificates of achievement.
- Type(s) of Materials: Correspondence; Paper
- Physical Condition: Excellent
- Condition Notes: n/a
- Potential Restrictions: none
- Restriction Note: n/a

2026-08: Community Center Scrapbooks

- Date Received: 9/24/2026
- Donated By: Kyla Bayang
- Location: 2.4
- Acquisition Type: Accrual; Transfer
- Deed of Gift/Transfer of Ownership: Yes, Signed
- Custodial Note: As reported by Kyla, items were brought to the library by a Community Center volunteer when the center was being cleaned up. Concerned that the items would be thrown away.
- Date(s) of Materials: 1984-2003
- Creator(s): City of Tomball Community Center
- Extent: Eight magnetic albums
- Type(s) of Materials: Correspondence; news clippings; Photographs.
- Scope and Contents: Albums prepared by volunteers with the City of Tomball Community Center. Albums contain photographic prints, newspaper clippings, and handwritten notes on activities.
- Physical Condition: Good
- Condition Notes: n/a
- Potential Restrictions: none
- Restriction Note: n/a

Collections Inventory

Collection Category	ID #	Collection Name	Scope and Contents	Boxes	Cubic Feet	Dates	Physical Location	Notes
MS	001	Tomball Garden Club Collection	Newspaper clippings, photographic prints, meeting minutes and rosters. Substantial portion of the collection is scrapbook pages.	7	9.25	1959-2007	1.1	Previously digitized files currently at Collections>Digitization_Folders>Tomball Garden Club; Will need review and processing.
MS	002	First Baptist Church Collection	Contains wide variety of objects and materials used for management, operation, fundraising, and ministry of the First Baptist Church in Tomball. Much of the collection was originally purchased for and organized by the church's media library.	58	44.5	1884-2014	1.1,1.2, 2.6	Originally received by staff in the fall of 2024; Donor agreement filled and returned 12/17/2025; Many boxes contain administrative documents in chronological order; others are boxes of related materials by format.
MS	003	Office of the Mayor Records	This collection contains various ephemera, photographs, and manuals collected by the Mayor's office.	7	7.875	1912-2024; Bulk 1990s	1.2	This collection contains various ephemera, photographs, and manuals collected by the Mayor's office.
MS	004	Community of Tomball Collection	This collection serves as a container for various one-off or single-item donations from community members in the Tomball area where the creation of a singular collection is not warranted. Donations are organized into series that reflect the donor/creator name and object type.	2	0.75	c. 1965	12.5	This collection contains 1 vinyl record and a phone book directory.
MS	005	Trinity Evangelical Lutheran Church Ledgers	This collection contains two ledgers documenting the activities of the Trinity Evangelical Lutheran Church in Neudorf, Texas from 1902 - 1961. Included in the collection is a service program commemorating the transfer of the church's ownership to the Spring Creek County Historical Association in 1974.	15 dig. folders	18.5 GB	1902-1974	Digital Collections Drive	Items digitized and returned to donor 4/23/2026
MS	006	Railroad Depot Ledgers	Collection contains bound ledger books of receipts and activities of the railroad, related correspondence and flyers from conductors and patrons, and various documents used in the daily operations of the railroad including correspondence blank forms and ledgers monthly telegrams. Also included were 3 frames with photographs from 1970, and an artist illustration of the depot.	9	5.875	1907-1933*	1.3	Pending additional accrual information. Multiple conservation concerns related to integrity and cleanliness of paper items.

MS	007	Texas Sesquicentennial Collection	This collection contains documents, correspondence, photographs, newspaper clippings, flags, and other objects that both document the planning of and the actual activities of the 1986 Texas Sesquicentennial Celebration in Tomball from 1985 to 1987.	7	7	1984-1986	1.3	This collection contains documents, correspondence, photographs, newspaper clippings, flags, and other objects that both document the planning of and the actual activities of the 1986 Texas Sesquicentennial Celebration in Tomball from 1984 to 1986.
MS	008	Community Center Scrapbooks	Eight magnetic albums prepared by volunteers with the City of Tomball Community Center. Albums contain photographic prints, newspaper clippings, and handwritten notes on activities.	n/a	2	1984-2003	2.4	Albums prepared by volunteers with the City of Tomball Community Center. Albums contain photographic prints, newspaper clippings, and handwritten notes on activities.

*Some collections are pending accruals and other processing work. Box and item counts as well as cubic feet are subject to change.

*Extent Summary **

- Total physical boxes/containers: 79 boxes, 3 rolled tubes, 20 oversized folders, 14 framed/oversized objects
- Total physical space: 62.125 cubic feet (processed), 15.125 cu. ft. (unprocessed)
- New digitized files: 403 files (pdf, jpg, and tif) at 6GB
- Total digital space: 1,314 files at 51.8 GB

New Materials and Collections

- 2 collections (MS 007; MS 008)
- 1 accruals (MS 001)

Outreach and User Services Summary

- 2 community research inquiries (4 hours spent)
- 1 state research support request
- 1 exhibit request (Garden Club)

Lifetime Project Expenses

- FY27: \$385.57
- FY26: \$15,905.70*
- FY25: \$15,089.43*

*Total does not include employee wages.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Approve the updated City Procurement Policy and Manual.

Background:

The City Procurement Policy and Manual is occasionally updated based on changes made by the State Legislature and how the City purchasing procedures operate. During FY2025 the City departments noted a policy change that will streamline the processing of Accounts Payable invoices. The following changes are fully supported by all City departments. **All changes are highlighted in yellow.**

3.5 Responsibilities of City of Tomball Departments [\(Page 24\)](#)

All City of Tomball departments and employees engaged in the procurement of goods and services must adhere to this Policy and the procedures as outlined and adopted by the City Council. Additional responsibilities of departments are as follows:

- Each department should plan in advance to avoid rush orders and emergency requests.
- Upon approval of the department director, **or supervisor designee in the absence of the director**, departments may purchase goods and services of less than \$3,000 directly from a vendor by methods described herein.

4.6 Check Requests (PA-7s) [\(Page 27\)](#)

For purchases requiring payment via a check request, a PA-7 form is not required when the invoice or other supporting documentation provides sufficient information for signature approval and GL account coding. A PA-7 form is required when an invoice is unavailable, unreadable, or does not provide sufficient space for signature approval or GL account coding.

4.8 Procedures for Processing Payments [\(Page 28\)](#)

The Finance Department is responsible for ensuring all associated documentation and invoices have been submitted as required by this Policy, including documentation that indicates the department followed all procedures applicable to the expenditure amount and that the expenditure was approved at the appropriate level (department director, or supervisor designee in the absence of the director).

Origination: Finance

Recommendation:

Staff recommends approving the updated Procurement Policy and Manual.

Party(ies) responsible for placing this item on agenda:

Bragg Farmer, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

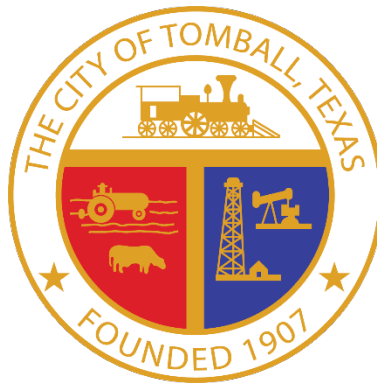
Yes: _____ No: _____ If yes, specify Account Number: _____

If no, funds will be transferred from account # _____ To account # _____

Signed	Bragg Farmer	10.26.26	Approved by	_____	_____
	Staff Member	Date		City Manager	Date

City of Tomball Procurement Policy & Manual

**Finance Department
501 James St., Tomball, TX 77375**



Effective October 01, 2026

Procurement Policy & Manual

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Procurement Policy and Manual

ARTICLE 1: GENERAL INFORMATION

1.1 INTRODUCTION

The City of Tomball Procurement Policy (this “Policy”) is a guide to all those engaged in procurement at the City of Tomball. Updates to this Policy will be documented in **Table 1.2** below. This Policy is available at www.tomballtx.gov. If you are unable to find an answer to your question(s) or need additional information not found in this Policy, please contact the Finance Department.

This Policy provides guidance to facilitate the efficient and proper procurement of goods and services, including professional services and public works construction. This Policy guides employees on industry best practices, education, accountability, ethics, impartiality, professionalism, and transparency by:

- Ensuring compliance with local, state and federal laws applicable to procurement and contracting;
- Providing quality customer service to City departments, suppliers engaging with the City and citizens of the City community;
- Obtaining needed goods and services at the best possible price, of the highest quality and at the right time;
- Serving as stewards of the public trust by spending tax dollars wisely, efficiently, and with integrity;
- Providing all suppliers, including Historically Underutilized Businesses, equal access to the City’s competitive processes for the acquisition of goods and services;
- Protecting the interests of City taxpayers by avoiding any undue influence, political pressures and protecting the integrity of the procurement process.

In order to accomplish the above, the City and its customers must partner together to ensure the appropriate planning of needs, timely submission of information, proper execution of responsibilities, compliance with rules and regulations, and commitment to the highest standards of customer service. City officials, directors and employees of the City will strive to provide equitable and competitive access to the City’s procurement process for all responsible suppliers. Further, procurement will be conducted in a manner that promotes and fosters public confidence in the integrity of the City’s procurement process.

1.2 ADOPTION AND SUMMARY OF POLICY CHANGES

This Policy was adopted by the City of Tomball City Council on October 3, 2022 and made effective on October 3, 2022. This Policy is reviewed annually for compliance with relevant laws and regulations or for needed updates. Amendments to this Policy are noted below.

Table 1.2		
Summary of Policy Changes		
Amendment No.	Effective Date	Summary of Changes
0	10/03/2022	Baseline policy adopted
1	09/01/2025	Changes based on State Law

1.3 LAWS AND STATUTES GOVERNING PROCUREMENT

The City of Tomball is a home-rule city, operating pursuant to [Article 11, Section 5 of the Texas Constitution](#), state law, and the [City Charter](#). In determining procurement practices, the City is governed by applicable federal and state law, the [City Charter](#), [City ordinances](#), and industry best practices, supplemented by City Council resolutions and City policies and procedures.

State of Texas regulations most pertinent to this Policy include, but are not limited to, the Texas Local Government Code (“LGC”) and the Texas Government Code (“GC”). A summary of key applicable Texas regulations affecting procurement at the City is included as **Appendix A**. All applicable Texas regulations, regardless of whether specifically listed in **Appendix A** or within this Policy, shall govern and prevail unless specifically displaced by the particular provisions of this Policy or City Charter, ordinance, or resolution. Further, the principles of law and equity, including applicable provisions in the uniform commercial code of this state, the common law of contracts as applied to this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of this Policy.

1.4 FEDERAL AND STATE REQUIREMENTS

In addition to applicable Texas and local regulations, the City is bound to comply with various applicable federal and state regulations, depending on the funding source. When purchasing with federal or state grant funds, the Finance Department shall be responsible for verifying that the potential supplier is not on an excluded parties list. In no event shall any vendor be discriminated against on the basis of the vendor’s national origin, race, color, religion, disability, sex or familial status.

1.5 APPLICABILITY OF THIS POLICY

This Policy shall apply to the following:

- Every City procurement except those specific procurements found to be exempt as outlined in **Section 1.6**.
 - Note: Certain procurements exempted from competitive bidding requirements may be required to follow additional procedures outlined in this Policy.
- Contracts where there is no expenditure of public monies or where the City is offering something of value to the business community when the City determines source selection and award of a contract.

1.6 GENERAL EXEMPTIONS TO THIS POLICY

[LGC 252.022](#) exempts the following from competitive bidding requirements:

- Emergency procurements, including:
 - A procurement made necessary because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality.
 - A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
 - A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- A procurement for personal, professional (see **Article 8**), or planning services.
- A procurement for work that is performed and paid for by the day as the work progresses.
- A purchase of land or right-of-way.
- A procurement of items that are available from only one source (see **Section 6.11**), including:
 - Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies.
 - Films, manuscripts, or books.
 - Gas, water, and other utility services.
 - Captive replace parts or components for equipment.
 - Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials.
- Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;
- A purchase of rare books, papers, or other library materials for a public library.
- Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements.
- A payment under a contract by which a developer participates in the construction of a public improvement as provided by [Subchapter C, Chapter 212, Municipal Regulation of Subdivisions and Property Development](#).
- Personal property sold:
 - At an auction by a state licensed auctioneer.
 - At a going out of business sale held in compliance with [Subchapter F, Chapter 17, Business and Commerce Code](#).
 - By a political subdivision of this state, a state agency of this state, or an entity of the federal government.
 - Under an interlocal contract for cooperative purchasing administered by a regional planning commission established under [LGC Chapter 391](#).
- Services performed by blind or severely disabled persons.
- Goods purchased by a municipality for subsequent retail sale by the municipality.
- Electricity.
- Advertising, other than legal notices.

- Bonds or warrants issued under [LGC Chapter 571, Subchapter A](#).
- Expenditures described by [LGC Chapter 252.021\(a\)](#) if the governing body of the municipality finds that a method described by [GC 2269](#) provides a better value for the municipality than the procedures described in [LGC Chapter 252](#).

1.7 PRECEDENTS AND INTERPRETATIONS

In the event of any conflict with or need for interpretation with this Policy:

- If there is any conflict between this Policy and a state or federal law, or a rule adopted under a state or federal law, the stricter of the conflicting provisions prevails.
- The masculine, feminine, and neutral genders shall be interpreted to include the other genders as required. The singular and plural shall be interpreted to include the other numbers as required.
- Headings and titles at the beginning of the various sections of this Policy have been included only to make it easier to locate the subject matter covered by that section or subsection are not to be used in interpreting this Policy.

It is the responsibility of the Finance Director, in consultation with the City Attorney, to interpret this Policy. Any questions regarding the Finance Director's interpretation and/or application of this Policy may be addressed with the City Manager, who shall have final authority to resolve any question about any interpretation and/or application of this Policy, except where appeals to the City Council are allowed pursuant to this Policy.

1.8 REQUIREMENTS OF GOOD FAITH

This Policy requires all parties involved in the negotiation, performance, or administration of City contracts to act in good faith.

1.9 CONFIDENTIAL INFORMATION

Confidential or proprietary information shall be designated as follows:

- If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld from public record, a statement advising the City of this fact should accompany the submission and the information shall be so identified in a clear and conspicuous manner, wherever it appears.
- Unless otherwise required by law, confidential or proprietary information will not be released until the contract is considered by Council for approval.
- Notwithstanding the above provisions, in the event records marked as confidential are requested under the [Texas Public Information Act \(GC 552\)](#) the City shall follow the Texas Public Information Act unless a protective order, injunctive relief, or other appropriate order from a court of competent jurisdiction, enjoins the release of the records.
- The City shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked confidential or proprietary. Nor shall

the City be in any way financially responsible for any costs associated with securing such an order.

- The City will follow [LGC 252.049](#) regarding confidentiality of information in bids or proposals.

1.10 DISCLOSURE OF CERTAIN RELATIONSHIPS BETWEEN CITY OFFICIALS AND VENDORS

Vendors and local government officials must disclose certain relationships between each other to the City ([LGC 171](#) and [LGC 176](#)). The vendor and the official must file disclosure statements (Forms CIQ or CIS) if the vendor who is contracting or has contracted with the City has:

- A familial relationship with the official; and
- An employment or other business relationship with the official or a family member of the official that results in receiving more than \$2,500 of taxable income over a 12-month period; or
- Given the official or family member of the official one or more gifts that have an aggregate value over \$100 in the 12-month period preceding the date the official becomes aware of the contract or potential contract with the City ([LG 176](#)).

The official is not required to file a conflicts disclosure statement in relation to a gift accepted by the official or family member if the gift is a political contribution as defined by [Title 15 of the Texas Election Code](#) or food accepted as guest.

The official and vendor must file the conflicts disclosure statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing. A person commits a misdemeanor if the person knowingly violates [LGC 176.003](#). Disclosure statements shall be posted and publicly accessible on the City's website.

Vendors are also required to file disclosure statements for certain relationships and may be subject to other City policies which may be more restrictive than state requirements.

Additionally, a local government official must file an affidavit with the City Secretary disclosing any substantial interest of the official or any family member in a business entity prior to any vote or decision or any matter involving the business entity, and must abstain from any participation in the matter requiring the affidavit ([LGC 171](#)).

1.11 PURCHASE OF MATERIALS, EQUIPMENT, AND SUPPLIES FOR PERSONAL USE

Employees of the City of Tomball cannot use the City's business accounts for personal purchases. Employees who violate this provision may be subject to disciplinary action, up to and including termination.

1.12 PROCUREMENT OF GOODS AND SERVICES FROM CITY EMPLOYEES AND/OR IMMEDIATE FAMILY MEMBERS

It is the general policy of the City of Tomball to not enter into contracts for purchases for goods, services, professional services, or public works from employees of the City or members of their immediate family (any person related in the first degree of consanguinity or affinity as determined under [GC 573](#)). Exceptions can be reviewed on a case-by-case basis. Any employee wishing to request such an exception must notify the Finance Director in writing of the request to purchase goods or services from an immediate family member or current City employee and formally request an exception to the City's Procurement Policy. The request must include full disclosure of the nature of the relationship, why the purchase is the best value for the City, why other alternatives are not available, and any other pertinent information needed to evaluate the request. The Finance Director may request additional information in order to evaluate the exception request. The Finance Director will evaluate the exception request and make a recommendation to the City Manager. The City Manager has the sole authority to grant an exception under this Section.

This section does not preclude the City from entering into contracts for purchases for goods, services, professional services, or public works from individuals previously employed by the City.

1.13 SEVERABILITY

If any provision of this Policy or the application of a provision to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of this Policy and the application of its provisions to other persons and circumstances shall not be affected.

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ARTICLE 2: DEFINITIONS

2.1 Definitions

Definitions not contained specifically within this Policy shall be defined per GC, LGC, or other applicable Texas statutes. Additional definitions are provided in subsequent Sections as needed.

Advertisement/Notice/Public Notice means to make a public announcement of the intention to procure goods, services, professional services, or public works.

Alternative Delivery Method (ADM) means a method of procuring construction services other than “traditional” competitive bidding. Methods include competitive sealed proposals, design-build, construction manager-agent, construction manager-at-risk, and job order.

Amendment/Addendum means a document used to change the provision of a Solicitation.

Award means the act of accepting a bid, proposal, or offer; thereby resulting in a contract between the City and a Supplier/Vendor.

Best and Final Offer (“BAFO”) means a negotiation technique in which an opportunity is extended to respondents in the RFP process to review their proposals and provide a best and final offer to the City. A BAFO may be sent to all firms, the top firms, or the highest ranked firm, depending on the procurement.

Best Value means a method of evaluating price that includes an evaluation based on the total life cycle cost of the item or service. Best value is the best and lowest overall life cycle cost proposal taking into consideration various factors depending on what is being procured.

Bid means an offer to contract with an entity, submitted in response to an Invitation for Bid or informal quote.

Bid (formal) means a bid that must be submitted in a sealed envelope and in conformance with a prescribed format, to be received and opened on a specific date and at a specific time.

Bid (informal) means an unsealed competitive offer conveyed by letter, telephone, email, or other means and under conditions different from those required for formal bidding.

Bidder, Lowest Responsible means the bidder submitting the lowest *initial* price and capable of performing the proposed contract as the “lowest and responsible” bid.

Bidder, Responsible means the bidder who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will also assure good faith performance.

Bidder, Responsive means a bidder who has submitted a bid that fully conforms in all material respects to the Invitation for Bid (“IFB”) and all of its requirements, including all form and substance.

Bidder, Non-resident means a person whose principal place of business is NOT in the State of Texas, including a contractor whose ultimate parent company or majority owner does NOT have its principal place of business in the State of Texas.

Bidder, Resident means a person whose principal place of business is in the State of Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in the State of Texas.

Blanket/Open Purchase Order means a purchase order issued without unit pricing, limited to a specific amount. An open purchase order is normally used when there is a recurring need for incidental goods, and contains multiple purchases over a period of time.

Bond, Bid means a bond submitted with a bid guaranteeing the bidder will proceed with the contract and will replace the bid bond with a contract, performance bond, and/or payment bonds. The bid bond is an instrument used to stop low bidders from underbidding and then withdrawing their bid. A bid bond is not statutorily required but is generally used by the City on public works contracts.

Bond, Maintenance means a guarantee that there is no defect in workmanship and/or materials for a specific time period.

Bond, Payment means to protect beneficiaries who supply materials or labor to a public works project and have a direct contractual relationship with the contractor. A payment bond is required because materials suppliers and laborers do not enjoy the same lien rights on public projects as they do on private projects. The payment bond requirement essentially replaces the protections afforded by lien rights with protections guaranteed by a surety ([GC 2253](#)).

Bond, Performance means to secure the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract specifications ([GC 2253](#)).

Brand Name or Equivalent means one or more manufacturers’ brand names, with identifying model numbers (or the like), used in a specification to invoke certain quality, performance, and other salient characteristics needed to meet the solicitation requirements.

Change Order means a change in plans or specifications after the performance of a contract has initiated, or if it is necessary to increase or decrease the quantity or price of work to be performed or materials, equipment, or supplies to be furnished ([LGC 252.048](#)).

City means the City of Tomball, Texas, including all departments, utilities, commissions, and boards comprising the City government.

City Council means the City Council of the City of Tomball, Texas.

City Manager means the City Manager of the City of Tomball, or the designee of the City Manager, when such designation is necessary and appropriate.

Commodity means a tangible item that can be offered for trade.

Competitive Bidding means the process that allows available vendors to compete with each other to provide goods or services. ([LGC 252](#); [GC 2269, Subchapter C](#)).

Competitive Sealed Proposal Process means the process that allows available vendors to compete with each other to provide goods and services and permits flexibility in product solicitation and negotiation in compliance with [LGC 252](#) or [GC 2269, Subchapter D](#).

Component Purchases means a purchase of the component parts of an item that in normal purchasing practices would be made in a single purchase ([LGC 252.062](#)).

Construction means the process of utilizing labor and material to build, alter, repair, improve, or demolish any structure, building, or public improvement. Construction does not general apply to routine maintenance, repair, or operation of existing real property.

Contract means a legal, binding mutual agreement obligating parties to terms and conditions as outlined. In terms of purchasing, a contract is an agreement in which a buyer and seller agree to specific terms regarding the exchange of goods and services, during a specific time period, at a specific delivery point, for a specific frequency, under specific terms and conditions, at a specific quantity, and/or at a stated price.

Contract Amendment means any written alteration in specifications, delivery point, frequency of delivery, period of performance, price, quantity, or other provisions of the contract, accomplished by mutual agreement of the parties to the contract.

Cooperative Buying Agreement (“Cooperative Contract”, “COOP”, or “Piggyback Agreement”) means competitively awarded contracts in accordance with Texas statutes, rules, policies, and procedures that have been extended for the use of other government agencies and active cooperative members. A cooperative buying agreement satisfies any state law requiring a local government to competitively source for goods or services. ([GC 791](#); [LGC 252.022\(12\)\(D\)](#)).

Design-Build Contract means a project delivery method by which the City contracts with a single entity to provide both the design and construction services for the construction, rehabilitation, alteration, or repair of a facility ([GC 2269, Subchapter G](#)).

Design Criteria Package means a set of documents that meets the requirements specified in [Texas Government Code, Chapter 2269, Subchapter G](#). The Design Criteria Package must provide sufficient information to permit a design-build firm to prepare a response to a City request for qualifications and to provide any additional information requested.

Department means all City funded departments or divisions, and subdivisions of them, when the purchases are funded even partially with City funds.

Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

Electronic Signature (“E-Signature”) means an electronic symbol, text, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Emergency Purchase means a purchase made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City’s residents or to preserve the property of the City. Such a purchase would be deemed necessary to preserve or protect the public health or safety of the City’s residents and the City’s ability to serve its public would be impaired if the purchase is not made immediately.

Employee means any City elected official, appointed official, or employee when the purchase is funded even partially with City funds or anyone who acts on behalf of any of them.

Expenditure Authority means the level of approval a certain employee has to authorize an expenditure of funds for goods or services.

Family means any person related in the first degree of consanguinity or affinity as determined under [GC 573](#).

Finance Director means the Finance Director for the City of Tomball or a designee of the Finance Director. In the event that there is no individual serving as the Finance Director, references to the Finance Director shall mean the Assistant City Manager or a designee of the Assistant City Manager.

Goods means any personal property purchased by the City, including equipment, supplies, material, and component or repair parts.

High Technology Item means a service, equipment, or good of highly technical nature, including data processing equipment and software; telecommunications, radio, and microwave systems; electronic distributed control systems; and technical services related to those items ([LGC 252.001\(4\) and 252.021\(b\)](#)).

Historically Underutilized Business (“HUB”) means a business that is at least 51% owned by an economically disadvantaged group (Asian Pacific American, Black American, Hispanic American, Native American, and/or American woman or veterans who suffered at least 20% service-connected disability), is a for-profit entity that has not exceeded the size standards prescribed by [34 TAC §20.294](#), has its principal place of business in Texas, and has an owner

residing in Texas with a proportionate interest that actively participates in the control, operations, and management of the entity's affairs. See addition information in [GC 2161](#), [34 TAC §20.282](#), and [LGC 252.0215](#).

Invitation for Bid ("IFB") means a solicitation requesting submittal of a bid in response to the required specifications. IFBs are awarded to the lowest responsible bidder meeting the specifications. Price may not be altered or negotiated.

Invitation for Bid, Best Value ("IFB-BV") means a solicitation requesting submittal of a bid in response to the required specifications. An IFB-BV is awarded to the bidder that meets the specifications and provides the best value to the City. Published evaluation criteria are used to determine the best value, which may not be the lowest cost. Price may not be altered or negotiated.

Invoice means the document provided by the supplier/vendor requesting payment for goods or services provided.

Item means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. This does not include professional services as defined by [GC 2254.002](#).

Lease means a contract for the use of real or personal property for a period of time in return for a specified compensation

Life Cycle Cost means the total cost associated with buying, owning, and using a physical product or service.

Local Cooperative Organization means an organization of governments established to provide local governments' access to contracts with vendors for the purchase of materials, supplies, services, or equipment.

Maintenance Services means routine maintenance, repair, and replacement of existing facilities, structures, or buildings.

NIGP Commodity/Service Codes means the standardized national classification codes that identify goods and services.

Negotiation means a consensual bargaining process in which multiple parties attempt to reach an agreement on a disputed, or potentially disputed, matter.

Offer means a response to a solicitation that, if accepted, would bind the offeror to perform the resulting contract.

Offeror means a person or entity who submits a response to an RFP.

Offeror, Responsible means an offeror who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will also assure good faith performance.

Offeror, Responsive means an offeror who has submitted a proposal that fully conforms in all material respects to the RFP and all of its requirements, including form and substance.

Official means any elected or appointed official and any person authorized to act on his or her behalf.

Person means an individual, corporation, partnership, limited partnership, Limited Liability Company, association, trust, or other legal entity.

Personal Services means those services other than professional services that are performed personally by the individual who contracted to perform them. Personal services are be exempt from the competitive bid process.

Planning Services means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or municipal, county, metropolitan, or regional land areas.

Pre-Bid/Proposal Conference means a conference conducted by the City for the benefit of those wishing to submit a response for services or supplies required by the City which is held in order to allow vendors to ask questions about the proposed contract and particularly about the contract specifications.

Preconstruction Services means advice during the design phase and does not include manager-agent services.

Procurement Card (“P-Card”) means a credit card program for authorized purchases made by the City. See Procurement Card Program for additional information.

Professional Services means services performed by an individual or group of individuals who possess the education, professional certification, professional license, and/or professional registration required to perform the service. The service is usually based on intellectual qualifications as opposed to craftsmanship, involves a higher level of knowledge and a higher order or learning, skill, and intelligence. For purposes of [GC 2254](#), services within the scope of the practice, as defined by state law of: accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, professional nursing, or services provided with the professional employment or practice of a person who is licensed or registered as a certified public accounting, an architect, a landscape architect, a land surveyor, a physician (including a surgeon), an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, interior designer, or a registered nurse.

Proposal means an offer submitted by a supplier in response to an RFP intended to be used as a basis to negotiate a contract.

Proprietary Information means information provided in responses to solicitations to which vendor claims ownership or exclusive rights and which may be protected from disclosure under the [Texas Public Information Act, GC 552](#).

Public Works means constructing, altering, or repairing a public building or the construction or completion of a public work.

Purchase means any kind of acquisition, including by a lease or revenue contract.

Purchase Order means a legal contract document for the delivery of goods or services in accordance with the terms of an agreement. A purchase order should include the quantity, price, and delivery instructions. All invoices generated by purchase orders shall be for the amounts stated on the purchase order.

Qualified Products List means an approved list of supplies, services, or construction items described by model or catalog numbers (or the like), which prior to competitive solicitation, the requesting City department has determined will meet the applicable specification requirements.

Quote means a statement provided by a vendor or supplier that outlines the price and terms for specific goods or services.

Quote (informal) means a statement provided by a vendor or supplier that outlines the price and terms for specific goods or services when the purchase is less than the required threshold for competitive bidding.

Receiving Document means a document provided by the supplier/vendor listing the items shipped and their quantity, often referred to as a packing slip.

Reciprocal Law (in bid evaluation) means if a nonresident bidder's home state grants a preference to its resident bidders, an equal penalty is added to the nonresident bidder's proposal when bidding in Texas. The action is opposite; a preference becomes a penalty, but the amount is equal. Texas law prohibits cities from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidder's state.

Request for Information ("RFI") means an information gathering tool used when a purchaser cannot clearly identify product requirements or specifications.

Request for Proposals ("RFP") means a solicitation requesting submittal of a proposal in response to the required scope of services that usually includes some form of a cost proposal. An RFP requires published evaluation criteria. Price may be negotiated with firms to ensure the best value for the organization.

Request for Qualifications (“RFQ”) means a solicitation requesting a statement of qualifications from individuals or firms which demonstrates competence and qualifications for the type of professional services to be performed at fair and reasonable prices.

Request for Quotes (“RFQt”) means an informal process for requesting quotes from vendors or suppliers for goods and services when the purchase threshold does not require a competitive bidding process.

Requisition means a written request for a purchase order to be made.

Respondent means a person or entity which submits a response to a solicitation.

Responsible – See Bidder, Responsible or Offeror, Responsible.

Responsive – See Bidder, Responsive or Offeror, Responsive.

Retainage means the part of a public works contract payment withheld by the City to secure performance of the contract.

Reverse Auction means a real-time bidding procedure that is conducted at a pre-scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids for designated goods and services ([GC 2155.062\(d\)](#); [LGC 252.021\(a\)\(2\)](#); [LGC 271.906](#)).

Scope of Work (“SOW”) means a written description of the contractual requirements for materials or services contained within an RFP. The SOW can be compared to specifications within an Invitation for Bid. The SOW should establish a clear understanding of what is needed, encourage competition, satisfy the departmental need, and provide the best value for the citizens.

Sealed means packaged in such a way that nothing can be added or removed.

Separate Purchase means separating purchases that normally would be made in a single purchase.

Sequential Purchase means making purchases over a period of time that normally would be made in a single purchase.

Service means intangible products such as banking, cleaning, consultancy, education, insurance, expertise, or transportation.

Sole Source means a good or service available from only one source. The procurement is usually protected by patents, copyrights, secret processes, natural monopolies, or captive replacement parts.

Solicitation means the process of notifying prospective vendors of an opportunity to provide goods or services to the City. Depending on circumstances, solicitations may be conducted via telephone, fax, email, mail, or in person.

Specification means any description of the physical, functional, or performance characteristics, or the nature of a supply, service, or construction item. A specification includes, as appropriate, a requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Specification, Brand Name means a list of products or services by brand name, model, and/or other identifying specifics to limit the bidding to a single preferred product. Since this type of specification discourages competition, it should not be used unless the item is the only one that will satisfy the City's requirement. This type of specification is typically used for purchasing replacement parts where only the brand name item will work.

Specification, Combination means a specification that includes elements of both design and performance. Some features of each are included to allow a vendor to use ingenuity to meet the performance needs of the City and also require certain necessary design characteristics.

Specification, Design means a specification that gives a detailed description of a good or service, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients, plus all other details needed by the provided to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom-produced items, and for many services.

Specification, Performance means specifications that are used when the goods and/or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability, and recommended practices.

Statement of Work means the statement outlining the specific services a contracted is expected to perform, generally indicating the type, level, and quality of service, as well as the time schedule required.

Supplier/Vendor means a seller of commodities and/or services.

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ARTICLE 3: Organization, Authorization, and Responsibilities

3.1 General Expenditure Approval Authority

City contracts, transactions, and expenditures require various levels of approval, dependent upon the total amount of a single transaction/expenditure and a cumulative purchase of goods or services from a particular vendor or in relation to a project.

The general contract/expenditure approval authorities are as follows:

Position	Expenditure Authority	Contract Authority
Department Director	May approve expenditure of up to \$10,000 without additional approvals	No authority to execute contracts/agreements without necessary approvals (See 3.7)
Finance Director	May approve expenditure of up to \$25,000 without additional approvals	No authority to execute contracts/agreements without necessary approvals (See 3.7)
City Manager	May approve expenditure of up to \$100,000 without additional approvals	May approve contracts/agreements for service if the total not-to-exceed amount is less than \$100,000
City Council	Approval required for any expenditure of \$100,000 or greater	Approval required for contracts/agreements if total not-to-exceed amount is \$100,000 or greater

Regardless of the expenditure approval authority, all purchases must follow the appropriate procurement procedures. For example, while a Department Director can approve a single transaction of up to \$10,000, it is required that such expenditure meet any required approvals or procedures required by this Policy or state or federal law prior to such approval.

3.2 Authority of Finance Director

In accordance with the City Charter, and by adoption of this Policy, the City Council delegates procurement authority to the Finance Director and the City Manager, or their respective designees. Except as otherwise precluded by state and local law or this Policy, the Finance Director shall serve as the procurement and contracting authority of the City. The Finance Director shall have full authority to:

- Adopt operational procedures, consistent with this Policy, governing the procurement and management of all goods, services, professional services and public works, including any action that may be delegated by City Council under GC Chapter 2269;
- Procure or supervise the procurement of all goods, services, professional services and public works utilizing any procurement method or procedure as authorized by law;
- Determine which method of procurement provides the best value to the City;

- Utilize any procurement procedure or method for the construction or installation of any public work that is authorized by law;
- Establish guidelines for the management of all inventories of materials belonging to the City;
- Manage the disposal of materials belonging to the City, including the sale, trade or other method of disposal of surplus materials belonging to the City;
- Prepare, issue, revise, maintain, and monitor the use of specifications and scopes of work for goods, services, professional services and public works required by the City; and
- Delegate procurement authority to designees only as appropriate and necessary.
- Make a determination that noncompliance with any provision of this Policy is non-substantial and may allow for correction or may waive minor informalities or irregularities. The basis for the decision shall be included in the determination.

3.3 Authority of City Manager

Except as otherwise precluded by state and local law or this Policy, the City Manager shall have the authority to approve or execute:

- Purchases, contracts, and agreements in an amount not to exceed \$100,000, provided funds are budgeted therefore.
- Applications for Title and Tax Exemption Certificates.
- Cooperative purchasing agreements in an amount not to exceed \$100,000.
- Change orders which involve a decrease or increase of up to 25% or \$50,000, whichever is less, provided the total contract expenditure remains within the budgeted amount.
- Emergency purchases as outlined in this Policy, provided that the expenditures are reported to the City Council in writing within 30 days.

The City Manager is not authorized to approve or execute the following *without Council action*:

- A contract or other legal instrument for the purchase of real property, with the exception of the purchase of easements or right-of-way under \$50,000; any condemnation proceeding must be authorized by resolution of the City Council.
- The City's grant of or other action relating to any license or franchise, or other authorization pursuant to its regulatory powers.
- Any contract, contract amendment, or other legal instrument for which approval authority is separately delegated by the City Charter or another section of this Policy.
- Purchases, contracts, and agreements over \$100,000.

The City Manager may make administrative directives to complement this Policy to facilitate efficient operations and ensure compliance with state law, audits, and best practices. Any administrative directives that are in place for more than 90 days shall be brought forward as an amendment to this Policy.

3.4 Execution of Documents

The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall retain the authority to execute such documents, however, by this Policy, the City Council grants the City Manager authority to execute any purchases, contracts, and agreements in an amount not to exceed \$50,000, provided funds are budgeted therefore. The Council may also authorize the City Manager to execute purchases, contracts, and agreements in amounts of \$50,000 or greater by formal action ([City of Tomball Charter, Section 6.08](#)).

3.5 Responsibilities of City of Tomball Departments

All City of Tomball departments and employees engaged in the procurement of goods and services must adhere to this Policy and the procedures as outlined and adopted by the City Council. Additional responsibilities of departments are as follows:

- Each department should plan in advance to avoid rush orders and emergency requests.
- Upon approval by the department director, **or supervisor designee in the absence of the director**, departments may purchase goods and services of less than \$3,000 directly from a vendor by methods described herein.
- Each department must submit purchase order requisitions as appropriate.
- Departments shall not place orders that exceed \$3,000 without an approved purchase order.
 - Departments do not have the authority to order directly from a vendor without an approved purchase order, nor to negotiate any purchases without the required approvals.
- Department directors may not approve purchases in excess of \$10,000.
- Departments are required to notify the Finance Department of any repetitive cumulative purchases that reach any designated quote or bid threshold.
- Departments are required to allow sufficient lead time for all quoted and solicited actions.
- Anticipated purchases of goods or services over \$100,000 shall be brought to the attention of the Finance Director as soon as the need is identified.
- Department directors may request to delegate expenditure approval authority to another employee. This delegation can only be made in very limited circumstances, such as a prolonged absence of the department director. Requests to delegate approval authority must be made in writing to the Finance Director. The Finance Director may consider the request and approve or deny the request based on the circumstances described.
- Each department director shall assume the responsibility of maintaining control of their departmental expenditures, including expenditures on annual contract.
- Departments are encouraged to monitor vendor performance. In the event that a vendor fails to perform in compliance with specifications, departments should notify the Finance Department as soon as possible.
- Departments are responsible for working with the City Attorney to develop service contracts, if applicable. Departments are responsible for obtaining all required contract signatures, and for monitoring their contracts to ensure contracts are renewed or bid prior to expiration dates.
- Pursuant to [GC Chapter 2270](#), departments are responsible for verification on the Texas Comptroller of Public Accounts' website that the vendor:
 - Does not boycott Israel, as defined by [GC 808.001](#); and

- Will not boycott Israel during the term of the contract.
- This requirement does not apply to sole proprietorships, companies with fewer than ten employees, or contracts that are less than \$100,000.
- Pursuant to [GC 2252, Subchapter F](#), departments are responsible for verification that the vendor is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

3.6 Responsibilities of the Finance Department

In order to facilitate the efficient procurement of goods and services, the Finance Department will:

- Enforce the policy and procedures outlined in this Policy or as directed by the City Manager or designee;
- Investigate and analyze research done in the field of purchasing, in an effort to keep abreast of current developments in the fields of purchasing, price, market conditions, and new products;
- Join with other governmental agencies in cooperative purchasing plans when it is in the best interest of the City;
- Coordinate, organize, and assist departments in the specification writing process to ensure that specifications are written concisely and are not written in an exclusive manner;
- Advertise competitive solicitations to ensure compliance with competitive bidding statutes;
- Combine purchases of similar items whenever possible to allow for better pricing and establish a more competitive atmosphere; and
- Conduct purchasing training for employees who process purchase order requisitions, conduct receiving, approve purchase orders, and/or develop specifications. Additionally, individual training by the Finance Department is available at the request of departments.

3.7 Authority to Financially Bind the City

Unless delegated by the City Council and authorized by the City Manager, no City of Tomball employee is authorized to contractually bind the City. Binding the City may include, but not be limited to, verbal orders for goods and services, signing contractual documents, placing online orders, making verbal or written commitments of any type that financially commit the City. Unauthorized staff who attempt to bind the City of Tomball financially, or violate this Policy, may be subjected to disciplinary action.

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ARTICLE 4: PROCESSES AND INTERNAL CONTROLS

4.1 The Purchasing Process (In General)

The following sections outline process and internal controls related to the procurement of goods and services. Specifically, this article includes areas, such as the purchase of vehicles and equipment and technology purchases, where additional approvals may be necessary. An important part of the procurement process is the management of internal controls to ensure purchases are made in accordance with Policy, funds are fully accounted for, and timely payments are made to suppliers. The purchase order process provides the mechanism through which the City can manage the procurement process and ensure purchases are in compliance with this Policy and applicable law.

4.2 Additional Approvals for Purchases of Vehicles and Equipment

All equipment and vehicle purchases must be processed through the Finance Department. Specifications must be forwarded to the Finance Director, or designee, who will be responsible for soliciting bids and authorizing the purchase of vehicles and equipment as approved by either the City Manager or City Council. Approval of the department director is required and approval by the City Council is required if the purchase exceeds \$100,000.

The process for the purchase of equipment and vehicles is outlined in **(Exhibit H)**.

4.3 Additional Approvals for Technology Purchases

The purchase of all technology items, including hardware and software, requires the advance approval of the Information Technology Department. Technology items include:

- A service related to the automation of a technical system, including computer software or a computer;
- A telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network; and
- Technical services related to such goods and equipment.

4.4 Prepayments and Advance Payments

Generally, prepayment or advance payments are not authorized for any purchases of supplies, materials, equipment, or services, unless specifically approved in writing by the Finance Director (\$3,000 or below) or City Manager (\$3,001 to \$100,000). Exceptions to this include: training and travel expenses per the City of Tomball Travel Policy.

4.5 Reimbursement of City Officials and Employees

Upon approval received from the Finance Director, prior to purchase, reimbursements may be processed for certain goods or services, ONLY in instances where sufficient time may not allow approval through the purchase order process. Instances where prior approval were not authorized, may be cause for non-payment of the request.

All reimbursements are processed following the Request for Reimbursement Form (**Exhibit B**), and must include support showing that the Finance Director approved the expenditure prior to purchase.

The Finance Department will review submitted Request for Reimbursement forms and either acknowledge that the request may move forward in processing; or, if discrepancies are found, advise that the form be returned to the requesting division to correct or process through the purchase order process.

This section does not apply to reimbursements of travel expenses per the City of Tomball Travel Policy.

4.6 Check Requests (PA-7s)

For purchases requiring payment via a check request, a PA-7 form is not required when the invoice or other supporting documentation provides sufficient information for signature approval and GL account coding. A PA-7 form is required when an invoice is unavailable, unreadable, or does not provide sufficient space for signature approval or GL account coding.

4.7 Purchase Orders and Requisitions

Purchase orders (PO's) are required for all purchases in excess of \$3,000, unless otherwise exempt as indicated below or an exception to the Policy is granted. Purchase order requisitions must be approved prior to making a purchase. Purchase order requisitions may be submitted for purchases under \$3,000, but are not required. Departments may use a P-card or check request for purchases under \$3,000 so long as the purchase complies with this Policy, the Procurement Card Policy, and other applicable policies or regulations.

Purchase Orders are NOT required for all purchases. Items that do not require a purchase order and may be paid with a P-Card or check request are:

- Catered event fees;
- Election fees;
- Membership or professional association dues and fees;
- Payroll and benefit payments;
- Periodicals;
- Postage;
- Registration fees;
- Regulatory fees;

- Subscriptions;
- Certain training related fees;
- Travel expenses;
- Tuition;
- Utilities; and
- Other fees as approved in advance in writing by the Finance Director.

The procedure for purchase order requisitions is included in **(Exhibit C)**.

In limited circumstances, a department may request an exception to the purchase order requirement. An exception may be granted only under the following conditions:

- The purchase was necessary to respond to an urgent operational need or emergency situation where the delay in obtaining a purchase order would have resulted in a disruption to critical city services, a threat to public safety, or potential damage to city property.
- The vendor could not reasonably accommodate the City's standard purchasing procedures due to industry-specific practices (e.g., online-only or credit card transactions).
- The purchase was part of a travel or training expense that could not be prepaid or invoiced.
- The goods or services were obtained through a cooperative contract, standing agreement, or interlocal agreement and did not permit a standard purchase order process.

If a department desires an exception to the purchase order requirement, the department shall submit a written **Exception Request** to the Finance Department within two (2) business days of the purchase, including:

- A detailed explanation of the justification for the exception
- Supporting documentation (invoices, receipts, quotes, contracts, etc.)
- The name of the vendor and the amount of the purchase

The Finance Director (or designee) shall review the request and determine whether the exception is approved. Repeated or unjustified exceptions may result in additional departmental oversight or training requirements. Departments are expected to plan purchases in advance to avoid unnecessary exceptions. Exceptions will be tracked and reported periodically to the City Manager's Office for monitoring and accountability.

4.8 Procedures for Processing Payments

The Finance Department is responsible for ensuring all associated documentation and invoices have been submitted as required by this Policy, including documentation that indicates the department followed all procedures applicable to the expenditure amount and that the expenditure was approved at the appropriate level (department director, or **supervisor** designee in the absence of the director).

The Finance Department shall be responsible for the processing of all payments for the City of Tomball. Invoices received by noon on Tuesday will have payments processed by Friday the same

week if all required information has been provided. The City will maintain as its goal to make payment on or before the due date. Checks shall be signed with dual signatures as outlined by the City's Charter.

4.9 Verification of Compliance

The Finance Department will verify that the New Vendor Form, W-9 and ACH Payment Authorization, if applicable, is complete and accurate before any payments are processed. If additional information is needed, the Finance Department will contact the individual originating the purchase.

4.10 Funds Verification

The Finance Director or his/her designee shall:

- Charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriate account; and
- Certify the budget contains an ample provision for the obligations and that funds are or will be available to pay each obligation when due.

The amount allocated in the budget may not be used for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the obligation is canceled in writing by the City Council.

Procurement Policy

ARTICLE 5: VENDOR SETUP

5.1 New Vendors

The New Vendor Form must be completed for each new vendor added to the City's financial management software. The Form requests important information about the vendor to ensure accurate, timely payment and reporting data. The Vendor must attach a completed W-9 with the Form. Any new vendor invoice submitted for payment that does not have a New Vendor Form will not be processed for payment. The individual originating the purchase will be contacted to obtain additional information. See **Exhibit D** for New Vendor Forms.

5.2 Insurance Certificates

Contractor shall provide a Certificate of Insurance to the City of Tomball as evidence of the required insurance coverage before work commences.

The City of Tomball will maintain the required insurance coverage until all contract work is accepted by the City. Liability Insurance shall be kept for five (5) years following the City's acceptance of work.

5.3 Tax Exemption

As a tax-exempt municipal government agency, the City of Tomball does not pay sales tax. Any government official or employee entering into a purchasing transaction is expected to notify vendors of the City's tax exempt status and provide a copy of the tax exemption certificate, should the vendor require such documentation. The City is not exempt from hotel/motel taxes and certain other travel related taxes.

Procurement Policy

ARTICLE 6: METHODS AND THRESHOLDS FOR SOURCE SELECTION (GOODS AND SERVICES)

6.1 General Information

The following sections outline the methods of source selection available to procure goods and services for the City. They also establish when each method may be used, the key requirements of each method, the manner of the award, and the authority to award. Purchase requirements shall not be divided so as to constitute a micro purchase or small purchase under this section.

6.2 Micro Purchases (Under \$3,000)

A micro purchase is a purchase of goods and services under \$3,000. A micro purchase is an informal purchase and may be solicited through an informal Request for Quotes (RFQt) process. A minimum of one quote is required to process a purchase order. Whenever possible, quotes should be solicited from local service and supply providers. Informal RFQts may be issued to suppliers by departments. A response to an informal RFQt may be an electronic or a hard copy quote. P-Cards may be used to source micro purchases and shall be done in compliance with the Tomball Procurement Card Manual. Before making a purchase, active contracts should be reviewed to verify desired products or services are available to purchase on contract.

The issuance of sequential purchases, component purchases, or separate purchases to circumvent the formal competitive process is a violation of state law and may be cause for disciplinary action. If a department makes regular, repeated small purchases of similar items from a vendor, the department should contact the Finance department to ensure purchases are compliant with this policy and State law.

6.3 Small Purchases (Between \$3,000 and \$100,000)

A small purchase is a purchase for goods and services between \$3,000 and \$100,000. A small purchase is an informal purchase and may be solicited through the informal Request for Quotes (RFQt) process. RFQts may be issued to suppliers by the user department, or the department may work with the Finance Department to issue the RFQt. Unlike micro purchases, small purchases require three quotes whenever practicable. The RFQt and quotes may be in electronic or hard copy format.

The following requirements apply to small purchases:

- The opportunity to quote should be extended to at least two (2) HUBs registered in Harris County.
 - The state maintains a database of HUBs at www.window.state.tx.us/cmbi/index.html.
 - If no HUBs are registered in Harris County, the small purchase is exempt from this requirement.

- A non-response quotation is considered a quotation for this purpose provided the HUB was given a reasonable time (three to five business days) to respond.
- Exceptions to this guideline may include sole source or emergency purchases.
- Departments are encouraged to consult with the Finance Department for assistance in locating suppliers when they are unable to obtain at least three price quotations.
- All departments should work to promote fair and open competition for every purchase and to secure the best value and the highest quality goods or services at the lowest possible cost.
- Quotations received from suppliers/vendors shall not be divulged to other bidders until after the award has been made.
- Before making a purchase, active contracts should be reviewed to verify desired products or services are not available to purchase on contract.

The issuance of sequential purchases, component purchases, or separate purchases to circumvent the formal competitive process is a violation of state law and may be cause for disciplinary action. If a department makes regular, repeated small purchases of similar items from a vendor, the department should contact the Finance department to ensure purchases are compliant with this policy and State law.

6.4 Authority and Award for Micro and Small Purchases

Award of micro and small purchases shall be made to the responsible respondent, whose offer is most advantageous to the City and conforms in all material respects to the micro and small purchase requirements. The associated documentation shall be maintained by the department as a public record.

The Finance Director must approve micro and small purchases and will be responsible for issuing a purchase order for the good or service, unless otherwise authorized in this Policy or unless authorization to purchase with a P-Card has been provided by the Finance Department through issuance of a P-Card.

6.5 Formal Sourcing Methods for Goods and Services (Over \$100,000)

The purchase of goods and services over \$100,000 shall be made through one of the following sourcing methods, unless excepted or determined by the Finance Director to use alternate method:

- Competitive Bidding
 - Invitation for Bid (IFB). or
 - Invitation for Bid-Best Value (IFB-BV)
- Competitive Sealed Proposals
 - Request for Proposals (RFP)

Formal sourcing methods are managed by the Finance Department, with the assistance of the appropriate department(s). Exceptions to the formal sourcing models are listed in **Section 1.6** of this Policy or as authorized by [LGC 252.022](#).

6.6 Competitive Sealed Bids – Invitation for Bid; Lowest Responsible Bidder.

Application of Method

Competitive Sealed Bids shall be solicited through an IFB. The IFB shall include specifications, any applicable criteria, and the City's terms and conditions.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an IFB in order to establish a list of qualified bidders, although it is not required. If a pre-qualification process is used, the City shall only consider bids that are submitted from pre-qualified bidders.

Public Notice

All IFBs are required to advertise a notice of the date, time, and place at which bids will be publicly opened and read aloud. The legal notice must be published at least once a week for two consecutive weeks in a newspaper published in the municipality.

Notice of the IFB shall also be electronically posted and the IFB shall be made available for public inspection.

The first published notice shall be made before the fourteenth (14th) day before the date set for the opening of bids. If the opening date changes, notice shall be made before the fourteenth (14th) day before the new opening date. The public notice shall state the place, date, and time of bid opening.

Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB.

An attendance sheet will be provided at the bid opening and all attendees will be required to provide their name.

At the time of bid opening, the name of each bidder and the amount of each bid, as well as other relevant information as determined by the Finance Director to be appropriate, shall be recorded. Unless otherwise determined by the Finance Director, this record shall be open to public inspection.

In the event no attendees are present for bid opening, the sealed bids shall be opened by the Finance Department, or designee, and a "bid" or "no bid" may be recorded on the tabulation sheet. The bid may then be given to the appropriate person for recorded. The attendance sheet will indicate that there were no attendees present.

After a notice of intent to award is issued, or in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy (See **Section 1.9**).

Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, safety, quality, workmanship, delivery, and suitability for a particular purpose. The IFB shall set forth the criteria to be used. No criteria may be used that is not set forth in the IFB.

Corrections or Withdrawals Before Bid Opening

Bids may be withdrawn at any time prior to the bid opening. Bids may be modified at any time prior to the due date and time, and mistakes discovered before bid opening may be modified by written notice received by the Finance Department prior to the time set for bid opening.

Mistakes and Withdrawals After Bid Opening & Cancellation of Awards

A bid that has been opened may not be modified for the purpose of correcting an error in the bid price. Mistakes discovered after bid opening but before bid award may be withdrawn only to the extent that the bidder can show that the mistake is of so great a consequence that to enforce the bid as made would be unconscionable, the mistake relates to a material feature of the bid, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After bid opening but before bid award, modifications to bid provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to a bidder.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all bids.

6.7 Competitive Sealed Bids – Invitation for Bid-Best Value

Application of Method

As an alternative to the IFB defined in Section 6.6, an IFB-BV may be solicited based upon a best value analysis provided that the criteria for analysis was included in the IFB-BV. In determining the best value for the City, the City may consider the following evaluation criteria:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the municipality's needs;
- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with HUBs and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

All other conditions of the IFB process outlined in Section 6.6 shall apply for the IFB-BV.

6.8 Award and Approvals for IFB and IFB-BV Procurements

This section outlines the process for the award and approval of IFB and IFB-BV procurements.

Award of Invitation for Bid

Award of an IFB shall be made by appropriate notice to the lowest responsive, responsible bidder whose bid conforms in all material respects to requirements and criteria set forth in the IFB.

Award for Invitation for Bid-Best Value

Award of the IFB-BV may be awarded on best value analysis provided that the criteria for analysis was included in the IFB-BV. The contract shall be awarded by appropriate written notice to the responsive, responsible bidder whose bid is determined to be the best value to the City and that conforms in all material respects to requirements and criteria set forth in the IFB-BV.

Low Tie Bids

If there are two (2) or more low responsive bids from responsible bidders that are identical in price and other evaluation criteria and that meet all the requirements and criteria set forth in the invitation for bids, award must be made to a resident of the City, otherwise shall be made by the casting of lots.

Award Approvals

Awards of IFBs and IFB-BVs shall be routed to the City Manager, or designee, for review. The award of all IFBs and IFB-BVs of \$100,000 or more shall be approved by City Council.

6.9 Competitive Sealed Proposals – Request for Proposals

Application of Method

Competitive sealed proposals shall be solicited through an RFP. The RFP shall include a scope of work, applicable evaluation criteria, terms and conditions.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an RFP in order to establish a list of qualified offerors. In the event a pre-qualification process is used, the City shall only consider proposals that are submitted from pre-qualified offerors.

Public Notice

Notice of RFP shall set forth the date, time, and place upon which the proposals will be due. Legal notice must be published at least once a week for two (2) consecutive weeks in a newspaper published in the municipality.

Notice shall be electronically posted and the RFP shall be available for public inspection.

The first published notice shall be made before the fourteenth (14th) day before the date set for the opening of bids. If the opening date changes, notice shall be made before the fourteenth (14th) days before the new opening date.

Receipt of Proposals

Unless otherwise required by law or the RFP, proposals shall not be opened or handled in a manner as to permit disclosure of the contents of any proposal to competing offerors. Proposals shall be open for public inspection after the contract is awarded, except to the extent that the withholding of information is permitted or required by law such as trade secrets and confidential information. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Correction or Withdrawal of Proposals Before Proposal Opening

Proposals may be withdrawn at any time prior to the proposal opening. Proposals may be modified at any time prior to the due date and time, and mistakes discovered before proposal opening may be modified by written notice received by the Finance Department prior to the time set for proposal opening.

Revisions, Mistakes and Withdrawals After Proposal Opening & Cancellation of Awards

The City may permit revisions to proposals after submission and before the award of the contract to obtain the best final offers. A proposal that has been opened may not be modified by the offeror for the purpose of correcting an error in the price. Mistakes discovered after proposal opening but before award may be withdrawn only to the extent that the offeror can show that the mistake is of so great a consequence that to enforce the proposal as made would be unconscionable, the mistake relates to a material feature of the proposal, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After proposal opening but before award, modifications to proposal provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to an offeror.

All decisions to permit the withdrawal of a proposal after opening shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all proposals.

Evaluation Criteria

The RFP shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. No other factors or criteria may be used in the evaluation. City Council designates authority to the Finance Department to select evaluation criteria in accordance with GC 2269 Subchapter D or LGC 252.

Evaluation Committee

A committee may be formed to evaluate each proposal using the criteria as defined within the RFP. The use of a committee is recommended for complex, large expenditures, or when multiple proposals are received. This committee will consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the purchasing department and/or Finance on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. Finance participates, as a non-voting member, to provide oversight, guidance, and assistance as needed.

Finance may remove evaluation team members if a conflict of interest arises. Conflict of Interest disclosure statement (**Exhibit I**) must be documented and detail of such conflict should be provided to the Department Head of the purchasing department, the Assistant City Manager, and the City Manager.

Discussion with Offerors

Discussions, or negotiations, may be conducted with offerors in accordance with the terms of the RFPs and this Policy, which constitutes regulations adopted by the City Council under GC 2269 and LGC 252.042(b). Offerors shall be accorded fair and equal treatment in conducting discussions and revision of proposals, and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Negotiations may occur as follows:

- Concurrent Negotiations
 - Negotiations may be conducted concurrently with offerors for the purpose of determining source selection and/or contract award.
- Exclusive Negotiations
 - Exclusive negotiations may be conducted with the offeror whose proposal is determined in the source selection process to be most advantageous to the City considering the relative importance of price and other evaluation factors included in the RFP. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the City may enter into exclusive negotiations with the next highest ranked offeror or concurrent negotiations without the need to repeat the formal solicitation process.

6.10 Award and Approvals for Requests for Proposals

Contract Award

Contract award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the City taking into consideration the evaluation criteria set forth in the RFP. The contract file shall contain the basis in writing on which the award determination is made.

Award Approvals

Awards of RFPs shall be routed to the City Manager, or designee, for review. The award of all RFPs of \$100,000 or more shall be approved by City Council.

6.11 Sole Source Procurement

Application of Method

A sole source procurement is the acquisition of a good, service, professional service or public work in which there is only one source.

The department requesting a sole source procurement shall provide written evidence to support a sole source determination. A sole source written justification form (**Exhibit E**), signed by the department director and the Finance Director, is required, explaining and fully describing the conditions which make the supplier the only source for a given commodity or service. Written documentation may include documentation from the manufacturer of the product or service provider on company letterhead as evidence to the sole source nature of the product or service.

Sole source procurements may include, but are not limited to:

- patents, copyrights, secret processes, or natural monopolies;
- films, manuscripts, or books;
- gas, water, and other utility services;
- captive replacement parts or components for equipment;
- books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
- management services provided by a nonprofit organization to a municipal museum, park, zoo, other facility to which the organization has provided significant financial or other benefits;

Negotiation and Award

The Finance Director may require that negotiations are conducted as to price, delivery and terms. The Finance Director may require the submission of cost or pricing data in connection with an award under this Section.

Sole source procurement shall be avoided, except when no available alternative sources exist. The sole source justification form shall be maintained as a public record.

Sole source procurements require the approval of the City Council for purchases over \$100,000.

6.12 Emergency Purchases

Application of Method

Notwithstanding any other provisions of this Policy, the City Manager, Assistant City Manager, or Finance Director may make or authorize others to make emergency procurements of goods, services, professional services or public works when a public calamity requires immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality, or to protect public health, welfare, or safety, or necessary because of unforeseen damage to public machinery or property.

The department requesting an emergency procurement shall provide written evidence and justification to support an emergency determination by completing the Emergency Purchase Justification Form (**Exhibit F**). An emergency procurement shall be limited to those goods, services, professional services or public works necessary to satisfy the emergency need.

Negotiation and Award

The Finance Director may require that negotiations are conducted as to price, delivery, and terms. The Finance Director may require the submission of cost or pricing data in connection with an award under this Section.

Emergency procurements shall be avoided, except when no reasonable alternative approach exist. A written determination by the department director of the basis for the emergency procurement and for the selection of the particular contractor and signed by the Finance Director and City Manager or Assistant City Manager, shall be maintained as a public record. The determination and the award shall be made in accordance with internal departmental procedures ensuring that the procurement is fair, honest, and prudent, is a wise exercise of discretion, and is in the public interest.

All emergency purchases over \$100,000 shall be reported in writing to the City Council at the next regular meeting following the emergency purchase.

6.13 Competitive Reverse Auction – Invitation to Reverse Auction

Application of Method

A Reverse Auction is solicited with an Invitation to Reverse Auction (“ITRA”). The ITRA shall be issued and shall include specifications and any applicable evaluation criteria. Contractual terms and conditions may be included within the solicitation document or incorporated by reference.

Pre-Qualification

A prequalification process may be conducted prior to the issuance of an ITRA in order to establish a list of qualified bidders. In the event a prequalification process is used, the City shall only consider bids that are submitted from prequalified bidders.

Public Notice

Notice of the ITRA shall be electronically posted and the ITRA shall be available for public inspection not less than fourteen (14) days prior to the date set forth therein for the close of the auction. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Procurement Director. The public notice shall state the location of the internet website hosting the reverse auction.

Bid Acceptance

Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Policy.

Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the ITRA, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The ITRA shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the ITRA.

Correction or Withdrawal of Bids Before Auction Closing

Bids may be withdrawn at any time prior to the auction closing. Bids may be modified at any time prior to the auction closing, and mistakes discovered before auction closing may be modified by written notice received in the Finance Department prior to the time set for auction closing.

Mistakes and Withdrawals After Auction Closing & Cancellation of Awards

After auction closing, a bid may not be modified for the purpose of correcting an error in the bid price. Mistakes discovered after auction closing may be withdrawn only to the extent that the bidder can show that the mistake is of so great a consequence that to enforce the bid as made would be unconscionable, the mistake relates to a material feature of the bid, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After auction closing but before bid award, modifications to bid provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to a bidder.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Finance Director.

Contract Award

The contract shall be awarded by appropriate notice to the lowest responsible bidder whose bid conforms in all material respects to requirements and criteria set forth in the ITRA.

6.14 Cancellation of Solicitations

General

An IFB, IFB-BV, RFP, RFQ, ITRA or other solicitation process defined in this Policy may be cancelled prior to opening or after opening when it is in the best interest of the City.

Cancellation of Solicitations Prior to Opening

As used in this Section, "opening" means the date and time set for opening of bids, receipt of statements of qualifications, or receipt of proposals in competitive sealed proposals, or in the case of a reverse auction, means the date and time set for the auction close.

Prior to opening, a solicitation may be cancelled in whole or in part when the Finance Director determines that such action is in the City's best interest for reasons including but not limited to:

- The City no longer requires the materials, services, or construction;
- The City no longer can reasonably expect to fund the procurement;
- Proposed amendments to the solicitation would be of such magnitude that a new solicitation is in the best interest of the City; or
- It is otherwise not advantageous to the City.

When a solicitation is cancelled prior to opening, notice of cancellation shall:

- Identify the solicitation;
- Briefly explain the reason for cancellation; and
- Where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar materials, services, or construction.

Cancellation of Solicitation After Opening but Prior to Award

After opening but prior to award, a solicitation must be formally rejected by City Council if the lowest bid or proposal was more than \$100,000.

Documentation

The reasons for cancellation shall be made a part of the procurement file and shall be available for public inspection.

6.15 Rejection of Individual Bids, Proposals, Statements of Qualifications or Reverse Auction

A bid may be rejected if:

- The bidder is determined to be not be a responsible bidder pursuant to this Policy;
- The bid is cancelled after opening;
- The bidder is not responsive in accordance with this Policy;
- The proposed price exceeds available funds or is unreasonable; or
- It is otherwise not advantageous to the City.

A proposal, statement of qualifications, or reverse auction bid may be rejected if:

- The person responding to the solicitation is determined to not be responsible pursuant to this Policy (responsibility of bidders, offerors and respondents);
- The proposal, statement of qualifications, or reverse auction bid is cancelled;
- It is not responsive pursuant to this Policy;
- The proposed price exceeds available funds or is unreasonable; or
- It is otherwise not advantageous to the City.

City Council must approve any rejections of bids, proposals or statements of qualifications if the lowest bid or proposal was over \$100,000. The reasons for rejection shall be made a part of the procurement file and shall be available for public inspection.

6.16 Responsibility of Bidders, Offerors, and Respondents

Right of Non-Disclosure

Confidential information furnished by a bidder, offeror, or respondent in response to an inquiry of responsibility pursuant to this Policy shall not be disclosed by the City outside of the department, using agency, or individuals involved in the evaluation process without prior written consent by the bidder, offeror, or respondent unless required to be disclosed in accordance with GC 552. Confidential information shall be identified and managed in accordance with this Policy. See also [LGC 252.049](#).

Findings of Non-Responsibility

If a bidder, offeror, or respondent who otherwise would have been awarded a contract is found not responsible, a written finding of non-responsibility, setting forth the basis of the finding, shall be

prepared by the Finance Director. The unreasonable failure of a bidder, offeror, or respondent to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a finding of non-responsibility with respect to such bidder or offeror. The written finding shall be made part of the contract file and be made a public record.

Factors for Determination of Responsibility

Factors to be considered in determining if a prospective contractor is responsible include:

- The proposed contractor's financial, physical, personnel or other resources, including subcontracts;
- The proposed contractor's record of performance and integrity;
- Whether the proposed contractor is qualified legally to contract with the City;
- Whether the proposed contractor supplied all necessary information concerning its responsibility; and
- Safety record of the contractor.

Safety Record Evaluation

Pursuant to [LGC 252.0435](#), the City Council adopts the following criteria for determining the safety record of a bidder to determine whether a bidder is responsible. The City may consider the safety record of the bidders in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the residents of the City, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider:

- Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the bidder for violations of OSHA regulations within the past three (3) years.
- Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years.
 - Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States.
 - Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
- Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.
- Any other safety related matter deemed by the City Council to be material in determining the responsibility of the bidder and the ability of the bidder to perform the services or goods required by the bid documents in a safe environment, both for the workers and other

employees of bidder and the residents of the City, and such determination should not be arbitrary or capricious.

Responsibility Criteria

The Finance Director may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation

6.17 Bid and Contract Security for Material or Service Contracts

The Finance Director may require the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the Finance Director shall consider the nature of the performance and the need for future protection to the City. The requirement for security must be included in the solicitation. Failure to submit security in the amount and type of security required may result in the rejection of the bid or proposal. See also [GC 2253](#) (payment and performance bonds).

6.18 Multi-Term Contracts

Unless otherwise provided by law, a contract for goods, services, professional services or public works may be entered into for any period of time deemed to be in the best interest of the City, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies

6.19 Right to Inspect and Right to Audit Records

The City may, at reasonable times, inspect the part of the plant or place of business of a contractor, consultant or any subcontractor or subconsultant that is related to the performance of any contract awarded or to be awarded by the City. The City may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in this Policy to the extent that the books and records relate to the cost or pricing data. Any person who is awarded a contract, change order or contract modification for which cost, or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless otherwise specified in the contract. The City is entitled to audit the books and records of a contractor, consultant or any subcontractor or subconsultant under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contractor or consultant, and by the subcontractor or subconsultant for a period of three (3) years from the date of final payment under the subcontract, unless otherwise specified in the contract. All contractors, consultants, subcontractors, and subconsultants participating in City contracts are required to cooperate fully and promptly with the City in reviews, investigations and other requests

for information that are related to the performance of any contract awarded or to be awarded by the City.

6.20 Reporting of Anticompetitive Practices

If for any reason collusion or other anticompetitive practices are suspected among any bidders, offerors, or respondents, a notice of the relevant facts shall be transmitted to the Finance Director and the City Attorney. This Section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the Finance Director.

6.21 Prospective Vendor Database

The Finance Department shall maintain a prospective vendor database. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a City contract. Persons desiring to be included in the prospective vendor database may register with the City electronically. The City may remove a person from the prospective vendor database if it is determined that inclusion is not advantageous to the City. It shall be the vendor's sole responsibility to ensure that vendor registration information is current and active.

6.22 Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added GC Section 2252.908. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Potential bidders and offerors interested in doing business with the City must submit a disclosure of interested parties to the City prior to receiving a contract award by the City Council. The business entity must complete the Form 1295 by the Texas Ethics Commission (www.ethics.state.tx.us) and file the form with the City and online. The City must notify the Texas Ethics Commission not later than the thirtieth (30th) day after the date the contract binds all parties to the contract.

The Texas Ethics Commission has made available FAQs regarding Form 1295 on its website at www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php#Q1.

6.23 Electronic Signature and Receipt of Bid and Proposals Policy

The City may elect to utilize e-signatures for certain contracts or transactions, when allowed by law. The use of electronic signatures, in accordance with the policy, are legally binding and equivalent to handwritten signatures. The City may accept electronic bids and proposals for formal solicitations. The City has adopted a policy to ensure the identification, security, and confidentiality of electronic bids and proposals, and to ensure that all electronic bids or proposals remain effectively unopened until the proper time. This policy does not prohibit the submission of hard copy (paper) bids and proposals.

6.24 Contract Form and Execution

All contracts entered into under this Policy shall be executed in the name of the City by the City Council and/or City Manager and approved as to form by the City Attorney. Where delegated authority has been provided, contracts may also be entered into by the Finance Director.

6.25 Assignment of Rights and Duties

The rights and duties of a City contract are not transferable or otherwise assignable without the written consent of the City Council and/or City Manager.

6.26 Contractor Debriefing

Upon completion of a formal solicitation process, the Finance Department may, upon request, meet with unsuccessful parties in the solicitation process to permit viewing of the contract file and to permit an opportunity for unsuccessful parties to gain a better understanding regarding perceived deficiencies contained within their submitted proposal. The City shall not provide any information considered confidential or additional information on the process beyond information recorded in the contract file.

Procurement Policy

ARTICLE 7: SPECIFICATIONS

7.1 Maximum Practical Competition

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be unduly restrictive. To the extent practicable and unless otherwise permitted by this Policy, all specifications shall describe the City's requirements in a manner that does not unnecessarily exclude a good, service, professional service or public work.

Restrictive specifications shall not be used unless such specifications are required and it is not practicable or advantageous to use a less restrictive specification. The department requesting a restrictive specification shall provide written evidence to support the restrictive specification. Past success with the good or performance of the service, or inconvenience of developing specifications do not justify the use of restrictive specifications.

To the extent practicable, the City shall use accepted commercial specifications and shall procure standard commercial materials.

7.2 Specifications Prepared by Non-City Personnel

The requirements of this Policy regarding the purposes and non-restrictiveness of specifications shall apply to all specifications prepared other than by City personnel, including, but not limited to, those prepared by architects, engineers, designers, and consultants for public contracts, or subcontractors. No person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

7.3 Brand Name or Equal Specification

A brand name or equal specification may be used to describe the standards of quality, performance, and other salient characteristics needed to meet the requirements of a solicitation, and which invites offers for equivalent products from a manufacturer.

Standardization

A specification may be used to identify the acceptable item that meets the City's needs for purchases in this Policy. The department requesting standardized specification shall provide written evidence to support the standardization determination. A written determination by the Finance Director of the basis for the standardization shall be maintained as public record. Past success with a good or performance, traditional purchasing practices, or inconvenience of drawing specifications do not justify the use of a standardization specification.

Procurement Policy

ARTICLE 8: PROCUREMENT OF PROFESSIONAL SERVICES

8.1 General Overview and Applicability

Providers of professional services are selected and awarded based upon demonstrated competence and qualifications. A contract is awarded on the basis of a fair and reasonable price. Professional fees under the contract should generally be consistent with the recommended practices and fees published by the applicable professional association. Fees may not exceed any maximum provided by law. The determination of an acceptable negotiated fee amount may be made with the assistance of a qualified staff professional that is experienced in these matters.

8.2 Informal Sourcing Method – Informal Request for Qualifications for Professional Services (Excluding Those Professional Services Subject to GC 2254)

Application of Method

After consideration of the various anticipated costs, complexity and other relevant issues affecting a project, the department may solicit proposal(s) from qualified professional(s) or professional firms for professional services. This selection may be done through an informal RFQ.

Professional services which are deemed complex or involve complex issues are encouraged to be sourced through a formal RFQ as described in Section 8.3.

Evaluation of Qualifications

The department may utilize an evaluation committee or may use a qualified individual to evaluate statements of qualifications submitted in response to the informal RFQ. The individual or committee will select the most qualified individual or firm capable of performing the service on the basis of demonstrated competence and qualifications. The department may then enter into negotiations with the selected individual or firm to establish fair and reasonable rates for the professional service.

8.3 Formal Sourcing Method – Request for Qualifications for Professional Services

Application of Method

Professional services deemed to be more complex may be solicited through a two-step Request for Qualification (RFQ) process.

Departments are encouraged to seek qualifications for professional services contracts at least every five (5) years to help ensure diversity in the selection of professional services by the City. These contracts shall be for a set time period (a set number of years or annual renewals up to a set number of years) with a maximum not-to-exceed amount.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an agreement in order to establish a list of qualified professionals. In the event a pre-qualification process is used, the Finance Director may consider qualifications of professionals that are prequalified for specific projects.

Two-Step Request for Qualifications Process

The City may follow a two-step RFQ process for awarding Professional Services. The first step involves issuing an RFQ for the professional service. The RFQ shall contain sufficient information to inform potential professional service providers as to the type of project, the scope of services to be performed, the selection criteria to be used and terms and conditions of the subsequent contract. A statement of qualifications shall be submitted in response to the RFQ. The statement of qualifications shall include all information requested in the RFQ and sufficient for the City to determine qualifications of the individual or firm.

Upon evaluating the statement of qualifications, a decision shall be made as to the most highly qualified respondent based upon the published evaluation criteria. The second step of the RFQ process will involve conducting discussions with the most highly qualified respondent to establish fair and reasonable rates for the professional service.

Public Notice

Notice of RFQs shall set forth the date, time, and place upon which the statement of qualifications will be due. Notice must be published at least once a week for two (2) consecutive weeks in a local newspaper. The first published notice shall be made before the fourteenth (14th) day before the date set for the opening of bids. Notice shall be electronically posted and the RFQ shall be available for public inspection. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Finance Director.

Late Proposals

A response to a RFQ is late if it is received at the location designated in the RFQ after the time and date set for receipt of statements of qualifications. Late statements shall be rejected.

Receipt of Statements

Statements of qualifications shall not be opened publicly. No statements shall be handled as to permit disclosure of the contents to competing respondents. Statements shall be open for public inspection after a notice of intent to award is issued, or in the absence of a notice of intent to award, after final execution of the contract, except to the extent that the withholding of information is permitted or required by law. If the respondent designates a portion of its statements as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Withdrawal of Statements

Statements may be withdrawn by written notice before or after statement opening and may be permitted where appropriate. All decisions to permit the withdrawal of a statement after opening shall be supported by a written determination made by the Finance Director.

Evaluation

The RFQ will give the relative importance, or weighting, assigned to each of the criteria to be used in the selection process. The following general criteria may be used, but the RFQ is not necessarily limited to these criteria:

- The provider's experience in successfully performing similar assignments, scope and size, for others.
- The provider's current staff, both size and related experience, is qualified to provide the desired services.
- Whether or not sufficient finances and other resources are available to accomplish the assignment within the time to be allowed by the City, and whether or not the provider will be able to provide continuing service if required by the City.
- How previous clients of the provider for similar projects express satisfaction with the provider's work.
- Whether or not the provider's response, as perceived by the City's staff, is complete and of acceptable quality.

A professional service provider may be selected after the evaluation of the submitted RFQ or it may be necessary 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.

Evaluation Committee

A committee may be formed to evaluate each statement of qualifications using the criteria as defined within the RFQ. This committee will consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the using department and Finance on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. Finance may participate, as a non-voting member, to provide oversight, guidance and assistance as needed or requested.

Evaluation committee members must sign a non-disclosure and a conflict of interest disclosure. The Finance Director reserves the right to remove any team member for any identified conflicts of interest. Conflicts of interest shall be documented and kept in the City's records.

Discussion with Offerors

Discussions may be conducted with the respondent determined to be the most highly qualified, to agree upon a fair and reasonable price. Respondents shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing respondents. If the City is unable to negotiate a satisfactory contract with the most highly qualified provider of the desired professional services, the City shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The City must continue this process to select and negotiate with providers until a contract is entered into or all respondents are rejected by City Council.

8.4 Awards and Approvals

Contract Award

Contract award of the formal Request for Qualifications shall be made to be the most highly qualified respondent taking into consideration the evaluation criteria set forth in the RFQ. The contract file shall contain the basis on which the award is made.

Award Approvals

Award of informal Request for Qualifications may be made by the City Manager if the total award is less than \$100,000. Awards of Request for Qualifications exceeding \$100,000 require City Council approval.

Contract Term

Contracts for professional services may be awarded for a period of up to five (5) years if non-appropriations clauses are included in the contract or upon project completion. The contract term shall state the maximum not-to-exceed dollar amount.

Procurement Policy

ARTICLE 9: PROCUREMENT OF PUBLIC WORKS

9.1 General Overview and Applicability

Contracts for a public work shall be solicited through a competitive sealed bid process unless otherwise approved by the Finance Director.

Public works means the construction of a facility, which is an improvement to real property and includes buildings, highways, road, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, airport runways and taxiways, drainage projects or related types of projects associated with civil engineering construction projects.

The City shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

9.2 Use of Professional Engineering Services in Public Works Projects

The City shall utilize an engineer to develop plans, specifications and estimates when the engineered public work could affect the public health, welfare or safety. Construction of engineered plans must be performed under the direct supervision of an engineer.

A professional engineer must be retained for a public works project when:

- The work exceeds \$8,000 and involves electrical or mechanical engineering; or
- The work exceeds \$20,000 and does not involve electrical or mechanical engineering.

9.3 Use of Professional Architect Services in Public Works Projects

The City shall use an architect to develop plans or specification for any of the following:

- A new building or modification of an existing building intended for occupancy on a 24-hour basis by persons who are receiving custodial care regardless of the number of stories or square footage of the building.
- A new building having construction costs exceeding \$100,000 that is to be:
 - Constructed and owned by the City; and
 - Used for education, assembly, or office occupancy; or
- An alteration or addition having construction costs exceeding \$50,000 that:
 - Is to be made to an existing building that:
 - Is owned by the City; and
 - Is or will be used for education, assembly, or office occupancy; and
 - Requires the removal, relocation, or addition of a wall or partition of the alteration or addition of an exit.

9.4 Methods of Source Selection – Public Works

State law permits the following delivery methods for public works:

- Competitive Bidding – IFB
- Competitive Sealed Proposal – RFP
- Design-Build (DB)
- Construction Manager At-Risk (CMAR)
- Construction Manager-Agent (CMA)
- Job Order Contracting (JOC)

9.5 Public Works Under \$100,000 – Request for Quotes

Application of Method

After consideration of the various costs, complexity, and other relevant issues affecting a project, the department may solicit quotes from contractors for public works of less than \$100,000. This selection may be done through an informal Request for Quote (RFQt). Public works of less than \$100,000 which are deemed complex or involve complex issues are encouraged to be sourced through formal sourcing methods outlined in this Policy.

The department will award to the lowest responsible contractor. The contract file shall contain the basis on which the award is made and supporting documentation.

9.6 Public Works Over \$100,000 – Competitive Sealed Bid – IFB

Design-Bid-Build means a traditional project delivery method in which:

- There is a sequential award of two (2) separate contracts.
- The first contract is for design services. (See Section 6.0 for details)
- The second contract is for construction.
- Design and construction of the project are in sequential phases.
- Finance services, maintenance services and operations services are not included.

Application of Method

Competitive sealed bids shall be solicited through an IFB. The IFB shall include construction documents, estimated budget, project scope/specifications, construction schedule requirements, and other pertinent information. Contractual terms and conditions shall also be included within the solicitation document or incorporated by reference.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an IFB in order to establish a list of qualified bidders. In the event a pre-qualification process is used, the Finance Director shall only consider bids that are submitted from prequalified bidders.

Public Notice

The IFB shall set forth the date, time and place upon which the bids will be due. All IFBs are required to advertise a notice of the date, time, and place at which bids will be publicly opened and read aloud. The legal notice must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. Notice of the IFB shall also be electronically posted and the IFB shall be available for public inspection. Notice shall be made no less than thirty (30) days prior to the date set forth therein for the opening of bids. A shorter time, as allowed by law, may be deemed necessary for a particular procurement as determined by the Finance Director. If the opening date changes, the first notice shall be published before the fourteenth (14th) day before the new opening date. The public notice shall state the place, date, and time of bid opening.

Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The name of each bidder and the amount of each bid, as well as other relevant information as the Finance Director deems appropriate shall be recorded. Unless otherwise determined by the Finance Director, this record shall be open to public inspection. In the event no attendees are present for bid opening, the sealed bids shall be opened by Finance and a "bid" or "no bid" may be recorded on the tabulation sheet. The bid may then be given to the appropriate person for recording. The attendance sheets will indicate that there were no attendees present. Unless otherwise determined by the Finance Director, the bids shall not be opened for public inspection until after a contract is awarded. After a notice of intent to award is issued, or in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the invitations for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the IFB. These selection criteria can only be used to determine whether the contractor is a responsible bidder, because the award can only be made to the lowest responsible bidder.

Correction or Withdrawal of Bids Before Bid Opening

Bids may be withdrawn at any time prior to the bid opening. Bids may be modified at any time prior to the due date and time, and mistakes discovered before bid opening may be modified by written notice received by the Finance Department prior to the time set for bid opening.

Mistakes and Withdrawals After Bid Opening & Cancellation of Awards

A bid that has been opened may not be modified for the purpose of correcting an error in the bid price. Mistakes discovered after bid opening but before bid award may be withdrawn only to the extent that the bidder can show that the mistake is of so great a consequence that to enforce the bid as made would be unconscionable, the mistake relates to a material feature of the bid, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After bid opening but before bid award, modifications to bid provisions (other than pricing) made by mistake

may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to a bidder.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all bids.

Contract Award

Contract award shall be made to the lowest responsible bidder. The contract file shall contain the basis on which the award is made.

Award Approvals

Awards of IFBs exceeding \$100,000 shall be routed through the appropriate department, reviewing board, commission, or committee as applicable in advance of City Council consideration.

Public Record

After the City issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the evaluations shall be available for public inspection not less than the 7th day after contract award for public works utilizing APDM, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Lump Sum or Unit Price Contracts

Lump sum or unit price contracts follow the same method described in this Section, pursuant to LGC 252.047. If the contract is for the construction of public works or for the purchase of materials, equipment, and supplies, the municipality may let the contract on a lump sum basis or unit price basis. If the contract is let on a unit price basis, the information furnished to bidders must specify the approximate quantity needed, based on the best available information, but payment to the contractor must be based on the actual quantity constructed or supplied.

9.7 Public Works Over \$100,000 – Competitive Sealed Proposal – RFP

Application of Method

Competitive sealed proposals shall be solicited through an RFP. The RFP shall include construction documents, estimated budget, project scope/specifications, construction schedule requirements, applicable evaluation criteria, and other pertinent information. Contractual terms and conditions shall also be included within the solicitation document or incorporated by reference.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an RFP in order to establish a list of qualified offerors. In the event a pre-qualification process is used, the City shall only consider proposals that are submitted from pre-qualified offerors.

Public Notice

The RFP shall set forth the date, time, and place upon which the proposals will be due. All RFPs are required to advertise a notice of the date, time and place at which proposals will be publicly opened and read aloud. Legal notice must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. Notice shall be electronically posted and the RFP shall be available for public inspection. Notice shall be made no less than thirty (30) days prior to the date set forth therein for the opening of bids. A shorter time, as allowed by law, may be deemed necessary for a particular procurement as determined by the Finance Director. If the opening date changes, the first notice shall be published before the fourteenth (14th) day before the new opening date. The public notice shall state the place, date, and time of bid opening.

Receipt of Proposals

Proposals shall be opened publicly and read aloud the names of the offerors and any monetary proposals made by the offerors. Proposals shall be open for public inspection after the contract is awarded, except to the extent that the withholding of information is permitted or required by law such as trade secrets and confidential information.

Correction or Withdrawal of Proposals Before Proposal Opening

Proposals may be withdrawn at any time prior to the proposal opening. Proposals may be modified at any time prior to the due date and time, and mistakes discovered before proposal opening may be modified by written notice received by the Finance Department prior to the time set for proposal opening.

Revisions, Mistakes and Withdrawals After Proposal Opening & Cancellation of Awards

The City may permit revisions to proposals after submission and before the award of the contract to obtain the best final offers. A proposal that has been opened may not be modified by the offeror for the purpose of correcting an error in the price. Mistakes discovered after proposal opening but before award may be withdrawn only to the extent that the offeror can show that the mistake is of so great a consequence that to enforce the proposal as made would be unconscionable, the mistake relates to a material feature of the proposal, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After proposal opening but before award, modifications to proposal provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to an offeror. All decisions to permit the withdrawal of a proposal after opening shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all proposals.

Evaluation Criteria

The RFP shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. No other factors or criteria may be used in the evaluation. City Council designates authority to the Finance Department to select evaluation criteria in accordance with GC 2269 and LGC 252.

Evaluation Committee

Not later than the 45th day after the date on which the proposals are opened, the City shall evaluate and rank each proposal submitted in relation to the published selection criteria. A committee may

be formed to evaluate each proposal using the criteria as defined within the RFP. The use of a committee is recommended for complex, large expenditures, or when multiple proposals are received. This committee will consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the using department and/or Finance on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. The Finance Department participates, as a non-voting member, to provide oversight, guidance and assistance as needed. Finance may remove evaluation team members if a conflict of interest arises. Conflicts of interests must be documented and kept with the contract file.

Contract Award

Contract award shall be made to the responsible offeror whose proposal is determined in writing to be the best value to the City taking into consideration the weighted evaluation criteria set forth in the RFP. The contract file shall contain the basis on which the award is made.

Award Approvals

Awards of RFPs exceeding \$100,000 shall be routed through the appropriate department, reviewing board, commission, or committee as applicable in advance of City Council consideration.

Public Record

After the city issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the proposal evaluation shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

9.8 Public Works Over \$100,000 – Alternative Project Delivery Methods (APDMs)

The Finance Director may authorize the use of the following delivery methods for public works projects:

9.8.1 Design-Build (GC 2269, Subchapter G)

Design-build means a project delivery method in which:

- There is a single contract for design services and construction services.
- Design and construction of the project may be in sequential phases or concurrent phases.

9.8.2 Construction Manager-At-Risk (GC 2269, Subchapter F)

Construction-Manager-At-Risk (CMAR) means a project delivery method in which:

- There is a separate contract for design services and a separate contract for construction services.
- The contract for construction services may be entered into at the same time as the contract for design services or at a later time.

- Design and construction of the project may be in sequential phases or concurrent phases.
- Preconstruction services and other related services may be included.

9.8.3 Construction Manager-Agent (GC 2269, Subchapter E.)

Construction Manager-Agent is a delivery method by which the City contracts with a construction manager-agent to provide consultation or administrative services during the design and construction phase and to manage multiple contracts with various construction prime contractors

9.8.4 Job Order Contracting (GC 2269, Subchapter I)

Job-Order-Contracting means a project delivery method in which:

- The contract is a requirement contract for indefinite quantities of construction.
- The construction to be performed is specified in job orders issued during the contract.
- (Maintenance services and other related services may be included.
- The project limit shall be set by Council approved not-to-exceed expenditure amount.

Job order contracting cannot be used for civil works projects such as roads, utilities and drainage systems.

9.9 Bonding Requirements (GC 2253).

The bonding requirements of the City of Tomball are intended to protect the contractor, the service provider and the City of Tomball. Unless otherwise stated in state law, or otherwise established in this Policy, the following bonding requirements apply for public works:

- Performance Bonds: For contracts in excess of \$100,000, a 100% performance bond must be executed in the full amount of the contract and which covers the time period for the public work construction and for two additional years beyond the completion date of the construction of the public work. The bond must be executed by a corporate surety, in accordance with the law.
- Payment Bonds: For contracts in excess of \$50,000, a payment bond must be executed in the full amount of the contract, and which covers the time period the project will be allowed for construction. The bond must be executed by a corporate surety, in accordance with the law.
- Bid Bonds: The City reserves the right to require a bid bond for a public works project in an amount to be deemed fair and reasonable.
- Maintenance Bonds: The City reserves the right to require a maintenance bond for projects in an amount to be deemed fair and reasonable.

9.10 Prevailing Wage Rates

The Texas Legislature has given special treatment to public works projects, not necessarily applied to other expenditures or purchases by a municipality. Wages for workers on construction projects shall not be paid at less than the schedule of general prevailing rates of per diem wages as determined by the City Council, which shall be the lesser of wages defined by the United States Department of Labor Davis and Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website (www.wdol.gov) for Harris County, Texas (WD-2509), as amended, or as determined by the City by conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the City. The prevailing wage rate or a link to the wage rates shall be included in bids for the contract and in the contract itself for public works projects. The prevailing wage rate does not apply to work done directly by a public utility company or for maintenance work.

9.11 Insurance Requirements

The minimum insurance required will be the types and amounts required by the Finance Director and City Manager. The Finance Director, City Manager, City Engineer, Consulting Engineer, or Architect may provide input on a possible increase to the amounts of insurance required for any project. For construction and construction-related projects, all contractors and sub-contractors, including those delivering equipment or materials, performing service on a public works project, shall provide Texas workers' compensation for all employees. All Contractors shall provide proof of coverage satisfactory to the City. Prime Contractors are responsible for seeing that sub-contractors carry the same or higher insurance amounts as those required of the prime contractor. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage.

9.12 Retainage

The City requires retainage on all public works contracts exceeding \$100,000. Five percent of the total contract amount shall be held as retainage on public works contracts. The City may elect to require alternative retainage percentages. For retainage percentages in excess of five percent, the City will deposit the retainage into an interest-bearing account and pay the interest earned to the contractor upon completion of the contract.

A release of retention shall only be considered when a project is fully completed and accepted in compliance with the contract and specifications. A project manager shall review and approve a request for release of retention. If applicable, an engineer/architect shall review and approve the request. The project manager shall also provide Finance the consent of the surety for final payment and release of retainage from the bonding company. All lien notices shall be forwarded to the project manager.

Partial release of retainage may occur, at the City's discretion, before the project is completed. This is generally considered for large projects with longer construction periods (GC 2252.031, 2252.032, 2252.033).

Procurement Policy

ARTICLE 10: Contract Terms and Conditions

10.1 General Information

All City contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Finance Director shall have the authority to establish and modify any such terms and conditions.

Department directors are required to approve contracts for financial and operational obligations and business terms before contract award by Council.

Procurement Policy

ARTICLE 11: Contract Modifications (Change Orders)

11.1 General Information

A contract modification (and/or change order) occurs when a change to an executed contract is necessary. The modification may involve a change to quantities, specifications, terms or any number of contract requirements.

11.2 Procedures and Authorizations

Any modification to an awarded contract, regardless of sourcing method, shall be documented, reviewed, and approved through a contract amendment and/or change order.

Contract modifications and/or individual change orders for a total increase over \$100,000 require approval by the City Council. The change order authority limit resets after each City Council approval of a change order. All change orders, regardless of amount, require approval of the Finance Director. Change orders over \$25,000 require City Manager approval.

A contract amendment and/or change order, or the cumulative total of contract modification and/or change orders, cannot increase the original contract price by more than twenty-five percent (25%) except as provided under state law. Modification and/or changes in excess of twenty-five percent (25%) require re-solicitation. Contract modifications and/or change orders reducing a contract or purchase order by more than twenty-five percent (25%) require the consent of the contractor.

If applicable, an engineer/architect shall review and approve a contract amendment and/or change order prior to submitting to the City Council. Upon approval, a contract amendment and/or change order will be reviewed, signed and executed by the Finance Department. A hard copy of the change order will be forwarded to the contractor and a copy retained in the Procurement file.

Procurement Policy

ARTICLE 12: COST PRINCIPLES

12.1 Adoption of Rules

The Finance Director shall adopt rules setting forth cost principles which shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs.

12.2 Cost or Pricing Data

The submission of current cost or pricing data may be required in connection with any award, change order or contract modification

Procurement Policy

ARTICLE 13: DISPOSAL OF CITY-OWNED PERSONAL PROPERTY, MATERIALS, AND EQUIPMENT

13.1 Introduction

The Finance Director shall establish guidelines for and shall be responsible for the management of:

- The transfer of surplus property and operation of the surplus property program.
- The sale or disposal of surplus, worn, scrap, obsolete, excess, damaged, abandoned, unclaimed, lost and confiscated property by competitive sale or other authorized method.
- The trade-in of surplus property for purchase of new equipment.

The Finance Director shall control and supervise all existing and future City facilities (warehouses) established for the purpose of purchasing, storing, and issuing supplies. The Finance Director shall also be responsible and accountable for all warehouse materials and maintain a perpetual inventory record thereof.

The Finance Director will establish policies and procedures governing the addition or deletion of items carried in inventory, the sale or other disposal of inventory items no longer needed, delivery and other services provided to using agencies, and any policies or procedures required for efficient and effective operation of the inventory system.

The transfer, donation, or sale of City property shall be administered in compliance with state law and this Policy. The Finance Director will operate a surplus property program for the purpose of receiving, storing, transferring, or selling surplus property no longer needed by the City.

13.2 Definitions

The following terms are related to the management of property:

Abandoned Property means personal property which has been left unattended as defined by Texas Property Code 72, Texas Property Code 75, and Texas Transportation Code, Chapter 683.

Damaged or Destroyed means personal property that is not operable due to damage or accident and would require excessive repair (cost and/or manpower) to return the asset to serviceable condition.

Donation means personal property which has been donated to a charitable organization.

Excess means personal property that which is no longer needed (in excess of the department's requirements) but are still serviceable or useable.

Lost or Stolen mean personal property that is assigned to or acquired by a department but has been lost or stolen and deemed unrecoverable. Stolen City-owned property shall be properly documented with a police report.

Obsolete means personal property that no longer meet department specifications or requirements but is still serviceable or useable.

Property means assets with a useful life of more than one (1) year.

Property Transfer means the transfer of fixed assets between using agencies or transfer of property to or from the surplus property program.

Scrap means personal property that no longer functions, is unserviceable and has no market value, except for the basic material content, which can be recycled through appropriate means. Surplus property means property no longer needed by using agencies for their operations, property in poor or non-working condition, or property that is a by-product (e.g. scrap metal, used tires and oil, etc.).

Trade-in means personal property which has been traded, for similar new property, and the transaction has been recorded within the purchase order.

Unclaimed, Lost and Confiscated Property means all property used as evidence in the courts and remaining unclaimed after final disposition, property seized by a peace officer as being used unlawfully, and all property coming into the hands of any City officer or employee as lost or unclaimed.

Worn means personal property that may still be operable but require excessive maintenance or repair (cost, manpower) to remain in an operable condition.

13.3 Methods for Disposal

Departments and the Finance Director shall determine the most appropriate disposition method for personal property, City-owned materials and equipment that are deemed to be in the best interests of the City. Options for disposal are as follows:

Transfer between City Departments

Excess or obsolete City-owned personal property that is no longer required by one City department (sending department) can be transferred either to another group within the same department or to another City department in need (receiving department). If the original cost of the equipment is over \$5,000, the department director shall notify the Finance Department, so the fixed assets records will reflect the appropriate change(s).

Transfer to Another Governmental Entity

Any transfer by the City of City-owned personal property to another governmental entity, except through the auction process, shall be pursuant to an Interlocal Agreement approved by the City Council if in excess of \$500.

Public Sale, Trade-in, Donation, Destruction or Returned for Credit

If the item is no longer of value to the City, the Finance Director is authorized to sell, trade, donate, scrap or return the item for credit.

The following methods of disposition are available:

- **Public Bid, Sale or Auction**

- A sealed bid, public auction (sale) held on site, at a City facility, or on-line and conducted by an auctioneer licensed by the State of Texas. The guidelines of [LGC 252](#), for competitive bidding, shall be followed. For City-owned personal property items having a value less than \$100, the sale may be made at an advertised location where members of the public may purchase the item.
- Property may be disposed of through the sealed bid process and sold to the highest bidder, unless rejected by the using department and Finance.
- All items are to be sold to the highest bidder unless pricing is determined by the owning department to not be sufficient. In this instance, the City may refuse the bid and hold the item(s) for sale at another time.
- After determining the time and place for a public auction, the Finance Director shall give notice of the auction by advertising in the official newspaper of the City for at least once a week for two consecutive weeks. The date of the first publication must be at least 14 days prior to the date of the auction and the second publication must be no sooner than 7 days prior to the auction or posting on the City website for a period of 10 days prior to the auction.

- **Trade-In**

- Offer the property as a trade-in for new property of the same general type if the Finance Director and owning department consider that action to be in the best interest of the City. If determined necessary to determine “fair market value”, the Procurement Director may employ outside resources to make such determination. In all instances, best value for City owned property will be achieved and properly documented by the Procurement Director and credit shall be applied to the appropriate department.

- **Third Party Appraisals**

- The City may utilize third party consultants to determine authenticity or market value of any commodity. The department responsible for the commodity shall consent to and pay for the third-party appraisal.

- **Donation**

- Dispose of the property by donating it to a civic or charitable organization or another governmental entity, if allowed by law. However, in such case, City Council approval will be necessary if the item has value of more than \$500.

- **Destruction**

- The Procurement Director may order any of the property to be destroyed or otherwise disposed of if the replacement value is less than \$100 and is not

considered in good working order, the City attempts to sell the property and receives no viable offers or it is determined to be scrap material(s).

- Scrap: City owned personal property which has been transferred to Finance and has been found to be damaged, destroyed, or in any other way having no recoverable value will be accumulated and disposed of in accordance with existing scrap metal/refuse contracts or as otherwise directed by the Chief Financial Officer.
 - Scrap Bin(s): The Finance Director shall ensure that all scrap with value (metal, wire, etc.) shall be disposed of with existing scrap metal/refuse contracts or as otherwise directed by the City Manager. Finance shall ensure accurate accounting of all scrap proceeds and report all sales proceeds appropriately. All City employees shall ensure the proper disposal of scrap material in the identified location, and City-owned materials shall not be converted for private use or personal use.
- **Returned for Credit**
 - Excess or obsolete City-owned property may be returned, if possible, to the vendor from which the property was originally purchased. Prior to such return, department staff, directors, and officers shall coordinate this action with the Finance Director, to ensure credit has been fully received, documented, and reported to the Finance Department.

13.4 Disposal of Abandoned Property

Disposition of abandoned or unclaimed property seized by a government entity, officers, or employees must be conducted in accordance with this Policy, Tomball local policy, the [Texas Code of Criminal Procedure](#) (Chapters 18, 47 59) and in compliance with [Texas Transportation Code, Chapter 683](#). Equipment deemed appropriate for retention will be in accordance with state law (i.e., confiscated equipment by the Tomball Police Department).

13.5 Purchase by Officers and Employees

An officer or employee of the City, who recommends and/or authorizes the sale of materials and equipment for their department, shall not, directly or indirectly, submit a bid for, purchase or acquire ownership of that department's property. An officer or employee of the City shall not, directly or indirectly, submit a bid, purchase, or acquire ownership of "impounded property".

13.6 Disposition of Federal and Grant Funded Assets

No disposition of federal or grant funded assets will be initiated unless it is allowable in accordance with the guidelines outlined in the *Office of Management and Budget (OMB) Circular A-102 (revised)* and the *Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments*, subject to the specific guidelines of the grantor agency. Additionally, no disposition of federal or grant funded assets will be initiated unless the applicable grant program

administrator and the department director of the grantee department have recommended such disposition.

If proceeds result from the disposition through sale of grant funded property, the Finance Director, working with the department director and applicable grant program administrator, will ensure that proper notifications are provided to and instructions and approvals obtained from the grantor agency concerning how proceeds are to be handled. Depending upon the grantor agency or source involved and the dollar level of the proceeds, funds may or may not need to be returned or credited to the grantor agency or source. In all instances where proceeds have been gained by the City, the Finance Director shall provide a full accounting of such proceeds to the City Manager. Where possible and allowable upon the closing of a grant, the City will seek to transfer the property to another allowable grant in lieu of sale or other disposition method.

13.7 Disposition of Items Funded with Bonds

The disposition of bond funded assets will be communicated to the Finance Department. If proceeds result from the disposition of bond funded assets, the Finance Director, shall provide a full accounting of such proceeds to the City Manager.

13.8 Transfer of Ownership of Certain Emergency Vehicles

In accordance with [Texas Transportation Code 728.021](#), emergency vehicles used to transport sick or injured persons must have vehicle equipment removed, including lights, sirens or devices which only an authorized emergency vehicle may be equipped with, and must remove or obliterate any emblem or marking on the vehicle that identifies the vehicle as an authorized emergency vehicle. This statute doesn't apply if the City is transferring ownership to a person who holds a license as an emergency service provider, who is in the business of buying and selling used vehicles in this state and who specializes in authorized emergency vehicles, or who operates in a foreign country.

Procurement Policy

ARTICLE 14: PROTESTS AND APPEALS

14.1 Introduction

Protest and appeals will be accepted from prospective bidders, respondents or offerors whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. The Finance Director will consider all protests or appeals filed in a timely manner regarding the award of a contract. If the protest is oral and the matter cannot be otherwise resolved, written confirmation of the protest or appeal will be required.

14.2 Definitions

Filed means delivery to the contract officer or to the Finance Director, whichever is applicable. A time and date of receipt shall be documented in a verifiable manner for purposes of filing.

Governing Instruments means those legal documents that establish the existence of an organization and define its powers including articles of incorporation or association, constitution, charter and by-laws.

Interested Party means an actual or prospective bidder, respondent, or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an economic interest exists will depend upon the circumstances of each case. An interested party does not include a supplier, subconsultant, or subcontractor to an actual or prospective bidder, respondent, or offeror.

Receipt means the earlier of actual receipt or the first attempted delivery by certified mail, or by any other means that provides evidence of the attempt, to the persons' last known address.

14.3 Authority of the Finance Director

The Finance Director shall have the authority to settle and resolve protests.

14.4 Right to Protest

Any interested party who is aggrieved in connection with a solicitation or award of a contract above the formal threshold may protest to the Finance Director.

14.5 Filing of a Protest

A protest shall be filed in writing with the Finance Director (letter received by physical mail delivery or by electronic submission) and shall include the following information:

- The name, address, telephone number and email address of the protestant;
- The signature of the protestant or its representative;
- Identification of the solicitation or contract number;
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- The form of relief requested.

Protests will not be considered if not supported by adequate documentation as defined in this Policy or if not received within the parameters as defined in this Policy and any specific solicitation.

14.6 Time for Filing Protests

Protests based upon alleged improprieties in a solicitation that are apparent before the solicitation due date shall be filed not less than five (5) working days before the solicitation due date. In all other cases, protests shall be filed within five (5) days of notice of intent to award or in the absence of a notice of intent to award, prior to the award date. The Finance Director shall give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties. Interested parties have the right submit a written response to the protest.

14.7 Stay of Procurement During the Protest or Appeal Process

In the event of a timely protest, or in the event of timely appeal of the Finance Director's decision, the City shall stay the solicitation or award of the contract unless the Finance Director makes a written determination that there is a reasonable probability that the protest or appeal will be denied and that proceeding further with the solicitation or award of the contract is in the best interests of the City. The stay shall automatically continue throughout the protest or appeal process unless the Finance Director makes a written determination to lift it.

14.8 Confidential Information

See Section 1.9.

14.9 Decision by the Finance Director on a Protest

The Finance Director shall issue a written decision within ten (10) days after a protest has been filed. The decision shall contain an explanation of the basis of the decision. The Finance Director shall furnish a copy of the decision to the protestant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The time limit for decisions may be

extended for a reasonable time not to exceed thirty (30) days beyond the original ten (10) day time period. The Finance Director shall notify the protestant in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued. If the Finance Director fails to issue a decision within the time limits set forth in this Section, the protestant may proceed as if an adverse decision had been issued. The decision shall contain a statement regarding the appeals process that is available pursuant to this Policy.

14.10 Remedies for a Protest

If the Finance Director sustains the protest in whole or part and determines that a solicitation, evaluation process, proposed contract award, or contract award does not comply with this Policy, the Finance Director shall implement an appropriate remedy.

In determining an appropriate remedy, the Finance Director shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to:

- The seriousness of the procurement deficiency;
- The degree of prejudice to other interested parties or to the integrity of the procurement process;
- The good faith of the parties;
- The extent of performance;
- Costs to the City;
- The urgency of the procurement; and
- The impact of the relief on the using agency's mission.

An appropriate remedy may include, but is not limited to, one or more of the following:

- Reject all bids, responses or proposals;
- Terminate the contract;
- Reissue the solicitation;
- Issue a new solicitation;
- Award a contract consistent with the procurement codes; or
- Such other relief as is determined necessary to ensure compliance with this Policy.

14.11 Appeals to the City Manager

Any person may appeal the written decision of the Finance Director to the City Manager within seven (7) days from the date the decision is issued by filing a written appeal with the City Manager. The appellant shall also file a copy of the appeal with the Finance Director.

The appeal shall contain:

- The information set forth in Section 14.10;
- A copy of the decision of the Finance Director;
- The precise factual or legal error in the decision of the Finance Director from which an appeal is taken.

14.12 Notice of Appeal

The City Manager shall give notice of the appeal to the successful contractor if award has been made or, if no award has been made, to interested parties. Such interested parties shall have the right to request copies of the appeal and to intervene in the proceedings. The City Manager shall, upon request, furnish copies of the appeal to all interested parties.

14.13 Finance Director Report on Appeal

The City Manager may conduct or hearing or request additional information from the Finance Director or any other person in order to render a decision on the appeal. The City Manager's determination on the request shall be in writing, state the reasons for the determination and, if the extension is granted, set forth a new date for the filing of comments. The City Manager shall notify the Finance Director of any extension.

14.14 Remedies for Appeal of a Protest

The City Manager may dismiss, affirm or deny the Finance Director's decision in whole or in part based on criteria described in Section 14.10. If the Finance Director's decision is denied in whole or in part and a determination is made that a solicitation, evaluation process, proposed award, or award does not comply with state law or this Policy, the City Manager may direct the Finance Director to make the appropriate remedy described in Section 14.10.

Procurement Policy

ARTICLE 15: VENDOR DISQUALIFICATION

15.1 General Overview and Applicability

Disqualification is an action taken by the Finance Director under this Article to prohibit a person from participating in City procurements. The purpose of disqualification is to protect the City of Tomball and taxpayers from an inefficient use of City funds.

City departments are responsible for managing their contracts and for identifying and controlling the risks associated with vendor performance.

Vendors may be disqualified from bidding on City contracts under certain circumstances in order to minimize the City's risk of losses. In order to ensure that the City is receiving quality goods, services and construction and in order to ensure that the City is receiving value for public money, vendors may be disqualified from participating in City procurement opportunities for prescribed time periods.

A decision to disqualify a vendor from participating in City procurement opportunities must be supported by evidence, exercised in accordance with the factors set out in this Policy and appropriately approved. A decision to place a vendor on the disqualification list is discretionary; however, such discretion must be exercised consistently and fairly.

15.2 Reasons for Disqualification

The City may disqualify a vendor for one of the following six categories of reasons:

15.2.1 Litigation

If a vendor engages in litigation against the City, the City may consider whether or not such litigation should disqualify that vendor from participating in future City procurement opportunities. Note that litigation brought by the City against a vendor is addressed in Subsection 6 (Poor Performance) below.

A vendor who engages in litigation against the City should only be disqualified in connection with litigation proceedings if there are valid commercial or business reasons for doing so. Disqualification should not be exercised to "punish" the vendor for bringing a lawsuit. Litigation against the City in respect of matters unrelated to a procurement process or contracts for the provision of goods, services or construction should not be considered under this Policy.

In evaluating whether a litigious vendor should be disqualified, the City should consider the following qualitative factors in its analysis:

- Is the litigation in relation to a City procurement process or a contract with the City for the provision of goods, services or construction?
- Is there a history of litigious conduct with the vendor and has that history resulted in increased costs to the City?
- What was the outcome of the previous litigation? For example, was it frivolous/vexatious or were damages awarded in favor of the vendor?
- Does the vendor's litigation with the City call into question the vendor's ability to provide work or services to the City under future contracts?

15.2.2 Failure to Honor a Bid

If a vendor submits a bid in response to a City procurement opportunity and that vendor subsequently refuses to honor its bid or the pricing included in that bid, the City may consider disqualifying that vendor from participating in future City procurement opportunities. However, a vendor should not be disqualified if their failure to honor a bid was a legitimate withdraw of that bid. Accordingly, the reason why a vendor did not honor its bid must be analyzed and considered in making a decision to disqualify that vendor.

Factors that the City may consider in such analysis include, but are not limited to:

- If the City and a selected vendor in a negotiated procurement process attempt to negotiate an agreement in good faith and for valid business reasons are unable to come to an agreement, that vendor should not be disqualified.
- If a vendor fails to honor its submitted pricing because of a change in market conditions, the City should consider whether pricing fluctuations are common in the industry.
 - If price increases are common, the City should consider whether the vendor should have factored this into their pricing. For example, could the market conditions have been reasonably predicted within the industry?
 - If the City's acceptance of the bid took significantly longer than anticipated, the City should consider the impact of the delay on the vendor's willingness to honor its submitted pricing.
- If a vendor does not honor its submission because it is too busy on other contracts at the time its bid is accepted, and City's acceptance of the bid was within the time period set out in the bid document, the City should consider disqualifying that vendor because vendors should only submit proposals if they are capable of delivering the goods or services.
- Other reasons for a vendor's failure to honor a submission or pricing should be reviewed contextually and fairly.

15.2.3 Failure to Disclose a Conflict of interest

If a vendor fails to disclose a conflict of interest during a City procurement opportunity or during the performance of a contract with the City and the City subsequently discovers that such a conflict of interest exists, the City may disqualify that vendor from participating in future procurement opportunities after conducting an analysis using the following factors:

- The nature of the conflict of interest, including whether it is perceived or an actual conflict of interest and the materiality of the advantage that such a conflict may have given the vendor.
- Whether the vendor knowingly failed to disclose such a conflict of interest.
- The impact such a failure to disclose the conflict of interest has or may have on the City, including its reputation and the impact on its obligation to conduct a fair competitive procurement process.

15.2.4 Participating in Bidding Practices Prohibited by Statute

If the City has reason to suspect a vendor or vendors are engaged in bid-rigging, price-fixing, bribery or collusion or other behaviors or practices prohibited by federal or state statutes in connection with a City procurement opportunity, the City should contact the appropriate authorities and provide such assistance as is required and support a subsequent investigation and if applicable, prosecution.

If a vendor is convicted of bid-rigging, price-fixing or collusion in connection with a City procurement or in connection with other public sector procurements, the City shall disqualify that vendor.

15.2.5 Unethical Bidding Practices

A vendor may engage in unethical bidding practices that do not amount to a criminal or statutory offense, but such practices may still warrant disqualification from bidding on the City procurement opportunities. Examples of such unethical bidding practices include inappropriate offers of gifts to City employees, elected officials, officers, consultants, advisors or other City representatives and misrepresentations in proposals and inappropriate in-process lobbying of or communication with City employees, elected officials, officers, consultants, advisors or other City representatives during a procurement process. The City must conduct a full review of the unethical practice in question and perform a contextual analysis to determine whether the vendor or vendors in question should be disqualified. For example, did the unethical bidding practice compromise the City's ability to run a fair procurement process?

15.2.6 Poor Performance

If a vendor performs poorly on a contract with the City, the City may consider disqualifying that vendor in the following circumstances:

- The contract was terminated for performance issues prior to expiry;
- There were un-rectified performance issues on a contract that resulted in extra costs and or delays to the City;
- The goods were defective and were not replaced or repaired or required multiple repairs; or
- The City brought litigation proceeding against the vendor in connection with issues related to the contract.

All performance issues in connection with City contracts must be escalated to Finance and brought to the attention of the City Manager. Performance issues must be supported by documentation evidencing the notification to the vendor of performance issues and all escalation of such performance issues.

15.3 Disqualification Process

The Finance Director may disqualify a vendor in writing after notice and hearing to the vendor.

The written decision of disqualification shall also include the length of the disqualification. A vendor may be disqualified for period of up to three (3) years. The length of the disqualification period should be proportional to the reasons for the disqualification and fair and the full three-year disqualification should only be applied in the most serious of disqualifications.

A disqualification can either be a blanket disqualification or a disqualification to provide specific goods, services or construction and the recommendation should clearly set out the scope of the disqualification.

Before the vendor is officially disqualified, the vendor must be notified in writing of the potential disqualification and shall be allowed to provide a written response within ten (10) calendar days of notification, including any supporting documentation necessary to support their case against disqualification.

The Finance Director's opinion may be appealed to the City Manager as provided in Section 14.

Procurement shall notify the vendor in question of the disqualification recommendation in writing via certified mail, return receipt requested. The notification letter should contain:

- Full details as to the reasons for the disqualification, including copies of any documents or correspondence to support such a disqualification.
- The length of the recommended disqualification period and scope, if applicable.
- The vendor's right to re-apply for eligibility within the prescribed time period and the process.

A disqualified vendor may apply to be re-eligible to participate in City procurement opportunities upon the completion of half of the original disqualification period. For example, if the original disqualification period was two (2) years, the vendor may apply for review of the disqualification after one (1) year.

In order to apply to be re-eligible, the vendor must submit a written case for re-instatement, including supporting documentation, if necessary, that provides reasons why the original reason for the disqualification would no longer prove a risk for the City. Applications for review of eligibility are to be reviewed by the department director, the Finance Director, and City Manager.

If the department director, the Finance Director, and City Manager are convinced that the reasons for the original disqualification will no longer present risk for the City should it do business again with the vendor in question, then the Finance Director may reinstate that vendor.

Procurement shall maintain an up-to-date and current list of all disqualified vendors. Any vendor having an officer or director that was an officer or director of a vendor on the disqualified list at the time it was disqualified is also considered disqualified. The list should contain the full name of the vendor, the names of the officers or directors of the vendor, the reasons for the disqualification, the file number where the written recommendation for the disqualification is filed, the length of the disqualification period and the date of the expiry of the disqualification period.

Review of the disqualification list against a list of vendors and their officers or directors should be conducted for each procurement to ensure the disqualified vendors are not allowed to continue in the process.

Procurement Manual

ARTICLE 16: INTERLOCAL CONTRACTS PROCUREMENT

16.1 General Information

An interlocal contract is a contract between governmental agencies for services. Approval of interlocal contracts follows the same procedures as other procurements, including the established expenditure authority.

Procurement Policy

ARTICLE 17: COOPERATIVE BUYING AGREEMENTS

17.1 General Information and Applicability

The City may purchase goods and services through cooperative contracts. Agreements entered into pursuant to this Policy shall be limited to the areas of procurement of materials, services, professional services, construction or construction services, warehousing or materials management.

17.2 When Agreement is Required and/or Authorized

The City is not authorized to participate in cooperative buying agreement unless a cooperative agreement described in GC 791 or LGC 271 is executed between the parties or the parties are members of a cooperative purchasing group or authority that permits cooperative use amongst its membership.

The City may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, professional services, construction or construction services with one or more government agencies in accordance with an agreement entered into between the participants. Parties under a cooperative purchasing agreement may:

- Sponsor, conduct or administer a cooperative agreement for the procurement or disposal of any materials, services, or construction.
- Cooperatively use materials or services.
- Commonly use or share warehousing facilities, capital equipment and other facilities.
- Provide personnel, except that the requesting eligible procurement unit may pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
- On request, make available to other eligible public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

17.3 Approval to Purchase from Cooperative Contract

If the purchase is less than \$100,000, the City Manager may approve the expenditure. If the purchase is \$100,000 or greater, City Council approval is required.

The City must have an interlocal agreement in place with the cooperative agency before a purchase can be made. Additional documentation may be required to ensure that the cooperative contract provides the best value to the City.

A list of approved cooperative purchasing programs is included in **Appendix C**.

17.4 Prohibitions

If a member of the governing body or an appointed board or commission of a municipality or county belongs to a cooperative association, the municipality or county may purchase equipment or supplies from the association only if no member of the governing body, board, or commission will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

Procurement Policy

ARTICLE 18: NON-DISCRIMINATION

18.1 Policy Statements

No City contractor or vendor shall engage in any discriminatory employment practice.

No person shall, on the grounds of race, sex, age, disability, creed, color, national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from contracts with the City.

No City contractor or vendor, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the Americans with Disabilities Act (ADA).

Procurement Policy

ARTICLE 19: PREFERENCES

19.1 General Overview

The City of Tomball has the right to implement any procurement practices which gives preference during consideration of a bid over other Bidders/Proposers.

19.2 Environmentally Preferable Purchasing (EPP)

The City may establish EPP policies to promote the purchase of environmentally preferable products throughout City departments, by incorporating environmental considerations into public purchasing to the extent it available, practical, and reasonably permitted by the Texas purchasing laws or any future policies directed by City Council.

19.3 Criterial for Local Preference Purchases

In compliance with LGC 271.905 and 271.9051, the City reserves the right to apply a local preference during consideration of a bid from a bidder whose principal place of business is in the City.

This Policy applies to the purchase of real property and personal property that is not affixed to real property or services (including construction services) through a competitive bid. This shall include IFBs awarded based upon lowest responsive, responsible bid, or awarded based upon best value.

19.3.1 Lowest Responsible Bids

A five percent (5%) price differential will apply to construction bids less than \$100,000 and all other bids, including services, less than \$500,000. This excludes telecommunication and information services. A three percent (3%) price differential will apply to bids, excluding construction and services, greater than \$500,000. The chart below is a summary of the criteria for Lowest Responsible Bids.

LGC 271.9051	LGC 271.905
5% Price Differential	3% Price Differential
Construction bids between \$50,000 and \$100,000	All other bids, excludes construction and services, greater than \$500,000
All other bids, including services, between \$50,000 and \$500,000	

19.3.2 Best Value Bids

Price is only one of a number of determining factors that are weighted for evaluation purposes. As a result, an additional weighted factor will be added to all such bids for bidders meeting local preference criteria. The appropriate weight, either 5% or 3%, will be consistent with the criteria outlined in the chart above.

19.3.3 Local Bidder Preference Consideration Application

A new and complete application must be submitted with each competitive bid by the due date, including a Tax Certification from the Harris County Tax Assessor/Collector per Resolution R2012-012.

This Policy does not apply to purchases obtained through an RFQ, RFP, bids involving federal funds, Cooperative Programs or Interlocal Agreements.

19.4 Reciprocal Law

GC 2252.002 relates in part to bids by nonresident bidders for any type of contract awarded by a municipality, such as general construction, improvements, supplies, services, a public work project or for purchase of supplies, materials, or equipment.

GC 2252.002 states, “A government entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the following: (1) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident’s principal place of business is located, or (2) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.”

The City reviews the applicability of this statute for all expenditures over \$50,000.

Procurement Policy

ARTICLE 20: ETHICS AND COMPLIANCE

20.1 General Information

All City officials and employees acting on the behalf of the City of Tomball must observe the highest standard of ethics throughout the procurement process. Staff and other personnel, shall never use their authority for personal gain, and they must seek to uphold and enhance the standing of the City of Tomball.

20.2 Ethical Requirements Relating to Municipal Procurement

20.2.1 State Laws

City officials and employees must comply with various state laws with respect to purchasing. The following is intended to provide a summary and the general requirements of the laws.

Chapter 171, Texas Local Government Code

Chapter 171 of the Texas Local Government Code regulates a local public official's conflicts of interest. The law defines "local public official" as an elected official, such as a Council Member, or an appointed city official (paid or unpaid) who exercises responsibilities that are more than advisory in nature.

The law prohibits a local public official from shall not voteing or participateing in any matter involving a business entity or real property in which the official, or the officials family, has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public or, in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.

A local public official who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with City Secretary, stating the nature and extent of the interest.

A local public official is required to abstain from participating in the matter.

A local public official who is required to file an affidavit is not required to abstain from participating in the matter if a majority of the members of the governing body have a substantial interest and file affidavits of similar interests on the same official matter.

Chapter 176, Texas Local Government Code

A Council Member, City Manager, Department Director, administrator, or any other person who is exercises any discretion in the selection of a vendor shall file a FORM CIS if the

person, or the person's family, has an employment or business relationship with a vendor who conducts business with the City.

An officer is required to file a conflicts disclosure statement ("statement") if a vendor enters into a contract with the City, or if the City is considering entering into a contract with the vendor, and the officer or officer's family member has an employment or other business relationship with the vendor that results in the officer or officer's family member receiving taxable income that exceeds \$2,500.00 in the preceding twelve months.

An officer is required to file a statement if the officer or officer's family member accepts a gift(s) from a vendor with an aggregate value of more than \$250.00 in the preceding twelve months. An officer is not required to file a statement in relation to a gift, regardless of amount, that is accepted by an officer or officer's family member if the gift is given by a family member of the person accepting the gift, is a political contribution, or is food, lodging, transportation, or entertainment accepted as a guest.

An officer or vendor who knowingly fails to file a statement or a disclosure when required to do so commits a Class C misdemeanor.

Chapter 252, Texas Local Government Code – Sequential and Component Purchases

Separate, sequential, or component purchases to avoid placing any purchase in a lower cost bracket in order to avoid approval levels or the competitive bid process are prohibited. A Department shall manage and plan in such ways that all purchases are made in sufficient quantities to meet needs. "Separate Purchases" mean purchases made separately of items that in normal purchasing practices would be bought in one purchase. "Component Purchases" means purchases of the component parts of an item that in normal purchasing practices would be bought in one purchase. "Sequential Purchases" means purchases of items made over a period that in normal purchasing practices would be bought in one purchase. (See §§252.001, 252.062, TX. Local Gov't Code).

Chapter 252, Texas Local Government Code – Penalties and Remedies

If a person fails to comply with the competitive bidding or competitive proposal procedures required by Chapter 252, Texas Local Government Code, that person may be convicted of a Class B misdemeanor. A Class B misdemeanor may be punished by a fine of up to \$2,000.00, confinement in jail for up to 180 days, or both the fine and confinement.

An individual is automatically removed from his or her position if that person is finally convicted of failing to comply with the competitive bidding or competitive proposal procedures required by Chapter 252. Once removed from office, such a person may not hold any public office in this state for four years after the date of final conviction. Also, for four years after the date of final conviction, the convicted person may not be employed by the city where the person was serving when the offense occurred and may not receive any compensation through a contract with the city.

State law specifies that if a city enters into a contract without complying with the competitive bidding or competitive proposal requirements of Chapter 252, the contract is void. (See §252.061, TX. Local Gov't Code)

20.2.2 Local Rules

The City demands the highest ethical standards of conduct from its employees and from vendors or contractors dealing with the City. City employees engaged in purchasing must comply with the following ethical standards.

Gratuities

Certain kinds of conduct such as offering gifts, gratuities, or discounts to City employees to influence their decisions in the purchasing process are expressly prohibited.

The City may reject a bid or cancel a contract without liability if it is determined by the City that gratuities were offered or given by a vendor or contractor, or an agent or representative of the vendor or contractor, to any officer or employee of the City with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract.

In the event a contract is cancelled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover and withhold the amount of the cost incurred by the vendor or contractor in providing such gratuities.

Confidential Information

It is a violation of City policy for any employee to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person. Any use of such information shall be grounds for discipline, up to and including dismissal.

Purchases for personal, private use

No employee may use the purchasing power of the City to make purchases for personal, private use. Employees should not have private purchases sent or delivered to the City, City facilities, or City buildings.

Travel, meals, and other expenses paid by vendor or contractor.

Travel costs to a vendor's or contractor's site shall be paid by the vendor or contractor only if the bid or proposal solicitation specifically stated that such visits would be at the vendor's or contractor's sole expense. The City will pay all other travel costs. Employees must fully document the visits and related expenses.

20.3 Required Forms from All Vendors

All vendors wishing to do business with the City of Tomball will be required to complete the forms found on **(Exhibit D)** in this document.

These forms are for the permanent record of the city and will be kept for the purpose of conforming to the afore mentioned statutory requirements stated in this section, the generally accepted accounting/auditing rules or requirements, and any requirements that federally funded programs may mandate of which the City may be participating with.

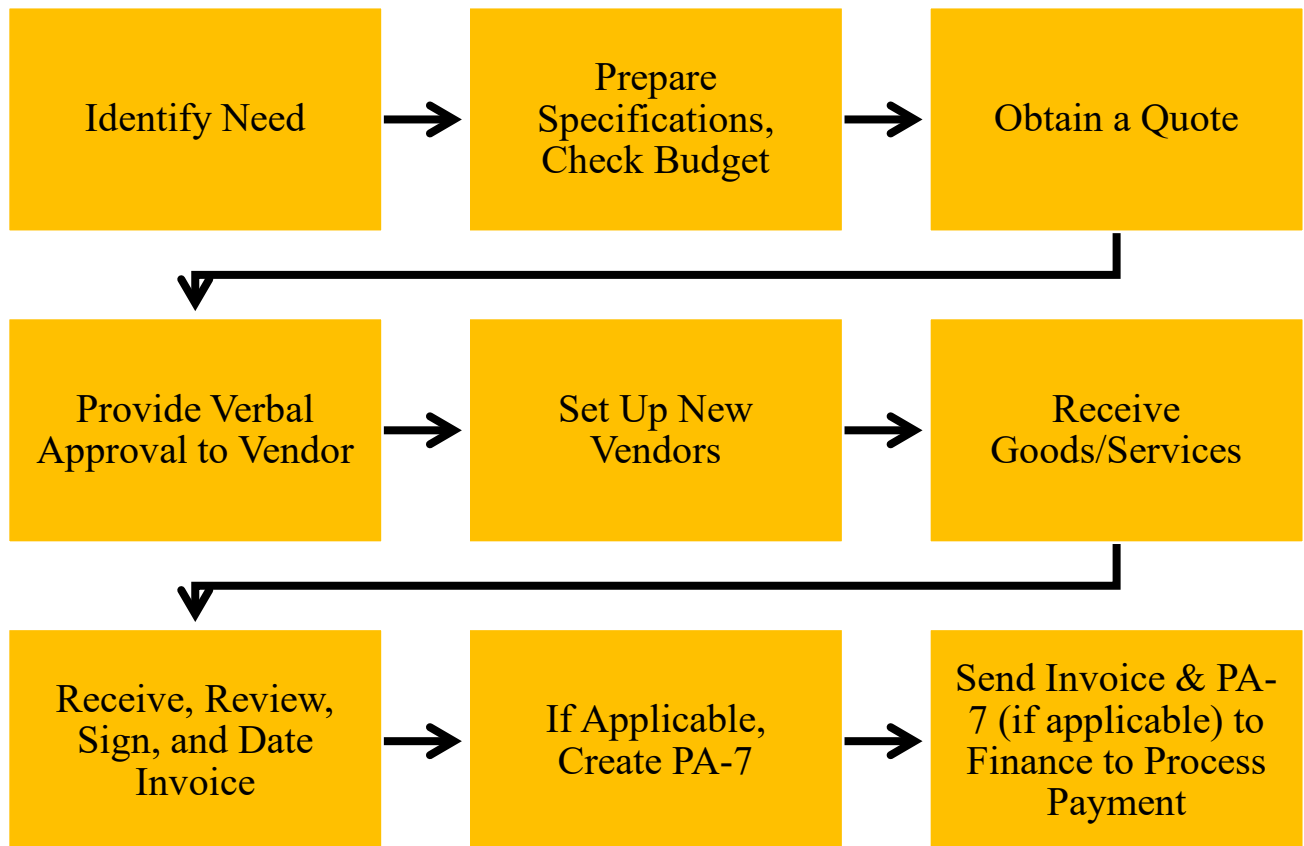
Failure to provide completed and signed forms may cause the vendor to not be accepted as a registered vendor with the City of Tomball.

Additionally, Departments are encouraged to do business with companies who adhere to the federal and state labor laws and regulations including:

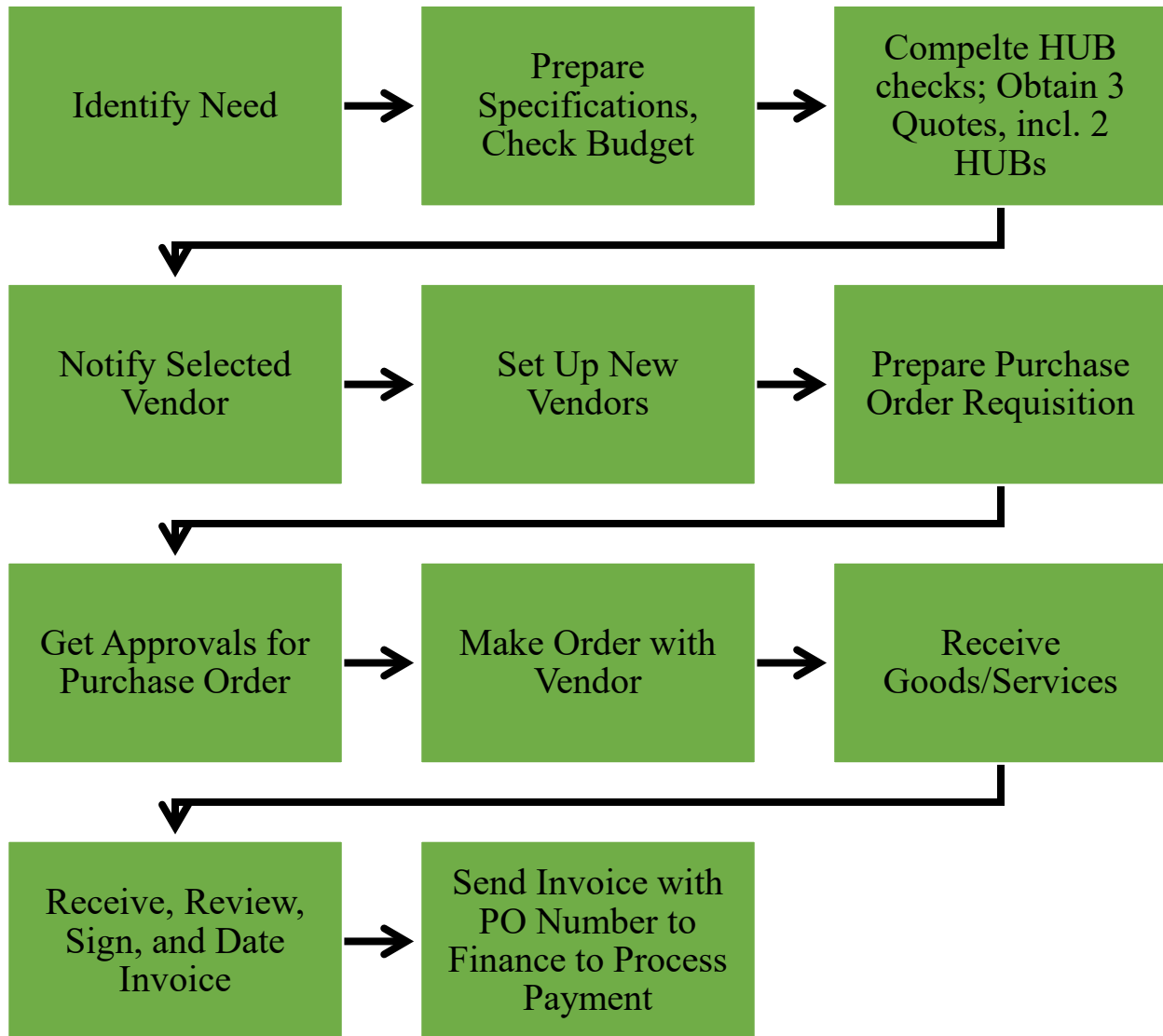
- The Fair Labor Standards Act through limiting child labor, requiring payment for overtime work, and establishing a minimum wage.
- The Occupational Health and Safety Act which requires safe working practices and procedures in all projects.
- Any state or federal law, including executive orders, prohibiting discrimination or harassment in the work place.

Exhibit A

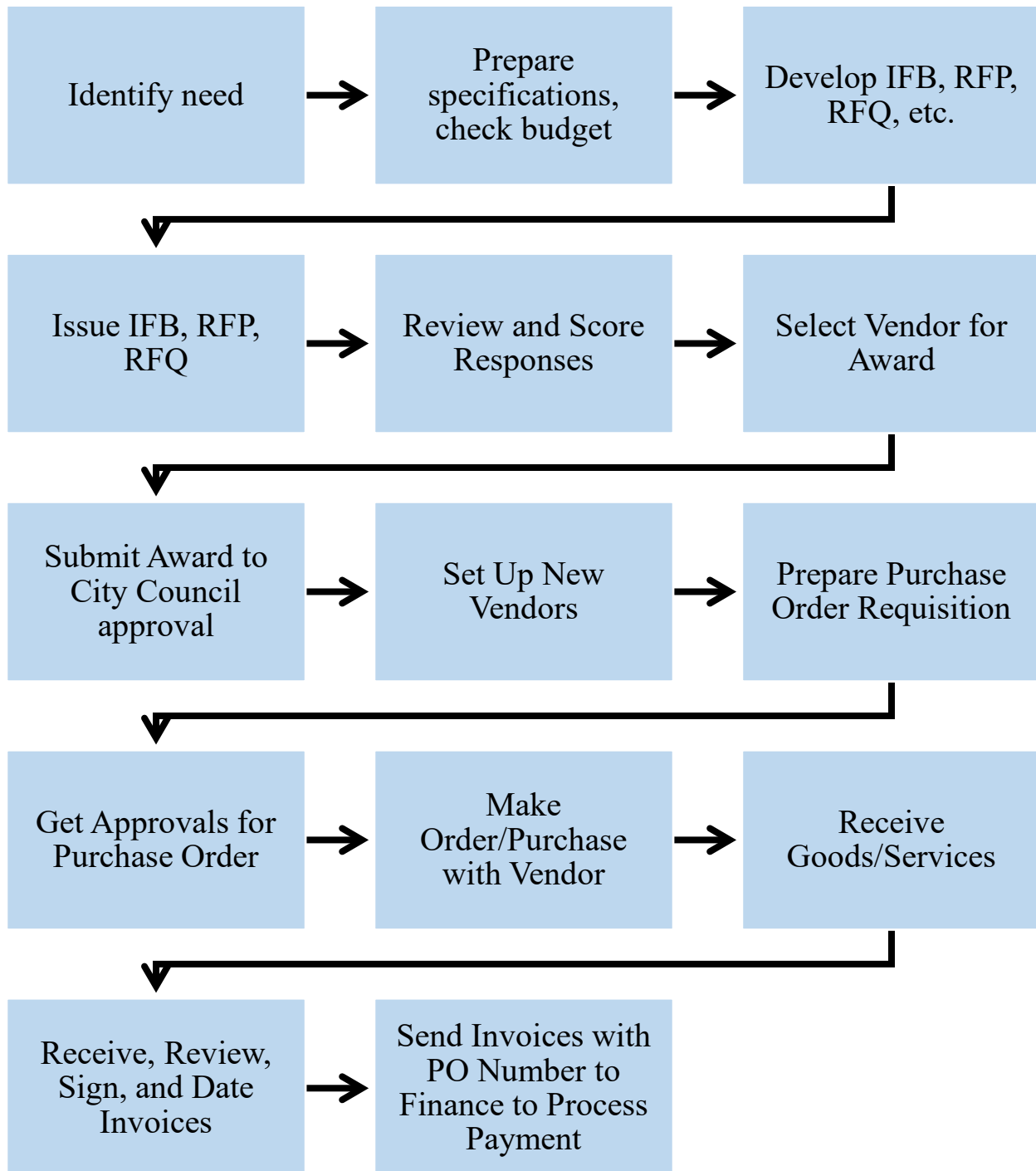
Purchases Less Than \$3,000



Purchases Between \$3,000 and \$100,000



Purchases \$100,000 & Greater



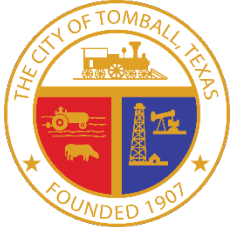


Exhibit B

City of Tomball

Request for Reimbursement

Upon approval received from the Finance Director, prior to purchase, reimbursements may be processed for certain goods or services, ONLY in instances where sufficient time may not allow approval through the purchase order process. Instances where prior approval were not authorized, may be cause for non-payment of the request.

The Purchasing Agent will review submitted Request for Reimbursement and either acknowledge that the request may move forward in processing; or, if discrepancies are found, advise that the form be returned to the requesting division to correct or process through the purchase order process.

Employee Name: _____

Department: _____

Request for Reimbursement:

Suppliers Name:
Good or Service:
Amount:

Justification for this Reimbursement

--

Do you have a PCard? YES NO

Do you need a PCard for future transactions? YES NO

Requester: _____ Date: _____

Department Head: _____ Date: _____

Finance Director: _____ Date: _____

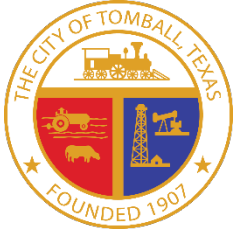


Exhibit C

City of Tomball

Purchase Order Requisition Process

Purchase orders (PO's) are **required** for all purchases in excess of \$3,000, unless otherwise exempt as indicated in the exemptions section below or with an approved exception. Purchase order requisitions must be approved prior to making a purchase. Purchase order requisitions may be submitted for purchases under \$3,000 but are not required. Departments may use a procurement card or check requests for purchases under \$3,000 so long as the purchase complies with this Policy, the Procurement Card Policy, and other applicable policies or regulations.

Items that **do not require** a purchase order and may be paid with a procurement card or check request are:

- Catered event fees
- Election fees
- Membership Dues
- Registration fees
- Purchases that have received an exception to the PO process in accordance with City policy
- Periodicals
- Postage
- Subscriptions
- Travel expenses
- Tuition
- Utilities
- Regulatory fees
- Other fees as appropriate

Other Purchase Order Requirements

- Purchases more than \$3,000 but less than \$100,000 require 3 written Competitive Quotations with 2 Historically Underutilized Businesses (HUB) Quotations
- All Purchases more than \$100,000 approved during the budget process still require an RFP, RFQ or IFB and go before City Council for approval
- New Vendor – Must fill out a New Vendor Packet
- Each department will generate their own Purchase Order Requisition Including the following:
 - Vendor
 - Vendor Email
 - Department
 - Account number
 - Shipping Address
 - Detailed Description must include contract # with CO-OP
 - Price
 - Shipping

All supporting documents must be attached to the Purchase Order Requisition

- Competitive Quotations with 2 HUB Quotations, RFP, RFQ or BID documentation
- A copy of the agenda item data sheet reflecting council's approval
- Sole Source Letter and Sole Source Justification Form
- Finance Department shall verify that all required documentation is provided and issue a Purchase Order after all appropriate levels of authorization have been completed.
- The department receiving such product and/or service shall notate invoice with their signature and forward to the Finance Department for payment.

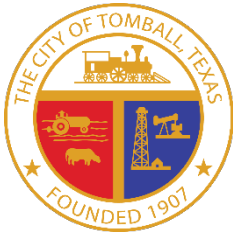


Exhibit D

City of Tomball New Vendor Form

Vendor Information

Legal Name:
Alias/DBA:
Email:
Phone Number:

Primary Business Address Information

Street Address:		
City:	State:	Zip Code:

Remittance Address Information

(Skip if identical to Business Address)

Street Address:		
City:	State:	Zip Code:

IRS 1099 Address Information

(Skip if identical to Business Address)

Street Address:		
City:	State:	Zip Code:

- You must attach a completed W-9 form with this submission.
- To receive ACH payments, please complete the ACH Payment Authorization and provide the required documentation.
- Email this form with requested documentation to: apayable@tomballtx.gov

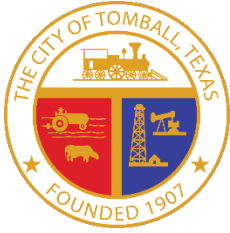


Exhibit E

City of Tomball

Sole Source Justification Form

For Internal Use Only

A sole source procurement is the acquisition of a good, service, professional service or public work in which there is only one source. Sole source procurement shall be avoided, except when no available alternative sources exist. Sole source procurements require the approval of the City Council for purchases over \$100,000.

*An Original Sole Source Letter from the Vendor **MUST** be attached with the Sole Source Justification Form.*

Department: _____ Date: _____

Proposed Source:

Suppliers Name:
Contact Name:
Email:
Phone Number:

Justification for this Sole Source:

--

Efforts made to find other Sources:

--

Proposed Source: Describe the good or service including details of model number or software version and what/where the service will be performed. Provide Scope of Work if applicable:

--

Prepared By: _____ Date: _____

Department Head: _____ Date: _____

Finance Director: _____ Date: _____

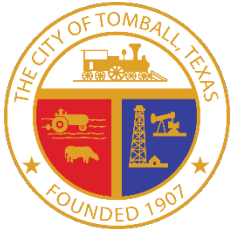


Exhibit F

City of Tomball Emergency Purchase Justification Form

For Internal Use Only

Emergency purchase when a public calamity requires immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality, or to protect public health, welfare, or safety, or necessary because of unforeseen damage to public machinery or property.

Emergency procurements shall be avoided, except when no reasonable alternative approach exist. Emergency purchases require ratification of the purchase by City Council for expenditures exceeding \$100,000.

Department: _____ Date of Purchase: _____

Nature, cause of the emergency: Explain what emergency or cause situation to exist.

Financial/Operation Damage: Explain the damage that would occur if this purchase was not made immediately.

Reason purchase was not anticipated: Explain why the need was not anticipated, and occurred through normal procedures.

Requested By _____ Date _____

Department Head _____ Date _____

Finance Director _____ Date _____

City Management _____ Date _____

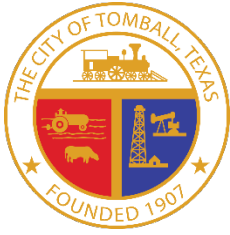


Exhibit G

City of Tomball

Exemption from Competitive Bidding Form

This form is used to request exemption from the City of Tomball and Federal requirements for competition in purchasing. The requirement for competition starts at any purchase of \$3,000.00 or more.

Department	
Department Requestor	
Description of Product/Service	
Total Cost of the Purchase or for the Entire term of the Contract	
Supplier or Contractor Name:	

*** NOTE: Supplier's Quotation, Scope of Work, or Detailed Specifications must be attached.**

Define why there is an exemption from Competitive Bidding:

--

Prepared By: _____ Date: _____

Department Head: _____ Date: _____

Finance Director: _____ Date: _____

City Management _____ Date: _____

Exhibit H

PROCEDURE FOR PURCHASING EQUIPMENT AND VEHICLES

All equipment and vehicle purchases must be processed through Finance. Specifications must be forwarded to the Finance Director, or designee, who will be responsible for soliciting bids and authorizing the purchase of vehicles and equipment as approved by either the City Manager or City Council. Approval of the department director is required and approval by the City Council is required if the purchase exceeds \$100,000.

1. Identify fleet that needs to be replaced

REPLACEMENT SCHEDULE	
Patrol Vehicles	4 Years or 100,000
Small Field Equipment (Mowers, gators, golf carts and small handheld equipment) < \$20,000	4-6 Years
Administrative Vehicles / Non - Diesel Vehicles	7 Year or 100,000
Diesel Vehicles	10 Years 150,000
Heavy Equipment/ Trailers	15 - 20 Years
Fire Apparatuses	20 Years

2. Identify new fleet to be purchased
3. Generate Specs
4. Obtain three competitive quotations, cooperative contract or BID
5. Verify Funds have been budgeted
6. Finance department will need to review documentation, when approved a unit number will be assigned to each vehicle and equipment.
7. Agenda Data sheet must be created and entered into MuniCode by the Finance department.
8. All Purchases more than \$50,000, either individually or in aggregate, approved during the budget process must still go before City Council for approval
9. Each department will generate their own Purchase Order Requisition Including the following:
 - Vendor Name and Contact Information
 - Department
 - Account Number
 - Shipping Address
 - Detailed Description including Make, Model, Unit Number & Contract #
 - Price
 - Shipping, if applicableAll supporting documents must be attached to the Purchase Order Requisition
 - Specs
 - Competitive Quotations, RFP, RFQ or BID documentation
 - A copy of the agenda item data sheet reflecting council's approval
10. Finance Department shall verify that all required documentation is provided and issue a Purchase Order after all appropriate levels of authorization have been completed.
11. When fleet is received the department shall notate invoice with their signature and forward to the Finance Department for payment.
 - All documentation and manuals (Invoice dated with received date, Certificate of Origin, Vehicle Inspection Report, odometer statement, title application from dealer, etc.)

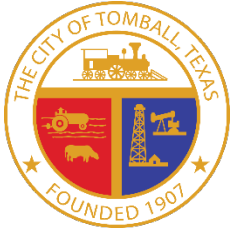


Exhibit I

City of Tomball

Conflict of Interest Disclosure Form

A local government official or Employee must disclose certain relationships with vendors to the City. The official or Employee must file a disclosure statement if the vendor who is contracting or has contracted with the City has:

- A familial relationship with the official;
- An employment of other business relationship with the official or a family member of the official that results in receiving more than \$2,500 of taxable income over a 12-month period; or
- Given the official or family member of the official one or more gifts that have an aggregate value over \$100 in the 12-month period preceding the date the official becomes aware of the contract or potential contract with the City.

Official/Employee Name: _____ Date: _____
Position/Title: _____ Employee Number: _____

☐ I hereby declare that I do not have any relatives or close personal relationships with any vendors who is contracting or has contracted with the City of Tomball.

☐ I hereby declare that I currently have relatives or close personal relationships with a vendor whose name and details are listed below:

Vendor Name	Individual Name	Relationship

Description of Contract(s) or Purchase(s):

--

Official/Employee Signature: _____ Date: _____

City Management Signature: _____ Date: _____

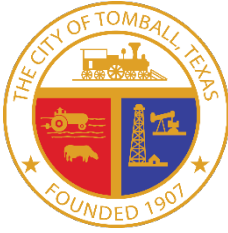


Exhibit J

City of Tomball

Purchase Order Change Order Form

Contract Information			
Vendor/Contractor Name			
Purchase Order Number			
Requesting Department		Date of Request	

Change Order Request Overview	
Reason For Amendment	
Support & Justification Documents	<i>List All Attached Documents Which Support The Requested Change And Justify Any Increased Cost And Time.</i>

Change In Contract/Purchase Order Price	
Original Price of Purchase Order	
Previous Change Orders	
Current Change Order	
Total Purchase Order Price with Approved Change Orders	

Requesting Department Director Authorization			
Name & Title			
Signature		Date	

Finance Director Approval		City Management Approval	
Signature		Signature	
Name		Name	
Date		Date	

Appendix A

Laws and Statutes Governing Procurement

Federal Regulations	
Code of Federal Regulations	Title 2, Subtitle A, Chapter II, Part 200
State Regulations	
Government Code	Chapter 552. Public Information Chapter 573. Degrees of Relationship; Nepotism Prohibitions Chapter 791. Interlocal Cooperation Contracts Chapter 2155. Purchasing: General Rules and Procedures Chapter 2251. Payment for Goods and Services Chapter 2252. Contracts with Governmental Entity Chapter 2253. Public Work Performance and Payment Bonds Chapter 2254. Professional and Consulting Services Chapter 2256. Public Funds Investment Act Chapter 2257. Collateral for Public Funds Chapter 2258. Prevailing Wage Rates Chapter 2259. Self-Insurance by Governmental Units Chapter 2267. Public and Private Facilities and Infrastructure Chapter 2269. Contracting and Delivery Procedures for Construction Projects
Local Government Code	Chapter 105. Depositories for Municipal Funds Chapter 171. Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments Chapter 176. Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information Chapter 252. Purchasing and Contracting Authority of Municipalities Chapter 271. Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments Chapter 272. Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments Chapter 273. Acquisition of Property for Public Purposes by Municipalities, Counties, and Other Local Governments Chapter 304. Energy Aggregation Measures for Local Governments
Transportation Code	Chapter 728. Sale or Transfer of Motor Vehicles and Master Keys
Health & Safety Code	Chapter 386. Texas Emissions Reduction Plan
Occupations Code	Chapter 1001. Texas Board of Professional Engineers and Land Surveyors
Labor Code	Chapter 406. Workers' Compensation Insurance Coverage

Appendix B
City of Tomball
City Charter & Code of Ordinances
Sections Relating to Procurement

Tomball City Charter

Article VI, Section 6.07 – Conflict of Interest in City Contracts

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services except as provided by State law. Any violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this Section, with the knowledge, expressed or implied, of the person or corporation contracting with the Council may invalidate the contract involved.

Article VI, Section 6.08 – Mayor and Mayor Pro-Tem

The Mayor shall be the official head of the City government. The Mayor shall be the Chairman and shall preside at all meetings of the Council. The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as he deems advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon him by Council.

The Council, at its first meeting after the election of Councilmen, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain his voting privileges when acting in the absence of the Mayor.

Article VII, Section 7.01 – City Manager

A. *Appointment and Qualifications.* The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. *Term and Salary.*

(1) The City Manager shall be appointed for a term not to exceed two years by a majority vote of the entire Council. The appointment shall be secured through an explicit contractual agreement which shall protect the rights of both the Council and the City Manager.

(2) The City Manager shall receive compensation as may be fixed by the Council.

C. *Duties of the City Manager.* The City Manager shall:

(1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all

other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.

(2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.

(3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

(4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.

(5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.

(6) Prepare a written report to the Council, first in 2019, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.

Article VII, Section 7.02 – Assistant City Manager

The City Manager, with the approval of the Council, may appoint an Assistant City Manager. Such Assistant City Manager shall have all of the powers and duties as delineated by his job description, and in the event of the absence or disability of the City Manager, he shall fill all the duties of the City Manager.

Article VII, Section 7.05 – Finance Director

There shall be a Finance Director for the City. The City Manager, with the approval of the Council, shall appoint a Finance Director and such assistants as the Council shall deem advisable. The Finance Director shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas.

Article VIII, Section 8.16 – Purchase Procedure

All purchases made and contracts executed by the City shall be pursuant to the laws established by the State of Texas.

Article VIII, Section 8.17 – Disbursement of Funds

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the Finance Director. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.

Code of Ordinances

Chapter 2 Administration, Article II City Council, Division 1 Generally, Section 2-20 – Conflicts of Interest

No member of the city council shall be the surety of any person having any contract, work or business with the city, for the performance of which security may be required, nor be security on the official bond of any officer of the city.

Chapter 2 Administration, Article II City Council, Division 2 Mayor, Section 2-57 – Sign Various Instruments

The mayor shall officially sign all warrants upon the city treasury, and all notes, bonds, contracts and obligations in writing entered into by the city. It shall be his duty to see that all contracts with the city are faithfully performed by the contractors.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-210 Declaration of Policy

(a) It is hereby determined by the city council of the city, that the proper operation of government requires that public officers and employees be independent and impartial; that the government's decisions and policies be made within the proper channels of the governmental structure; that a public office not be used for personal gain; and that the public have confidence in the integrity of its government and its governmental officials.

(b) The purpose of this Code is to enumerate existing state laws which regulate the conduct and activities of city officers and employees, and to promulgate such additional minimum standards as are deemed necessary and appropriate to ensure the faithful and impartial administration of the city's government.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-211 Definitions

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

City employee means any person employed by the city, including those individuals employed on a part-time basis.

City officer means the mayor, members of the city council, the city manager, city secretary, municipal court judge and clerk, alternate judges, and substitute judges, and each member and alternate member of all of the city boards, commissions and committees.

City official means a city officer or city employee.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-212 Ethical Principles

The following code of ethics for all city officers and employees is adopted. To further the objectives of this code of ethics, certain ethical principles shall govern the conduct of every officer or employee, who shall:

- (1) Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and confidence of the citizens of the city;

- (2) Recognize that the chief function of local government at all times is to serve the best interests of all of the people;
- (3) Be dedicated to public service by being cooperative and constructive, and by making the best and most efficient use of available resources;
- (4) Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the council or the city. Do not seek or accept gifts or special favors; believe that personal gain by use of confidential information or by misuse of public funds or time is dishonest;
- (5) Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the city and city council; and
- (6) Conduct business in open, duly noticed meetings in order to be directly accountable to the citizens of the city. It is recognized that certain exceptions are made by the state for executive sessions; however, any action as a result of that type of meeting will be handled later in open session.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-213 Standards of Conduct

In order to more fully effectuate the policy declared in this code of ethics, to ensure that all city officials act and conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, and to avoid even the appearance of impropriety by any city official, the following standards of conduct are adopted.

- (1) *Grant of special consideration.* No city official shall grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group. This shall not prevent special considerations authorized and granted by the city council for the purpose of creating incentives necessary to secure or retain employees.
- (2) *Appearances on behalf of private interests.* No city official shall represent or appear on behalf of private interests of others before any agency of the city, or any city board, commission, committee or city council concerning any case, project or matter over which the official exercises discretionary authority, nor shall a city official represent any private interest of others in any action or proceeding involving the city, nor voluntarily participate on behalf of others in any litigation to which the city is a party.
- (3) *Appearances by past officials.* No city official, holding a position which involves decision-making, advisory or supervisory responsibility, shall, within 12 months following the end of service with the city, represent or appear on behalf of private interests of others before the city or any agency thereof concerning any case, project, or matter over which the official has exercised discretionary authority.
- (4) *Securing special privileges.* No city official shall use his official position to secure special privilege or exemption for himself or others.
- (5) *Gifts.* No city official shall accept or solicit any gift or favor that could reasonably tend to influence that individual in the discharge of official duties or that the official knows or should know has been offered with the intent to influence or reward official conduct.
- (6) *Disclosure or use of confidential information.* No city official shall disclose any confidential information gained by reason of his office or employment with the city, concerning any property, operation, policy or affair of the city, or use such confidential

information to advance any personal interest, financial or otherwise, of such official or others.

(7) *Incompatible outside activities.* No city official shall engage in any outside activity which will conflict with, or be incompatible with, the city office or employment.

(8) *Incompatible employment.* No city official shall accept outside employment which is incompatible with the full and proper discharge of his duties and responsibilities with the city, or which might impair his independent judgment in the performance of his public duty.

(9) *Use of city property for personal use.* No city official shall use city supplies, equipment, vehicles or facilities for any purpose other than the conduct of official city business, unless otherwise specifically provided for by law, ordinance or city policy.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-214 State Laws Governing Conduct

(a) *Conflicts of interest.*

(1) Pursuant to V.T.C.A., Local Government Code, ch. 171, a local public official having a substantial interest in a business entity or piece of real property must file, before any vote or decision is made on any matter affecting the business entity or real property, an affidavit stating the nature and extent of the interest. The official must file the affidavit with the city secretary, and is required to abstain from any further participation in the matter if:

- a. The proposed action would have a special economic effect on the business entity that is distinguishable from the effect on the public; or
- b. It is reasonably foreseeable that the action would have a special economic effect on the value of the real property which is distinguishable from its effect on the public. An exception to the abstention rule is provided in cases where a majority of members of the entity are likewise required to and do file affidavits.

(2) A substantial interest in a business entity exists when the official:

- a. Owns ten percent or more of the voting stock or shares of the business entity;
- b. Owns ten percent or more or \$5,000.00 or more of the fair market value of the business entity; or
- c. Has received from the business entity funds which exceed ten percent of the official's gross income for the prior year.

(3) A substantial interest in real property exists when the official has an equitable or legal interest in such property which has a fair market value of \$2,500.00 or more.

(4) A local public official means a member of the city council or other official of the city, paid or unpaid, who exercises responsibilities which are more than advisory only. A business entity means any entity recognized by law.

(5) It is an offense for a local public official to act as a surety for a business entity that is contracting with the city, or to act a surety on any official bond required of an officer of the city. State Law reference— Similar provisions V.T.C.A., Local Government Code § 171.003.

(6) A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity has a substantial interest. State Law reference— Similar provisions, V.T.C.A., Local Government Code § 171.002(c).

(7) The provisions of V.T.C.A., Local Government Code, ch. 171, are in addition to any other municipal charter provisions or municipal ordinances defining and prohibiting conflicts of interest.

(b) *Bribery.* It is unlawful for a city official to accept or agree to accept:

- (1) Any benefit as consideration for a decision, opinion, recommendation, vote or other exercise of discretion as a public servant;
- (2) Any benefit as consideration for a decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; or
- (3) Any benefit as consideration for a violation of a duty imposed by law on a public servant. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.02.

(c) *Gifts to public servants.*

- (1) It is unlawful for a city official to solicit, accept or agree to accept any benefit from a person the official knows is subject to regulation, inspection or investigation by the official or the city. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(a).
- (2) In the event of litigation involving the city, it is unlawful for any city official to solicit, accept or agree to accept any benefit from a person against whom the official knows litigation is pending or contemplated by the official or the city. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(c).
- (3) It is unlawful for a city official who exercises discretion in connection with contracts, purchases, payments, claims or other pecuniary transactions of government to solicit, accept or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(d).
- (4) It is unlawful for a city official who has judicial or administrative authority, is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, to solicit, accept or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any matter before the official or tribunal. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(e).
- (5) Exceptions to gifts to public servants. The provisions of V.T.C.A., Penal Code § 36.08, described in subsections (c)(1) thru (4) of this section, do not apply to:
 - a. Fees prescribed by law to be received by the public official or any other benefit to which the official is lawfully entitled and for which the official has given legitimate consideration;
 - b. Gifts or other benefits conferred on account of kinship or personal, professional, or business relationships independent of the official's status with the city;
 - c. Certain honorariums in consideration of legitimate services;
 - d. Benefits consisting of food, lodging, transportation or entertainment accepted as a guest and reported as required by law; or
 - e. Benefits for which statements must be filed pursuant to V.T.C.A., Election Code §§ 251.011 and 251.012, if the benefit and source of any benefit exceeding

\$50.00 is reported and the benefit is used solely to defray expenses which accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the city. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.10.

(d) *Tampering with governmental records.* It is unlawful for any person to knowingly make a false entry in, or false alteration of, a governmental record, or to make, present, or use any record, document, or thing with knowledge of its falsity with the intent that it be taken as a genuine governmental record, or to intentionally destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record. State Law reference— Similar provisions, V.T.C.A., Penal Code, § 37.10.

(e) *Impersonating public servant.* It is unlawful for any person to impersonate a city official with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts. State Law reference— Similar provisions, V.T.C.A., Penal Code § 37.11.

(f) *Misuse of official information.* It is unlawful for a city official, in reliance on information to which he has access as a result of his office and which has not been made public, to acquire or aid another in acquiring a pecuniary interest in any property, transaction or enterprise that may be affected by the information or to speculate or aid another in speculating on the basis of the information. State Law reference— Similar provisions, V.T.C.A., Penal Code § 39.03.

(g) *Disrupting meeting or procession.* It is unlawful for any person, with intent to prevent or disrupt a lawful meeting, to obstruct or interfere with the meeting by physical action or verbal utterance. State Law reference— Similar provisions, V.T.C.A., Penal Code § 42.05.

(h) *Official oppression.* It is unlawful for a city official to intentionally subject another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment or lien that he knows is unlawful, to intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power or immunity, knowing his conduct is unlawful, or to intentionally subject another to sexual harassment. State Law reference— Similar provisions, V.T.C.A., Penal Code § 39.02.

(i) *Official misconduct.* It is unlawful for a city official, with intent to obtain a benefit or with intent to harm another, to intentionally or knowingly violate a law relating to his office or employment or to misapply any thing of value belonging to the government that has come into his custody or possession by virtue of his office or employment. State Law reference— Similar provisions, V.T.C.A., Penal Code § 39.01.

(j) *Nepotism.* The following provisions shall apply:

(1) It is unlawful for any city official to appoint, or vote for the appointment, to any office, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of a board or governing body to which the person so voting or appointing may be a member, when the salary, fees or compensation of such appointee is to be paid out of public funds. An exception is provided for persons who have been

continuously employed in such office, employment or duty for the following periods prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree:

- a. At least 30 days, if the officer or member is appointed; or
- b. At least six months, if the officer or member is elected.

(2) When a person is allowed to continue in an office, position or duty because of an exception above, the officer who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees. Charter reference— Similar provisions, [§ 6.05](#). State Law reference— Similar provisions, V.T.C.A., Government Code § 573.041.

(k) *Disclosure of interest in property*. It is unlawful for a city official, or a person elected, appointed or employed as a city official but for which office such person has not yet qualified, to fail to make public disclosure of any legal or equitable interest he may have in property which is acquired with public funds, provided such official has actual notice of the acquisition or intended acquisition. The public disclosure required is the filing of an affidavit with the county clerks of all counties in which the property is located and wherein the official resides at least ten days prior to the acquisition. Charter reference— Conflict of interest in city contracts, [§ 6.07](#). State Law reference— Similar provisions, V.T.C.A., Government Code § 553.02.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-215 Violations

(a) Any person violating any standard contained in [section 2-213](#) shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$500.00. Each day of violation shall constitute a separate offense.

(b) Penalties for violations of conduct described in [section 2-214](#) are as set forth in the applicable statutory provision.

Appendix C

Approved Purchasing Cooperatives

Buyboard National Purchasing Cooperative

1Government Procurement Alliance (1GPA)

Texas Department of Information Resources (DIR)

Sourcwell ID #124317

Houston- Galveston Area Council Cooperative Purchasing Program (H-GAC)

National Purchasing Partners- Government Division (NPPGov)

- Member # 5708546 Market Street
- Member # 5708547 Rudel Drive

Texas Smart Buy – M1012

OMNIA Partners Cooperative Purchasing Program

U.S. General Services Administration (GSA)

TIPS -USA

Choice Partners

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Workshop Discussion Only – Approve services agreement renewal with Senergy Petroleum, LLC for operating and emergency fuel purchases for an annual not-to-exceed amount of \$600,000 (RFP No. 2025-17), approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the Fiscal Year 2026-2027 budget.

Background:

Senergy Petroleum, LLC was selected in 2025 through a Request for Proposal process (RFP 2025-17), which allowed for interested parties to submit sealed proposals to provide operating fuel purchases for daily use and emergency fuel purchases to support the City during critical events such as hurricanes, freezes, and other emergencies purchases for the City. A total of four (4) sealed proposals from qualified vendors. A scoring committee evaluated the proposals and identified Senergy Petroleum, LLC as the most qualified firm.

The proposed services agreement renewal with Senergy is for fiscal year 2027, beginning November 20, 2026 and expiring on November 19, 2027. The original services agreement with Senergy was for a one-year term, with five (5) additional one-year renewals. Based on the original services agreement the renewal for FY 2026-2027 will be the first allowable renewal with four (4) additional one-year renewals remaining.

Staff negotiated a services agreement renewal with Senergy based on their original proposal, which utilizes Oil Price Information Services (OPIS) PADD3 Houston market rates.

Staff recommends awarding a one-year services agreement renewal to Senergy Petroleum, LLC for an amount not to exceed \$600,000. A detailed cost breakdown for the cost is provided below.

Fuel Type	Differential	Loading Fee
Midgrade 89 Octane Gasoline	+ \$0.0807/gallon	\$3.45
TXLED High Sulfur Diesel	+ \$0.1007/gallon	\$3.45
TXLED Low Sulfur Diesel	\$ +0.1007/gallon	\$3.45
Total Contract: \$375,000*		

*Annual Cost is estimated based on the current fiscal year usage and fuel pricing

Origination: Project Management

Recommendation:

Staff recommends approving a services agreement renewal with Senergy Petroleum LLC for operating and emergency fuel purchases for an annual amount not-to-exceed \$600,000.

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: **Account 6108** –
Departments (112,121,
142, 145, 151, 152, 153,
154, 156, 157, 611, 612,
613, 614, & 615)

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo Approved by _____
Staff Member Date City Manager Date

**CITY OF TOMBALL
SERVICES AGREEMENT RENEWAL**

THE STATE OF TEXAS

§

COUNTY OF HARRIS

§

Description of Services: Operating and Emergency Fuel Services

This Renewal is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **Senergy Petroleum, LLC** (the “Company”), with an office at **1470 N. Horne St Gilbert, AZ 85233**, City hereby engages the services of Company as an independent contractor for **Operating & Emergency Fuel Services**, upon the following terms and conditions.

1. SCOPE OF AGREEMENT

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as set forth in Exhibit A – Scope of Work and Exhibit B – Contract Pricing to provide operating and emergency fuel services to the City of Tomball, attached hereto and incorporated herein for all purposes.
- 1.2. In the event of a conflict among the terms of this Agreement and the Exhibit A, the term most favorable to the City, in the City’s sole discretion, shall control.

2. TERM OF AGREEMENT; TERMINATION

- 2.1. This Agreement shall be effective upon proper execution by the City. It shall be effective from **November 20, 2026 through November 19, 2027 with four (4) one- year optional renewal periods**. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

3. ENTIRE AGREEMENT

This Agreement represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

4. ASSIGNMENT

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

For and in consideration of the services rendered by the Company pursuant to this Agreement, the City shall pay the Company only for the actual work performed under the Scope of Work, on the basis set forth in Attachment B, up to an amount not-to-exceed **\$600,000**.

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract, during the month of October of each Contract Year.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. "City" shall mean all officers, agents and employees of the City of Tomball.
- b. "Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. "Company" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. "Company's employees" shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. "Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
 - i. injury or damage to any property or right
 - ii. injury, damage, or death to any person or entity
 - iii. attorneys' fees, witness fees, expert witness fees and expenses,
 - iv. any settlement amounts; and
 - v. all other costs and expenses of litigation
- f. "Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

7.2. Indemnity

COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.

COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.

THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.

THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.

THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.

8. INSURANCE

8.1. AMOUNTS OF INSURANCE

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

TYPE	AMOUNT
(a) Workers Compensation	(where required – Statutory by State Law)
Employer's Liability	\$100,000 per occurrence

(b) Commercial (Public) Liability, including but not limited to:

- | | |
|--|-----------------------|
| a. Premises/ Operations | Combined Single Limit |
| b. Independent Contractors | |
| c. Personal Injury | |
| d. Products/Completed Operations | |
| e. Contractual Liability (insuring above indemnity provisions) | |

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

(c) Comprehensive Automobile Liability, in include coverage for:

- a. Owned/Leased Automobiles
- b. Non-owned Automobiles
- c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

8.2. OTHER INSURANCE REQUIREMENTS

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Br provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

9. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

11. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

12. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

13. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:

Senergy Petroleum, LLC
1470 N. Horne St
Gilbert, AZ 85233

14. CONTRACT ADMINISTRATOR

This Agreement shall be administered on the City’s behalf by the Project Manager, and all notices, questions, or documentation, arising under this Agreement shall be addressed to the Project Manager at:

City of Tomball, Texas
Attn: Project Manager
501 James Street
Tomball, Texas 77375

AGREED to and ACCPETED this 19 day of October, 2026.

Senergy Petroleum, LLC
Company
Katie Atencio
Signature
Katie Atencio
Print Name
Contract Specialist
Title

AGREED to and ACCPETED this ____ day of _____, 2025.

City of Tomball
David Esquivel, PE
City Manager

Attest:
Thomas Harris III
City Secretary

EXHIBIT A SCOPE OF WORK

I. General

The City of Tomball is requesting sealed proposals to contract for fuel services for operating and emergency services. The City reserves the right to accept or reject any/all of the proposals received and/or purchase from any State contractor and/or inter-local agreement.

The term of the awarded contract, if any, will be for a one (1) year period and will become effective upon the contract award date. The contract may be renewed for five (5) additional one-year periods upon written agreement and mutual consent of both parties. Any renewal must be approved by the City of Tomball City Council.

II. Requested Services/Products

- a. Location
 - i. City of Tomball Public Works Services Center, 501 James Street, Tomball, Texas 77375
- b. Fuel Types
 - i. Midgrade 89 Octane Gasoline
 - ii. TXLED High Sulfur Diesel
 - iii. TXLED Low Sulfur Diesel
- c. Tank Information
 - i. Number of tanks: 3
 - 1. Tank One (Pump 1): On-Road Diesel – 4,000 gallons
 - 2. Tank Two (Pump 2): Off-Road Diesel – 2,000 gallons
 - 3. Tank Three (Pump 3): Unleaded Gasoline – 6,000 gallons

III. Contract Stipulations

Proposals submitted must include pricing for furnishing fuel to the City of Tomball based on the requirements indicated on Exhibit B – Cost Proposal. By submission of a proposal, the successful vendor agrees to the following stipulations:

- a. Delivery of fuel is to be completed no later than the next day after the order is placed.
- b. For quality assurance reasons, fuel is to be supplied from EPA approved terminals.
- c. Prices quotes should exclude sales tax and Federal excise tax (FET). The City is exempt from these taxes and will provide Exemption Certificates to the successful proposer. Successful vendor's invoices shall include applicable fuel tax, State GPA loading fees, and Federal Superfund Taxes.

d. Posted Terminal Rack Prices

- i. Vendor is to guarantee that when invoicing, this part of the price is the posted terminal rack price at the terminal from which the fuel is supplied, the day the fuel is delivered. Vendor is also to indicate on each item, as part of their proposal, their price for delivery, their price for profit, and their price for loading fees.

e. Invoicing

- i. Fuel is to be billed in net gallons. A copy of the supplying terminal's bill of loading is to be attached to the invoice.

f. Vendor will have an adequate supply for emergency fueling for the main fuel complex located at 501 James Street, or other location as designated.

g. Customer Service

- i. Please state the name of the vendor contact, how they may be contacted, and at what times. Describe whether, and to what extent, after hours customer service is available. Please list the typical time for a response/contact with a real person who can assist.
- ii. Additionally, would this person be the point of contact for emergency situations, if different please explain.

h. Emergency/Disaster

In the event of an emergency, Vendor shall agree to top off all City tanks no less than 24-48 hours prior to an anticipated event. In order to provide the most effective response to an emergency, the City will order fuel before the emergency (i.e. tropical storms or hurricanes). In addition, to ensure economic recovery to the City and community, the City will need emergency deliveries after the disaster.

The selected Vendor will be required to provide these services to the City. With the RFP submission, each Vendor shall:

- i. Describe what preferential treatment and guarantee of service is available to the City of Tomball during a declared disaster or other emergency situation. Describe what resources you can offer to the City in such event. Selected Vendor will be required to provide fuel delivery during a declared disaster or other emergency situation.

j. Insurance and Bonding

- a. List your relevant insurance coverage and bonds covering the activities of the Vendor, if any.

k. Other services

- a. List other goods and/or services similar to those requested under this RFP that the Vendor offers. You are welcome to list other benefits and

advantages that the Vendor can provide to the City that are not specifically asked for herein.

I. Contract Period and Renewal Option

- a. The term of this contract will be for an initial two (2) year period and will become effective from the date of contract execution and will expire two (2) years from the start date. The contract may be renewed for two (2) additional two-year periods upon written agreement and mutual consent of both parties.
- m. Any exceptions to the above should be noted with appropriate pricing, size and/or other differences cited.

IV. Terms and Conditions

Proposers are requested to furnish the items described herein in accordance with the terms set forth. All proposals must be Freight on Board (FOB) Destination and include the cost of cartage to the delivery point as stated on this form.

In the case of default, the City of Tomball, reserves the right to hold the original proposer or contractor liable for any and all resulting increased costs.

Samples, if requested by the City of Tomball, must be furnished at the proposer's expense, and if not destroyed in testing or retained as a standard, will be returned on the same terms, if requested by the proposer. Proposer shall submit quality control tests at Proposer's expense when requested by the City of Tomball.

Proposals may be withdrawn on written or telegraphic request received from proposers prior to the time set for opening. Negligence on the part of the responder in preparing the proposal confers no right for the withdrawal of the proposal after the hour fixed for the opening.

Any oral statement by any representative of the City, modifying or changing any conditions of this contract, is an opinion only and confers no right upon the seller.

All discounts, if applicable, shall be shown in discount amount space provided on data sheets – EXCEPT IN TERMS FOR PROMPT PAYMENT.

If a delay in delivery as specified on the purchase order is foreseen, supplier shall give written notice to the Public Works Department immediately. The City has the right to extend the delivery date if reasons appear valid. Suppliers must keep the City advised at all times of the status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes the City of Tomball to purchase material elsewhere and charge a full increase in cost and handling to the defaulting supplier and could also be reason for

cancellation of the Purchase Order and contract at no expense to the City if the City deems it necessary.

Deliveries must be made within twenty-four (24) hours after an order is placed. The city shall be a priority customer during emergency situations to ensure delivery within 24 hours of order. Off-loading shall not take place unless a City employee is on site to accept delivery and verify meter readings on fuel truck. Extreme care must be exercised by the vendor, its agents or employees, to avoid fuel spills. The tanker truck must be attended at all times during the fuel off-loading. Any cost incurred as a result of fuel spills due to negligence on the part of the vendor, its agents or employees, or due to equipment malfunction, will be borne by the furnishing company and may be grounds for termination of the contract at the City of Tomball's discretion. Products do not require nationally distributed brand names (i.e. Chevron, Mobil, Texaco), however specifications may reference brand names. It is not the intent of the City of Tomball to restrict these proposals in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with the vendor. The City of Tomball shall act as the sole judge in determining equality and acceptability of products offered. The City reserves the right to conduct random testing of said products, or to have such tests conducted on their behalf, to verify that the products delivered are the same as the products' proposal. The City shall not accept substandard fuel. The City of Tomball reserves the right to have samples of the gasoline and diesel fuel deliveries analyzed by an independent laboratory, three (3) times during the contract period, at the vendor's expense, as requested. All tests will be made according to ASTM (American Society for Testing and Materials) test methods. Any fuel not conforming to these specifications shall be rejected and it will be the responsibility of the vendor to conform to the requirements unless deviations have been specifically cited by the vendor and acceptance made on the basis of the exception. The apparent silence of these specifications as to any detail or apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail; and that only material and workmanship of the finest quality are to be used. All interpretations of these specifications shall be made on the basis of this statement. The City of Tomball will in no way be bound to purchase any predetermined amounts under this contract.

Price Redetermination: The City of Tomball will permit "Unit Price" adjustment on the at renewal of the contract. Request for a unit price change must be submitted in writing to the Project Management Office, 501 James Street, Tomball, Texas 77375. The contractor shall provide documentation and justification as to reason for price redetermination. Price redetermination will be reviewed and based on reasonability sent to the City Council for final consideration and approval. The City will be allowed up to thirty (30) days to review request.

If either party disapproves of unit price adjustment the City or the Contractor shall have the right to cancel the contract with a thirty (30) day written notice.

Successful proposer shall be required, upon delivery, to pump all fuel from containers into the storage tanks identified by the City of Tomball. It is the responsibility of the successful proposer to supply pumps, hoses or whatever is needed to appropriately pump the fuels to the storage tanks.

All products proposed and delivered must meet or exceed specifications, including Federal and State regulations and requirements stated in the RFP – Operating & Emergency Fuel Services. Proposers should include the State of Texas Fuel Tax on gasoline, the Underground Water Protection Act Fee, freight charges, any other operational expenses and the proposer's margin. Do not include Federal Excise Tax on fuel, as this agency is exempt.

The City of Tomball reserves the right to award contract(s) to one or more Vendor(s) as deemed best interest of the City of Tomball.

V. Proposal Format

The following information shall be submitted in your proposal in the order listed below. Failure to submit the required information could render the submitted proposal as non-responsive. To be considered, prospective Vendors must submit a complete response as required by the RFP. Vendors must submit evidence of their ability to provide complete, thorough and comprehensive responses, and information for each of the following components of the RFP.

- a. Company Overview
 - i. A brief summary of history and experience.
 - 1. Where is the company headquarters?
 - 2. Where is your service center located?
 - ii. Include any litigation your company has been involved in over the last five (5) years.
 - iii. Include a description of the quality of service your company provides.
 - iv. Provide information on tank monitoring/recording capabilities, if the City were to implement.
- b. Comprehensive Emergency Fueling Plan Program
 - i. Detail the deliverables, program, and related costs of providing emergency fuel and services during an emergency event (hurricane, tornado, freeze, etc.).
- c. RFP Response Addenda
 - i. Completed proposal and/or addendums issues. Include all required forms.
- d. References

- i. Submit three (3) current Texas customers, preferably cities of comparable size. Include entity name, address, phone number, and email of contact person.
- e. Descriptive Literature
 - i. Illustrative brochures, specification sheets, descriptive information, diagrams, etc., that provide additional information regarding areas addressed.
 - ii. Provide information on any other service your company provides, if any.
- f. Rates & Fees
 - i. Include billing rates completed on Exhibit B – Cost Proposal.

EXHIBIT B COST PROPOSAL					
Midgrade 89 Octane Gasoline					
Rack Rate	Profit	Differential (indicate if differential is + or -)	Loading Fee	Minimum Delivery	Brand
\$3.0782 /gal (min. 89 Octane)	See Differential	\$ +.0807 /gal	\$3.45	500 gal minimum for each product and 4001 gal minimum per delivery	Unbranded
TXLED High Sulfur Diesel					
\$5.0359 Rack Rate	See Differential	Differential (indicate if differential is + or -)	Loading Fee	Minimum Delivery	Brand
		\$ + 0.1007	\$3.45	Same as gas	Unbranded
TXLED Low Sulfur Diesel					
\$5.0244 Rack Rate	See Differential	Differential (indicate if differential is + or -)	Loading Fee	Minimum Delivery	Brand
		\$ + 0.1007	\$3.45	Same as gas	Unbranded
EMERGENCY PREPAREDNESS PLAN					
In the event of an emergency, Vendor shall agree to top off all City tanks no less than 24 hours to 48 hours prior to an anticipated event, such as expected hurricane landfall, etc.					
EMERGENCY OPERATIONS DELIVERIES					

In order to provide the most effective response to an emergency the City will order fuel (midgrade and diesel) before the emergency (i.e. tropical storms, hurricanes, etc.)

In order to ensure economic recovery to the City and community, the City will need emergency deliveries after the disaster. Mark the box below if your company will provide this service to the City.

☒ YES

☐ NO

EMERGENCY EQUIPMENT

In order to ensure economic recovery to the City, the City may have a need for portable fueling tanks with pumps. Can your company provide this service, and is your company willing to provide this service? Mark the box below.

☒ YES

☐ NO

Any Other Applicable Services Fees

Service	Portable Fueling Tanks and/or Pumps			Tank Size	Monthly Rental
Cost	\$ Please see chart in green	\$	\$	500	\$304
Prices listed above are good for 90 calendar days after receipt of proposal				1000	\$680
				2000	\$1,316
				5000	\$2,213
				10000	\$3,160
				12000	\$3,410

Signature: Katie Atencio

Name: Katie Atencio

Date: 10/14/2026

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Workshop Discussion Only – Approve a Professional Services Agreement with Dunham Engineering, LLC for the design of Ulrich Elevated Storage Tank Rehabilitation, Project Number 2027-10003, for a not-to-exceed amount of \$127,500, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. The expenditure was included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.

Background:

The City of Tomball operates a 500,000-gallon elevated storage tank (EST) located at 1331 Ulrich Road. The Ulrich EST is a critical component of the City's water distribution system, providing essential storage capacity to maintain system pressure, support water supply reliability, and meet operational demands.

The proposed project includes a comprehensive rehabilitation of the tank's interior and exterior, including sandblasting and application of protective coatings, rehabilitation of associated yard piping, and installation of new lighting. These improvements will address aging infrastructure, protect the structural integrity of the tank, extend its useful service life, and ensure continued reliable operation.

Dunham Engineering will provide professional engineering services for the project, including preparation of construction plans and specifications, assistance with the procurement and bidding process, and construction oversight to ensure the improvements are completed in accordance with the approved design and applicable standards.

Rehabilitation of the Ulrich EST represents a critical investment in the City's water infrastructure. The project will help preserve existing water storage capacity, minimize the risk of service disruptions, protect public health, and support continued compliance with applicable Texas Commission on Environmental Quality (TCEQ) requirements.

The proposed Professional Services Agreement with Dunham Engineering includes a scope of work to design, complete procurement and oversee construction of the of the project, for a not-to-exceed amount of \$127,500.

Below is a summary of the current funding allocated for the project.

Ulrich Elevated Storage Tank Rehabilitation		
Project Element	Total Contract (with addendum)	Remaining Contract Amount
Engineering	\$127,500	N/A
Construction*	\$935,000	N/A
Project Budget \$1,095,000	Total Estimated Contracts \$1,062,500	Remaining Funding \$967,500

* Construction is an estimate only – bid is pending

Letter of Agreement for

This is an Agreement made as of _____, 2026 between The City of Tomball, Texas hereinafter known as the OWNER and Dunham Engineering, LLC. of College Station, Texas hereinafter known as the ENGINEER.

The OWNER intends for the ENGINEER to perform professional engineering service in the design and construction inspection of the WORK.

The WORK is defined as the rehabilitation of the 500,000 gallon Ulrich Elevated Storage Tank located in Tomball, Texas (1331 Ulrich Rd). Engineer's preliminary opinion of probable construction cost to perform the above WORK is \$935,000.

PHASE I - DESIGN

The ENGINEER agrees to prepare the design, produce engineering plans and specifications, prepare the contract documents, advertise for bids and recommend award of a lump sum construction contract to complete the WORK for the OWNER.

The ENGINEER agrees to deliver the design drawings and specifications in accordance with the following schedule:

- 60% Deliverable package of draft specifications and draft drawings of tank rehabilitation and updated specifications of tank rehabilitations within 30 days of receipt of submittal comments.
- 90% Deliverable of draft design specification and drawing bid package within 30 days of receipt of 60% submittal comments.
- Final sealed design package for bid within 14 days of 90% submittal package comments.

The ENGINEER agrees to finalize the documents and advertise the WORK to selected contractors for bid within 30 days after receipt of OWNER'S comments and approval.

The ENGINEER agrees to assist the OWNER in opening and reviewing bids and recommending a contractor for award.

PHASE II- CONSTRUCTION

The ENGINEER agrees to periodically inspect the contractor during the construction period to ensure contract compliance. Should 30 inspections be exceeded due to contractor performance or other factors not under ENGINEERs control, OWNER will be billed at a rate of \$1,350 per additional trip.

The ENGINEER agrees to process Contractor progress payments and recommend payment by the OWNER.

The ENGINEER agrees to prepare and process Contract Change Orders as required during the course of the construction contract.

The ENGINEER agrees to conduct a final inspection of the WORK and to recommend final payment for the CONTRACTOR when the WORK is completed.

The ENGINEER agrees to schedule and conduct a one-year warranty inspection of the WORK prior to the end of the warranty period and to coordinate completion of any required warranty repairs. Warranty inspection will be billed separately at the time of service.

In consideration of the above services, the OWNER agrees to compensate the ENGINEER in accordance with the following schedule:

Phase I - Design

- Total fee of \$84,600 - Partial payments due as follows:
 - 60% due when 60%DRAFT documents are provided.
 - 20% due when 90%DRAFT documents are provided.
 - 20% due when FINAL documents are provided.

Phase II - Construction

- Total fee of \$42,900- Partial payments due as follows:
 - 25% due when contractor mobilizes to start work.
 - 25% due when contractor achieves 25% completion of EST rehabilitation.
 - 25% due when contractor achieves 50%completion of EST rehabilitation.

- 25% due when contractor achieves substantial completion of EST rehabilitation.

This proposal is valid for 90 days. The terms of payment shall be Net 30 days from the date on the invoice. If the project is cancelled anytime after award, payment will be made according to the following terms:

OWNER reserves the right to cancel any order or agreement with the ENGINEER, in whole or in part, at any time and for any reason, by providing written notice to the ENGINEER. The cancellation shall be effective as of the date specified in the notice of cancellation. In the event of cancellation, the ENGINEER shall be entitled to payment for all goods delivered and services, including engineering performed up to the effective date of cancellation, including raw materials or work-in-progress specifically produced or acquired for the order.

The ENGINEER agrees that total fees will not exceed \$127,500 without prior approval from the City.



James Billings
Business Development Manager
Cell: 979.219.5736
Email: James@dunhamengineering.com

OWNER

By: _____
Date: _____

Above pricing includes all costs associated with travel, labor, insurance, tools and equipment. Each tank inspection will require approximately one hour. The tank is not required to be drained for the inspection.

We have endeavored to conduct the services identified herein in a manner consistent with that level of care and skill ordinarily exercised by professionals in this field currently practicing under similar conditions as this project. No other representation, expressed or implied, is included or intended in this document. If you should have any questions or require more information, please call our office anytime.

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Approve an agreement with H.E.A.T. Safety Equipment, LLC for the purchase of thirty-seven (37) 3M Scott Air-Pak X3 units and associated equipment through the Houston-Galveston Area Council cooperative purchasing agreement (H-GAC Contract # EE11-24), for a not-to-exceed amount of \$416,000.00, authorize the expenditure of funds exceeding \$100,000 therefor, and authorize the City Manager to execute any and all documents related to the expenditure. This amount is included in the FY 2026-2027 budget.

Background:

Tomball Fire Rescue is requesting City Council approval to proceed with the replacement of its aging Self-Contained Breathing Apparatus (SCBA), commonly referred to as air packs, as approved in the Fiscal Year 2026–2027 budget. The department's existing SCBA inventory no longer meets current National Fire Protection Association (NFPA) standards and has reached an age where manufacturer support, replacement parts, and maintenance capabilities are becoming increasingly limited. These conditions present significant concerns regarding firefighter safety, equipment reliability, and the department's ability to maintain effective respiratory protection during emergency operations. SCBA is an essential component of firefighter personal protective equipment, providing life-sustaining respiratory protection during structure fires, hazardous materials incidents, and other immediately dangerous to life or health (IDLH) environments. The continued use of aging, obsolete equipment increases the potential for operational failures and places firefighters at unnecessary risk.

Recognizing the critical need for replacement, Tomball Fire Rescue previously submitted an application through the Federal Emergency Management Agency's (FEMA) Assistance to Firefighters Grant (AFG) program to offset the financial burden of replacing the equipment. Unfortunately, the grant application was unsuccessful, requiring the City to identify an alternative funding source. Funding for the replacement was subsequently approved as part of the Fiscal Year 2026–2027 budget. As part of the procurement process, three vendors were contacted to obtain competitive pricing, with two vendors submitting responses. The vendor submissions are included as supplemental documentation for City Council's consideration. Replacement of the existing SCBA inventory represents a necessary investment in firefighter health and safety, operational readiness, and the City's commitment to providing reliable emergency services to the community.

Origination: Fire Department

Recommendation: Approval

Party(ies) responsible for placing this item on agenda: Joe Sykora, Fire Chief

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: ☒ No: ☐ If yes, specify Account Number: 100-142 & 145-6143

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: Joe Sykora 10/26/2026 **Approved by:** _____
Staff Member Date City Manager Date

Quotation

5465 Curran Rd.
Von Ormy, Texas 78073
Ph. (210) 624-2320

DATE	Quotation No.
10/13/2026	Q26-02161

NAME / ADDRESS
Tomball Fire Rescue 1200 Rudell Rd Tomball, TX 77375

P.O. NO.

ITEM	DESCRIPTION	QTY	COST	TOTAL
X5915026305A04	3M™ Scott™ Air-Pak™ X3 Pro SCBA with Snap-Change X5915026305A04, 5.5, E-Z Flo C5, QD Hose, UEBSS, SEMS II Pro, 2 ea/Case	37	8,881.15622	328,602.78
200970-01	CYL&VALV,QD,CARB,45/5500 ASSY	100	788.0899	78,808.99
FP1M50000000000	VISION C5 FACEPIECE FP1M50000000000 GEN 2,5-STRAP KEV MEDIUM	40	390.62975	15,625.19
FP1L50000000000	3M™ Scott™ Vision C5 Facepiece FP1L50000000000, Gen 2, 5-Strap, Kev, Large	30	390.62967	11,718.89
FP1S50000000000	Vision C5 Facepiece FP1S50000000000, Gen 2, 5-Strap, Kev, Small	10	390.63	3,906.30
31003990	Rit Pack III new rectus fittings upgrades	5	344.69	1,723.45
31003989	QD, FEMALE, CHECKED, UEBSS RECTUS FEMALE SOCKET	5	314.18	1,570.90
31004304	QD, MALE, CHECKED, UEBSS RECTUS MALE PLUG	10	11.49	114.90
31004104	PACK PREFORMED-.078W X .468ID	10	16.35	163.50
10008912	ADAPTER,AIRLINE UEBSS TO RECTUS PRIMARY PORT	10	3.498	34.98
10011747	PACKING, PREFORMED	5	128.96	644.80
33528-501	QD PLUG (CEJN)	5	30.10	150.50
201673-02	PIPE FITTINGS	5	1,212.13	6,060.65
78-8151-6649-7	RIT-Pak III, E-Z Flo C5 Regulator, Rectus	5	418.18	2,090.90
	3M™ Scott™ Vision C5 Facepiece 78-8151-6649-7, Gen 2, RIT-Pak III and RIT-Pak Fast Attack			
201088-03	optional sems II	1	2,186.69	2,186.69
8006951	SEMS II, USB GATEWAY	1	0.00	0.00
	SCOTT CONNECT MONITOR, PRO EDITION ADD ON			
	Subtotal			453,403.42
Trade In	TRADE IN UNIT		-37,403.42	-37,403.42
	trade in			
	37 of AP75			
	100 of Cylinders			
	80 of C5 Masks standard			
	Subtotal			416,000.00
H-GAC EE11-24		Total		
		\$416,000.00		



(877) 637-3473

Quote

Quote # QT2125415
Date 10/19/2026
Expires 11/03/2026
Sales Rep Powell, Ronald M
Shipping Method FedEx Ground
Customer TOMBALL, CITY OF
Customer # C32495

Bill To

TOMBALL, CITY OF
 1200 RUDELL
 TOMBALL TX 77375
 United States

Ship To

TOMBALL, CITY OF
 1200 RUDELL
 TOMBALL TX 77375
 United States

Item	Alt. Item #	Units	Description	QTY	Unit Price	Amount
X5915026305A04			3M™ Scott™ Air-Pak™ X3 Pro SCBA with Snap-Change X5915026305A04, 5.5, E-Z Flo C5, QD Hose, UEBSS, SEMS II, 2 ea	37	\$8,304.02	\$307,248.74
200970-01			CYL&VALV,QD,CARB,45/5500 ASSY	100	\$1,535.16	\$153,516.00
FP1M500000000000			3M™ Scott™ Vision C5 Facepiece FP1M500000000000, Gen 2, 5-Strap, Kev, Medium	40	\$365.25	\$14,610.00
FP1L500000000000			3M™ Scott™ Vision C5 Facepiece FP1L500000000000, Gen 2, 5-Strap, Kev, Large	30	\$365.25	\$10,957.50
FP1S500000000000			3M™ Scott™ Vision C5 Facepiece FP1S500000000000, Gen 2, 5-Strap, Kev, Small	10	\$365.25	\$3,652.50
31003990			QD, FEMALE, CHECKED, UEBSS	5	\$229.79	\$1,148.95
31003989			QD, MALE, CHECKED, UEBSS	5	\$229.79	\$1,148.95
31004304			PACK PREFORMED-.078W X .468ID	10	\$8.41	\$84.10
31004311			ADAPTER,AIRLINE UEBSS	10	\$11.97	\$119.70
10008912			PACKING, PREFORMED	10	\$2.33	\$23.30
10011747			QD PLUG (CEJN)	5	\$94.32	\$471.60
33528-501			PIPE FITTINGS	5	\$21.96	\$109.80
201088-03			SEMS II, USB GATEWAY	1	\$2,044.59	\$2,044.59
8006951			Monitor for X3 PRO	1	\$0.00	\$0.00

Subtotal \$495,135.73

Contact: C32495 TOMBALL, CITY OF : Cristian Falcon (281) 351-7101

Shipping Cost \$0.00

Tax Total \$0.00

Total \$495,135.73

This Quotation is subject to any applicable sales tax and shipping and handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of invoice to ensure they take into account the most current information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT2125415

From: [Cristian Falcon](#)
To: [Joe Sykora](#)
Subject: Fw: SCBA quote request
Date: Friday, October 23, 2026 7:52:42 AM
Attachments: [IMG_9665.jpeg](#)

Cristian Falcon

Lieutenant

C-Shift | Tomball Fire Rescue

■ [\(281\) 351-7101](#) | [\(281\) 896-6111](#)
■ cfalcon@tomballtx.gov
■ www.tomballtx.gov
■ 19900 Telge Rd, Tomball, TX
77377

From: Cristian Falcon <cfalcon@tomballtx.gov>
Sent: Tuesday, October 20, 2026 11:48
To: rgrass@siddons-martin.com <rgrass@siddons-martin.com>
Subject: Fw: SCBA quote request

Cristian Falcon

Lieutenant

C-Shift | Tomball Fire Rescue

■ [\(281\) 351-7101](#) | [\(281\) 896-6111](#)
■ cfalcon@tomballtx.gov
■ www.tomballtx.gov
■ 19900 Telge Rd, Tomball, TX
77377

From: Cristian Falcon

Sent: Thursday, 15 October 2026 08:46:11

To: equipment@siddons-martin.com <equipment@siddons-martin.com>

Subject: SCBA quote request

Hello,

My name is Lt. Falcon with Tomball Fire Rescue.

I am reaching out to request a quote for the items listed in the attached document. This quote will be for the full replacement of our current fleet equipment.

If possible, we would appreciate receiving the quote within the next 10 days to assist with our planning and budgeting process.

Please feel free to contact me if you have any questions or need additional information.

Thank you for your time and assistance. I look forward to hearing from you.

Cristian Falcon

Lieutenant

C-Shift | Tomball Fire Rescue

■ (281) 351-7101 | (281) 896-6111

■ cfalcon@tomballtx.gov

■ www.tomballtx.gov

■ 19900 Telge Rd, Tomball, TX
77377

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 2, 2026

Topic:

Presentation of Proclamation for Municipal Court Week.

Background:

Origination: Mayor

Recommendation:

Party(ies) responsible for placing this item on agenda: Thomas Harris, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	_____	Approved by	_____
	Staff Member		City Manager
	Date		Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 2, 2026

Topic:

Presentation of Proclamation for Congressman Wesley Hunt.

Background:

Origination: Mayor

Recommendation:

Party(ies) responsible for placing this item on agenda: Thomas Harris, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed	_____	Approved by	_____
	Staff Member		City Manager
	Date		Date

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Announcements

Upcoming Event:

- November 7, 2026 – Depot Day Fall Fest from 11:00 a.m.-5:00 p.m. at Tomball Depot Plaza
- November 12, 2026 – Kaffeeklatsch from 8:30-10:00 a.m. at Tomball Community Center
- November 14, 2026 – 2nd Saturday at the Depot from 5:00-8:00 p.m. at Tomball Depot Plaza
- November 21, 2026 – 61st Annual Tomball Holiday Parade from 10:00 a.m.-Noon on Main St

Background:

Enter text Here

Origination: Enter text Here

Recommendation:

Enter text Here.

Party(ies) responsible for placing this item on agenda:

Chrislord Templonuevo, Marketing
Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____

Staff Member

Date

Approved by _____

City Manager

Date

City Council Meeting Agenda Item Data Sheet

Meeting Date: November 2, 2026

Topic:

Approve Minutes of October 19, 2026, Workshop/Regular City Council meeting.

Background:

Origination: City Secretary Office

Recommendation:

Approve Minutes

Party(ies) responsible for placing this item on agenda:

Shannon Bennett, Assistant City
Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____

To # _____
account _____

Signed _____

Staff Member

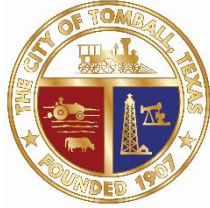
Date

Approved by _____

City Manager

Date

MINUTES OF WORKSHOP/REGULAR CITY OF TOMBALL, TEXAS



**Monday, October 19, 2026
5:00 P.M.**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for October 19, 2026, 5:00 P.M., at 401 Market Street, Tomball, Texas 77375.

A. Mayor Pro – Tem Garcia called the meeting to order at 5:02 P.M.

PRESENT:

Mayor Lori Klein Quinn (Arrived at 5:15 p.m.)

Council 1 Shelley Michna

Council 2 Paul Garcia

Council 3 Dane Dunagin

Council 4 Lisa A. Covington

Council 5 Randy Parr

CITY STAFF PRESENT:

City Manager - David Esquivel

Interim City Manager - Luisa Taylor

City Attorney – Loren Smith

City Secretary - Thomas Harris

Assistant City Secretary - Shannon Bennett

Interim Police Chief – Shon Davis

Fire Chief – Joe Sykora

Assistant Fire Chief – Jeff Cook

Director of Finance - Bragg Farmer

Director of Public Works - Drew Huffman

Director of Human Resources – Kristie Lewis

Director of Marketing & Tourism - Chrislord Templonuevo

Director of I.T. – Ben Lato

City Planner – Caleb Mittanck

Police Lieutenant – Chris Burns

Police Lieutenant – Albert Chambers

Police Officer – Bryce Smith

- B. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]* – There were no comments received.
- C. General Discussion
1. Discussion and direction on the development of the City’s Legislative Priorities for the 2027 Texas Legislative Session.

City Secretary Thomas Harris presented information on the development of the City of Tomball’s legislative priorities for the 2027 Texas Legislative Session.
 2. Review of and discussion on the Houston-Galveston Area Council “Bringing Back Main Street” Event hosted in Tomball.

City Planner – Caleb Mittanck provided information on Houston-Galveston Area Council “Bringing Back Main Street” Event hosted in Tomball.
 3. Tomball Economic Development Corporation activity update.

Executive Director Kelly Violette provided an activity update for the Tomball Economic Development Corporation.
 4. Review of and discussion on Tomball Legacy Square and alleyways update.

Executive Director Kelly Violette provided an update on Tomball Legacy Square and the Alleyways.
- D. Proposed Future Agenda Items *[The following items are provided for informational purposes for City Council and public review. Any item may be pulled for separate discussion at Council’s request.]*
1. No Workshop Discussion was held – Approve a contract with Daniel Dean.com, LLC for completion of the North Star Estates Erosion Repairs near Bearing Star Lane (Project No. 2025-10018), for a not-to-exceed amount of \$240,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related thereto.
 2. No Workshop Discussion was held – Approve a Professional Services Agreement with Oller Engineering, Inc for the design of water line extension for the future Timkin Road, Project Number 2027-10003, for a not-to-exceed amount of \$159,500, authorize the expenditure of funds therefor, and authorize the City

Manager to execute the agreement. The expenditure was included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.

3. No Workshop Discussion was held – Approve a Professional Services Agreement with Freese & Nichols, Inc. for Project Number 2027-10002, updates to the Water and Wastewater Master Plan and Impact Fees, for a not-to-exceed amount of \$525,000. This expenditure is included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.
4. No Workshop Discussion was held – Approve a professional services agreement with Langford Community Management Services for grant administration services related to the Community Development Block Grant – Mitigation Reallocation Program (CDBG-MRP) grant for an amount not-to-exceed 7.5% of the total grant award, therefor, and authorize the City Manager to execute any and all documents related to the services.

E. Recess/Reconvene at 6:00 p.m.

Mayor Klein Quinn recessed the meeting at 5:50 p.m. and reconvened at 6:09 p.m.

F. Invocation - Adam McIntosh, St. David's Church

G. Pledges to U.S. and Texas Flags led by Pack 12 Webelos.

H. Public Comments and Receipt of Petitions; *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law - GC, 551.042.]*

- Florine Ellis, Tomball, Texas spoke in opposition of the Baker Dr. rezone request
- Patrick Veecher, Tomball ISD Board Member, requested support for his reelection campaign
- John McStravick, Tomball ISD Board Member requested support for his reelection campaign
- Alisha Shepherd, Tomball, Texas spoke in opposition of the Baker Dr. rezone request

I. Reports and Announcements

1. Announcements

I. Announcements

Upcoming Event:

- October 24, 2026 – Cancer Kiss My Cooley 5k and Superhero Dash from 9:00-11:00 a.m. near Paradigm Brewery
- October 24, 2026 – Tidy Up Tomball from 8:00-11:30 a.m. in Downtown Tomball and nearby areas
- October 25, 2026 – Tomball Praises Together from 3:00-7:00 p.m. at Tomball Depot Plaza
- November 7, 2026 – Depot Day Fall Fest from 11:00 a.m.-5:00 p.m. at Tomball Depot Plaza

2. Reports by City staff and members of council about items of community interest on which no action will be taken:

- The Mayor and City Council thanked Ben Sedberry for the shirts highlighting various Public Works tasks.
- Council Member Paul Garcia announced that he attended the TMCA Salt Grass Chapter meeting on October 14th and the Harris County Mayors' and Councils Association meeting on October 15th.

J. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Approve Minutes of October 5, 2026, Workshop/Regular City Council meeting.
2. Approve the purchase of a 600kW natural gas generator for the Pine Street Water Plant from Evolve Holdings, Inc. (Evolve Power Generation) through a cooperative purchasing contract with Choice Partners (Contract No. 25/033MR-15 & 25/018MF-22) for a not-to-exceed amount of \$350,000, approve the expenditure of funds therefor, and authorized the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.
3. Approve the purchase of an 800kW natural gas generator for the FM 2920 Water Plant from Evolve Holdings, Inc. (Evolve Power Generation) through a cooperative purchasing contract with Choice Partners (Contract No. 25/033MR-15 &

25/018MF-22) for a not-to-exceed amount of \$420,000, approve the expenditure of funds therefor, and authorized the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.

4. Approve an agreement with Hayden Paving, Inc. to complete asphalt repairs on Baker Drive, Quinn Road, and SH 249, through a BuyBoard Contract (Contract No. 800-26) for a not-to-exceed amount of \$217,953.60, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.
5. Approve a Facilities Agreement with Kinder Morgan Texas Pipeline, LLC for design and construction of the interconnect for the proposed City Gas Gate 4, Project Number 2026-10001, for a not-to-exceed amount of \$563,466, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. The expenditure was included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.
6. Approve the purchase of a VacHunter Combo truck from Houston Freightliner through Buyboard Cooperative Purchasing (Contract #HT07-26) for a not-to-exceed amount of \$405,000 approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. The expenditure was included in the FY 2026-2027 Budget.
7. Approve a Professional Services Agreement with Oller Engineering, Inc for the design of water line extension for the future Timkin Road, Project Number 2027-10003, for a not-to-exceed amount of \$159,500, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. The expenditure was included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.
8. Approve the purchase of supplies and materials from Amazon Capital Services, Inc. through the OMNIA Partners Cooperative (Contract # R-TC-17006) for a not-to-exceed amount of \$150,000, approve the expenditure of funds therefore, and authorize the City Manager to execute all documents related to the purchase. The purchases are included in the FY 2026-2027 budget.

Motion made by Council 4 Covington, Seconded by Council 1 Michna to approve New Business Consent agenda items.

Voting Yea: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

K. Old Business

1. Approve, on Second Reading, Resolution No. 2026-44-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Old Town Façade Improvement Grant by and between the Corporation and D&A Sno, LLC dba Sno Angels Sno Balls to make direct incentives to, or expenditures for, building improvements for new or expanded business enterprises to be located at 525 W. Main Street, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$40,000.00.

Motion made by Council 5 Parr, Seconded by Council 4 Covington to approve Resolution No. 2026-44-TEDC.

Voting Yea: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

L. New Business

1. Approve a contract with Daniel Dean.com, LLC for completion of the North Star Estates Erosion Repairs near Bearing Star Lane (Project No. 2025-10018), for a not-to-exceed amount of \$240,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related thereto.

Motion made by Council 3 Dunagin, Seconded by Council 5 Parr to approve the contract with Daniel Dean.com LLC for completion of the North Star Estates Erosion repairs near Bearing Star Lane.

Voting Yea: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

2. Conduct a public hearing and consideration to approve **Zoning Case Z26-08:** Request by Wendy Kaiser to consider a zone change from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lot 22S of the Baker Unrecorded Plat, one lot containing approximately 0.29 acres of land, situated in the J House Survey, Abstract 34, located south the southwest intersection of Hicks Street and Baker Drive (304 Baker Drive).

Mayor Klein Quinn opened the Public Hearing at 6:47 p.m.

Sonny Kaiser, Tomball, Texas spoke in favor of the request.

Dakotha and Kaitlyn Martin, Tomball, Texas spoke in opposition of the request.

Alisha Shephard, Tomball, Texas spoke in opposition of the request.

Florine Ellis, Tomball, Texas spoke in opposition of the request.

Mayor Klein Quinn closed the Public Hearing at 6:58 p.m.

Adopt, on First Reading, Ordinance No. 2026-40, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning one lot containing approximately 0.29 acres of land, situated in the J House Survey, Abstract 34 from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lot 22S of the Baker Unrecorded Plat. The property is located south the southwest intersection of Hicks Street and Baker Drive (304 Baker Drive). The applicant is requesting to utilize the property for residential or office use; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 4 Covington, Seconded by Council 1 Michna to adopt Ordinance No. 2026-40.

Voting Nay: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion failed unanimously.

3. Conduct a public hearing and consideration to approve **Zoning Case Z26-010:** Request by Luke and Michelle Tamez to consider a zone change from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29 situated within the Revised Map of Tomball; two lots containing approximately 0.16 acres of land located at the northeast intersection of South Cherry Street and McPhail Street (208 McPhail Street).

Mayor Klein Quinn opened the Public Hearing at 7:07 p.m.

Applicants Luke and Michelle Tamez provided a presentation and spoke in favor of the request.

Timothy Benyo, Tomball, Texas, spoke in favor of the request.

Kristi Johnson, Tomball, Texas, spoke in favor of the request.

Kay Glasscock, Tomball, Texas, spoke in opposition of the request.

Colleen Pye Tomball, Texas, spoke in opposition of the request.

Mayor Klein Quinn closed the Public Hearing at 7:19 p.m.

Adopt, on First Reading, Ordinance No. 2026-43, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.16 acres of land situated within the Revised Map of Tomball from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29. The property is located at the northeast intersection of South Cherry Street and McPhail Street (208 McPhail Street). The applicant is requesting to utilize the property as a real estate office, within the City of Tomball, Harris County, Texas; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Motion made by Council 4 Covington, Seconded by Council 3 Garcia to adopt Ordinance No. 2026-43.

Voting Yea: Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Voting Nay: Council 1 Michna, Council 2 Garcia

Motion carried 3 to 2.

4. Approve the purchase of vehicles, parts, and materials from Parkway Chevrolet, Inc. through Buyboard Cooperative Purchasing (Contract #724-23) for a not-to-exceed amount of \$117,500, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. These expenditures are included in the FY 2026-2027 Budget.

Motion made by Council 4 Covington, Seconded by Council 3 Dunagin to approve the purchase of vehicles, parts, and materials from Parkway Chevrolet Inc. and authorize the City Manager to execute all documents related to the purchase.

Voting Yea: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

5. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.
 - Sec. 551.074 – Personnel Matters: To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Manager, City Attorney, and Chief of Police.
 - Executive Session Started: 7:53 P.M.
 - Executive Session Ended: 8:56 P.M.
6. Approve the expenditure of greater than \$100,000 with Olson & Olson L.L.P, for legal services, the total not-to-exceed amount to \$150,000.00 approve the expenditure of funds thereof and authorize the City Manager to execute any and all documents related to the expenditure. This expenditure is included in the FY 2026-2027 budget.

Motion made by Council 5 Parr, Seconded by Council 4 Covington to approve the expenditures with Olson & Olson L.L.P. for legal services.

Voting Yea: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr

Motion carried unanimously.

7. Consideration of and action on the City Manager’s appointment of Shon Davis to Chief of Police.
- Motion made by Council 2 Garcia, Seconded by Council 5 Parr to appoint Shon Davis to the Chief of Police.
- Voting Yea: Council 1 Michna, Council 2 Garcia, Council 3 Dunagin, Council 4 Covington, Council 5 Parr
- Motion carried unanimously.

M. Adjournment

Mayor Klein Quinn adjourned the meeting at 9:01 p.m.

PASSED AND APPROVED this 2nd day of November 2026.

Thomas Harris III, TRMC
City Secretary

Lori Klein Quinn
Mayor

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Approve the updated City Procurement Policy and Manual.

Background:

The City Procurement Policy and Manual is occasionally updated based on changes made by the State Legislature and how the City purchasing procedures operate. During FY2025 the City departments noted a policy change that will streamline the processing of Accounts Payable invoices. The following changes are fully supported by all City departments. **All changes are highlighted in yellow.**

3.5 Responsibilities of City of Tomball Departments [\(Page 24\)](#)

All City of Tomball departments and employees engaged in the procurement of goods and services must adhere to this Policy and the procedures as outlined and adopted by the City Council. Additional responsibilities of departments are as follows:

- Each department should plan in advance to avoid rush orders and emergency requests.
- Upon approval of the department director, **or supervisor designee in the absence of the director**, departments may purchase goods and services of less than \$3,000 directly from a vendor by methods described herein.

4.6 Check Requests (PA-7s) [\(Page 27\)](#)

For purchases requiring payment via a check request, a PA-7 form is not required when the invoice or other supporting documentation provides sufficient information for signature approval and GL account coding. A PA-7 form is required when an invoice is unavailable, unreadable, or does not provide sufficient space for signature approval or GL account coding.

4.8 Procedures for Processing Payments [\(Page 28\)](#)

The Finance Department is responsible for ensuring all associated documentation and invoices have been submitted as required by this Policy, including documentation that indicates the department followed all procedures applicable to the expenditure amount and that the expenditure was approved at the appropriate level (department director, or supervisor designee in the absence of the director).

Origination: Finance

Recommendation:

Staff recommends approving the updated Procurement Policy and Manual.

Party(ies) responsible for placing this item on agenda:

Bragg Farmer, Finance Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

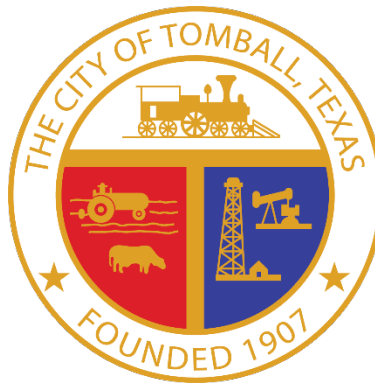
Yes: _____ No: _____ If yes, specify Account Number: _____

If no, funds will be transferred from account # _____ To account # _____

Signed	Bragg Farmer	10.26.26	Approved by		
	Staff Member	Date		City Manager	Date

City of Tomball Procurement Policy & Manual

**Finance Department
501 James St., Tomball, TX 77375**



Effective October 01, 2026

Procurement Policy & Manual

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Procurement Policy and Manual

ARTICLE 1: GENERAL INFORMATION

1.1 INTRODUCTION

The City of Tomball Procurement Policy (this “Policy”) is a guide to all those engaged in procurement at the City of Tomball. Updates to this Policy will be documented in **Table 1.2** below. This Policy is available at www.tomballtx.gov. If you are unable to find an answer to your question(s) or need additional information not found in this Policy, please contact the Finance Department.

This Policy provides guidance to facilitate the efficient and proper procurement of goods and services, including professional services and public works construction. This Policy guides employees on industry best practices, education, accountability, ethics, impartiality, professionalism, and transparency by:

- Ensuring compliance with local, state and federal laws applicable to procurement and contracting;
- Providing quality customer service to City departments, suppliers engaging with the City and citizens of the City community;
- Obtaining needed goods and services at the best possible price, of the highest quality and at the right time;
- Serving as stewards of the public trust by spending tax dollars wisely, efficiently, and with integrity;
- Providing all suppliers, including Historically Underutilized Businesses, equal access to the City’s competitive processes for the acquisition of goods and services;
- Protecting the interests of City taxpayers by avoiding any undue influence, political pressures and protecting the integrity of the procurement process.

In order to accomplish the above, the City and its customers must partner together to ensure the appropriate planning of needs, timely submission of information, proper execution of responsibilities, compliance with rules and regulations, and commitment to the highest standards of customer service. City officials, directors and employees of the City will strive to provide equitable and competitive access to the City’s procurement process for all responsible suppliers. Further, procurement will be conducted in a manner that promotes and fosters public confidence in the integrity of the City’s procurement process.

1.2 ADOPTION AND SUMMARY OF POLICY CHANGES

This Policy was adopted by the City of Tomball City Council on October 3, 2022 and made effective on October 3, 2022. This Policy is reviewed annually for compliance with relevant laws and regulations or for needed updates. Amendments to this Policy are noted below.

Table 1.2		
Summary of Policy Changes		
Amendment No.	Effective Date	Summary of Changes
0	10/03/2022	Baseline policy adopted
1	09/01/2025	Changes based on State Law

1.3 LAWS AND STATUTES GOVERNING PROCUREMENT

The City of Tomball is a home-rule city, operating pursuant to [Article 11, Section 5 of the Texas Constitution](#), state law, and the [City Charter](#). In determining procurement practices, the City is governed by applicable federal and state law, the [City Charter](#), [City ordinances](#), and industry best practices, supplemented by City Council resolutions and City policies and procedures.

State of Texas regulations most pertinent to this Policy include, but are not limited to, the Texas Local Government Code (“LGC”) and the Texas Government Code (“GC”). A summary of key applicable Texas regulations affecting procurement at the City is included as **Appendix A**. All applicable Texas regulations, regardless of whether specifically listed in **Appendix A** or within this Policy, shall govern and prevail unless specifically displaced by the particular provisions of this Policy or City Charter, ordinance, or resolution. Further, the principles of law and equity, including applicable provisions in the uniform commercial code of this state, the common law of contracts as applied to this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of this Policy.

1.4 FEDERAL AND STATE REQUIREMENTS

In addition to applicable Texas and local regulations, the City is bound to comply with various applicable federal and state regulations, depending on the funding source. When purchasing with federal or state grant funds, the Finance Department shall be responsible for verifying that the potential supplier is not on an excluded parties list. In no event shall any vendor be discriminated against on the basis of the vendor’s national origin, race, color, religion, disability, sex or familial status.

1.5 APPLICABILITY OF THIS POLICY

This Policy shall apply to the following:

- Every City procurement except those specific procurements found to be exempt as outlined in **Section 1.6**.
 - Note: Certain procurements exempted from competitive bidding requirements may be required to follow additional procedures outlined in this Policy.
- Contracts where there is no expenditure of public monies or where the City is offering something of value to the business community when the City determines source selection and award of a contract.

1.6 GENERAL EXEMPTIONS TO THIS POLICY

[LGC 252.022](#) exempts the following from competitive bidding requirements:

- Emergency procurements, including:
 - A procurement made necessary because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality.
 - A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
 - A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- A procurement for personal, professional (see **Article 8**), or planning services.
- A procurement for work that is performed and paid for by the day as the work progresses.
- A purchase of land or right-of-way.
- A procurement of items that are available from only one source (see **Section 6.11**), including:
 - Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies.
 - Films, manuscripts, or books.
 - Gas, water, and other utility services.
 - Captive replace parts or components for equipment.
 - Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials.
- Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;
- A purchase of rare books, papers, or other library materials for a public library.
- Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements.
- A payment under a contract by which a developer participates in the construction of a public improvement as provided by [Subchapter C, Chapter 212, Municipal Regulation of Subdivisions and Property Development](#).
- Personal property sold:
 - At an auction by a state licensed auctioneer.
 - At a going out of business sale held in compliance with [Subchapter F, Chapter 17, Business and Commerce Code](#).
 - By a political subdivision of this state, a state agency of this state, or an entity of the federal government.
 - Under an interlocal contract for cooperative purchasing administered by a regional planning commission established under [LGC Chapter 391](#).
- Services performed by blind or severely disabled persons.
- Goods purchased by a municipality for subsequent retail sale by the municipality.
- Electricity.
- Advertising, other than legal notices.

- Bonds or warrants issued under [LGC Chapter 571, Subchapter A](#).
- Expenditures described by [LGC Chapter 252.021\(a\)](#) if the governing body of the municipality finds that a method described by [GC 2269](#) provides a better value for the municipality than the procedures described in [LGC Chapter 252](#).

1.7 PRECEDENTS AND INTERPRETATIONS

In the event of any conflict with or need for interpretation with this Policy:

- If there is any conflict between this Policy and a state or federal law, or a rule adopted under a state or federal law, the stricter of the conflicting provisions prevails.
- The masculine, feminine, and neutral genders shall be interpreted to include the other genders as required. The singular and plural shall be interpreted to include the other numbers as required.
- Headings and titles at the beginning of the various sections of this Policy have been included only to make it easier to locate the subject matter covered by that section or subsection are not to be used in interpreting this Policy.

It is the responsibility of the Finance Director, in consultation with the City Attorney, to interpret this Policy. Any questions regarding the Finance Director's interpretation and/or application of this Policy may be addressed with the City Manager, who shall have final authority to resolve any question about any interpretation and/or application of this Policy, except where appeals to the City Council are allowed pursuant to this Policy.

1.8 REQUIREMENTS OF GOOD FAITH

This Policy requires all parties involved in the negotiation, performance, or administration of City contracts to act in good faith.

1.9 CONFIDENTIAL INFORMATION

Confidential or proprietary information shall be designated as follows:

- If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld from public record, a statement advising the City of this fact should accompany the submission and the information shall be so identified in a clear and conspicuous manner, wherever it appears.
- Unless otherwise required by law, confidential or proprietary information will not be released until the contract is considered by Council for approval.
- Notwithstanding the above provisions, in the event records marked as confidential are requested under the [Texas Public Information Act \(GC 552\)](#) the City shall follow the Texas Public Information Act unless a protective order, injunctive relief, or other appropriate order from a court of competent jurisdiction, enjoins the release of the records.
- The City shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked confidential or proprietary. Nor shall

the City be in any way financially responsible for any costs associated with securing such an order.

- The City will follow [LGC 252.049](#) regarding confidentiality of information in bids or proposals.

1.10 DISCLOSURE OF CERTAIN RELATIONSHIPS BETWEEN CITY OFFICIALS AND VENDORS

Vendors and local government officials must disclose certain relationships between each other to the City ([LGC 171](#) and [LGC 176](#)). The vendor and the official must file disclosure statements (Forms CIQ or CIS) if the vendor who is contracting or has contracted with the City has:

- A familial relationship with the official; and
- An employment or other business relationship with the official or a family member of the official that results in receiving more than \$2,500 of taxable income over a 12-month period; or
- Given the official or family member of the official one or more gifts that have an aggregate value over \$100 in the 12-month period preceding the date the official becomes aware of the contract or potential contract with the City ([LG 176](#)).

The official is not required to file a conflicts disclosure statement in relation to a gift accepted by the official or family member if the gift is a political contribution as defined by [Title 15 of the Texas Election Code](#) or food accepted as guest.

The official and vendor must file the conflicts disclosure statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing. A person commits a misdemeanor if the person knowingly violates [LGC 176.003](#). Disclosure statements shall be posted and publicly accessible on the City's website.

Vendors are also required to file disclosure statements for certain relationships and may be subject to other City policies which may be more restrictive than state requirements.

Additionally, a local government official must file an affidavit with the City Secretary disclosing any substantial interest of the official or any family member in a business entity prior to any vote or decision or any matter involving the business entity, and must abstain from any participation in the matter requiring the affidavit ([LGC 171](#)).

1.11 PURCHASE OF MATERIALS, EQUIPMENT, AND SUPPLIES FOR PERSONAL USE

Employees of the City of Tomball cannot use the City's business accounts for personal purchases. Employees who violate this provision may be subject to disciplinary action, up to and including termination.

1.12 PROCUREMENT OF GOODS AND SERVICES FROM CITY EMPLOYEES AND/OR IMMEDIATE FAMILY MEMBERS

It is the general policy of the City of Tomball to not enter into contracts for purchases for goods, services, professional services, or public works from employees of the City or members of their immediate family (any person related in the first degree of consanguinity or affinity as determined under [GC 573](#)). Exceptions can be reviewed on a case-by-case basis. Any employee wishing to request such an exception must notify the Finance Director in writing of the request to purchase goods or services from an immediate family member or current City employee and formally request an exception to the City's Procurement Policy. The request must include full disclosure of the nature of the relationship, why the purchase is the best value for the City, why other alternatives are not available, and any other pertinent information needed to evaluate the request. The Finance Director may request additional information in order to evaluate the exception request. The Finance Director will evaluate the exception request and make a recommendation to the City Manager. The City Manager has the sole authority to grant an exception under this Section.

This section does not preclude the City from entering into contracts for purchases for goods, services, professional services, or public works from individuals previously employed by the City.

1.13 SEVERABILITY

If any provision of this Policy or the application of a provision to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of this Policy and the application of its provisions to other persons and circumstances shall not be affected.

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ARTICLE 2: DEFINITIONS

2.1 Definitions

Definitions not contained specifically within this Policy shall be defined per GC, LGC, or other applicable Texas statutes. Additional definitions are provided in subsequent Sections as needed.

Advertisement/Notice/Public Notice means to make a public announcement of the intention to procure goods, services, professional services, or public works.

Alternative Delivery Method (ADM) means a method of procuring construction services other than “traditional” competitive bidding. Methods include competitive sealed proposals, design-build, construction manager-agent, construction manager-at-risk, and job order.

Amendment/Addendum means a document used to change the provision of a Solicitation.

Award means the act of accepting a bid, proposal, or offer; thereby resulting in a contract between the City and a Supplier/Vendor.

Best and Final Offer (“BAFO”) means a negotiation technique in which an opportunity is extended to respondents in the RFP process to review their proposals and provide a best and final offer to the City. A BAFO may be sent to all firms, the top firms, or the highest ranked firm, depending on the procurement.

Best Value means a method of evaluating price that includes an evaluation based on the total life cycle cost of the item or service. Best value is the best and lowest overall life cycle cost proposal taking into consideration various factors depending on what is being procured.

Bid means an offer to contract with an entity, submitted in response to an Invitation for Bid or informal quote.

Bid (formal) means a bid that must be submitted in a sealed envelope and in conformance with a prescribed format, to be received and opened on a specific date and at a specific time.

Bid (informal) means an unsealed competitive offer conveyed by letter, telephone, email, or other means and under conditions different from those required for formal bidding.

Bidder, Lowest Responsible means the bidder submitting the lowest *initial* price and capable of performing the proposed contract as the “lowest and responsible” bid.

Bidder, Responsible means the bidder who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will also assure good faith performance.

Bidder, Responsive means a bidder who has submitted a bid that fully conforms in all material respects to the Invitation for Bid (“IFB”) and all of its requirements, including all form and substance.

Bidder, Non-resident means a person whose principal place of business is NOT in the State of Texas, including a contractor whose ultimate parent company or majority owner does NOT have its principal place of business in the State of Texas.

Bidder, Resident means a person whose principal place of business is in the State of Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in the State of Texas.

Blanket/Open Purchase Order means a purchase order issued without unit pricing, limited to a specific amount. An open purchase order is normally used when there is a recurring need for incidental goods, and contains multiple purchases over a period of time.

Bond, Bid means a bond submitted with a bid guaranteeing the bidder will proceed with the contract and will replace the bid bond with a contract, performance bond, and/or payment bonds. The bid bond is an instrument used to stop low bidders from underbidding and then withdrawing their bid. A bid bond is not statutorily required but is generally used by the City on public works contracts.

Bond, Maintenance means a guarantee that there is no defect in workmanship and/or materials for a specific time period.

Bond, Payment means to protect beneficiaries who supply materials or labor to a public works project and have a direct contractual relationship with the contractor. A payment bond is required because materials suppliers and laborers do not enjoy the same lien rights on public projects as they do on private projects. The payment bond requirement essentially replaces the protections afforded by lien rights with protections guaranteed by a surety ([GC 2253](#)).

Bond, Performance means to secure the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract specifications ([GC 2253](#)).

Brand Name or Equivalent means one or more manufacturers’ brand names, with identifying model numbers (or the like), used in a specification to invoke certain quality, performance, and other salient characteristics needed to meet the solicitation requirements.

Change Order means a change in plans or specifications after the performance of a contract has initiated, or if it is necessary to increase or decrease the quantity or price of work to be performed or materials, equipment, or supplies to be furnished ([LGC 252.048](#)).

City means the City of Tomball, Texas, including all departments, utilities, commissions, and boards comprising the City government.

City Council means the City Council of the City of Tomball, Texas.

City Manager means the City Manager of the City of Tomball, or the designee of the City Manager, when such designation is necessary and appropriate.

Commodity means a tangible item that can be offered for trade.

Competitive Bidding means the process that allows available vendors to compete with each other to provide goods or services. ([LGC 252](#); [GC 2269, Subchapter C](#)).

Competitive Sealed Proposal Process means the process that allows available vendors to compete with each other to provide goods and services and permits flexibility in product solicitation and negotiation in compliance with [LGC 252](#) or [GC 2269, Subchapter D](#).

Component Purchases means a purchase of the component parts of an item that in normal purchasing practices would be made in a single purchase ([LGC 252.062](#)).

Construction means the process of utilizing labor and material to build, alter, repair, improve, or demolish any structure, building, or public improvement. Construction does not general apply to routine maintenance, repair, or operation of existing real property.

Contract means a legal, binding mutual agreement obligating parties to terms and conditions as outlined. In terms of purchasing, a contract is an agreement in which a buyer and seller agree to specific terms regarding the exchange of goods and services, during a specific time period, at a specific delivery point, for a specific frequency, under specific terms and conditions, at a specific quantity, and/or at a stated price.

Contract Amendment means any written alteration in specifications, delivery point, frequency of delivery, period of performance, price, quantity, or other provisions of the contract, accomplished by mutual agreement of the parties to the contract.

Cooperative Buying Agreement (“Cooperative Contract”, “COOP”, or “Piggyback Agreement”) means competitively awarded contracts in accordance with Texas statutes, rules, policies, and procedures that have been extended for the use of other government agencies and active cooperative members. A cooperative buying agreement satisfies any state law requiring a local government to competitively source for goods or services. ([GC 791](#); [LGC 252.022\(12\)\(D\)](#)).

Design-Build Contract means a project delivery method by which the City contracts with a single entity to provide both the design and construction services for the construction, rehabilitation, alteration, or repair of a facility ([GC 2269, Subchapter G](#)).

Design Criteria Package means a set of documents that meets the requirements specified in [Texas Government Code, Chapter 2269, Subchapter G](#). The Design Criteria Package must provide sufficient information to permit a design-build firm to prepare a response to a City request for qualifications and to provide any additional information requested.

Department means all City funded departments or divisions, and subdivisions of them, when the purchases are funded even partially with City funds.

Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

Electronic Signature (“E-Signature”) means an electronic symbol, text, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Emergency Purchase means a purchase made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City’s residents or to preserve the property of the City. Such a purchase would be deemed necessary to preserve or protect the public health or safety of the City’s residents and the City’s ability to serve its public would be impaired if the purchase is not made immediately.

Employee means any City elected official, appointed official, or employee when the purchase is funded even partially with City funds or anyone who acts on behalf of any of them.

Expenditure Authority means the level of approval a certain employee has to authorize an expenditure of funds for goods or services.

Family means any person related in the first degree of consanguinity or affinity as determined under [GC 573](#).

Finance Director means the Finance Director for the City of Tomball or a designee of the Finance Director. In the event that there is no individual serving as the Finance Director, references to the Finance Director shall mean the Assistant City Manager or a designee of the Assistant City Manager.

Goods means any personal property purchased by the City, including equipment, supplies, material, and component or repair parts.

High Technology Item means a service, equipment, or good of highly technical nature, including data processing equipment and software; telecommunications, radio, and microwave systems; electronic distributed control systems; and technical services related to those items ([LGC 252.001\(4\) and 252.021\(b\)](#)).

Historically Underutilized Business (“HUB”) means a business that is at least 51% owned by an economically disadvantaged group (Asian Pacific American, Black American, Hispanic American, Native American, and/or American woman or veterans who suffered at least 20% service-connected disability), is a for-profit entity that has not exceeded the size standards prescribed by [34 TAC §20.294](#), has its principal place of business in Texas, and has an owner

residing in Texas with a proportionate interest that actively participates in the control, operations, and management of the entity's affairs. See addition information in [GC 2161](#), [34 TAC §20.282](#), and [LGC 252.0215](#).

Invitation for Bid ("IFB") means a solicitation requesting submittal of a bid in response to the required specifications. IFBs are awarded to the lowest responsible bidder meeting the specifications. Price may not be altered or negotiated.

Invitation for Bid, Best Value ("IFB-BV") means a solicitation requesting submittal of a bid in response to the required specifications. An IFB-BV is awarded to the bidder that meets the specifications and provides the best value to the City. Published evaluation criteria are used to determine the best value, which may not be the lowest cost. Price may not be altered or negotiated.

Invoice means the document provided by the supplier/vendor requesting payment for goods or services provided.

Item means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. This does not include professional services as defined by [GC 2254.002](#).

Lease means a contract for the use of real or personal property for a period of time in return for a specified compensation

Life Cycle Cost means the total cost associated with buying, owning, and using a physical product or service.

Local Cooperative Organization means an organization of governments established to provide local governments' access to contracts with vendors for the purchase of materials, supplies, services, or equipment.

Maintenance Services means routine maintenance, repair, and replacement of existing facilities, structures, or buildings.

NIGP Commodity/Service Codes means the standardized national classification codes that identify goods and services.

Negotiation means a consensual bargaining process in which multiple parties attempt to reach an agreement on a disputed, or potentially disputed, matter.

Offer means a response to a solicitation that, if accepted, would bind the offeror to perform the resulting contract.

Offeror means a person or entity who submits a response to an RFP.

Offeror, Responsible means an offeror who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will also assure good faith performance.

Offeror, Responsive means an offeror who has submitted a proposal that fully conforms in all material respects to the RFP and all of its requirements, including form and substance.

Official means any elected or appointed official and any person authorized to act on his or her behalf.

Person means an individual, corporation, partnership, limited partnership, Limited Liability Company, association, trust, or other legal entity.

Personal Services means those services other than professional services that are performed personally by the individual who contracted to perform them. Personal services are be exempt from the competitive bid process.

Planning Services means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or municipal, county, metropolitan, or regional land areas.

Pre-Bid/Proposal Conference means a conference conducted by the City for the benefit of those wishing to submit a response for services or supplies required by the City which is held in order to allow vendors to ask questions about the proposed contract and particularly about the contract specifications.

Preconstruction Services means advice during the design phase and does not include manager-agent services.

Procurement Card (“P-Card”) means a credit card program for authorized purchases made by the City. See Procurement Card Program for additional information.

Professional Services means services performed by an individual or group of individuals who possess the education, professional certification, professional license, and/or professional registration required to perform the service. The service is usually based on intellectual qualifications as opposed to craftsmanship, involves a higher level of knowledge and a higher order or learning, skill, and intelligence. For purposes of [GC 2254](#), services within the scope of the practice, as defined by state law of: accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, professional nursing, or services provided with the professional employment or practice of a person who is licensed or registered as a certified public accounting, an architect, a landscape architect, a land surveyor, a physician (including a surgeon), an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, interior designer, or a registered nurse.

Proposal means an offer submitted by a supplier in response to an RFP intended to be used as a basis to negotiate a contract.

Proprietary Information means information provided in responses to solicitations to which vendor claims ownership or exclusive rights and which may be protected from disclosure under the [Texas Public Information Act, GC 552](#).

Public Works means constructing, altering, or repairing a public building or the construction or completion of a public work.

Purchase means any kind of acquisition, including by a lease or revenue contract.

Purchase Order means a legal contract document for the delivery of goods or services in accordance with the terms of an agreement. A purchase order should include the quantity, price, and delivery instructions. All invoices generated by purchase orders shall be for the amounts stated on the purchase order.

Qualified Products List means an approved list of supplies, services, or construction items described by model or catalog numbers (or the like), which prior to competitive solicitation, the requesting City department has determined will meet the applicable specification requirements.

Quote means a statement provided by a vendor or supplier that outlines the price and terms for specific goods or services.

Quote (informal) means a statement provided by a vendor or supplier that outlines the price and terms for specific goods or services when the purchase is less than the required threshold for competitive bidding.

Receiving Document means a document provided by the supplier/vendor listing the items shipped and their quantity, often referred to as a packing slip.

Reciprocal Law (in bid evaluation) means if a nonresident bidder's home state grants a preference to its resident bidders, an equal penalty is added to the nonresident bidder's proposal when bidding in Texas. The action is opposite; a preference becomes a penalty, but the amount is equal. Texas law prohibits cities from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidder's state.

Request for Information ("RFI") means an information gathering tool used when a purchaser cannot clearly identify product requirements or specifications.

Request for Proposals ("RFP") means a solicitation requesting submittal of a proposal in response to the required scope of services that usually includes some form of a cost proposal. An RFP requires published evaluation criteria. Price may be negotiated with firms to ensure the best value for the organization.

Request for Qualifications (“RFQ”) means a solicitation requesting a statement of qualifications from individuals or firms which demonstrates competence and qualifications for the type of professional services to be performed at fair and reasonable prices.

Request for Quotes (“RFQt”) means an informal process for requesting quotes from vendors or suppliers for goods and services when the purchase threshold does not require a competitive bidding process.

Requisition means a written request for a purchase order to be made.

Respondent means a person or entity which submits a response to a solicitation.

Responsible – See Bidder, Responsible or Offeror, Responsible.

Responsive – See Bidder, Responsive or Offeror, Responsive.

Retainage means the part of a public works contract payment withheld by the City to secure performance of the contract.

Reverse Auction means a real-time bidding procedure that is conducted at a pre-scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids for designated goods and services ([GC 2155.062\(d\)](#); [LGC 252.021\(a\)\(2\)](#); [LGC 271.906](#)).

Scope of Work (“SOW”) means a written description of the contractual requirements for materials or services contained within an RFP. The SOW can be compared to specifications within an Invitation for Bid. The SOW should establish a clear understanding of what is needed, encourage competition, satisfy the departmental need, and provide the best value for the citizens.

Sealed means packaged in such a way that nothing can be added or removed.

Separate Purchase means separating purchases that normally would be made in a single purchase.

Sequential Purchase means making purchases over a period of time that normally would be made in a single purchase.

Service means intangible products such as banking, cleaning, consultancy, education, insurance, expertise, or transportation.

Sole Source means a good or service available from only one source. The procurement is usually protected by patents, copyrights, secret processes, natural monopolies, or captive replacement parts.

Solicitation means the process of notifying prospective vendors of an opportunity to provide goods or services to the City. Depending on circumstances, solicitations may be conducted via telephone, fax, email, mail, or in person.

Specification means any description of the physical, functional, or performance characteristics, or the nature of a supply, service, or construction item. A specification includes, as appropriate, a requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Specification, Brand Name means a list of products or services by brand name, model, and/or other identifying specifics to limit the bidding to a single preferred product. Since this type of specification discourages competition, it should not be used unless the item is the only one that will satisfy the City's requirement. This type of specification is typically used for purchasing replacement parts where only the brand name item will work.

Specification, Combination means a specification that includes elements of both design and performance. Some features of each are included to allow a vendor to use ingenuity to meet the performance needs of the City and also require certain necessary design characteristics.

Specification, Design means a specification that gives a detailed description of a good or service, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients, plus all other details needed by the provided to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom-produced items, and for many services.

Specification, Performance means specifications that are used when the goods and/or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability, and recommended practices.

Statement of Work means the statement outlining the specific services a contracted is expected to perform, generally indicating the type, level, and quality of service, as well as the time schedule required.

Supplier/Vendor means a seller of commodities and/or services.

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ARTICLE 3: Organization, Authorization, and Responsibilities

3.1 General Expenditure Approval Authority

City contracts, transactions, and expenditures require various levels of approval, dependent upon the total amount of a single transaction/expenditure and a cumulative purchase of goods or services from a particular vendor or in relation to a project.

The general contract/expenditure approval authorities are as follows:

Position	Expenditure Authority	Contract Authority
Department Director	May approve expenditure of up to \$10,000 without additional approvals	No authority to execute contracts/agreements without necessary approvals (See 3.7)
Finance Director	May approve expenditure of up to \$25,000 without additional approvals	No authority to execute contracts/agreements without necessary approvals (See 3.7)
City Manager	May approve expenditure of up to \$100,000 without additional approvals	May approve contracts/agreements for service if the total not-to-exceed amount is less than \$100,000
City Council	Approval required for any expenditure of \$100,000 or greater	Approval required for contracts/agreements if total not-to-exceed amount is \$100,000 or greater

Regardless of the expenditure approval authority, all purchases must follow the appropriate procurement procedures. For example, while a Department Director can approve a single transaction of up to \$10,000, it is required that such expenditure meet any required approvals or procedures required by this Policy or state or federal law prior to such approval.

3.2 Authority of Finance Director

In accordance with the City Charter, and by adoption of this Policy, the City Council delegates procurement authority to the Finance Director and the City Manager, or their respective designees. Except as otherwise precluded by state and local law or this Policy, the Finance Director shall serve as the procurement and contracting authority of the City. The Finance Director shall have full authority to:

- Adopt operational procedures, consistent with this Policy, governing the procurement and management of all goods, services, professional services and public works, including any action that may be delegated by City Council under GC Chapter 2269;
- Procure or supervise the procurement of all goods, services, professional services and public works utilizing any procurement method or procedure as authorized by law;
- Determine which method of procurement provides the best value to the City;

- Utilize any procurement procedure or method for the construction or installation of any public work that is authorized by law;
- Establish guidelines for the management of all inventories of materials belonging to the City;
- Manage the disposal of materials belonging to the City, including the sale, trade or other method of disposal of surplus materials belonging to the City;
- Prepare, issue, revise, maintain, and monitor the use of specifications and scopes of work for goods, services, professional services and public works required by the City; and
- Delegate procurement authority to designees only as appropriate and necessary.
- Make a determination that noncompliance with any provision of this Policy is non-substantial and may allow for correction or may waive minor informalities or irregularities. The basis for the decision shall be included in the determination.

3.3 Authority of City Manager

Except as otherwise precluded by state and local law or this Policy, the City Manager shall have the authority to approve or execute:

- Purchases, contracts, and agreements in an amount not to exceed \$100,000, provided funds are budgeted therefore.
- Applications for Title and Tax Exemption Certificates.
- Cooperative purchasing agreements in an amount not to exceed \$100,000.
- Change orders which involve a decrease or increase of up to 25% or \$50,000, whichever is less, provided the total contract expenditure remains within the budgeted amount.
- Emergency purchases as outlined in this Policy, provided that the expenditures are reported to the City Council in writing within 30 days.

The City Manager is not authorized to approve or execute the following *without Council action*:

- A contract or other legal instrument for the purchase of real property, with the exception of the purchase of easements or right-of-way under \$50,000; any condemnation proceeding must be authorized by resolution of the City Council.
- The City's grant of or other action relating to any license or franchise, or other authorization pursuant to its regulatory powers.
- Any contract, contract amendment, or other legal instrument for which approval authority is separately delegated by the City Charter or another section of this Policy.
- Purchases, contracts, and agreements over \$100,000.

The City Manager may make administrative directives to complement this Policy to facilitate efficient operations and ensure compliance with state law, audits, and best practices. Any administrative directives that are in place for more than 90 days shall be brought forward as an amendment to this Policy.

3.4 Execution of Documents

The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall retain the authority to execute such documents, however, by this Policy, the City Council grants the City Manager authority to execute any purchases, contracts, and agreements in an amount not to exceed \$50,000, provided funds are budgeted therefore. The Council may also authorize the City Manager to execute purchases, contracts, and agreements in amounts of \$50,000 or greater by formal action ([City of Tomball Charter, Section 6.08](#)).

3.5 Responsibilities of City of Tomball Departments

All City of Tomball departments and employees engaged in the procurement of goods and services must adhere to this Policy and the procedures as outlined and adopted by the City Council. Additional responsibilities of departments are as follows:

- Each department should plan in advance to avoid rush orders and emergency requests.
- Upon approval by the department director, **or supervisor designee in the absence of the director**, departments may purchase goods and services of less than \$3,000 directly from a vendor by methods described herein.
- Each department must submit purchase order requisitions as appropriate.
- Departments shall not place orders that exceed \$3,000 without an approved purchase order.
 - Departments do not have the authority to order directly from a vendor without an approved purchase order, nor to negotiate any purchases without the required approvals.
- Department directors may not approve purchases in excess of \$10,000.
- Departments are required to notify the Finance Department of any repetitive cumulative purchases that reach any designated quote or bid threshold.
- Departments are required to allow sufficient lead time for all quoted and solicited actions.
- Anticipated purchases of goods or services over \$100,000 shall be brought to the attention of the Finance Director as soon as the need is identified.
- Department directors may request to delegate expenditure approval authority to another employee. This delegation can only be made in very limited circumstances, such as a prolonged absence of the department director. Requests to delegate approval authority must be made in writing to the Finance Director. The Finance Director may consider the request and approve or deny the request based on the circumstances described.
- Each department director shall assume the responsibility of maintaining control of their departmental expenditures, including expenditures on annual contract.
- Departments are encouraged to monitor vendor performance. In the event that a vendor fails to perform in compliance with specifications, departments should notify the Finance Department as soon as possible.
- Departments are responsible for working with the City Attorney to develop service contracts, if applicable. Departments are responsible for obtaining all required contract signatures, and for monitoring their contracts to ensure contracts are renewed or bid prior to expiration dates.
- Pursuant to [GC Chapter 2270](#), departments are responsible for verification on the Texas Comptroller of Public Accounts' website that the vendor:
 - Does not boycott Israel, as defined by [GC 808.001](#); and

- Will not boycott Israel during the term of the contract.
- This requirement does not apply to sole proprietorships, companies with fewer than ten employees, or contracts that are less than \$100,000.
- Pursuant to [GC 2252, Subchapter F](#), departments are responsible for verification that the vendor is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

3.6 Responsibilities of the Finance Department

In order to facilitate the efficient procurement of goods and services, the Finance Department will:

- Enforce the policy and procedures outlined in this Policy or as directed by the City Manager or designee;
- Investigate and analyze research done in the field of purchasing, in an effort to keep abreast of current developments in the fields of purchasing, price, market conditions, and new products;
- Join with other governmental agencies in cooperative purchasing plans when it is in the best interest of the City;
- Coordinate, organize, and assist departments in the specification writing process to ensure that specifications are written concisely and are not written in an exclusive manner;
- Advertise competitive solicitations to ensure compliance with competitive bidding statutes;
- Combine purchases of similar items whenever possible to allow for better pricing and establish a more competitive atmosphere; and
- Conduct purchasing training for employees who process purchase order requisitions, conduct receiving, approve purchase orders, and/or develop specifications. Additionally, individual training by the Finance Department is available at the request of departments.

3.7 Authority to Financially Bind the City

Unless delegated by the City Council and authorized by the City Manager, no City of Tomball employee is authorized to contractually bind the City. Binding the City may include, but not be limited to, verbal orders for goods and services, signing contractual documents, placing online orders, making verbal or written commitments of any type that financially commit the City. Unauthorized staff who attempt to bind the City of Tomball financially, or violate this Policy, may be subjected to disciplinary action.

Procurement Policy

ARTICLE 4: PROCESSES AND INTERNAL CONTROLS

4.1 The Purchasing Process (In General)

The following sections outline process and internal controls related to the procurement of goods and services. Specifically, this article includes areas, such as the purchase of vehicles and equipment and technology purchases, where additional approvals may be necessary. An important part of the procurement process is the management of internal controls to ensure purchases are made in accordance with Policy, funds are fully accounted for, and timely payments are made to suppliers. The purchase order process provides the mechanism through which the City can manage the procurement process and ensure purchases are in compliance with this Policy and applicable law.

4.2 Additional Approvals for Purchases of Vehicles and Equipment

All equipment and vehicle purchases must be processed through the Finance Department. Specifications must be forwarded to the Finance Director, or designee, who will be responsible for soliciting bids and authorizing the purchase of vehicles and equipment as approved by either the City Manager or City Council. Approval of the department director is required and approval by the City Council is required if the purchase exceeds \$100,000.

The process for the purchase of equipment and vehicles is outlined in **(Exhibit H)**.

4.3 Additional Approvals for Technology Purchases

The purchase of all technology items, including hardware and software, requires the advance approval of the Information Technology Department. Technology items include:

- A service related to the automation of a technical system, including computer software or a computer;
- A telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network; and
- Technical services related to such goods and equipment.

4.4 Prepayments and Advance Payments

Generally, prepayment or advance payments are not authorized for any purchases of supplies, materials, equipment, or services, unless specifically approved in writing by the Finance Director (\$3,000 or below) or City Manager (\$3,001 to \$100,000). Exceptions to this include: training and travel expenses per the City of Tomball Travel Policy.

4.5 Reimbursement of City Officials and Employees

Upon approval received from the Finance Director, prior to purchase, reimbursements may be processed for certain goods or services, ONLY in instances where sufficient time may not allow approval through the purchase order process. Instances where prior approval were not authorized, may be cause for non-payment of the request.

All reimbursements are processed following the Request for Reimbursement Form (**Exhibit B**), and must include support showing that the Finance Director approved the expenditure prior to purchase.

The Finance Department will review submitted Request for Reimbursement forms and either acknowledge that the request may move forward in processing; or, if discrepancies are found, advise that the form be returned to the requesting division to correct or process through the purchase order process.

This section does not apply to reimbursements of travel expenses per the City of Tomball Travel Policy.

4.6 Check Requests (PA-7s)

For purchases requiring payment via a check request, a PA-7 form is not required when the invoice or other supporting documentation provides sufficient information for signature approval and GL account coding. A PA-7 form is required when an invoice is unavailable, unreadable, or does not provide sufficient space for signature approval or GL account coding.

4.7 Purchase Orders and Requisitions

Purchase orders (PO's) are required for all purchases in excess of \$3,000, unless otherwise exempt as indicated below or an exception to the Policy is granted. Purchase order requisitions must be approved prior to making a purchase. Purchase order requisitions may be submitted for purchases under \$3,000, but are not required. Departments may use a P-card or check request for purchases under \$3,000 so long as the purchase complies with this Policy, the Procurement Card Policy, and other applicable policies or regulations.

Purchase Orders are NOT required for all purchases. Items that do not require a purchase order and may be paid with a P-Card or check request are:

- Catered event fees;
- Election fees;
- Membership or professional association dues and fees;
- Payroll and benefit payments;
- Periodicals;
- Postage;
- Registration fees;
- Regulatory fees;

- Subscriptions;
- Certain training related fees;
- Travel expenses;
- Tuition;
- Utilities; and
- Other fees as approved in advance in writing by the Finance Director.

The procedure for purchase order requisitions is included in (**Exhibit C**).

In limited circumstances, a department may request an exception to the purchase order requirement. An exception may be granted only under the following conditions:

- The purchase was necessary to respond to an urgent operational need or emergency situation where the delay in obtaining a purchase order would have resulted in a disruption to critical city services, a threat to public safety, or potential damage to city property.
- The vendor could not reasonably accommodate the City's standard purchasing procedures due to industry-specific practices (e.g., online-only or credit card transactions).
- The purchase was part of a travel or training expense that could not be prepaid or invoiced.
- The goods or services were obtained through a cooperative contract, standing agreement, or interlocal agreement and did not permit a standard purchase order process.

If a department desires an exception to the purchase order requirement, the department shall submit a written **Exception Request** to the Finance Department within two (2) business days of the purchase, including:

- A detailed explanation of the justification for the exception
- Supporting documentation (invoices, receipts, quotes, contracts, etc.)
- The name of the vendor and the amount of the purchase

The Finance Director (or designee) shall review the request and determine whether the exception is approved. Repeated or unjustified exceptions may result in additional departmental oversight or training requirements. Departments are expected to plan purchases in advance to avoid unnecessary exceptions. Exceptions will be tracked and reported periodically to the City Manager's Office for monitoring and accountability.

4.8 Procedures for Processing Payments

The Finance Department is responsible for ensuring all associated documentation and invoices have been submitted as required by this Policy, including documentation that indicates the department followed all procedures applicable to the expenditure amount and that the expenditure was approved at the appropriate level (department director, or **supervisor** designee in the absence of the director).

The Finance Department shall be responsible for the processing of all payments for the City of Tomball. Invoices received by noon on Tuesday will have payments processed by Friday the same

week if all required information has been provided. The City will maintain as its goal to make payment on or before the due date. Checks shall be signed with dual signatures as outlined by the City's Charter.

4.9 Verification of Compliance

The Finance Department will verify that the New Vendor Form, W-9 and ACH Payment Authorization, if applicable, is complete and accurate before any payments are processed. If additional information is needed, the Finance Department will contact the individual originating the purchase.

4.10 Funds Verification

The Finance Director or his/her designee shall:

- Charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriate account; and
- Certify the budget contains an ample provision for the obligations and that funds are or will be available to pay each obligation when due.

The amount allocated in the budget may not be used for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the obligation is canceled in writing by the City Council.

Procurement Policy

ARTICLE 5: VENDOR SETUP

5.1 New Vendors

The New Vendor Form must be completed for each new vendor added to the City's financial management software. The Form requests important information about the vendor to ensure accurate, timely payment and reporting data. The Vendor must attach a completed W-9 with the Form. Any new vendor invoice submitted for payment that does not have a New Vendor Form will not be processed for payment. The individual originating the purchase will be contacted to obtain additional information. See **Exhibit D** for New Vendor Forms.

5.2 Insurance Certificates

Contractor shall provide a Certificate of Insurance to the City of Tomball as evidence of the required insurance coverage before work commences.

The City of Tomball will maintain the required insurance coverage until all contract work is accepted by the City. Liability Insurance shall be kept for five (5) years following the City's acceptance of work.

5.3 Tax Exemption

As a tax-exempt municipal government agency, the City of Tomball does not pay sales tax. Any government official or employee entering into a purchasing transaction is expected to notify vendors of the City's tax exempt status and provide a copy of the tax exemption certificate, should the vendor require such documentation. The City is not exempt from hotel/motel taxes and certain other travel related taxes.

Procurement Policy

ARTICLE 6: METHODS AND THRESHOLDS FOR SOURCE SELECTION (GOODS AND SERVICES)

6.1 General Information

The following sections outline the methods of source selection available to procure goods and services for the City. They also establish when each method may be used, the key requirements of each method, the manner of the award, and the authority to award. Purchase requirements shall not be divided so as to constitute a micro purchase or small purchase under this section.

6.2 Micro Purchases (Under \$3,000)

A micro purchase is a purchase of goods and services under \$3,000. A micro purchase is an informal purchase and may be solicited through an informal Request for Quotes (RFQt) process. A minimum of one quote is required to process a purchase order. Whenever possible, quotes should be solicited from local service and supply providers. Informal RFQts may be issued to suppliers by departments. A response to an informal RFQt may be an electronic or a hard copy quote. P-Cards may be used to source micro purchases and shall be done in compliance with the Tomball Procurement Card Manual. Before making a purchase, active contracts should be reviewed to verify desired products or services are available to purchase on contract.

The issuance of sequential purchases, component purchases, or separate purchases to circumvent the formal competitive process is a violation of state law and may be cause for disciplinary action. If a department makes regular, repeated small purchases of similar items from a vendor, the department should contact the Finance department to ensure purchases are compliant with this policy and State law.

6.3 Small Purchases (Between \$3,000 and \$100,000)

A small purchase is a purchase for goods and services between \$3,000 and \$100,000. A small purchase is an informal purchase and may be solicited through the informal Request for Quotes (RFQt) process. RFQts may be issued to suppliers by the user department, or the department may work with the Finance Department to issue the RFQt. Unlike micro purchases, small purchases require three quotes whenever practicable. The RFQt and quotes may be in electronic or hard copy format.

The following requirements apply to small purchases:

- The opportunity to quote should be extended to at least two (2) HUBs registered in Harris County.
 - The state maintains a database of HUBs at www.window.state.tx.us/cmbi/index.html.
 - If no HUBs are registered in Harris County, the small purchase is exempt from this requirement.

- A non-response quotation is considered a quotation for this purpose provided the HUB was given a reasonable time (three to five business days) to respond.
- Exceptions to this guideline may include sole source or emergency purchases.
- Departments are encouraged to consult with the Finance Department for assistance in locating suppliers when they are unable to obtain at least three price quotations.
- All departments should work to promote fair and open competition for every purchase and to secure the best value and the highest quality goods or services at the lowest possible cost.
- Quotations received from suppliers/vendors shall not be divulged to other bidders until after the award has been made.
- Before making a purchase, active contracts should be reviewed to verify desired products or services are not available to purchase on contract.

The issuance of sequential purchases, component purchases, or separate purchases to circumvent the formal competitive process is a violation of state law and may be cause for disciplinary action. If a department makes regular, repeated small purchases of similar items from a vendor, the department should contact the Finance department to ensure purchases are compliant with this policy and State law.

6.4 Authority and Award for Micro and Small Purchases

Award of micro and small purchases shall be made to the responsible respondent, whose offer is most advantageous to the City and conforms in all material respects to the micro and small purchase requirements. The associated documentation shall be maintained by the department as a public record.

The Finance Director must approve micro and small purchases and will be responsible for issuing a purchase order for the good or service, unless otherwise authorized in this Policy or unless authorization to purchase with a P-Card has been provided by the Finance Department through issuance of a P-Card.

6.5 Formal Sourcing Methods for Goods and Services (Over \$100,000)

The purchase of goods and services over \$100,000 shall be made through one of the following sourcing methods, unless excepted or determined by the Finance Director to use alternate method:

- Competitive Bidding
 - Invitation for Bid (IFB). or
 - Invitation for Bid-Best Value (IFB-BV)
- Competitive Sealed Proposals
 - Request for Proposals (RFP)

Formal sourcing methods are managed by the Finance Department, with the assistance of the appropriate department(s). Exceptions to the formal sourcing models are listed in **Section 1.6** of this Policy or as authorized by [LGC 252.022](#).

6.6 Competitive Sealed Bids – Invitation for Bid; Lowest Responsible Bidder.

Application of Method

Competitive Sealed Bids shall be solicited through an IFB. The IFB shall include specifications, any applicable criteria, and the City's terms and conditions.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an IFB in order to establish a list of qualified bidders, although it is not required. If a pre-qualification process is used, the City shall only consider bids that are submitted from pre-qualified bidders.

Public Notice

All IFBs are required to advertise a notice of the date, time, and place at which bids will be publicly opened and read aloud. The legal notice must be published at least once a week for two consecutive weeks in a newspaper published in the municipality.

Notice of the IFB shall also be electronically posted and the IFB shall be made available for public inspection.

The first published notice shall be made before the fourteenth (14th) day before the date set for the opening of bids. If the opening date changes, notice shall be made before the fourteenth (14th) day before the new opening date. The public notice shall state the place, date, and time of bid opening.

Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB.

An attendance sheet will be provided at the bid opening and all attendees will be required to provide their name.

At the time of bid opening, the name of each bidder and the amount of each bid, as well as other relevant information as determined by the Finance Director to be appropriate, shall be recorded. Unless otherwise determined by the Finance Director, this record shall be open to public inspection.

In the event no attendees are present for bid opening, the sealed bids shall be opened by the Finance Department, or designee, and a "bid" or "no bid" may be recorded on the tabulation sheet. The bid may then be given to the appropriate person for recorded. The attendance sheet will indicate that there were no attendees present.

After a notice of intent to award is issued, or in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy (See **Section 1.9**).

Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, safety, quality, workmanship, delivery, and suitability for a particular purpose. The IFB shall set forth the criteria to be used. No criteria may be used that is not set forth in the IFB.

Corrections or Withdrawals Before Bid Opening

Bids may be withdrawn at any time prior to the bid opening. Bids may be modified at any time prior to the due date and time, and mistakes discovered before bid opening may be modified by written notice received by the Finance Department prior to the time set for bid opening.

Mistakes and Withdrawals After Bid Opening & Cancellation of Awards

A bid that has been opened may not be modified for the purpose of correcting an error in the bid price. Mistakes discovered after bid opening but before bid award may be withdrawn only to the extent that the bidder can show that the mistake is of so great a consequence that to enforce the bid as made would be unconscionable, the mistake relates to a material feature of the bid, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After bid opening but before bid award, modifications to bid provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to a bidder.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all bids.

6.7 Competitive Sealed Bids – Invitation for Bid-Best Value

Application of Method

As an alternative to the IFB defined in Section 6.6, an IFB-BV may be solicited based upon a best value analysis provided that the criteria for analysis was included in the IFB-BV. In determining the best value for the City, the City may consider the following evaluation criteria:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the municipality's needs;
- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with HUBs and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

All other conditions of the IFB process outlined in Section 6.6 shall apply for the IFB-BV.

6.8 Award and Approvals for IFB and IFB-BV Procurements

This section outlines the process for the award and approval of IFB and IFB-BV procurements.

Award of Invitation for Bid

Award of an IFB shall be made by appropriate notice to the lowest responsive, responsible bidder whose bid conforms in all material respects to requirements and criteria set forth in the IFB.

Award for Invitation for Bid-Best Value

Award of the IFB-BV may be awarded on best value analysis provided that the criteria for analysis was included in the IFB-BV. The contract shall be awarded by appropriate written notice to the responsive, responsible bidder whose bid is determined to be the best value to the City and that conforms in all material respects to requirements and criteria set forth in the IFB-BV.

Low Tie Bids

If there are two (2) or more low responsive bids from responsible bidders that are identical in price and other evaluation criteria and that meet all the requirements and criteria set forth in the invitation for bids, award must be made to a resident of the City, otherwise shall be made by the casting of lots.

Award Approvals

Awards of IFBs and IFB-BVs shall be routed to the City Manager, or designee, for review. The award of all IFBs and IFB-BVs of \$100,000 or more shall be approved by City Council.

6.9 Competitive Sealed Proposals – Request for Proposals

Application of Method

Competitive sealed proposals shall be solicited through an RFP. The RFP shall include a scope of work, applicable evaluation criteria, terms and conditions.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an RFP in order to establish a list of qualified offerors. In the event a pre-qualification process is used, the City shall only consider proposals that are submitted from pre-qualified offerors.

Public Notice

Notice of RFP shall set forth the date, time, and place upon which the proposals will be due. Legal notice must be published at least once a week for two (2) consecutive weeks in a newspaper published in the municipality.

Notice shall be electronically posted and the RFP shall be available for public inspection.

The first published notice shall be made before the fourteenth (14th) day before the date set for the opening of bids. If the opening date changes, notice shall be made before the fourteenth (14th) days before the new opening date.

Receipt of Proposals

Unless otherwise required by law or the RFP, proposals shall not be opened or handled in a manner as to permit disclosure of the contents of any proposal to competing offerors. Proposals shall be open for public inspection after the contract is awarded, except to the extent that the withholding of information is permitted or required by law such as trade secrets and confidential information. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Correction or Withdrawal of Proposals Before Proposal Opening

Proposals may be withdrawn at any time prior to the proposal opening. Proposals may be modified at any time prior to the due date and time, and mistakes discovered before proposal opening may be modified by written notice received by the Finance Department prior to the time set for proposal opening.

Revisions, Mistakes and Withdrawals After Proposal Opening & Cancellation of Awards

The City may permit revisions to proposals after submission and before the award of the contract to obtain the best final offers. A proposal that has been opened may not be modified by the offeror for the purpose of correcting an error in the price. Mistakes discovered after proposal opening but before award may be withdrawn only to the extent that the offeror can show that the mistake is of so great a consequence that to enforce the proposal as made would be unconscionable, the mistake relates to a material feature of the proposal, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After proposal opening but before award, modifications to proposal provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to an offeror.

All decisions to permit the withdrawal of a proposal after opening shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all proposals.

Evaluation Criteria

The RFP shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. No other factors or criteria may be used in the evaluation. City Council designates authority to the Finance Department to select evaluation criteria in accordance with GC 2269 Subchapter D or LGC 252.

Evaluation Committee

A committee may be formed to evaluate each proposal using the criteria as defined within the RFP. The use of a committee is recommended for complex, large expenditures, or when multiple proposals are received. This committee will consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the purchasing department and/or Finance on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. Finance participates, as a non-voting member, to provide oversight, guidance, and assistance as needed.

Finance may remove evaluation team members if a conflict of interest arises. Conflict of Interest disclosure statement (**Exhibit I**) must be documented and detail of such conflict should be provided to the Department Head of the purchasing department, the Assistant City Manager, and the City Manager.

Discussion with Offerors

Discussions, or negotiations, may be conducted with offerors in accordance with the terms of the RFPs and this Policy, which constitutes regulations adopted by the City Council under GC 2269 and LGC 252.042(b). Offerors shall be accorded fair and equal treatment in conducting discussions and revision of proposals, and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Negotiations may occur as follows:

- Concurrent Negotiations
 - Negotiations may be conducted concurrently with offerors for the purpose of determining source selection and/or contract award.
- Exclusive Negotiations
 - Exclusive negotiations may be conducted with the offeror whose proposal is determined in the source selection process to be most advantageous to the City considering the relative importance of price and other evaluation factors included in the RFP. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the City may enter into exclusive negotiations with the next highest ranked offeror or concurrent negotiations without the need to repeat the formal solicitation process.

6.10 Award and Approvals for Requests for Proposals

Contract Award

Contract award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the City taking into consideration the evaluation criteria set forth in the RFP. The contract file shall contain the basis in writing on which the award determination is made.

Award Approvals

Awards of RFPs shall be routed to the City Manager, or designee, for review. The award of all RFPs of \$100,000 or more shall be approved by City Council.

6.11 Sole Source Procurement

Application of Method

A sole source procurement is the acquisition of a good, service, professional service or public work in which there is only one source.

The department requesting a sole source procurement shall provide written evidence to support a sole source determination. A sole source written justification form (**Exhibit E**), signed by the department director and the Finance Director, is required, explaining and fully describing the conditions which make the supplier the only source for a given commodity or service. Written documentation may include documentation from the manufacturer of the product or service provider on company letterhead as evidence to the sole source nature of the product or service.

Sole source procurements may include, but are not limited to:

- patents, copyrights, secret processes, or natural monopolies;
- films, manuscripts, or books;
- gas, water, and other utility services;
- captive replacement parts or components for equipment;
- books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
- management services provided by a nonprofit organization to a municipal museum, park, zoo, other facility to which the organization has provided significant financial or other benefits;

Negotiation and Award

The Finance Director may require that negotiations are conducted as to price, delivery and terms. The Finance Director may require the submission of cost or pricing data in connection with an award under this Section.

Sole source procurement shall be avoided, except when no available alternative sources exist. The sole source justification form shall be maintained as a public record.

Sole source procurements require the approval of the City Council for purchases over \$100,000.

6.12 Emergency Purchases

Application of Method

Notwithstanding any other provisions of this Policy, the City Manager, Assistant City Manager, or Finance Director may make or authorize others to make emergency procurements of goods, services, professional services or public works when a public calamity requires immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality, or to protect public health, welfare, or safety, or necessary because of unforeseen damage to public machinery or property.

The department requesting an emergency procurement shall provide written evidence and justification to support an emergency determination by completing the Emergency Purchase Justification Form (**Exhibit F**). An emergency procurement shall be limited to those goods, services, professional services or public works necessary to satisfy the emergency need.

Negotiation and Award

The Finance Director may require that negotiations are conducted as to price, delivery, and terms. The Finance Director may require the submission of cost or pricing data in connection with an award under this Section.

Emergency procurements shall be avoided, except when no reasonable alternative approach exist. A written determination by the department director of the basis for the emergency procurement and for the selection of the particular contractor and signed by the Finance Director and City Manager or Assistant City Manager, shall be maintained as a public record. The determination and the award shall be made in accordance with internal departmental procedures ensuring that the procurement is fair, honest, and prudent, is a wise exercise of discretion, and is in the public interest.

All emergency purchases over \$100,000 shall be reported in writing to the City Council at the next regular meeting following the emergency purchase.

6.13 Competitive Reverse Auction – Invitation to Reverse Auction

Application of Method

A Reverse Auction is solicited with an Invitation to Reverse Auction (“ITRA”). The ITRA shall be issued and shall include specifications and any applicable evaluation criteria. Contractual terms and conditions may be included within the solicitation document or incorporated by reference.

Pre-Qualification

A prequalification process may be conducted prior to the issuance of an ITRA in order to establish a list of qualified bidders. In the event a prequalification process is used, the City shall only consider bids that are submitted from prequalified bidders.

Public Notice

Notice of the ITRA shall be electronically posted and the ITRA shall be available for public inspection not less than fourteen (14) days prior to the date set forth therein for the close of the auction. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Procurement Director. The public notice shall state the location of the internet website hosting the reverse auction.

Bid Acceptance

Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Policy.

Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the ITRA, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The ITRA shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the ITRA.

Correction or Withdrawal of Bids Before Auction Closing

Bids may be withdrawn at any time prior to the auction closing. Bids may be modified at any time prior to the auction closing, and mistakes discovered before auction closing may be modified by written notice received in the Finance Department prior to the time set for auction closing.

Mistakes and Withdrawals After Auction Closing & Cancellation of Awards

After auction closing, a bid may not be modified for the purpose of correcting an error in the bid price. Mistakes discovered after auction closing may be withdrawn only to the extent that the bidder can show that the mistake is of so great a consequence that to enforce the bid as made would be unconscionable, the mistake relates to a material feature of the bid, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After auction closing but before bid award, modifications to bid provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to a bidder.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Finance Director.

Contract Award

The contract shall be awarded by appropriate notice to the lowest responsible bidder whose bid conforms in all material respects to requirements and criteria set forth in the ITRA.

6.14 Cancellation of Solicitations

General

An IFB, IFB-BV, RFP, RFQ, ITRA or other solicitation process defined in this Policy may be cancelled prior to opening or after opening when it is in the best interest of the City.

Cancellation of Solicitations Prior to Opening

As used in this Section, "opening" means the date and time set for opening of bids, receipt of statements of qualifications, or receipt of proposals in competitive sealed proposals, or in the case of a reverse auction, means the date and time set for the auction close.

Prior to opening, a solicitation may be cancelled in whole or in part when the Finance Director determines that such action is in the City's best interest for reasons including but not limited to:

- The City no longer requires the materials, services, or construction;
- The City no longer can reasonably expect to fund the procurement;
- Proposed amendments to the solicitation would be of such magnitude that a new solicitation is in the best interest of the City; or
- It is otherwise not advantageous to the City.

When a solicitation is cancelled prior to opening, notice of cancellation shall:

- Identify the solicitation;
- Briefly explain the reason for cancellation; and
- Where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar materials, services, or construction.

Cancellation of Solicitation After Opening but Prior to Award

After opening but prior to award, a solicitation must be formally rejected by City Council if the lowest bid or proposal was more than \$100,000.

Documentation

The reasons for cancellation shall be made a part of the procurement file and shall be available for public inspection.

6.15 Rejection of Individual Bids, Proposals, Statements of Qualifications or Reverse Auction

A bid may be rejected if:

- The bidder is determined to be not be a responsible bidder pursuant to this Policy;
- The bid is cancelled after opening;
- The bidder is not responsive in accordance with this Policy;
- The proposed price exceeds available funds or is unreasonable; or
- It is otherwise not advantageous to the City.

A proposal, statement of qualifications, or reverse auction bid may be rejected if:

- The person responding to the solicitation is determined to not be responsible pursuant to this Policy (responsibility of bidders, offerors and respondents);
- The proposal, statement of qualifications, or reverse auction bid is cancelled;
- It is not responsive pursuant to this Policy;
- The proposed price exceeds available funds or is unreasonable; or
- It is otherwise not advantageous to the City.

City Council must approve any rejections of bids, proposals or statements of qualifications if the lowest bid or proposal was over \$100,000. The reasons for rejection shall be made a part of the procurement file and shall be available for public inspection.

6.16 Responsibility of Bidders, Offerors, and Respondents

Right of Non-Disclosure

Confidential information furnished by a bidder, offeror, or respondent in response to an inquiry of responsibility pursuant to this Policy shall not be disclosed by the City outside of the department, using agency, or individuals involved in the evaluation process without prior written consent by the bidder, offeror, or respondent unless required to be disclosed in accordance with GC 552. Confidential information shall be identified and managed in accordance with this Policy. See also [LGC 252.049](#).

Findings of Non-Responsibility

If a bidder, offeror, or respondent who otherwise would have been awarded a contract is found not responsible, a written finding of non-responsibility, setting forth the basis of the finding, shall be

prepared by the Finance Director. The unreasonable failure of a bidder, offeror, or respondent to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a finding of non-responsibility with respect to such bidder or offeror. The written finding shall be made part of the contract file and be made a public record.

Factors for Determination of Responsibility

Factors to be considered in determining if a prospective contractor is responsible include:

- The proposed contractor's financial, physical, personnel or other resources, including subcontracts;
- The proposed contractor's record of performance and integrity;
- Whether the proposed contractor is qualified legally to contract with the City;
- Whether the proposed contractor supplied all necessary information concerning its responsibility; and
- Safety record of the contractor.

Safety Record Evaluation

Pursuant to [LGC 252.0435](#), the City Council adopts the following criteria for determining the safety record of a bidder to determine whether a bidder is responsible. The City may consider the safety record of the bidders in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the residents of the City, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider:

- Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the bidder for violations of OSHA regulations within the past three (3) years.
- Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years.
 - Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States.
 - Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
- Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.
- Any other safety related matter deemed by the City Council to be material in determining the responsibility of the bidder and the ability of the bidder to perform the services or goods required by the bid documents in a safe environment, both for the workers and other

employees of bidder and the residents of the City, and such determination should not be arbitrary or capricious.

Responsibility Criteria

The Finance Director may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation

6.17 Bid and Contract Security for Material or Service Contracts

The Finance Director may require the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the Finance Director shall consider the nature of the performance and the need for future protection to the City. The requirement for security must be included in the solicitation. Failure to submit security in the amount and type of security required may result in the rejection of the bid or proposal. See also [GC 2253](#) (payment and performance bonds).

6.18 Multi-Term Contracts

Unless otherwise provided by law, a contract for goods, services, professional services or public works may be entered into for any period of time deemed to be in the best interest of the City, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies

6.19 Right to Inspect and Right to Audit Records

The City may, at reasonable times, inspect the part of the plant or place of business of a contractor, consultant or any subcontractor or subconsultant that is related to the performance of any contract awarded or to be awarded by the City. The City may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in this Policy to the extent that the books and records relate to the cost or pricing data. Any person who is awarded a contract, change order or contract modification for which cost, or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless otherwise specified in the contract. The City is entitled to audit the books and records of a contractor, consultant or any subcontractor or subconsultant under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contractor or consultant, and by the subcontractor or subconsultant for a period of three (3) years from the date of final payment under the subcontract, unless otherwise specified in the contract. All contractors, consultants, subcontractors, and subconsultants participating in City contracts are required to cooperate fully and promptly with the City in reviews, investigations and other requests

for information that are related to the performance of any contract awarded or to be awarded by the City.

6.20 Reporting of Anticompetitive Practices

If for any reason collusion or other anticompetitive practices are suspected among any bidders, offerors, or respondents, a notice of the relevant facts shall be transmitted to the Finance Director and the City Attorney. This Section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the Finance Director.

6.21 Prospective Vendor Database

The Finance Department shall maintain a prospective vendor database. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a City contract. Persons desiring to be included in the prospective vendor database may register with the City electronically. The City may remove a person from the prospective vendor database if it is determined that inclusion is not advantageous to the City. It shall be the vendor's sole responsibility to ensure that vendor registration information is current and active.

6.22 Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added GC Section 2252.908. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Potential bidders and offerors interested in doing business with the City must submit a disclosure of interested parties to the City prior to receiving a contract award by the City Council. The business entity must complete the Form 1295 by the Texas Ethics Commission (www.ethics.state.tx.us) and file the form with the City and online. The City must notify the Texas Ethics Commission not later than the thirtieth (30th) day after the date the contract binds all parties to the contract.

The Texas Ethics Commission has made available FAQs regarding Form 1295 on its website at www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php#Q1.

6.23 Electronic Signature and Receipt of Bid and Proposals Policy

The City may elect to utilize e-signatures for certain contracts or transactions, when allowed by law. The use of electronic signatures, in accordance with the policy, are legally binding and equivalent to handwritten signatures. The City may accept electronic bids and proposals for formal solicitations. The City has adopted a policy to ensure the identification, security, and confidentiality of electronic bids and proposals, and to ensure that all electronic bids or proposals remain effectively unopened until the proper time. This policy does not prohibit the submission of hard copy (paper) bids and proposals.

6.24 Contract Form and Execution

All contracts entered into under this Policy shall be executed in the name of the City by the City Council and/or City Manager and approved as to form by the City Attorney. Where delegated authority has been provided, contracts may also be entered into by the Finance Director.

6.25 Assignment of Rights and Duties

The rights and duties of a City contract are not transferable or otherwise assignable without the written consent of the City Council and/or City Manager.

6.26 Contractor Debriefing

Upon completion of a formal solicitation process, the Finance Department may, upon request, meet with unsuccessful parties in the solicitation process to permit viewing of the contract file and to permit an opportunity for unsuccessful parties to gain a better understanding regarding perceived deficiencies contained within their submitted proposal. The City shall not provide any information considered confidential or additional information on the process beyond information recorded in the contract file.

Procurement Policy

ARTICLE 7: SPECIFICATIONS

7.1 Maximum Practical Competition

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be unduly restrictive. To the extent practicable and unless otherwise permitted by this Policy, all specifications shall describe the City's requirements in a manner that does not unnecessarily exclude a good, service, professional service or public work.

Restrictive specifications shall not be used unless such specifications are required and it is not practicable or advantageous to use a less restrictive specification. The department requesting a restrictive specification shall provide written evidence to support the restrictive specification. Past success with the good or performance of the service, or inconvenience of developing specifications do not justify the use of restrictive specifications.

To the extent practicable, the City shall use accepted commercial specifications and shall procure standard commercial materials.

7.2 Specifications Prepared by Non-City Personnel

The requirements of this Policy regarding the purposes and non-restrictiveness of specifications shall apply to all specifications prepared other than by City personnel, including, but not limited to, those prepared by architects, engineers, designers, and consultants for public contracts, or subcontractors. No person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

7.3 Brand Name or Equal Specification

A brand name or equal specification may be used to describe the standards of quality, performance, and other salient characteristics needed to meet the requirements of a solicitation, and which invites offers for equivalent products from a manufacturer.

Standardization

A specification may be used to identify the acceptable item that meets the City's needs for purchases in this Policy. The department requesting standardized specification shall provide written evidence to support the standardization determination. A written determination by the Finance Director of the basis for the standardization shall be maintained as public record. Past success with a good or performance, traditional purchasing practices, or inconvenience of drawing specifications do not justify the use of a standardization specification.

Procurement Policy

ARTICLE 8: PROCUREMENT OF PROFESSIONAL SERVICES

8.1 General Overview and Applicability

Providers of professional services are selected and awarded based upon demonstrated competence and qualifications. A contract is awarded on the basis of a fair and reasonable price. Professional fees under the contract should generally be consistent with the recommended practices and fees published by the applicable professional association. Fees may not exceed any maximum provided by law. The determination of an acceptable negotiated fee amount may be made with the assistance of a qualified staff professional that is experienced in these matters.

8.2 Informal Sourcing Method – Informal Request for Qualifications for Professional Services (Excluding Those Professional Services Subject to GC 2254)

Application of Method

After consideration of the various anticipated costs, complexity and other relevant issues affecting a project, the department may solicit proposal(s) from qualified professional(s) or professional firms for professional services. This selection may be done through an informal RFQ.

Professional services which are deemed complex or involve complex issues are encouraged to be sourced through a formal RFQ as described in Section 8.3.

Evaluation of Qualifications

The department may utilize an evaluation committee or may use a qualified individual to evaluate statements of qualifications submitted in response to the informal RFQ. The individual or committee will select the most qualified individual or firm capable of performing the service on the basis of demonstrated competence and qualifications. The department may then enter into negotiations with the selected individual or firm to establish fair and reasonable rates for the professional service.

8.3 Formal Sourcing Method – Request for Qualifications for Professional Services

Application of Method

Professional services deemed to be more complex may be solicited through a two-step Request for Qualification (RFQ) process.

Departments are encouraged to seek qualifications for professional services contracts at least every five (5) years to help ensure diversity in the selection of professional services by the City. These contracts shall be for a set time period (a set number of years or annual renewals up to a set number of years) with a maximum not-to-exceed amount.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an agreement in order to establish a list of qualified professionals. In the event a pre-qualification process is used, the Finance Director may consider qualifications of professionals that are prequalified for specific projects.

Two-Step Request for Qualifications Process

The City may follow a two-step RFQ process for awarding Professional Services. The first step involves issuing an RFQ for the professional service. The RFQ shall contain sufficient information to inform potential professional service providers as to the type of project, the scope of services to be performed, the selection criteria to be used and terms and conditions of the subsequent contract. A statement of qualifications shall be submitted in response to the RFQ. The statement of qualifications shall include all information requested in the RFQ and sufficient for the City to determine qualifications of the individual or firm.

Upon evaluating the statement of qualifications, a decision shall be made as to the most highly qualified respondent based upon the published evaluation criteria. The second step of the RFQ process will involve conducting discussions with the most highly qualified respondent to establish fair and reasonable rates for the professional service.

Public Notice

Notice of RFQs shall set forth the date, time, and place upon which the statement of qualifications will be due. Notice must be published at least once a week for two (2) consecutive weeks in a local newspaper. The first published notice shall be made before the fourteenth (14th) day before the date set for the opening of bids. Notice shall be electronically posted and the RFQ shall be available for public inspection. A shorter time may be deemed necessary for a particular procurement as determined in writing by the Finance Director.

Late Proposals

A response to a RFQ is late if it is received at the location designated in the RFQ after the time and date set for receipt of statements of qualifications. Late statements shall be rejected.

Receipt of Statements

Statements of qualifications shall not be opened publicly. No statements shall be handled as to permit disclosure of the contents to competing respondents. Statements shall be open for public inspection after a notice of intent to award is issued, or in the absence of a notice of intent to award, after final execution of the contract, except to the extent that the withholding of information is permitted or required by law. If the respondent designates a portion of its statements as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Withdrawal of Statements

Statements may be withdrawn by written notice before or after statement opening and may be permitted where appropriate. All decisions to permit the withdrawal of a statement after opening shall be supported by a written determination made by the Finance Director.

Evaluation

The RFQ will give the relative importance, or weighting, assigned to each of the criteria to be used in the selection process. The following general criteria may be used, but the RFQ is not necessarily limited to these criteria:

- The provider's experience in successfully performing similar assignments, scope and size, for others.
- The provider's current staff, both size and related experience, is qualified to provide the desired services.
- Whether or not sufficient finances and other resources are available to accomplish the assignment within the time to be allowed by the City, and whether or not the provider will be able to provide continuing service if required by the City.
- How previous clients of the provider for similar projects express satisfaction with the provider's work.
- Whether or not the provider's response, as perceived by the City's staff, is complete and of acceptable quality.

A professional service provider may be selected after the evaluation of the submitted RFQ or it may be necessary 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.

Evaluation Committee

A committee may be formed to evaluate each statement of qualifications using the criteria as defined within the RFQ. This committee will consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the using department and Finance on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. Finance may participate, as a non-voting member, to provide oversight, guidance and assistance as needed or requested.

Evaluation committee members must sign a non-disclosure and a conflict of interest disclosure. The Finance Director reserves the right to remove any team member for any identified conflicts of interest. Conflicts of interest shall be documented and kept in the City's records.

Discussion with Offerors

Discussions may be conducted with the respondent determined to be the most highly qualified, to agree upon a fair and reasonable price. Respondents shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing respondents. If the City is unable to negotiate a satisfactory contract with the most highly qualified provider of the desired professional services, the City shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The City must continue this process to select and negotiate with providers until a contract is entered into or all respondents are rejected by City Council.

8.4 Awards and Approvals

Contract Award

Contract award of the formal Request for Qualifications shall be made to be the most highly qualified respondent taking into consideration the evaluation criteria set forth in the RFQ. The contract file shall contain the basis on which the award is made.

Award Approvals

Award of informal Request for Qualifications may be made by the City Manager if the total award is less than \$100,000. Awards of Request for Qualifications exceeding \$100,000 require City Council approval.

Contract Term

Contracts for professional services may be awarded for a period of up to five (5) years if non-appropriations clauses are included in the contract or upon project completion. The contract term shall state the maximum not-to-exceed dollar amount.

Procurement Policy

ARTICLE 9: PROCUREMENT OF PUBLIC WORKS

9.1 General Overview and Applicability

Contracts for a public work shall be solicited through a competitive sealed bid process unless otherwise approved by the Finance Director.

Public works means the construction of a facility, which is an improvement to real property and includes buildings, highways, road, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, airport runways and taxiways, drainage projects or related types of projects associated with civil engineering construction projects.

The City shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

9.2 Use of Professional Engineering Services in Public Works Projects

The City shall utilize an engineer to develop plans, specifications and estimates when the engineered public work could affect the public health, welfare or safety. Construction of engineered plans must be performed under the direct supervision of an engineer.

A professional engineer must be retained for a public works project when:

- The work exceeds \$8,000 and involves electrical or mechanical engineering; or
- The work exceeds \$20,000 and does not involve electrical or mechanical engineering.

9.3 Use of Professional Architect Services in Public Works Projects

The City shall use an architect to develop plans or specification for any of the following:

- A new building or modification of an existing building intended for occupancy on a 24-hour basis by persons who are receiving custodial care regardless of the number of stories or square footage of the building.
- A new building having construction costs exceeding \$100,000 that is to be:
 - Constructed and owned by the City; and
 - Used for education, assembly, or office occupancy; or
- An alteration or addition having construction costs exceeding \$50,000 that:
 - Is to be made to an existing building that:
 - Is owned by the City; and
 - Is or will be used for education, assembly, or office occupancy; and
 - Requires the removal, relocation, or addition of a wall or partition of the alteration or addition of an exit.

9.4 Methods of Source Selection – Public Works

State law permits the following delivery methods for public works:

- Competitive Bidding – IFB
- Competitive Sealed Proposal – RFP
- Design-Build (DB)
- Construction Manager At-Risk (CMAR)
- Construction Manager-Agent (CMA)
- Job Order Contracting (JOC)

9.5 Public Works Under \$100,000 – Request for Quotes

Application of Method

After consideration of the various costs, complexity, and other relevant issues affecting a project, the department may solicit quotes from contractors for public works of less than \$100,000. This selection may be done through an informal Request for Quote (RFQt). Public works of less than \$100,000 which are deemed complex or involve complex issues are encouraged to be sourced through formal sourcing methods outlined in this Policy.

The department will award to the lowest responsible contractor. The contract file shall contain the basis on which the award is made and supporting documentation.

9.6 Public Works Over \$100,000 – Competitive Sealed Bid – IFB

Design-Bid-Build means a traditional project delivery method in which:

- There is a sequential award of two (2) separate contracts.
- The first contract is for design services. (See Section 6.0 for details)
- The second contract is for construction.
- Design and construction of the project are in sequential phases.
- Finance services, maintenance services and operations services are not included.

Application of Method

Competitive sealed bids shall be solicited through an IFB. The IFB shall include construction documents, estimated budget, project scope/specifications, construction schedule requirements, and other pertinent information. Contractual terms and conditions shall also be included within the solicitation document or incorporated by reference.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an IFB in order to establish a list of qualified bidders. In the event a pre-qualification process is used, the Finance Director shall only consider bids that are submitted from prequalified bidders.

Public Notice

The IFB shall set forth the date, time and place upon which the bids will be due. All IFBs are required to advertise a notice of the date, time, and place at which bids will be publicly opened and read aloud. The legal notice must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. Notice of the IFB shall also be electronically posted and the IFB shall be available for public inspection. Notice shall be made no less than thirty (30) days prior to the date set forth therein for the opening of bids. A shorter time, as allowed by law, may be deemed necessary for a particular procurement as determined by the Finance Director. If the opening date changes, the first notice shall be published before the fourteenth (14th) day before the new opening date. The public notice shall state the place, date, and time of bid opening.

Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The name of each bidder and the amount of each bid, as well as other relevant information as the Finance Director deems appropriate shall be recorded. Unless otherwise determined by the Finance Director, this record shall be open to public inspection. In the event no attendees are present for bid opening, the sealed bids shall be opened by Finance and a "bid" or "no bid" may be recorded on the tabulation sheet. The bid may then be given to the appropriate person for recording. The attendance sheets will indicate that there were no attendees present. Unless otherwise determined by the Finance Director, the bids shall not be opened for public inspection until after a contract is awarded. After a notice of intent to award is issued, or in the absence of a notice of intent to award, after final execution of the contract, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the invitations for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the IFB. These selection criteria can only be used to determine whether the contractor is a responsible bidder, because the award can only be made to the lowest responsible bidder.

Correction or Withdrawal of Bids Before Bid Opening

Bids may be withdrawn at any time prior to the bid opening. Bids may be modified at any time prior to the due date and time, and mistakes discovered before bid opening may be modified by written notice received by the Finance Department prior to the time set for bid opening.

Mistakes and Withdrawals After Bid Opening & Cancellation of Awards

A bid that has been opened may not be modified for the purpose of correcting an error in the bid price. Mistakes discovered after bid opening but before bid award may be withdrawn only to the extent that the bidder can show that the mistake is of so great a consequence that to enforce the bid as made would be unconscionable, the mistake relates to a material feature of the bid, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After bid opening but before bid award, modifications to bid provisions (other than pricing) made by mistake

may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to a bidder.

All decisions to permit the correction or withdrawal of bids, or to cancel awards based on bid mistakes, shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all bids.

Contract Award

Contract award shall be made to the lowest responsible bidder. The contract file shall contain the basis on which the award is made.

Award Approvals

Awards of IFBs exceeding \$100,000 shall be routed through the appropriate department, reviewing board, commission, or committee as applicable in advance of City Council consideration.

Public Record

After the City issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the evaluations shall be available for public inspection not less than the 7th day after contract award for public works utilizing APDM, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

Lump Sum or Unit Price Contracts

Lump sum or unit price contracts follow the same method described in this Section, pursuant to LGC 252.047. If the contract is for the construction of public works or for the purchase of materials, equipment, and supplies, the municipality may let the contract on a lump sum basis or unit price basis. If the contract is let on a unit price basis, the information furnished to bidders must specify the approximate quantity needed, based on the best available information, but payment to the contractor must be based on the actual quantity constructed or supplied.

9.7 Public Works Over \$100,000 – Competitive Sealed Proposal – RFP

Application of Method

Competitive sealed proposals shall be solicited through an RFP. The RFP shall include construction documents, estimated budget, project scope/specifications, construction schedule requirements, applicable evaluation criteria, and other pertinent information. Contractual terms and conditions shall also be included within the solicitation document or incorporated by reference.

Pre-Qualification

A pre-qualification process may be conducted prior to the issuance of an RFP in order to establish a list of qualified offerors. In the event a pre-qualification process is used, the City shall only consider proposals that are submitted from pre-qualified offerors.

Public Notice

The RFP shall set forth the date, time, and place upon which the proposals will be due. All RFPs are required to advertise a notice of the date, time and place at which proposals will be publicly opened and read aloud. Legal notice must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. Notice shall be electronically posted and the RFP shall be available for public inspection. Notice shall be made no less than thirty (30) days prior to the date set forth therein for the opening of bids. A shorter time, as allowed by law, may be deemed necessary for a particular procurement as determined by the Finance Director. If the opening date changes, the first notice shall be published before the fourteenth (14th) day before the new opening date. The public notice shall state the place, date, and time of bid opening.

Receipt of Proposals

Proposals shall be opened publicly and read aloud the names of the offerors and any monetary proposals made by the offerors. Proposals shall be open for public inspection after the contract is awarded, except to the extent that the withholding of information is permitted or required by law such as trade secrets and confidential information.

Correction or Withdrawal of Proposals Before Proposal Opening

Proposals may be withdrawn at any time prior to the proposal opening. Proposals may be modified at any time prior to the due date and time, and mistakes discovered before proposal opening may be modified by written notice received by the Finance Department prior to the time set for proposal opening.

Revisions, Mistakes and Withdrawals After Proposal Opening & Cancellation of Awards

The City may permit revisions to proposals after submission and before the award of the contract to obtain the best final offers. A proposal that has been opened may not be modified by the offeror for the purpose of correcting an error in the price. Mistakes discovered after proposal opening but before award may be withdrawn only to the extent that the offeror can show that the mistake is of so great a consequence that to enforce the proposal as made would be unconscionable, the mistake relates to a material feature of the proposal, and the withdraw does not result in prejudice to the City except for the loss of the bargain. After proposal opening but before award, modifications to proposal provisions (other than pricing) made by mistake may be permitted by the City if not prejudicial to the interest of the City and does not provide an unfair advantage to an offeror. All decisions to permit the withdrawal of a proposal after opening shall be supported by a written determination made by the Finance Director. Only the City Council may reject any and all proposals.

Evaluation Criteria

The RFP shall state the criteria to be used in the evaluation of the proposals and shall include their relative importance. No other factors or criteria may be used in the evaluation. City Council designates authority to the Finance Department to select evaluation criteria in accordance with GC 2269 and LGC 252.

Evaluation Committee

Not later than the 45th day after the date on which the proposals are opened, the City shall evaluate and rank each proposal submitted in relation to the published selection criteria. A committee may

be formed to evaluate each proposal using the criteria as defined within the RFP. The use of a committee is recommended for complex, large expenditures, or when multiple proposals are received. This committee will consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the using department and/or Finance on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. The Finance Department participates, as a non-voting member, to provide oversight, guidance and assistance as needed. Finance may remove evaluation team members if a conflict of interest arises. Conflicts of interests must be documented and kept with the contract file.

Contract Award

Contract award shall be made to the responsible offeror whose proposal is determined in writing to be the best value to the City taking into consideration the weighted evaluation criteria set forth in the RFP. The contract file shall contain the basis on which the award is made.

Award Approvals

Awards of RFPs exceeding \$100,000 shall be routed through the appropriate department, reviewing board, commission, or committee as applicable in advance of City Council consideration.

Public Record

After the city issues a notice of intent to award, or in the absence of a notice of intent to award upon final contract execution, the proposal evaluation shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with this Policy.

9.8 Public Works Over \$100,000 – Alternative Project Delivery Methods (APDMs)

The Finance Director may authorize the use of the following delivery methods for public works projects:

9.8.1 Design-Build (GC 2269, Subchapter G)

Design-build means a project delivery method in which:

- There is a single contract for design services and construction services.
- Design and construction of the project may be in sequential phases or concurrent phases.

9.8.2 Construction Manager-At-Risk (GC 2269, Subchapter F)

Construction-Manager-At-Risk (CMAR) means a project delivery method in which:

- There is a separate contract for design services and a separate contract for construction services.
- The contract for construction services may be entered into at the same time as the contract for design services or at a later time.

- Design and construction of the project may be in sequential phases or concurrent phases.
- Preconstruction services and other related services may be included.

9.8.3 Construction Manager-Agent (GC 2269, Subchapter E.)

Construction Manager-Agent is a delivery method by which the City contracts with a construction manager-agent to provide consultation or administrative services during the design and construction phase and to manage multiple contracts with various construction prime contractors

9.8.4 Job Order Contracting (GC 2269, Subchapter I)

Job-Order-Contracting means a project delivery method in which:

- The contract is a requirement contract for indefinite quantities of construction.
- The construction to be performed is specified in job orders issued during the contract.
- (Maintenance services and other related services may be included.
- The project limit shall be set by Council approved not-to-exceed expenditure amount.

Job order contracting cannot be used for civil works projects such as roads, utilities and drainage systems.

9.9 Bonding Requirements (GC 2253).

The bonding requirements of the City of Tomball are intended to protect the contractor, the service provider and the City of Tomball. Unless otherwise stated in state law, or otherwise established in this Policy, the following bonding requirements apply for public works:

- Performance Bonds: For contracts in excess of \$100,000, a 100% performance bond must be executed in the full amount of the contract and which covers the time period for the public work construction and for two additional years beyond the completion date of the construction of the public work. The bond must be executed by a corporate surety, in accordance with the law.
- Payment Bonds: For contracts in excess of \$50,000, a payment bond must be executed in the full amount of the contract, and which covers the time period the project will be allowed for construction. The bond must be executed by a corporate surety, in accordance with the law.
- Bid Bonds: The City reserves the right to require a bid bond for a public works project in an amount to be deemed fair and reasonable.
- Maintenance Bonds: The City reserves the right to require a maintenance bond for projects in an amount to be deemed fair and reasonable.

9.10 Prevailing Wage Rates

The Texas Legislature has given special treatment to public works projects, not necessarily applied to other expenditures or purchases by a municipality. Wages for workers on construction projects shall not be paid at less than the schedule of general prevailing rates of per diem wages as determined by the City Council, which shall be the lesser of wages defined by the United States Department of Labor Davis and Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website (www.wdol.gov) for Harris County, Texas (WD-2509), as amended, or as determined by the City by conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the City. The prevailing wage rate or a link to the wage rates shall be included in bids for the contract and in the contract itself for public works projects. The prevailing wage rate does not apply to work done directly by a public utility company or for maintenance work.

9.11 Insurance Requirements

The minimum insurance required will be the types and amounts required by the Finance Director and City Manager. The Finance Director, City Manager, City Engineer, Consulting Engineer, or Architect may provide input on a possible increase to the amounts of insurance required for any project. For construction and construction-related projects, all contractors and sub-contractors, including those delivering equipment or materials, performing service on a public works project, shall provide Texas workers' compensation for all employees. All Contractors shall provide proof of coverage satisfactory to the City. Prime Contractors are responsible for seeing that sub-contractors carry the same or higher insurance amounts as those required of the prime contractor. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage.

9.12 Retainage

The City requires retainage on all public works contracts exceeding \$100,000. Five percent of the total contract amount shall be held as retainage on public works contracts. The City may elect to require alternative retainage percentages. For retainage percentages in excess of five percent, the City will deposit the retainage into an interest-bearing account and pay the interest earned to the contractor upon completion of the contract.

A release of retention shall only be considered when a project is fully completed and accepted in compliance with the contract and specifications. A project manager shall review and approve a request for release of retention. If applicable, an engineer/architect shall review and approve the request. The project manager shall also provide Finance the consent of the surety for final payment and release of retainage from the bonding company. All lien notices shall be forwarded to the project manager.

Partial release of retainage may occur, at the City's discretion, before the project is completed. This is generally considered for large projects with longer construction periods (GC 2252.031, 2252.032, 2252.033).

Procurement Policy

ARTICLE 10: Contract Terms and Conditions

10.1 General Information

All City contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Finance Director shall have the authority to establish and modify any such terms and conditions.

Department directors are required to approve contracts for financial and operational obligations and business terms before contract award by Council.

Procurement Policy

ARTICLE 11: Contract Modifications (Change Orders)

11.1 General Information

A contract modification (and/or change order) occurs when a change to an executed contract is necessary. The modification may involve a change to quantities, specifications, terms or any number of contract requirements.

11.2 Procedures and Authorizations

Any modification to an awarded contract, regardless of sourcing method, shall be documented, reviewed, and approved through a contract amendment and/or change order.

Contract modifications and/or individual change orders for a total increase over \$100,000 require approval by the City Council. The change order authority limit resets after each City Council approval of a change order. All change orders, regardless of amount, require approval of the Finance Director. Change orders over \$25,000 require City Manager approval.

A contract amendment and/or change order, or the cumulative total of contract modification and/or change orders, cannot increase the original contract price by more than twenty-five percent (25%) except as provided under state law. Modification and/or changes in excess of twenty-five percent (25%) require re-solicitation. Contract modifications and/or change orders reducing a contract or purchase order by more than twenty-five percent (25%) require the consent of the contractor.

If applicable, an engineer/architect shall review and approve a contract amendment and/or change order prior to submitting to the City Council. Upon approval, a contract amendment and/or change order will be reviewed, signed and executed by the Finance Department. A hard copy of the change order will be forwarded to the contractor and a copy retained in the Procurement file.

Procurement Policy

ARTICLE 12: COST PRINCIPLES

12.1 Adoption of Rules

The Finance Director shall adopt rules setting forth cost principles which shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs.

12.2 Cost or Pricing Data

The submission of current cost or pricing data may be required in connection with any award, change order or contract modification

Procurement Policy

ARTICLE 13: DISPOSAL OF CITY-OWNED PERSONAL PROPERTY, MATERIALS, AND EQUIPMENT

13.1 Introduction

The Finance Director shall establish guidelines for and shall be responsible for the management of:

- The transfer of surplus property and operation of the surplus property program.
- The sale or disposal of surplus, worn, scrap, obsolete, excess, damaged, abandoned, unclaimed, lost and confiscated property by competitive sale or other authorized method.
- The trade-in of surplus property for purchase of new equipment.

The Finance Director shall control and supervise all existing and future City facilities (warehouses) established for the purpose of purchasing, storing, and issuing supplies. The Finance Director shall also be responsible and accountable for all warehouse materials and maintain a perpetual inventory record thereof.

The Finance Director will establish policies and procedures governing the addition or deletion of items carried in inventory, the sale or other disposal of inventory items no longer needed, delivery and other services provided to using agencies, and any policies or procedures required for efficient and effective operation of the inventory system.

The transfer, donation, or sale of City property shall be administered in compliance with state law and this Policy. The Finance Director will operate a surplus property program for the purpose of receiving, storing, transferring, or selling surplus property no longer needed by the City.

13.2 Definitions

The following terms are related to the management of property:

Abandoned Property means personal property which has been left unattended as defined by Texas Property Code 72, Texas Property Code 75, and Texas Transportation Code, Chapter 683.

Damaged or Destroyed means personal property that is not operable due to damage or accident and would require excessive repair (cost and/or manpower) to return the asset to serviceable condition.

Donation means personal property which has been donated to a charitable organization.

Excess means personal property that which is no longer needed (in excess of the department's requirements) but are still serviceable or useable.

Lost or Stolen mean personal property that is assigned to or acquired by a department but has been lost or stolen and deemed unrecoverable. Stolen City-owned property shall be properly documented with a police report.

Obsolete means personal property that no longer meet department specifications or requirements but is still serviceable or useable.

Property means assets with a useful life of more than one (1) year.

Property Transfer means the transfer of fixed assets between using agencies or transfer of property to or from the surplus property program.

Scrap means personal property that no longer functions, is unserviceable and has no market value, except for the basic material content, which can be recycled through appropriate means. Surplus property means property no longer needed by using agencies for their operations, property in poor or non-working condition, or property that is a by-product (e.g. scrap metal, used tires and oil, etc.).

Trade-in means personal property which has been traded, for similar new property, and the transaction has been recorded within the purchase order.

Unclaimed, Lost and Confiscated Property means all property used as evidence in the courts and remaining unclaimed after final disposition, property seized by a peace officer as being used unlawfully, and all property coming into the hands of any City officer or employee as lost or unclaimed.

Worn means personal property that may still be operable but require excessive maintenance or repair (cost, manpower) to remain in an operable condition.

13.3 Methods for Disposal

Departments and the Finance Director shall determine the most appropriate disposition method for personal property, City-owned materials and equipment that are deemed to be in the best interests of the City. Options for disposal are as follows:

Transfer between City Departments

Excess or obsolete City-owned personal property that is no longer required by one City department (sending department) can be transferred either to another group within the same department or to another City department in need (receiving department). If the original cost of the equipment is over \$5,000, the department director shall notify the Finance Department, so the fixed assets records will reflect the appropriate change(s).

Transfer to Another Governmental Entity

Any transfer by the City of City-owned personal property to another governmental entity, except through the auction process, shall be pursuant to an Interlocal Agreement approved by the City Council if in excess of \$500.

Public Sale, Trade-in, Donation, Destruction or Returned for Credit

If the item is no longer of value to the City, the Finance Director is authorized to sell, trade, donate, scrap or return the item for credit.

The following methods of disposition are available:

- **Public Bid, Sale or Auction**

- A sealed bid, public auction (sale) held on site, at a City facility, or on-line and conducted by an auctioneer licensed by the State of Texas. The guidelines of [LGC 252](#), for competitive bidding, shall be followed. For City-owned personal property items having a value less than \$100, the sale may be made at an advertised location where members of the public may purchase the item.
- Property may be disposed of through the sealed bid process and sold to the highest bidder, unless rejected by the using department and Finance.
- All items are to be sold to the highest bidder unless pricing is determined by the owning department to not be sufficient. In this instance, the City may refuse the bid and hold the item(s) for sale at another time.
- After determining the time and place for a public auction, the Finance Director shall give notice of the auction by advertising in the official newspaper of the City for at least once a week for two consecutive weeks. The date of the first publication must be at least 14 days prior to the date of the auction and the second publication must be no sooner than 7 days prior to the auction or posting on the City website for a period of 10 days prior to the auction.

- **Trade-In**

- Offer the property as a trade-in for new property of the same general type if the Finance Director and owning department consider that action to be in the best interest of the City. If determined necessary to determine “fair market value”, the Procurement Director may employ outside resources to make such determination. In all instances, best value for City owned property will be achieved and properly documented by the Procurement Director and credit shall be applied to the appropriate department.

- **Third Party Appraisals**

- The City may utilize third party consultants to determine authenticity or market value of any commodity. The department responsible for the commodity shall consent to and pay for the third-party appraisal.

- **Donation**

- Dispose of the property by donating it to a civic or charitable organization or another governmental entity, if allowed by law. However, in such case, City Council approval will be necessary if the item has value of more than \$500.

- **Destruction**

- The Procurement Director may order any of the property to be destroyed or otherwise disposed of if the replacement value is less than \$100 and is not

considered in good working order, the City attempts to sell the property and receives no viable offers or it is determined to be scrap material(s).

- Scrap: City owned personal property which has been transferred to Finance and has been found to be damaged, destroyed, or in any other way having no recoverable value will be accumulated and disposed of in accordance with existing scrap metal/refuse contracts or as otherwise directed by the Chief Financial Officer.
 - Scrap Bin(s): The Finance Director shall ensure that all scrap with value (metal, wire, etc.) shall be disposed of with existing scrap metal/refuse contracts or as otherwise directed by the City Manager. Finance shall ensure accurate accounting of all scrap proceeds and report all sales proceeds appropriately. All City employees shall ensure the proper disposal of scrap material in the identified location, and City-owned materials shall not be converted for private use or personal use.
- **Returned for Credit**
 - Excess or obsolete City-owned property may be returned, if possible, to the vendor from which the property was originally purchased. Prior to such return, department staff, directors, and officers shall coordinate this action with the Finance Director, to ensure credit has been fully received, documented, and reported to the Finance Department.

13.4 Disposal of Abandoned Property

Disposition of abandoned or unclaimed property seized by a government entity, officers, or employees must be conducted in accordance with this Policy, Tomball local policy, the [Texas Code of Criminal Procedure](#) (Chapters 18, 47 59) and in compliance with [Texas Transportation Code, Chapter 683](#). Equipment deemed appropriate for retention will be in accordance with state law (i.e., confiscated equipment by the Tomball Police Department).

13.5 Purchase by Officers and Employees

An officer or employee of the City, who recommends and/or authorizes the sale of materials and equipment for their department, shall not, directly or indirectly, submit a bid for, purchase or acquire ownership of that department's property. An officer or employee of the City shall not, directly or indirectly, submit a bid, purchase, or acquire ownership of "impounded property".

13.6 Disposition of Federal and Grant Funded Assets

No disposition of federal or grant funded assets will be initiated unless it is allowable in accordance with the guidelines outlined in the *Office of Management and Budget (OMB) Circular A-102 (revised)* and the *Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments*, subject to the specific guidelines of the grantor agency. Additionally, no disposition of federal or grant funded assets will be initiated unless the applicable grant program

administrator and the department director of the grantee department have recommended such disposition.

If proceeds result from the disposition through sale of grant funded property, the Finance Director, working with the department director and applicable grant program administrator, will ensure that proper notifications are provided to and instructions and approvals obtained from the grantor agency concerning how proceeds are to be handled. Depending upon the grantor agency or source involved and the dollar level of the proceeds, funds may or may not need to be returned or credited to the grantor agency or source. In all instances where proceeds have been gained by the City, the Finance Director shall provide a full accounting of such proceeds to the City Manager. Where possible and allowable upon the closing of a grant, the City will seek to transfer the property to another allowable grant in lieu of sale or other disposition method.

13.7 Disposition of Items Funded with Bonds

The disposition of bond funded assets will be communicated to the Finance Department. If proceeds result from the disposition of bond funded assets, the Finance Director, shall provide a full accounting of such proceeds to the City Manager.

13.8 Transfer of Ownership of Certain Emergency Vehicles

In accordance with [Texas Transportation Code 728.021](#), emergency vehicles used to transport sick or injured persons must have vehicle equipment removed, including lights, sirens or devices which only an authorized emergency vehicle may be equipped with, and must remove or obliterate any emblem or marking on the vehicle that identifies the vehicle as an authorized emergency vehicle. This statute doesn't apply if the City is transferring ownership to a person who holds a license as an emergency service provider, who is in the business of buying and selling used vehicles in this state and who specializes in authorized emergency vehicles, or who operates in a foreign country.

Procurement Policy

ARTICLE 14: PROTESTS AND APPEALS

14.1 Introduction

Protest and appeals will be accepted from prospective bidders, respondents or offerors whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. The Finance Director will consider all protests or appeals filed in a timely manner regarding the award of a contract. If the protest is oral and the matter cannot be otherwise resolved, written confirmation of the protest or appeal will be required.

14.2 Definitions

Filed means delivery to the contract officer or to the Finance Director, whichever is applicable. A time and date of receipt shall be documented in a verifiable manner for purposes of filing.

Governing Instruments means those legal documents that establish the existence of an organization and define its powers including articles of incorporation or association, constitution, charter and by-laws.

Interested Party means an actual or prospective bidder, respondent, or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an economic interest exists will depend upon the circumstances of each case. An interested party does not include a supplier, subconsultant, or subcontractor to an actual or prospective bidder, respondent, or offeror.

Receipt means the earlier of actual receipt or the first attempted delivery by certified mail, or by any other means that provides evidence of the attempt, to the persons' last known address.

14.3 Authority of the Finance Director

The Finance Director shall have the authority to settle and resolve protests.

14.4 Right to Protest

Any interested party who is aggrieved in connection with a solicitation or award of a contract above the formal threshold may protest to the Finance Director.

14.5 Filing of a Protest

A protest shall be filed in writing with the Finance Director (letter received by physical mail delivery or by electronic submission) and shall include the following information:

- The name, address, telephone number and email address of the protestant;
- The signature of the protestant or its representative;
- Identification of the solicitation or contract number;
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- The form of relief requested.

Protests will not be considered if not supported by adequate documentation as defined in this Policy or if not received within the parameters as defined in this Policy and any specific solicitation.

14.6 Time for Filing Protests

Protests based upon alleged improprieties in a solicitation that are apparent before the solicitation due date shall be filed not less than five (5) working days before the solicitation due date. In all other cases, protests shall be filed within five (5) days of notice of intent to award or in the absence of a notice of intent to award, prior to the award date. The Finance Director shall give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties. Interested parties have the right submit a written response to the protest.

14.7 Stay of Procurement During the Protest or Appeal Process

In the event of a timely protest, or in the event of timely appeal of the Finance Director's decision, the City shall stay the solicitation or award of the contract unless the Finance Director makes a written determination that there is a reasonable probability that the protest or appeal will be denied and that proceeding further with the solicitation or award of the contract is in the best interests of the City. The stay shall automatically continue throughout the protest or appeal process unless the Finance Director makes a written determination to lift it.

14.8 Confidential Information

See Section 1.9.

14.9 Decision by the Finance Director on a Protest

The Finance Director shall issue a written decision within ten (10) days after a protest has been filed. The decision shall contain an explanation of the basis of the decision. The Finance Director shall furnish a copy of the decision to the protestant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The time limit for decisions may be

extended for a reasonable time not to exceed thirty (30) days beyond the original ten (10) day time period. The Finance Director shall notify the protestant in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued. If the Finance Director fails to issue a decision within the time limits set forth in this Section, the protestant may proceed as if an adverse decision had been issued. The decision shall contain a statement regarding the appeals process that is available pursuant to this Policy.

14.10 Remedies for a Protest

If the Finance Director sustains the protest in whole or part and determines that a solicitation, evaluation process, proposed contract award, or contract award does not comply with this Policy, the Finance Director shall implement an appropriate remedy.

In determining an appropriate remedy, the Finance Director shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to:

- The seriousness of the procurement deficiency;
- The degree of prejudice to other interested parties or to the integrity of the procurement process;
- The good faith of the parties;
- The extent of performance;
- Costs to the City;
- The urgency of the procurement; and
- The impact of the relief on the using agency's mission.

An appropriate remedy may include, but is not limited to, one or more of the following:

- Reject all bids, responses or proposals;
- Terminate the contract;
- Reissue the solicitation;
- Issue a new solicitation;
- Award a contract consistent with the procurement codes; or
- Such other relief as is determined necessary to ensure compliance with this Policy.

14.11 Appeals to the City Manager

Any person may appeal the written decision of the Finance Director to the City Manager within seven (7) days from the date the decision is issued by filing a written appeal with the City Manager. The appellant shall also file a copy of the appeal with the Finance Director.

The appeal shall contain:

- The information set forth in Section 14.10;
- A copy of the decision of the Finance Director;
- The precise factual or legal error in the decision of the Finance Director from which an appeal is taken.

14.12 Notice of Appeal

The City Manager shall give notice of the appeal to the successful contractor if award has been made or, if no award has been made, to interested parties. Such interested parties shall have the right to request copies of the appeal and to intervene in the proceedings. The City Manager shall, upon request, furnish copies of the appeal to all interested parties.

14.13 Finance Director Report on Appeal

The City Manager may conduct or hearing or request additional information from the Finance Director or any other person in order to render a decision on the appeal. The City Manager's determination on the request shall be in writing, state the reasons for the determination and, if the extension is granted, set forth a new date for the filing of comments. The City Manager shall notify the Finance Director of any extension.

14.14 Remedies for Appeal of a Protest

The City Manager may dismiss, affirm or deny the Finance Director's decision in whole or in part based on criteria described in Section 14.10. If the Finance Director's decision is denied in whole or in part and a determination is made that a solicitation, evaluation process, proposed award, or award does not comply with state law or this Policy, the City Manager may direct the Finance Director to make the appropriate remedy described in Section 14.10.

Procurement Policy

ARTICLE 15: VENDOR DISQUALIFICATION

15.1 General Overview and Applicability

Disqualification is an action taken by the Finance Director under this Article to prohibit a person from participating in City procurements. The purpose of disqualification is to protect the City of Tomball and taxpayers from an inefficient use of City funds.

City departments are responsible for managing their contracts and for identifying and controlling the risks associated with vendor performance.

Vendors may be disqualified from bidding on City contracts under certain circumstances in order to minimize the City's risk of losses. In order to ensure that the City is receiving quality goods, services and construction and in order to ensure that the City is receiving value for public money, vendors may be disqualified from participating in City procurement opportunities for prescribed time periods.

A decision to disqualify a vendor from participating in City procurement opportunities must be supported by evidence, exercised in accordance with the factors set out in this Policy and appropriately approved. A decision to place a vendor on the disqualification list is discretionary; however, such discretion must be exercised consistently and fairly.

15.2 Reasons for Disqualification

The City may disqualify a vendor for one of the following six categories of reasons:

15.2.1 Litigation

If a vendor engages in litigation against the City, the City may consider whether or not such litigation should disqualify that vendor from participating in future City procurement opportunities. Note that litigation brought by the City against a vendor is addressed in Subsection 6 (Poor Performance) below.

A vendor who engages in litigation against the City should only be disqualified in connection with litigation proceedings if there are valid commercial or business reasons for doing so. Disqualification should not be exercised to "punish" the vendor for bringing a lawsuit. Litigation against the City in respect of matters unrelated to a procurement process or contracts for the provision of goods, services or construction should not be considered under this Policy.

In evaluating whether a litigious vendor should be disqualified, the City should consider the following qualitative factors in its analysis:

- Is the litigation in relation to a City procurement process or a contract with the City for the provision of goods, services or construction?
- Is there a history of litigious conduct with the vendor and has that history resulted in increased costs to the City?
- What was the outcome of the previous litigation? For example, was it frivolous/vexatious or were damages awarded in favor of the vendor?
- Does the vendor's litigation with the City call into question the vendor's ability to provide work or services to the City under future contracts?

15.2.2 Failure to Honor a Bid

If a vendor submits a bid in response to a City procurement opportunity and that vendor subsequently refuses to honor its bid or the pricing included in that bid, the City may consider disqualifying that vendor from participating in future City procurement opportunities. However, a vendor should not be disqualified if their failure to honor a bid was a legitimate withdraw of that bid. Accordingly, the reason why a vendor did not honor its bid must be analyzed and considered in making a decision to disqualify that vendor.

Factors that the City may consider in such analysis include, but are not limited to:

- If the City and a selected vendor in a negotiated procurement process attempt to negotiate an agreement in good faith and for valid business reasons are unable to come to an agreement, that vendor should not be disqualified.
- If a vendor fails to honor its submitted pricing because of a change in market conditions, the City should consider whether pricing fluctuations are common in the industry.
 - If price increases are common, the City should consider whether the vendor should have factored this into their pricing. For example, could the market conditions have been reasonably predicted within the industry?
 - If the City's acceptance of the bid took significantly longer than anticipated, the City should consider the impact of the delay on the vendor's willingness to honor its submitted pricing.
- If a vendor does not honor its submission because it is too busy on other contracts at the time its bid is accepted, and City's acceptance of the bid was within the time period set out in the bid document, the City should consider disqualifying that vendor because vendors should only submit proposals if they are capable of delivering the goods or services.
- Other reasons for a vendor's failure to honor a submission or pricing should be reviewed contextually and fairly.

15.2.3 Failure to Disclose a Conflict of interest

If a vendor fails to disclose a conflict of interest during a City procurement opportunity or during the performance of a contract with the City and the City subsequently discovers that such a conflict of interest exists, the City may disqualify that vendor from participating in future procurement opportunities after conducting an analysis using the following factors:

- The nature of the conflict of interest, including whether it is perceived or an actual conflict of interest and the materiality of the advantage that such a conflict may have given the vendor.
- Whether the vendor knowingly failed to disclose such a conflict of interest.
- The impact such a failure to disclose the conflict of interest has or may have on the City, including its reputation and the impact on its obligation to conduct a fair competitive procurement process.

15.2.4 Participating in Bidding Practices Prohibited by Statute

If the City has reason to suspect a vendor or vendors are engaged in bid-rigging, price-fixing, bribery or collusion or other behaviors or practices prohibited by federal or state statutes in connection with a City procurement opportunity, the City should contact the appropriate authorities and provide such assistance as is required and support a subsequent investigation and if applicable, prosecution.

If a vendor is convicted of bid-rigging, price-fixing or collusion in connection with a City procurement or in connection with other public sector procurements, the City shall disqualify that vendor.

15.2.5 Unethical Bidding Practices

A vendor may engage in unethical bidding practices that do not amount to a criminal or statutory offense, but such practices may still warrant disqualification from bidding on the City procurement opportunities. Examples of such unethical bidding practices include inappropriate offers of gifts to City employees, elected officials, officers, consultants, advisors or other City representatives and misrepresentations in proposals and inappropriate in-process lobbying of or communication with City employees, elected officials, officers, consultants, advisors or other City representatives during a procurement process. The City must conduct a full review of the unethical practice in question and perform a contextual analysis to determine whether the vendor or vendors in question should be disqualified. For example, did the unethical bidding practice compromise the City's ability to run a fair procurement process?

15.2.6 Poor Performance

If a vendor performs poorly on a contract with the City, the City may consider disqualifying that vendor in the following circumstances:

- The contract was terminated for performance issues prior to expiry;
- There were un-rectified performance issues on a contract that resulted in extra costs and or delays to the City;
- The goods were defective and were not replaced or repaired or required multiple repairs; or
- The City brought litigation proceeding against the vendor in connection with issues related to the contract.

All performance issues in connection with City contracts must be escalated to Finance and brought to the attention of the City Manager. Performance issues must be supported by documentation evidencing the notification to the vendor of performance issues and all escalation of such performance issues.

15.3 Disqualification Process

The Finance Director may disqualify a vendor in writing after notice and hearing to the vendor.

The written decision of disqualification shall also include the length of the disqualification. A vendor may be disqualified for period of up to three (3) years. The length of the disqualification period should be proportional to the reasons for the disqualification and fair and the full three-year disqualification should only be applied in the most serious of disqualifications.

A disqualification can either be a blanket disqualification or a disqualification to provide specific goods, services or construction and the recommendation should clearly set out the scope of the disqualification.

Before the vendor is officially disqualified, the vendor must be notified in writing of the potential disqualification and shall be allowed to provide a written response within ten (10) calendar days of notification, including any supporting documentation necessary to support their case against disqualification.

The Finance Director's opinion may be appealed to the City Manager as provided in Section 14.

Procurement shall notify the vendor in question of the disqualification recommendation in writing via certified mail, return receipt requested. The notification letter should contain:

- Full details as to the reasons for the disqualification, including copies of any documents or correspondence to support such a disqualification.
- The length of the recommended disqualification period and scope, if applicable.
- The vendor's right to re-apply for eligibility within the prescribed time period and the process.

A disqualified vendor may apply to be re-eligible to participate in City procurement opportunities upon the completion of half of the original disqualification period. For example, if the original disqualification period was two (2) years, the vendor may apply for review of the disqualification after one (1) year.

In order to apply to be re-eligible, the vendor must submit a written case for re-instatement, including supporting documentation, if necessary, that provides reasons why the original reason for the disqualification would no longer prove a risk for the City. Applications for review of eligibility are to be reviewed by the department director, the Finance Director, and City Manager.

If the department director, the Finance Director, and City Manager are convinced that the reasons for the original disqualification will no longer present risk for the City should it do business again with the vendor in question, then the Finance Director may reinstate that vendor.

Procurement shall maintain an up-to-date and current list of all disqualified vendors. Any vendor having an officer or director that was an officer or director of a vendor on the disqualified list at the time it was disqualified is also considered disqualified. The list should contain the full name of the vendor, the names of the officers or directors of the vendor, the reasons for the disqualification, the file number where the written recommendation for the disqualification is filed, the length of the disqualification period and the date of the expiry of the disqualification period.

Review of the disqualification list against a list of vendors and their officers or directors should be conducted for each procurement to ensure the disqualified vendors are not allowed to continue in the process.

Procurement Manual

ARTICLE 16: INTERLOCAL CONTRACTS PROCUREMENT

16.1 General Information

An interlocal contract is a contract between governmental agencies for services. Approval of interlocal contracts follows the same procedures as other procurements, including the established expenditure authority.

Procurement Policy

ARTICLE 17: COOPERATIVE BUYING AGREEMENTS

17.1 General Information and Applicability

The City may purchase goods and services through cooperative contracts. Agreements entered into pursuant to this Policy shall be limited to the areas of procurement of materials, services, professional services, construction or construction services, warehousing or materials management.

17.2 When Agreement is Required and/or Authorized

The City is not authorized to participate in cooperative buying agreement unless a cooperative agreement described in GC 791 or LGC 271 is executed between the parties or the parties are members of a cooperative purchasing group or authority that permits cooperative use amongst its membership.

The City may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, professional services, construction or construction services with one or more government agencies in accordance with an agreement entered into between the participants. Parties under a cooperative purchasing agreement may:

- Sponsor, conduct or administer a cooperative agreement for the procurement or disposal of any materials, services, or construction.
- Cooperatively use materials or services.
- Commonly use or share warehousing facilities, capital equipment and other facilities.
- Provide personnel, except that the requesting eligible procurement unit may pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
- On request, make available to other eligible public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

17.3 Approval to Purchase from Cooperative Contract

If the purchase is less than \$100,000, the City Manager may approve the expenditure. If the purchase is \$100,000 or greater, City Council approval is required.

The City must have an interlocal agreement in place with the cooperative agency before a purchase can be made. Additional documentation may be required to ensure that the cooperative contract provides the best value to the City.

A list of approved cooperative purchasing programs is included in **Appendix C**.

17.4 Prohibitions

If a member of the governing body or an appointed board or commission of a municipality or county belongs to a cooperative association, the municipality or county may purchase equipment or supplies from the association only if no member of the governing body, board, or commission will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

Procurement Policy

ARTICLE 18: NON-DISCRIMINATION

18.1 Policy Statements

No City contractor or vendor shall engage in any discriminatory employment practice.

No person shall, on the grounds of race, sex, age, disability, creed, color, national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from contracts with the City.

No City contractor or vendor, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the Americans with Disabilities Act (ADA).

Procurement Policy

ARTICLE 19: PREFERENCES

19.1 General Overview

The City of Tomball has the right to implement any procurement practices which gives preference during consideration of a bid over other Bidders/Proposers.

19.2 Environmentally Preferable Purchasing (EPP)

The City may establish EPP policies to promote the purchase of environmentally preferable products throughout City departments, by incorporating environmental considerations into public purchasing to the extent it available, practical, and reasonably permitted by the Texas purchasing laws or any future policies directed by City Council.

19.3 Criterial for Local Preference Purchases

In compliance with LGC 271.905 and 271.9051, the City reserves the right to apply a local preference during consideration of a bid from a bidder whose principal place of business is in the City.

This Policy applies to the purchase of real property and personal property that is not affixed to real property or services (including construction services) through a competitive bid. This shall include IFBs awarded based upon lowest responsive, responsible bid, or awarded based upon best value.

19.3.1 Lowest Responsible Bids

A five percent (5%) price differential will apply to construction bids less than \$100,000 and all other bids, including services, less than \$500,000. This excludes telecommunication and information services. A three percent (3%) price differential will apply to bids, excluding construction and services, greater than \$500,000. The chart below is a summary of the criteria for Lowest Responsible Bids.

LGC 271.9051	LGC 271.905
5% Price Differential	3% Price Differential
Construction bids between \$50,000 and \$100,000	All other bids, excludes construction and services, greater than \$500,000
All other bids, including services, between \$50,000 and \$500,000	

19.3.2 Best Value Bids

Price is only one of a number of determining factors that are weighted for evaluation purposes. As a result, an additional weighted factor will be added to all such bids for bidders meeting local preference criteria. The appropriate weight, either 5% or 3%, will be consistent with the criteria outlined in the chart above.

19.3.3 Local Bidder Preference Consideration Application

A new and complete application must be submitted with each competitive bid by the due date, including a Tax Certification from the Harris County Tax Assessor/Collector per Resolution R2012-012.

This Policy does not apply to purchases obtained through an RFQ, RFP, bids involving federal funds, Cooperative Programs or Interlocal Agreements.

19.4 Reciprocal Law

GC 2252.002 relates in part to bids by nonresident bidders for any type of contract awarded by a municipality, such as general construction, improvements, supplies, services, a public work project or for purchase of supplies, materials, or equipment.

GC 2252.002 states, “A government entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the following: (1) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident’s principal place of business is located, or (2) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.”

The City reviews the applicability of this statute for all expenditures over \$50,000.

Procurement Policy

ARTICLE 20: ETHICS AND COMPLIANCE

20.1 General Information

All City officials and employees acting on the behalf of the City of Tomball must observe the highest standard of ethics throughout the procurement process. Staff and other personnel, shall never use their authority for personal gain, and they must seek to uphold and enhance the standing of the City of Tomball.

20.2 Ethical Requirements Relating to Municipal Procurement

20.2.1 State Laws

City officials and employees must comply with various state laws with respect to purchasing. The following is intended to provide a summary and the general requirements of the laws.

Chapter 171, Texas Local Government Code

Chapter 171 of the Texas Local Government Code regulates a local public official's conflicts of interest. The law defines "local public official" as an elected official, such as a Council Member, or an appointed city official (paid or unpaid) who exercises responsibilities that are more than advisory in nature.

The law prohibits a local public official from shall not voteing or participateing in any matter involving a business entity or real property in which the official, or the officials family, has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public or, in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.

A local public official who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with City Secretary, stating the nature and extent of the interest.

A local public official is required to abstain from participating in the matter.

A local public official who is required to file an affidavit is not required to abstain from participating in the matter if a majority of the members of the governing body have a substantial interest and file affidavits of similar interests on the same official matter.

Chapter 176, Texas Local Government Code

A Council Member, City Manager, Department Director, administrator, or any other person who is exercises any discretion in the selection of a vendor shall file a FORM CIS if the

person, or the person's family, has an employment or business relationship with a vendor who conducts business with the City.

An officer is required to file a conflicts disclosure statement ("statement") if a vendor enters into a contract with the City, or if the City is considering entering into a contract with the vendor, and the officer or officer's family member has an employment or other business relationship with the vendor that results in the officer or officer's family member receiving taxable income that exceeds \$2,500.00 in the preceding twelve months.

An officer is required to file a statement if the officer or officer's family member accepts a gift(s) from a vendor with an aggregate value of more than \$250.00 in the preceding twelve months. An officer is not required to file a statement in relation to a gift, regardless of amount, that is accepted by an officer or officer's family member if the gift is given by a family member of the person accepting the gift, is a political contribution, or is food, lodging, transportation, or entertainment accepted as a guest.

An officer or vendor who knowingly fails to file a statement or a disclosure when required to do so commits a Class C misdemeanor.

Chapter 252, Texas Local Government Code – Sequential and Component Purchases

Separate, sequential, or component purchases to avoid placing any purchase in a lower cost bracket in order to avoid approval levels or the competitive bid process are prohibited. A Department shall manage and plan in such ways that all purchases are made in sufficient quantities to meet needs. "Separate Purchases" mean purchases made separately of items that in normal purchasing practices would be bought in one purchase. "Component Purchases" means purchases of the component parts of an item that in normal purchasing practices would be bought in one purchase. "Sequential Purchases" means purchases of items made over a period that in normal purchasing practices would be bought in one purchase. (See §§252.001, 252.062, TX. Local Gov't Code).

Chapter 252, Texas Local Government Code – Penalties and Remedies

If a person fails to comply with the competitive bidding or competitive proposal procedures required by Chapter 252, Texas Local Government Code, that person may be convicted of a Class B misdemeanor. A Class B misdemeanor may be punished by a fine of up to \$2,000.00, confinement in jail for up to 180 days, or both the fine and confinement.

An individual is automatically removed from his or her position if that person is finally convicted of failing to comply with the competitive bidding or competitive proposal procedures required by Chapter 252. Once removed from office, such a person may not hold any public office in this state for four years after the date of final conviction. Also, for four years after the date of final conviction, the convicted person may not be employed by the city where the person was serving when the offense occurred and may not receive any compensation through a contract with the city.

State law specifies that if a city enters into a contract without complying with the competitive bidding or competitive proposal requirements of Chapter 252, the contract is void. (See §252.061, TX. Local Gov't Code)

20.2.2 Local Rules

The City demands the highest ethical standards of conduct from its employees and from vendors or contractors dealing with the City. City employees engaged in purchasing must comply with the following ethical standards.

Gratuities

Certain kinds of conduct such as offering gifts, gratuities, or discounts to City employees to influence their decisions in the purchasing process are expressly prohibited.

The City may reject a bid or cancel a contract without liability if it is determined by the City that gratuities were offered or given by a vendor or contractor, or an agent or representative of the vendor or contractor, to any officer or employee of the City with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract.

In the event a contract is cancelled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover and withhold the amount of the cost incurred by the vendor or contractor in providing such gratuities.

Confidential Information

It is a violation of City policy for any employee to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person. Any use of such information shall be grounds for discipline, up to and including dismissal.

Purchases for personal, private use

No employee may use the purchasing power of the City to make purchases for personal, private use. Employees should not have private purchases sent or delivered to the City, City facilities, or City buildings.

Travel, meals, and other expenses paid by vendor or contractor.

Travel costs to a vendor's or contractor's site shall be paid by the vendor or contractor only if the bid or proposal solicitation specifically stated that such visits would be at the vendor's or contractor's sole expense. The City will pay all other travel costs. Employees must fully document the visits and related expenses.

20.3 Required Forms from All Vendors

All vendors wishing to do business with the City of Tomball will be required to complete the forms found on **(Exhibit D)** in this document.

These forms are for the permanent record of the city and will be kept for the purpose of conforming to the afore mentioned statutory requirements stated in this section, the generally accepted accounting/auditing rules or requirements, and any requirements that federally funded programs may mandate of which the City may be participating with.

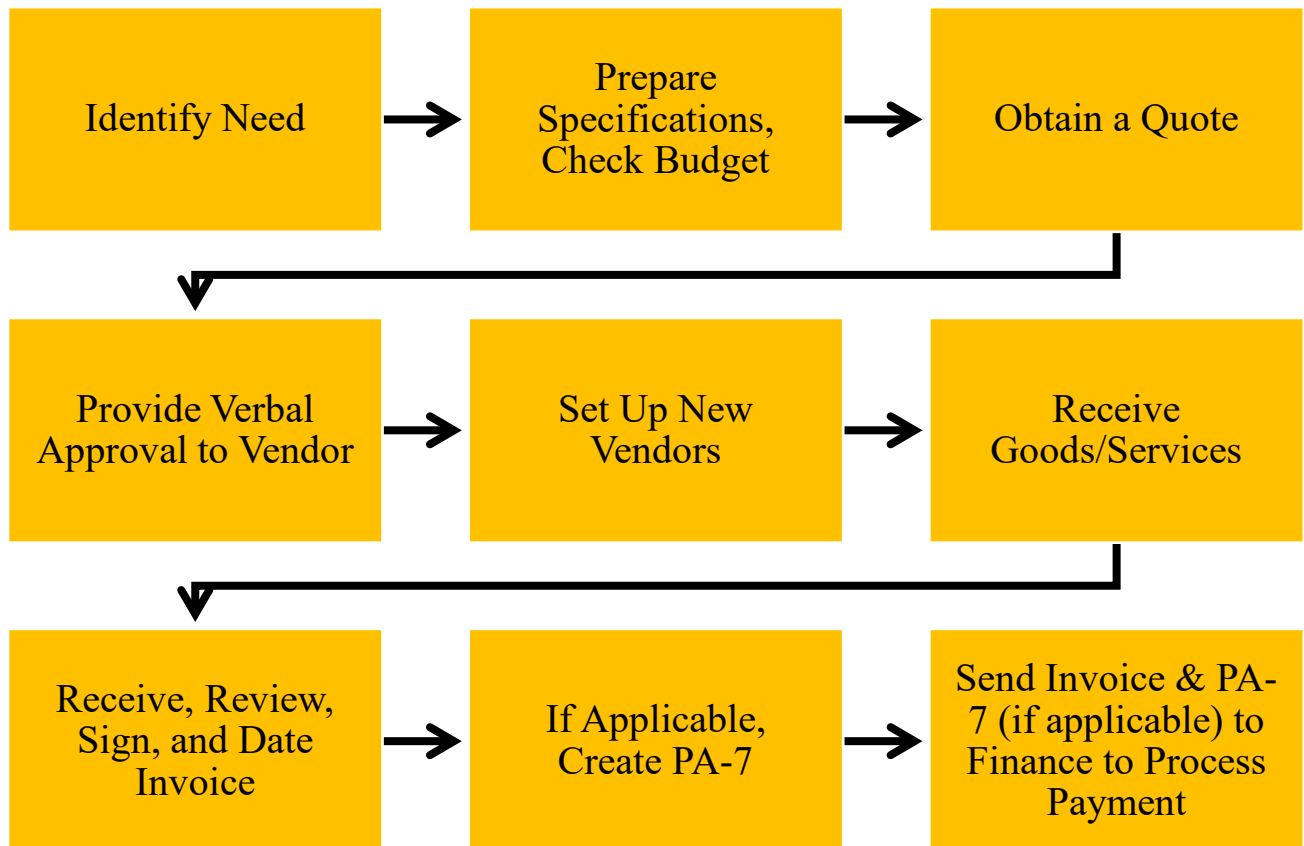
Failure to provide completed and signed forms may cause the vendor to not be accepted as a registered vendor with the City of Tomball.

Additionally, Departments are encouraged to do business with companies who adhere to the federal and state labor laws and regulations including:

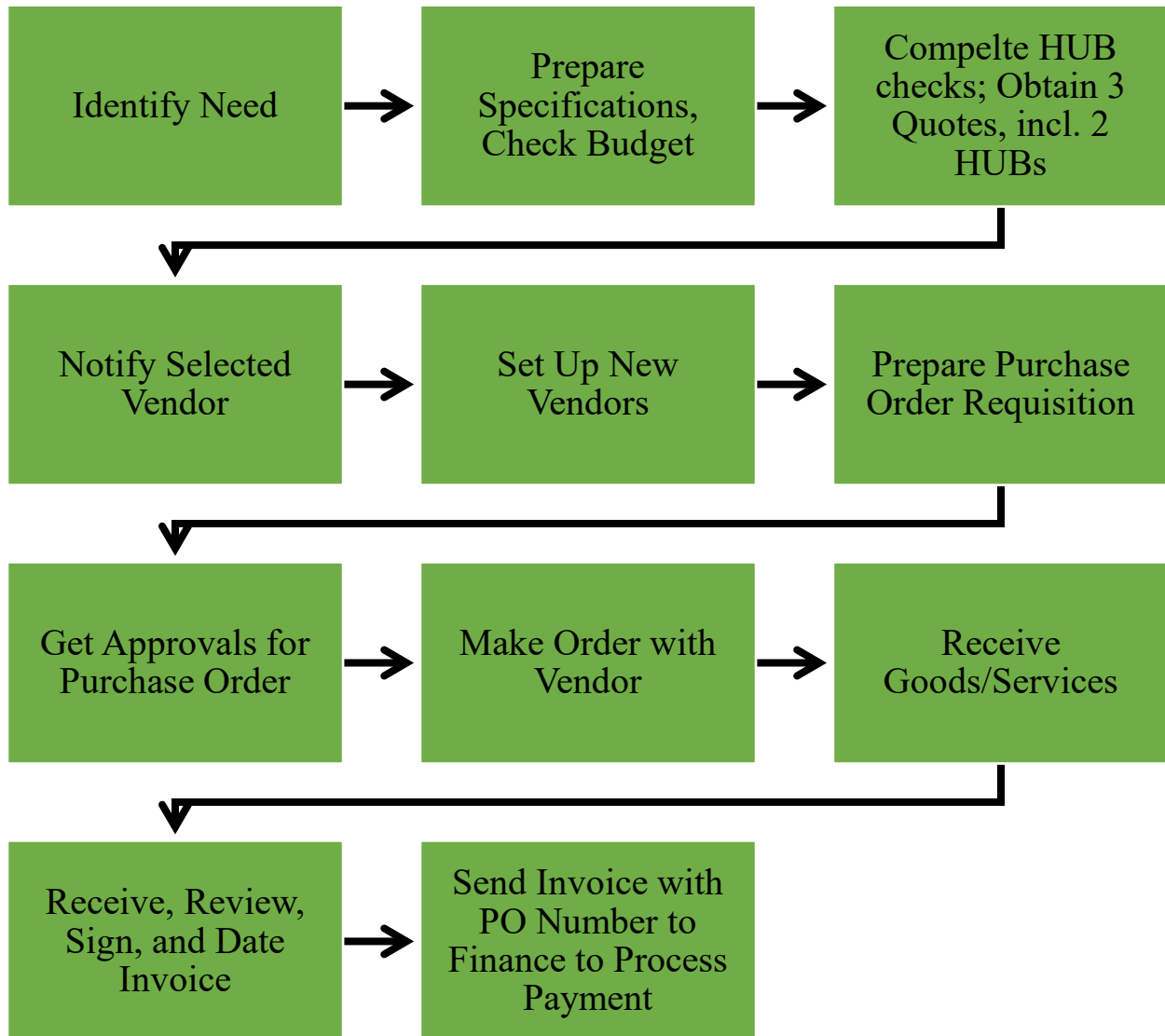
- The Fair Labor Standards Act through limiting child labor, requiring payment for overtime work, and establishing a minimum wage.
- The Occupational Health and Safety Act which requires safe working practices and procedures in all projects.
- Any state or federal law, including executive orders, prohibiting discrimination or harassment in the work place.

Exhibit A

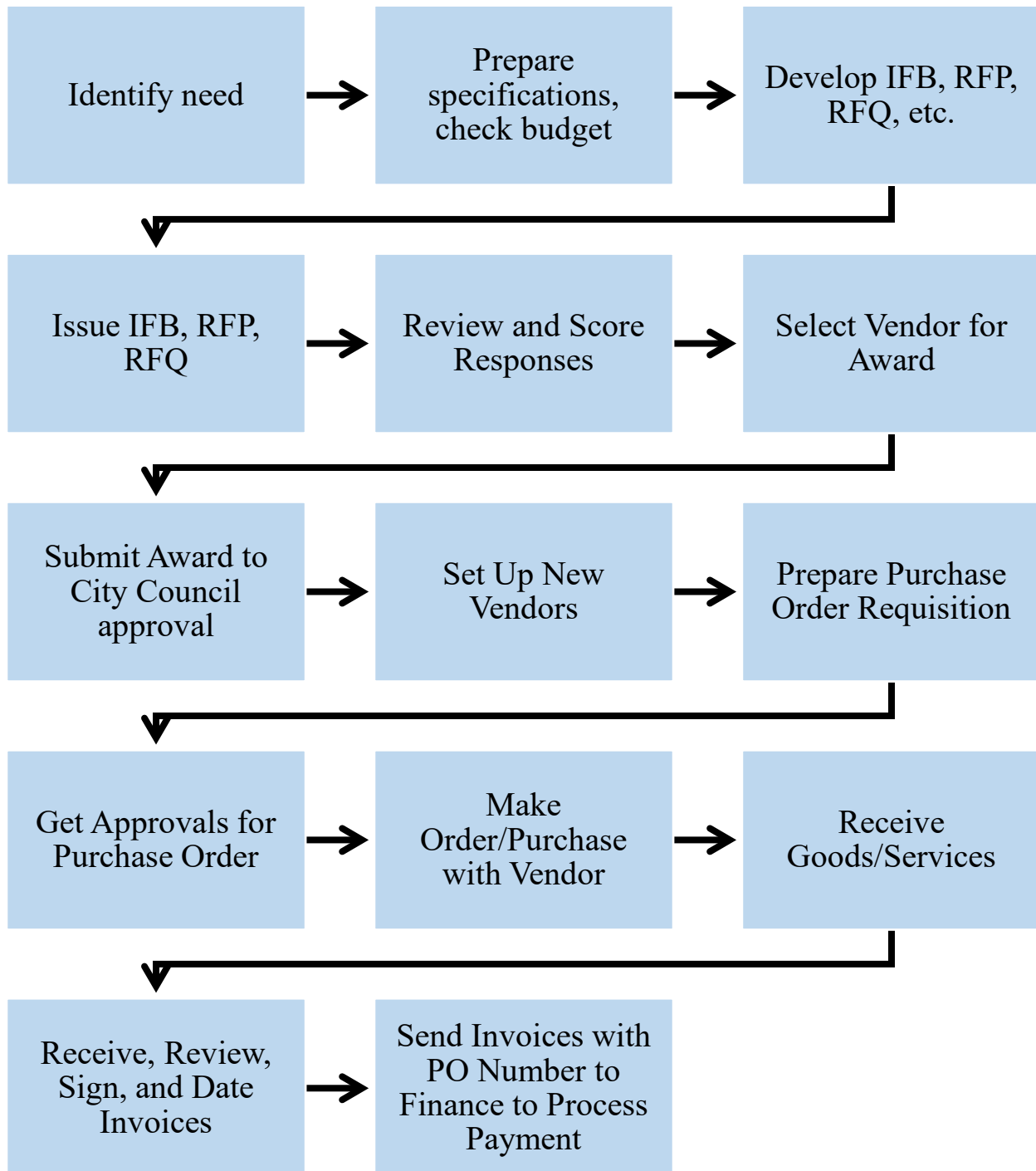
Purchases Less Than \$3,000



Purchases Between \$3,000 and \$100,000



Purchases \$100,000 & Greater



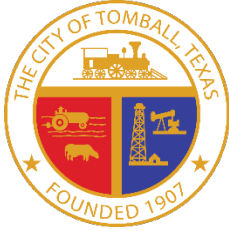


Exhibit B

City of Tomball

Request for Reimbursement

Upon approval received from the Finance Director, prior to purchase, reimbursements may be processed for certain goods or services, ONLY in instances where sufficient time may not allow approval through the purchase order process. Instances where prior approval were not authorized, may be cause for non-payment of the request.

The Purchasing Agent will review submitted Request for Reimbursement and either acknowledge that the request may move forward in processing; or, if discrepancies are found, advise that the form be returned to the requesting division to correct or process through the purchase order process.

Employee Name: _____

Department: _____

Request for Reimbursement:

Suppliers Name:
Good or Service:
Amount:

Justification for this Reimbursement

--

Do you have a PCard? YES NO

Do you need a PCard for future transactions? YES NO

Requester: _____ Date: _____

Department Head: _____ Date: _____

Finance Director: _____ Date: _____

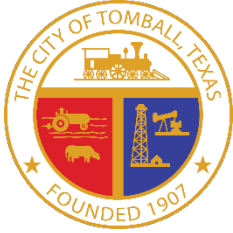


Exhibit C

City of Tomball

Purchase Order Requisition Process

Purchase orders (PO's) are **required** for all purchases in excess of \$3,000, unless otherwise exempt as indicated in the exemptions section below or with an approved exception. Purchase order requisitions must be approved prior to making a purchase. Purchase order requisitions may be submitted for purchases under \$3,000 but are not required. Departments may use a procurement card or check requests for purchases under \$3,000 so long as the purchase complies with this Policy, the Procurement Card Policy, and other applicable policies or regulations.

Items that **do not require** a purchase order and may be paid with a procurement card or check request are:

- Catered event fees
- Election fees
- Membership Dues
- Registration fees
- Purchases that have received an exception to the PO process in accordance with City policy
- Periodicals
- Postage
- Subscriptions
- Travel expenses
- Tuition
- Utilities
- Regulatory fees
- Other fees as appropriate

Other Purchase Order Requirements

- Purchases more than \$3,000 but less than \$100,000 require 3 written Competitive Quotations with 2 Historically Underutilized Businesses (HUB) Quotations
- All Purchases more than \$100,000 approved during the budget process still require an RFP, RFQ or IFB and go before City Council for approval
- New Vendor – Must fill out a New Vendor Packet
- Each department will generate their own Purchase Order Requisition Including the following:
 - Vendor
 - Vendor Email
 - Department
 - Account number
 - Shipping Address
 - Detailed Description must include contract # with CO-OP
 - Price
 - Shipping

All supporting documents must be attached to the Purchase Order Requisition

- Competitive Quotations with 2 HUB Quotations, RFP, RFQ or BID documentation
- A copy of the agenda item data sheet reflecting council's approval
- Sole Source Letter and Sole Source Justification Form
- Finance Department shall verify that all required documentation is provided and issue a Purchase Order after all appropriate levels of authorization have been completed.
- The department receiving such product and/or service shall notate invoice with their signature and forward to the Finance Department for payment.

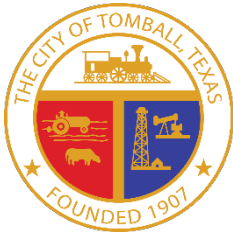


Exhibit D

City of Tomball New Vendor Form

Vendor Information

Legal Name:
Alias/DBA:
Email:
Phone Number:

Primary Business Address Information

Street Address:		
City:	State:	Zip Code:

Remittance Address Information

(Skip if identical to Business Address)

Street Address:		
City:	State:	Zip Code:

IRS 1099 Address Information

(Skip if identical to Business Address)

Street Address:		
City:	State:	Zip Code:

- You must attach a completed W-9 form with this submission.
- To receive ACH payments, please complete the ACH Payment Authorization and provide the required documentation.
- Email this form with requested documentation to: apayable@tomballtx.gov

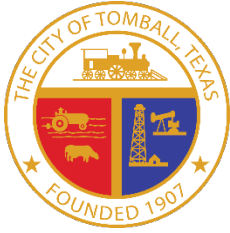


Exhibit E

City of Tomball

Sole Source Justification Form

For Internal Use Only

A sole source procurement is the acquisition of a good, service, professional service or public work in which there is only one source. Sole source procurement shall be avoided, except when no available alternative sources exist. Sole source procurements require the approval of the City Council for purchases over \$100,000.

*An Original Sole Source Letter from the Vendor **MUST** be attached with the Sole Source Justification Form.*

Department: _____ Date: _____

Proposed Source:

Suppliers Name:
Contact Name:
Email:
Phone Number:

Justification for this Sole Source:

--

Efforts made to find other Sources:

--

Proposed Source: Describe the good or service including details of model number or software version and what/where the service will be performed. Provide Scope of Work if applicable:

--

Prepared By: _____ Date: _____

Department Head: _____ Date: _____

Finance Director: _____ Date: _____

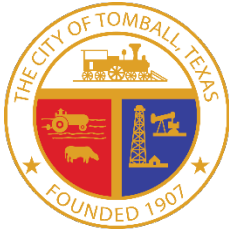


Exhibit F

City of Tomball Emergency Purchase Justification Form *For Internal Use Only*

Emergency purchase when a public calamity requires immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality, or to protect public health, welfare, or safety, or necessary because of unforeseen damage to public machinery or property.

Emergency procurements shall be avoided, except when no reasonable alternative approach exist. Emergency purchases require ratification of the purchase by City Council for expenditures exceeding \$100,000.

Department: _____ Date of Purchase: _____

Nature, cause of the emergency: Explain what emergency or cause situation to exist.

Financial/Operation Damage: Explain the damage that would occur if this purchase was not made immediately.

Reason purchase was not anticipated: Explain why the need was not anticipated, and occurred through normal procedures.

Requested By _____ Date _____

Department Head _____ Date _____

Finance Director _____ Date _____

City Management _____ Date _____

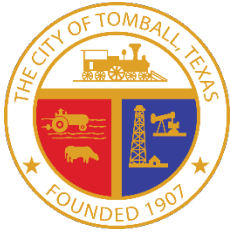


Exhibit G

City of Tomball

Exemption from Competitive Bidding Form

This form is used to request exemption from the City of Tomball and Federal requirements for competition in purchasing. The requirement for competition starts at any purchase of \$3,000.00 or more.

Department	
Department Requestor	
Description of Product/Service	
Total Cost of the Purchase or for the Entire term of the Contract	
Supplier or Contractor Name:	

** NOTE: Supplier's Quotation, Scope of Work, or Detailed Specifications must be attached.*

Define why there is an exemption from Competitive Bidding:

Prepared By: _____ Date: _____

Department Head: _____ Date: _____

Finance Director: _____ Date: _____

City Management _____ Date: _____

Exhibit H

PROCEDURE FOR PURCHASING EQUIPMENT AND VEHICLES

All equipment and vehicle purchases must be processed through Finance. Specifications must be forwarded to the Finance Director, or designee, who will be responsible for soliciting bids and authorizing the purchase of vehicles and equipment as approved by either the City Manager or City Council. Approval of the department director is required and approval by the City Council is required if the purchase exceeds \$100,000.

1. Identify fleet that needs to be replaced

REPLACEMENT SCHEDULE	
Patrol Vehicles	4 Years or 100,000
Small Field Equipment (Mowers, gators, golf carts and small handheld equipment) < \$20,000	4-6 Years
Administrative Vehicles / Non - Diesel Vehicles	7 Year or 100,000
Diesel Vehicles	10 Years 150,000
Heavy Equipment/ Trailers	15 - 20 Years
Fire Apparatuses	20 Years

2. Identify new fleet to be purchased
3. Generate Specs
4. Obtain three competitive quotations, cooperative contract or BID
5. Verify Funds have been budgeted
6. Finance department will need to review documentation, when approved a unit number will be assigned to each vehicle and equipment.
7. Agenda Data sheet must be created and entered into MuniCode by the Finance department.
8. All Purchases more than \$50,000, either individually or in aggregate, approved during the budget process must still go before City Council for approval
9. Each department will generate their own Purchase Order Requisition Including the following:
 - Vendor Name and Contact Information
 - Department
 - Account Number
 - Shipping Address
 - Detailed Description including Make, Model, Unit Number & Contract #
 - Price
 - Shipping, if applicableAll supporting documents must be attached to the Purchase Order Requisition
 - Specs
 - Competitive Quotations, RFP, RFQ or BID documentation
 - A copy of the agenda item data sheet reflecting council's approval
10. Finance Department shall verify that all required documentation is provided and issue a Purchase Order after all appropriate levels of authorization have been completed.
11. When fleet is received the department shall notate invoice with their signature and forward to the Finance Department for payment.
 - All documentation and manuals (Invoice dated with received date, Certificate of Origin, Vehicle Inspection Report, odometer statement, title application from dealer, etc.)

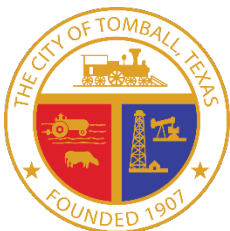


Exhibit I

City of Tomball

Conflict of Interest Disclosure Form

A local government official or Employee must disclose certain relationships with vendors to the City. The official or Employee must file a disclosure statement if the vendor who is contracting or has contracted with the City has:

- A familial relationship with the official;
- An employment of other business relationship with the official or a family member of the official that results in receiving more than \$2,500 of taxable income over a 12-month period; or
- Given the official or family member of the official one or more gifts that have an aggregate value over \$100 in the 12-month period preceding the date the official becomes aware of the contract or potential contract with the City.

Official/Employee Name: _____ Date: _____
Position/Title: _____ Employee Number: _____

☐ I hereby declare that I do not have any relatives or close personal relationships with any vendors who is contracting or has contracted with the City of Tomball.

☐ I hereby declare that I currently have relatives or close personal relationships with a vendor whose name and details are listed below:

Vendor Name	Individual Name	Relationship

Description of Contract(s) or Purchase(s):

--

Official/Employee Signature: _____ Date: _____

City Management Signature: _____ Date: _____

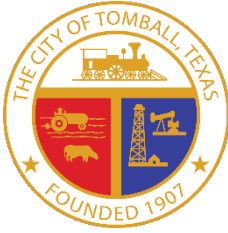


Exhibit J

City of Tomball

Purchase Order Change Order Form

Contract Information			
Vendor/Contractor Name			
Purchase Order Number			
Requesting Department		Date of Request	

Change Order Request Overview	
Reason For Amendment	
Support & Justification Documents	<i>List All Attached Documents Which Support The Requested Change And Justify Any Increased Cost And Time.</i>

Change In Contract/Purchase Order Price	
Original Price of Purchase Order	
Previous Change Orders	
Current Change Order	
Total Purchase Order Price with Approved Change Orders	

Requesting Department Director Authorization			
Name & Title			
<i>Signature</i>		Date	

Finance Director Approval		City Management Approval	
<i>Signature</i>		<i>Signature</i>	
Name		Name	
Date		Date	

Appendix A

Laws and Statutes Governing Procurement

Federal Regulations	
Code of Federal Regulations	Title 2, Subtitle A, Chapter II, Part 200
State Regulations	
Government Code	Chapter 552. Public Information Chapter 573. Degrees of Relationship; Nepotism Prohibitions Chapter 791. Interlocal Cooperation Contracts Chapter 2155. Purchasing: General Rules and Procedures Chapter 2251. Payment for Goods and Services Chapter 2252. Contracts with Governmental Entity Chapter 2253. Public Work Performance and Payment Bonds Chapter 2254. Professional and Consulting Services Chapter 2256. Public Funds Investment Act Chapter 2257. Collateral for Public Funds Chapter 2258. Prevailing Wage Rates Chapter 2259. Self-Insurance by Governmental Units Chapter 2267. Public and Private Facilities and Infrastructure Chapter 2269. Contracting and Delivery Procedures for Construction Projects
Local Government Code	Chapter 105. Depositories for Municipal Funds Chapter 171. Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments Chapter 176. Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information Chapter 252. Purchasing and Contracting Authority of Municipalities Chapter 271. Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments Chapter 272. Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments Chapter 273. Acquisition of Property for Public Purposes by Municipalities, Counties, and Other Local Governments Chapter 304. Energy Aggregation Measures for Local Governments
Transportation Code	Chapter 728. Sale or Transfer of Motor Vehicles and Master Keys
Health & Safety Code	Chapter 386. Texas Emissions Reduction Plan
Occupations Code	Chapter 1001. Texas Board of Professional Engineers and Land Surveyors
Labor Code	Chapter 406. Workers' Compensation Insurance Coverage

Appendix B
City of Tomball
City Charter & Code of Ordinances
Sections Relating to Procurement

Tomball City Charter

Article VI, Section 6.07 – Conflict of Interest in City Contracts

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services except as provided by State law. Any violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this Section, with the knowledge, expressed or implied, of the person or corporation contracting with the Council may invalidate the contract involved.

Article VI, Section 6.08 – Mayor and Mayor Pro-Tem

The Mayor shall be the official head of the City government. The Mayor shall be the Chairman and shall preside at all meetings of the Council. The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as he deems advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon him by Council.

The Council, at its first meeting after the election of Councilmen, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain his voting privileges when acting in the absence of the Mayor.

Article VII, Section 7.01 – City Manager

A. *Appointment and Qualifications.* The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. *Term and Salary.*

(1) The City Manager shall be appointed for a term not to exceed two years by a majority vote of the entire Council. The appointment shall be secured through an explicit contractual agreement which shall protect the rights of both the Council and the City Manager.

(2) The City Manager shall receive compensation as may be fixed by the Council.

C. *Duties of the City Manager.* The City Manager shall:

(1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all

other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.

(2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.

(3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

(4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.

(5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.

(6) Prepare a written report to the Council, first in 2019, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.

Article VII, Section 7.02 – Assistant City Manager

The City Manager, with the approval of the Council, may appoint an Assistant City Manager. Such Assistant City Manager shall have all of the powers and duties as delineated by his job description, and in the event of the absence or disability of the City Manager, he shall fill all the duties of the City Manager.

Article VII, Section 7.05 – Finance Director

There shall be a Finance Director for the City. The City Manager, with the approval of the Council, shall appoint a Finance Director and such assistants as the Council shall deem advisable. The Finance Director shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas.

Article VIII, Section 8.16 – Purchase Procedure

All purchases made and contracts executed by the City shall be pursuant to the laws established by the State of Texas.

Article VIII, Section 8.17 – Disbursement of Funds

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the Finance Director. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.

Code of Ordinances

Chapter 2 Administration, Article II City Council, Division 1 Generally, Section 2-20 – Conflicts of Interest

No member of the city council shall be the surety of any person having any contract, work or business with the city, for the performance of which security may be required, nor be security on the official bond of any officer of the city.

Chapter 2 Administration, Article II City Council, Division 2 Mayor, Section 2-57 – Sign Various Instruments

The mayor shall officially sign all warrants upon the city treasury, and all notes, bonds, contracts and obligations in writing entered into by the city. It shall be his duty to see that all contracts with the city are faithfully performed by the contractors.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-210 Declaration of Policy

(a) It is hereby determined by the city council of the city, that the proper operation of government requires that public officers and employees be independent and impartial; that the government's decisions and policies be made within the proper channels of the governmental structure; that a public office not be used for personal gain; and that the public have confidence in the integrity of its government and its governmental officials.

(b) The purpose of this Code is to enumerate existing state laws which regulate the conduct and activities of city officers and employees, and to promulgate such additional minimum standards as are deemed necessary and appropriate to ensure the faithful and impartial administration of the city's government.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-211 Definitions

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

City employee means any person employed by the city, including those individuals employed on a part-time basis.

City officer means the mayor, members of the city council, the city manager, city secretary, municipal court judge and clerk, alternate judges, and substitute judges, and each member and alternate member of all of the city boards, commissions and committees.

City official means a city officer or city employee.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-212 Ethical Principles

The following code of ethics for all city officers and employees is adopted. To further the objectives of this code of ethics, certain ethical principles shall govern the conduct of every officer or employee, who shall:

- (1) Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and confidence of the citizens of the city;

- (2) Recognize that the chief function of local government at all times is to serve the best interests of all of the people;
- (3) Be dedicated to public service by being cooperative and constructive, and by making the best and most efficient use of available resources;
- (4) Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the council or the city. Do not seek or accept gifts or special favors; believe that personal gain by use of confidential information or by misuse of public funds or time is dishonest;
- (5) Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the city and city council; and
- (6) Conduct business in open, duly noticed meetings in order to be directly accountable to the citizens of the city. It is recognized that certain exceptions are made by the state for executive sessions; however, any action as a result of that type of meeting will be handled later in open session.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-213 Standards of Conduct

In order to more fully effectuate the policy declared in this code of ethics, to ensure that all city officials act and conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, and to avoid even the appearance of impropriety by any city official, the following standards of conduct are adopted.

- (1) *Grant of special consideration.* No city official shall grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group. This shall not prevent special considerations authorized and granted by the city council for the purpose of creating incentives necessary to secure or retain employees.
- (2) *Appearances on behalf of private interests.* No city official shall represent or appear on behalf of private interests of others before any agency of the city, or any city board, commission, committee or city council concerning any case, project or matter over which the official exercises discretionary authority, nor shall a city official represent any private interest of others in any action or proceeding involving the city, nor voluntarily participate on behalf of others in any litigation to which the city is a party.
- (3) *Appearances by past officials.* No city official, holding a position which involves decision-making, advisory or supervisory responsibility, shall, within 12 months following the end of service with the city, represent or appear on behalf of private interests of others before the city or any agency thereof concerning any case, project, or matter over which the official has exercised discretionary authority.
- (4) *Securing special privileges.* No city official shall use his official position to secure special privilege or exemption for himself or others.
- (5) *Gifts.* No city official shall accept or solicit any gift or favor that could reasonably tend to influence that individual in the discharge of official duties or that the official knows or should know has been offered with the intent to influence or reward official conduct.
- (6) *Disclosure or use of confidential information.* No city official shall disclose any confidential information gained by reason of his office or employment with the city, concerning any property, operation, policy or affair of the city, or use such confidential

information to advance any personal interest, financial or otherwise, of such official or others.

(7) *Incompatible outside activities.* No city official shall engage in any outside activity which will conflict with, or be incompatible with, the city office or employment.

(8) *Incompatible employment.* No city official shall accept outside employment which is incompatible with the full and proper discharge of his duties and responsibilities with the city, or which might impair his independent judgment in the performance of his public duty.

(9) *Use of city property for personal use.* No city official shall use city supplies, equipment, vehicles or facilities for any purpose other than the conduct of official city business, unless otherwise specifically provided for by law, ordinance or city policy.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-214 State Laws Governing Conduct

(a) *Conflicts of interest.*

(1) Pursuant to V.T.C.A., Local Government Code, ch. 171, a local public official having a substantial interest in a business entity or piece of real property must file, before any vote or decision is made on any matter affecting the business entity or real property, an affidavit stating the nature and extent of the interest. The official must file the affidavit with the city secretary, and is required to abstain from any further participation in the matter if:

- a. The proposed action would have a special economic effect on the business entity that is distinguishable from the effect on the public; or
- b. It is reasonably foreseeable that the action would have a special economic effect on the value of the real property which is distinguishable from its effect on the public. An exception to the abstention rule is provided in cases where a majority of members of the entity are likewise required to and do file affidavits.

(2) A substantial interest in a business entity exists when the official:

- a. Owns ten percent or more of the voting stock or shares of the business entity;
- b. Owns ten percent or more or \$5,000.00 or more of the fair market value of the business entity; or
- c. Has received from the business entity funds which exceed ten percent of the official's gross income for the prior year.

(3) A substantial interest in real property exists when the official has an equitable or legal interest in such property which has a fair market value of \$2,500.00 or more.

(4) A local public official means a member of the city council or other official of the city, paid or unpaid, who exercises responsibilities which are more than advisory only. A business entity means any entity recognized by law.

(5) It is an offense for a local public official to act as a surety for a business entity that is contracting with the city, or to act a surety on any official bond required of an officer of the city. State Law reference— Similar provisions V.T.C.A., Local Government Code § 171.003.

(6) A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity has a substantial interest. State Law reference— Similar provisions, V.T.C.A., Local Government Code § 171.002(c).

(7) The provisions of V.T.C.A., Local Government Code, ch. 171, are in addition to any other municipal charter provisions or municipal ordinances defining and prohibiting conflicts of interest.

(b) *Bribery.* It is unlawful for a city official to accept or agree to accept:

- (1) Any benefit as consideration for a decision, opinion, recommendation, vote or other exercise of discretion as a public servant;
- (2) Any benefit as consideration for a decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; or
- (3) Any benefit as consideration for a violation of a duty imposed by law on a public servant. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.02.

(c) *Gifts to public servants.*

- (1) It is unlawful for a city official to solicit, accept or agree to accept any benefit from a person the official knows is subject to regulation, inspection or investigation by the official or the city. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(a).
- (2) In the event of litigation involving the city, it is unlawful for any city official to solicit, accept or agree to accept any benefit from a person against whom the official knows litigation is pending or contemplated by the official or the city. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(c).
- (3) It is unlawful for a city official who exercises discretion in connection with contracts, purchases, payments, claims or other pecuniary transactions of government to solicit, accept or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(d).
- (4) It is unlawful for a city official who has judicial or administrative authority, is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, to solicit, accept or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any matter before the official or tribunal. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.08(e).
- (5) Exceptions to gifts to public servants. The provisions of V.T.C.A., Penal Code § 36.08, described in subsections (c)(1) thru (4) of this section, do not apply to:
 - a. Fees prescribed by law to be received by the public official or any other benefit to which the official is lawfully entitled and for which the official has given legitimate consideration;
 - b. Gifts or other benefits conferred on account of kinship or personal, professional, or business relationships independent of the official's status with the city;
 - c. Certain honorariums in consideration of legitimate services;
 - d. Benefits consisting of food, lodging, transportation or entertainment accepted as a guest and reported as required by law; or
 - e. Benefits for which statements must be filed pursuant to V.T.C.A., Election Code §§ 251.011 and 251.012, if the benefit and source of any benefit exceeding

\$50.00 is reported and the benefit is used solely to defray expenses which accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the city. State Law reference— Similar provisions, V.T.C.A., Penal Code § 36.10.

(d) *Tampering with governmental records.* It is unlawful for any person to knowingly make a false entry in, or false alteration of, a governmental record, or to make, present, or use any record, document, or thing with knowledge of its falsity with the intent that it be taken as a genuine governmental record, or to intentionally destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record. State Law reference— Similar provisions, V.T.C.A., Penal Code, § 37.10.

(e) *Impersonating public servant.* It is unlawful for any person to impersonate a city official with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts. State Law reference— Similar provisions, V.T.C.A., Penal Code § 37.11.

(f) *Misuse of official information.* It is unlawful for a city official, in reliance on information to which he has access as a result of his office and which has not been made public, to acquire or aid another in acquiring a pecuniary interest in any property, transaction or enterprise that may be affected by the information or to speculate or aid another in speculating on the basis of the information. State Law reference— Similar provisions, V.T.C.A., Penal Code § 39.03.

(g) *Disrupting meeting or procession.* It is unlawful for any person, with intent to prevent or disrupt a lawful meeting, to obstruct or interfere with the meeting by physical action or verbal utterance. State Law reference— Similar provisions, V.T.C.A., Penal Code § 42.05.

(h) *Official oppression.* It is unlawful for a city official to intentionally subject another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment or lien that he knows is unlawful, to intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power or immunity, knowing his conduct is unlawful, or to intentionally subject another to sexual harassment. State Law reference— Similar provisions, V.T.C.A., Penal Code § 39.02.

(i) *Official misconduct.* It is unlawful for a city official, with intent to obtain a benefit or with intent to harm another, to intentionally or knowingly violate a law relating to his office or employment or to misapply any thing of value belonging to the government that has come into his custody or possession by virtue of his office or employment. State Law reference— Similar provisions, V.T.C.A., Penal Code § 39.01.

(j) *Nepotism.* The following provisions shall apply:

(1) It is unlawful for any city official to appoint, or vote for the appointment, to any office, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of a board or governing body to which the person so voting or appointing may be a member, when the salary, fees or compensation of such appointee is to be paid out of public funds. An exception is provided for persons who have been

continuously employed in such office, employment or duty for the following periods prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree:

- a. At least 30 days, if the officer or member is appointed; or
- b. At least six months, if the officer or member is elected.

(2) When a person is allowed to continue in an office, position or duty because of an exception above, the officer who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees. Charter reference— Similar provisions, [§ 6.05](#). State Law reference— Similar provisions, V.T.C.A., Government Code § 573.041.

(k) *Disclosure of interest in property*. It is unlawful for a city official, or a person elected, appointed or employed as a city official but for which office such person has not yet qualified, to fail to make public disclosure of any legal or equitable interest he may have in property which is acquired with public funds, provided such official has actual notice of the acquisition or intended acquisition. The public disclosure required is the filing of an affidavit with the county clerks of all counties in which the property is located and wherein the official resides at least ten days prior to the acquisition. Charter reference— Conflict of interest in city contracts, [§ 6.07](#). State Law reference— Similar provisions, V.T.C.A., Government Code § 553.02.

Chapter 2 Administration, Article III Officers and Employees, Division 5 Code of Ethics, Section 2-215 Violations

(a) Any person violating any standard contained in [section 2-213](#) shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$500.00. Each day of violation shall constitute a separate offense.

(b) Penalties for violations of conduct described in [section 2-214](#) are as set forth in the applicable statutory provision.

Appendix C

Approved Purchasing Cooperatives

Buyboard National Purchasing Cooperative

1Government Procurement Alliance (1GPA)

Texas Department of Information Resources (DIR)

Sourcwell ID #124317

Houston- Galveston Area Council Cooperative Purchasing Program (H-GAC)

National Purchasing Partners- Government Division (NPPGov)

- Member # 5708546 Market Street
- Member # 5708547 Rudel Drive

Texas Smart Buy – M1012

OMNIA Partners Cooperative Purchasing Program

U.S. General Services Administration (GSA)

TIPS -USA

Choice Partners

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Approve a professional services agreement with Langford Community Management Services for grant administration services related to the Community Development Block Grant – Mitigation Reallocation Program (CDBG-MRP) grant for an amount not-to-exceed 7.5% of the total grant award, therefor, and authorize the City Manager to execute any and all documents related to the services. These expenditures are to be paid from grant funds received from the Community Development Block Grant – Mitigation Recovery Reallocation Program.

Background:

In August 2026, the General Land Office (GLO) released information regarding an upcoming grant opportunity for the Mitigation Reallocation Program (MRP) with an initial allocation of \$92 million in funding for eligible mitigation projects in Texas. A formal call for projects to be submitted for consideration, scoring, and potential funding for the grant is pending. Staff utilized the draft Drainage Master Plan to identify a project that would be eligible for funding. The identified project is the “N. Cherry Street Storm Sewer Improvements” which includes construction of storm sewer and roadside ditch interceptors along N. Cherry Street to J531.

In accordance with the terms and conditions of the MRP grant and 2 CFR 200 regulations, staff advertised a Request for Proposal for grant administration services for grant application assistance and management throughout the grant term, if awarded. Staff received four (4) sealed proposals from qualified firms. Scoring was completed by a committee determining the most qualified firm to complete the work and based on the review staff entered into contract negotiations with Langford Community Management Services.

Staff is recommending awarding a professional services agreement with Langford for application assistance and management throughout the grant term, if awarded, for the CDBG – MRP grant. The agreement will include full-grant administration services including application assistance, environmental, procurement assistance, and administering and managing the grant funds, if awarded, to the City.

The total contract will not exceed 7.5% of the maximum grant award which will be determined by the Invitation to Apply if the City progresses to that step. All fees for grant administration will be paid from grant funds. A breakdown of the grant administration cost is reflected in the table below depicting the maximum grant amount available and maximum local match required.

Origination: Project Management

Recommendation:

Staff recommends approving a professional services agreement with Langford Community Management Services for grant administration services related to the Community Development Block Grant – Mitigation Reallocation Program grant for an amount not-to-exceed 7.5% of the total grant award.

Party(ies) responsible for placing this item on agenda: Meagan Mageo

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: X No: _____ If yes, specify Account Number: #400-154-6409

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: Meagan Mageo **Approved by:** _____
Staff Member Date City Manager Date

**GRANT ADMINISTRATION SERVICES FOR DISASTER RECOVERY
SERVICES UNDER THE U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

This Contract is entered into by and between the City of Tomball (the “Subrecipient”) and **Langford Community Management Services**, Tax Identification Number 74-2804904 (“Provider”). The Subrecipient and Provider may be referred to individually as a “Party” and collectively as the “Parties.”

This Contract is executed for the provision of grant administration and related professional services in accordance with **Chapter 252 of the Texas Local Government Code** and the **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200)**.

WHEREAS, the Subrecipient intends to apply for and, if awarded, implement funding under the **U.S. Department of Housing and Urban Development (“HUD”) Community Development Block Grant – Mitigation (“CDBG-MIT”) Program**, as administered by the **Texas General Land Office (“GLO”)** through the **GLO Mitigation Reallocation Program (Mitigation)**; and

WHEREAS, CDBG-MIT are authorized by **the Disaster Relief Supplemental Appropriations Act, 2024, Pub. L. No. 118-42**, and any prior or subsequent applicable federal disaster appropriations acts, and are subject to HUD waivers and alternative requirements published in the **Federal Register**; and

WHEREAS, the GLO is the designated administering agency for CDBG-MIT funds in the State of Texas and is responsible for awarding and overseeing grants to eligible units of general local government for mitigation activities in accordance with applicable federal and state law.

NOW, THEREFORE, the Parties agree to the following terms and conditions:

I. DEFINITIONS / INTERPRETIVE PROVISIONS / PROJECT DESCRIPTION

1.1 DEFINITIONS

“Activity” “Activity” means an eligible and defined class of work or service authorized under the Community Development Block Grant – Mitigation (“CDBG-MIT”) Program, approved by the Texas General Land Office (“GLO”) and consistent with applicable HUD requirements, Federal Register notices, and the Subrecipient’s GLO-approved budget and performance statement. Activities are identified in the approved project budget by activity line item or activity type.

“Administrative and Audit Regulations” means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), as amended; Chapter 321 of the Texas Government Code; and all applicable state and federal laws, regulations, and requirements governing the use, administration, monitoring, and audit of CDBG-MIT funds, including requirements set forth in the Contract.

With respect to federal funds, entities with audit or review authority include the U.S. Department of Housing and Urban Development (HUD), the U.S. Government Accountability Office (GAO), the HUD Office of Inspector General, and any of their authorized representatives. Entities with state-level audit, monitoring, or inspection authority include the Texas General Land Office, the State Auditor's Office, the Texas Attorney General's Office, the Texas Comptroller of Public Accounts, and any authorized designees. The Subrecipient and Provider shall provide full access to records as required by law.

"Attachment" means any document, exhibit, schedule, or other material physically attached to this Contract following the execution page, or incorporated herein by reference, as if physically attached hereto.

"Amendment" means a written agreement executed by the Parties that modifies, supplements, or revises the terms of this Contract.

"Benchmark" or "Billing Milestone" means a clearly defined set of incremental services or an interim level of accomplishment that must be completed by the Provider and accepted by the Subrecipient and, where applicable, approved by the Texas General Land Office ("GLO"), as a condition for periodic or final reimbursement under this Contract.

"CDBG-MIT" means the Community Development Block Grant – Mitigation Program, authorized by Congress and administered by the U.S. Department of Housing and Urban Development ("HUD"), with funds awarded to and administered by the Texas General Land Office ("GLO") as the State's designated administering agency.

"Certificate of Construction Completion" means a written certification submitted by a licensed engineer, or if none is required, a construction contractor, to the Subrecipient, which upon execution by the Subrecipient evidence acceptance of a non-housing or infrastructure project as constructed in accordance with approved plans and specifications.

"Contract" means this agreement in its entirety, including all Attachments and exhibits, whether physically attached or incorporated by reference, together with any Amendments executed in accordance with this Contract.

"Contract Period" means the period beginning on the effective date of this Contract and ending upon its expiration or earlier termination in accordance with the terms herein.

"Deliverable" means any unit or increment of work required to be produced under this Contract, including but not limited to reports, data, documents, photographs, certifications, correspondence, or other submissions, in the format and manner required by this Contract or as otherwise approved by the Subrecipient and GLO.

"Federal Assurances" means the certifications, representations, assurances, and acknowledgements required by HUD, the GLO, and applicable federal law, including those imposed through Federal Register notices, grant agreements, and program guidelines applicable to the CDBG-MIT Program, as amended.

"Federal Certifications" means all certifications required under applicable federal law and regulations, including but not limited to certifications relating to lobbying, conflicts of interest, and compliance with federal grant requirements, as required by HUD, the GLO, and 2 C.F.R. Part 200.

"Fiscal Year" means the annual accounting period of the State of Texas beginning September 1 and ending August 31.

"GAAP" means Generally Accepted Accounting Principles.

"GASB" means the Governmental Accounting Standards Board.

"General Affirmations" means the statements and assurances set forth in Attachment B, attached hereto and incorporated herein for all purposes, which are affirmed by the Provider upon execution of this Contract.

"GLO" means the **Texas General Land Office, including** its officers, employees, agents, and authorized designees.

"GLO-Vendor Contract" means any applicable master or vendor contract executed between the Provider and the GLO under which services of the type contemplated by this Contract may be performed, to the extent such contract is applicable and does not conflict with the terms of this Contract or the Subrecipient's grant agreement.

"Grant Administration Fee" means the compensation payable to the Provider for services performed under this Contract, subject to GLO approval, program caps, and the availability of grant funds.

"HSP" means HUB Subcontracting Plan, as outlined by Chapter 2161 of the Texas Government Code.

"HUB" means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

"HUD" means the United States Department of Housing and Urban Development.

"Mentor Protégé" means the Comptroller of Public Accounts' leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>

"Non-housing" refers to a project involving the restoration and/or repair of infrastructure facilities and the economic revitalization activities approved under a CDBG-MIT program grant.

"Project" means the grant administration services described in **SECTION 1.03** of this Contract and in any applicable Attachments.

"Project Completion Report" means a report containing an "as built" accounting of all projects completed under a CDBG-MIT non-housing or housing grant, and containing all information required to completely close out a grant file.

"Project Implementation Manual" means a set of guidelines for the CDBG-MIT Program, incorporated herein by reference for all purposes in its entirety.

“Project Period” means the stated time for completion of a Project assigned by Work Order, if any.

“Prompt Pay Act” means Chapter 2251, Subtitle F of Title 10 of the Texas Government Code.

“Provider” means Langford Community Management Services selected to provide the services under this Contract, if any.

“Public Information Act” means Chapter 552 of the Texas Government Code.

“Monthly Report” means a document submitted by Provider to a Subrecipient for approval and submission to the GLO as a condition of reimbursement, as discussed in **SECTION 1.05** and **ARTICLE III**, below.

“Scope of Work” means Provider’s detailed scope of work hereby incorporated for all purposes as **Attachment C**.

“Solicitation” means Subrecipient’s Request for Proposals, including any Addenda.

“Solicitation Response” means Provider’s full and complete response to the Solicitation, including any Addenda.

“Subcontractor” means an individual or business that signs a contract to perform part or all of the obligations of Provider under this Contract.

“Subrecipient Agreement” means the contractual agreement for a CDBG-MIT housing or non-housing grant between the GLO and the Subrecipient for which Provider performs services assigned by the Subrecipient, if any.

“Technical Guidance Letter or ‘TGL’” means an instruction, clarification, or interpretation of the requirements of the CDBG-MIT Program, issued by the GLO to specified recipients, applicable to specific subject matter, to which the addressed Program participants shall be subject.

1.01 INTERPRETIVE PROVISIONS

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms;
- (b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, attachment, work order, or schedule of this Contract unless otherwise specified;
- (c) The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent that such amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;

- (d) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;
- (e) All attachments within this Contract, including those incorporated by reference, and any amendments are considered part of the terms of this Contract;
- (f) This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative, and each shall be performed in accordance with its terms;
- (g) Unless otherwise expressly provided, reference to any action of the Subrecipient or by the Subrecipient by way of consent, approval, or waiver shall be deemed modified by the phrase "in its/their sole discretion." Notwithstanding the preceding sentence, any approval, consent, or waiver required by, or requested of, the Subrecipient shall not be unreasonably withheld or delayed;
- (h) Time is of the essence in this Contract.
- (i) In the event of conflicts or inconsistencies between this contract and its attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Signed Contract; Attachments to the Contract: Attachment A, Attachment B, Attachment C, Attachment D, Attachment E, Attachment F, and Attachment G; Solicitation Documents; and Provider's Response to Solicitation.

1.02 PROJECT

Provider shall perform, or cause to be performed at the direction of the Subrecipient, in assistance to Subrecipient, comprehensive administration services necessary to facilitate activities or the mitigation program in areas affected under the CDBG-MIT Program. Provider will assist the Subrecipient in fulfilling State and Federal CDBG-MIT statutory responsibilities by performing grant administration services for non-housing projects. Grant administrative services must be performed in compliance with (i) HUD requirements, (ii) the Non-Exclusive List of Laws, Rules, and Regulations in **Attachment D**; (iii) this Contract and all Attachments, including Provider's Scope of Work **Attachment C**; (iv) any Amendments to this Contract; (v) any Technical Guidance Letter, program requirements, or program guidance that may be issued by the GLO; and (vi) Provider's full and complete response to the RFP ("the Project").

Provider shall be responsible at all times for maintaining close oversight of approved projects and record-keeping including, but not limited to, obtaining and maintaining, through Provider's own efforts, the Subrecipient's current Performance Statement / Implementation Schedule, and Budget, including Revisions approved and Technical Guidance Letters issued by the GLO; and any other information that may be required for the satisfactory performance by Provider of the services herein described or assigned under a Work Order, as discussed below.

Grant writing and application development to include preparation of notices for paper, attendance/presentation for required public hearing, preparation of resolution authorizing submission, Regional Review Committee Scoring Criteria responses, completion of applications forms except for Table 2 and maps (to be provided by engineer) and general assistance in the development of the proposed project for the application.

1.03 REPORTING REQUIREMENTS

Provider shall assist the Subrecipient to timely submit all reports and documentation that are required under this Contract and any Subrecipient Agreement.

MONTHLY REPORTS – APPLICABLE TO NON-HOUSING:

MONTHLY REPORTS ARE REQUIRED AS A CONDITION OF REIMBURSEMENT TO ALL SUBRECIPIENTS. It is incumbent upon Provider to facilitate the submission of each Monthly Report in a timely manner. Each Monthly Report shall include progress made since the prior reporting period, current Benchmarks achieved, projected quantities, problems encountered and detailed plans to correct them, goals to be accomplished in the subsequent reporting period, and any other information as may be required by the GLO.

The GLO may review the Monthly Report(s) and may request revisions to be made. Provider shall make itself aware of such revision requests and shall assist the Subrecipient in making appropriate revisions. Upon acceptance of the Monthly

Report and submission of a properly prepared invoice, appropriate payment may be made to Subrecipient and to Provider.

In the sole discretion of the GLO, reports may be requested more often than monthly, and Provider shall facilitate the timely submission to the GLO of such additional information by the Grant Recipient.

Reimbursement may be withheld if a Monthly Report is delinquent or deficient, in the sole discretion of the GLO.

PROJECT COMPLETION REPORTS:

NON-HOUSING SERVICES: Provider shall prepare and submit to the Subrecipient a draft Project Completion Report (PCR) by the close of business no later than thirty (30) days from Provider's receipt of the fully executed final Certificate of Construction Completion ("COCC"). Provider shall then cooperate with the Subrecipient to submit the final, signed, PCR to the GLO by the close of business no later than sixty (60) days from Provider's receipt of the fully executed final COCC. The PCR must be submitted in accordance with the specifications in the Project Implementation Manual and must include a full description of all Subrecipient projects, both as originally assigned and as ultimately completed, accounting for all Amendments, Revisions, and Technical Guidance Letters, if any.

II. TERM

2.01 DURATION

This Contract shall be effective as of the date of award and shall terminate after closing of project with GLO. Any extension will be subject to terms and conditions mutually agreeable to both parties.

2.02 EARLY TERMINATION

The Subrecipient may terminate this Contract by giving written notice specifying a termination date at least thirty (30) days subsequent to the date of the notice. Upon receipt of any such notice, Provider shall cease work, undertake to terminate any relevant subcontracts, and incur no further expense related to this Contract. Such early termination shall be subject to the equitable settlement of the respective interests of the parties, accrued up to the date of termination.

2.03 ABANDONMENT OR DEFAULT

If the Provider defaults on the Contract, the Subrecipient reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible vendor qualified under the Solicitation. The defaulting provider will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the Subrecipient based on the seriousness of the default.

III. CONSIDERATION

3.01 CONTRACT LIMIT, FEES, AND EXPENSES

The application will be completed at \$0.00 amount.

The Grant Administration Fee shall not exceed 8% for awards between \$2,500,000 and \$4,999,999; 7% for awards between \$5,000,000 and \$7,499,999.999; and 6% for awards between \$7,500,000 and \$10,000,000 prescribed by the Subrecipient Agreement, the GLO, HUD or any governing law, for the term of this Contract. The Subrecipient agrees to pay Provider in accordance with The Prompt Pay Act Tex. Govt. Code Ch. 2251.

Contract will be amended to be inclusive of dollar amount with funding of project.

The form of invoice will be prescribed by the Subrecipient and made available to Provider in a separate submission from the Subrecipient.

Grant funds must not be commingled between or among HUD funding rounds; nor between or among Non-Housing and Housing assignments.

Reimbursement for services may be requested based on the Benchmarks, according to the type of services authorized, contingent upon Provider's facilitation of the timely submission of each Monthly Report required, as discussed in **SECTION 1.04**, above.

At a minimum, invoices must clearly reflect:

- (a) Provider's Contract Number;
- (b) Service Period
- (c) the name and GLO Contract Number (12 digits) of the Subrecipient Agreement to which services have been provided;
- (d) the current amount being billed;
- (e) the cumulative amount billed previously;
- (f) the balance remaining to be billed; and
- (g) an itemized statement of services performed, including documentation as required under the Contract, such as invoices, receipts, statements, stubs, tickets, time sheets, and any other which, in the judgment of the Subrecipient, provides full substantiation of reimbursable costs incurred.

Subject to the maximum Contract amount authorized herein, upon specific, prior, written approval by the Subrecipient, lodging, travel, and other incidental direct expenses may be reimbursed under this Contract for professional or technical personnel who are (a) away from the cities in which they are permanently assigned; (b) conducting business specifically authorized by the Subrecipient; and (c) performing services not originally contemplated in the Scope of Services.

NOTICE TO PROVIDER:

Failure to include all of the information required in **SECTION 3.01** with each invoice may result in a significant delay in processing payment for the invoice.

MILESTONES

Milestones	Not-To-Exceed Draw Percentages					
	Construction Funds	Engineering Funds	Grant Administration Funds	Special Environmental Funds	Environmental Funds	Acquisition Funds
Project Kick-Off Meeting and Start-up Documentation			15%			
Engineering Contract Executed		30%				
Environmental Contract Executed			30%			
100% Design Approval		60%				
Special Environmental Report Approval				100%		
Authority to Use Grant Funds			50%		100%	
Acquisition Start						100%
Bid Advertisement		70%	60%			
Construction Notice to Proceed	85%	85%	85%			
As-Built Plans/ COCC/FWCR	100%	100%	95%			
Grant Completion Report Approval			100%			

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IV. PROVIDER'S WARRANTY, AFFIRMATIONS, AND ASSURANCES

4.01 PERFORMANCE WARRANTY

Provider represents that all services performed under this Contract will be performed in a manner consistent with a degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Provider represents that all work product, including Deliverables if any, under this Contract shall be completed in a manner consistent with standards in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated Attachments (if any); and shall be fit for ordinary use, of good quality, and with no material defects. If Provider fails to submit Deliverables timely or to perform satisfactorily under conditions required by this Contract, the Subrecipient may require Provider, at its sole expense, to the extent such defect or damage is caused by the negligence of Provider, to (a) repair or replace all defective or damaged Deliverables; (b) refund any payment received for all defective or damaged Deliverables and, in conjunction therewith, require Provider to accept the return of such Deliverables; and/or (c) take necessary action so that future performance and Deliverables conform to the Contract requirements.

4.02 GENERAL AFFIRMATIONS

To the extent that they are applicable, Provider further certifies that the General Affirmations in **Attachment B** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein.

4.03 FEDERAL ASSURANCES

To the extent that they are applicable, Provider further certifies that the Federal Assurances in **Attachment A** have been reviewed and that Provider is in compliance with each of the requirements reflected therein. The Federal Assurance form must be executed by Provider's authorized signatory.

4.04 FEDERAL CERTIFICATIONS

To the extent that they are applicable, Provider further certifies that the Federal Certifications also in **Attachment A** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein. The Federal Certifications form must be executed by Provider's authorized signatory.

In addition, Provider certifies that it is in compliance with any other applicable federal laws, rules, or regulations, as they may pertain to this Contract including, but not limited to, those listed in Attachment D.

V. FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

- (a) Funding for this Contract is appropriated under the Housing and Urban Development, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. 115-123) enacted on February 9, 2018. It is to mitigate disaster risk and reduce future losses, and allow grantees the opportunity to transform state & local planning, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the 2015, 2016 & Hurricane Harvey (2017) Floods, which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The Fulfillment of the Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-MIT Program, and any other applicable laws. Further, Provider acknowledges that all funds are subject to recapture and repayment for non-compliance.
- (b) **All participants in the CDBG-MIT grant program must have a data universal numbering system (DUNS) number, as well as a Commercial And Government Entity (CAGE) Code.**
- (c) **The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at:**

<https://www.bpn.gov/ccr/>

Assistance with this web site may be obtained by calling **866-606-8220**.

5.02 STATE FUNDING

- (a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the Subrecipient, in its sole discretion, may terminate this Contract. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- (b) Furthermore, any claim by Provider for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Provider, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

5.03 RECAPTURE OF FUNDS

Provider shall conduct, in a satisfactory manner as determined by the Subrecipient, the Project as set forth in the Contract. The discretionary right of the Subrecipient to terminate for convenience under **SECTION 2.02** notwithstanding, it is expressly understood and agreed by Provider that the Subrecipient shall have the right to terminate the Contract and to recapture, and be reimbursed for any payments made by the Subrecipient (i) that exceed the maximum allowable HUD rate; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures.

5.04 OVERPAYMENT

Provider understands and agrees that it shall be liable to the Subrecipient or the GLO for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Contract. Provider further understands and agrees that reimbursement of such disallowed costs shall be paid by Provider from funds which were not provided or otherwise made available to Provider under this Contract.

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VI. OWNERSHIP

6.01 OWNERSHIP AND THIRD PARTY RELIANCE

- (a) The Subrecipient shall own, and Provider hereby assigns to the GLO, all right, title, and interest in all services to be performed; all goods to be delivered; and/or all other related work product prepared, or in the course of preparation, by Provider (or its subcontractors) pursuant to this Contract, together with all related worldwide intellectual property rights of any kind or character (collectively, the "Work Product"). Under no circumstance will any license fee, royalty, or other consideration not specified in this Contract be due to Provider for the assignment of the Work Product to the GLO or for the GLO's use and quiet enjoyment of the Work Product in perpetuity. Provider shall promptly submit all Work Product to the GLO upon request or upon completion, termination, or cancellation of this Contract for any reason, including all copies in any form or medium.
- (b) Provider and the Subrecipient shall not use, willingly allow, or cause such Work Product to be used for any purpose other than performance of Provider's obligations under this Contract without the prior written consent of either party and the GLO. Work Product is for the exclusive use and benefit of, and may be relied upon only by the parties. Prior to distributing any Work Product to any third party, other than the GLO, the parties shall advise such third parties that if it relies upon or uses such Work Product, it does so entirely at its own risk without liability to the GLO, Provider, or the Subrecipient.

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VII. RECORDS, AUDIT, RETENTION, CONFIDENTIALITY, PUBLIC RECORDS

7.01 BOOKS AND RECORDS

Provider shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the Subrecipient, the GLO, the State of Texas Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes.

7.02 INSPECTION AND AUDIT

- (a) Provider agrees that all relevant records related to this Contract and any Work Product produced in relation to this Contract, including the records and Work Product of its Subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and Work Product shall be subject, at any time, to inspection, examination, audit, and copying at any location where such records and Work Product may be found, with or without notice from the Subrecipient, the GLO, HUD, or other government entity with necessary legal authority. Provider agrees to cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Provider will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and Work Product, and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.
- (b) Provider understands that acceptance of state funds under this Contract acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Provider further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Provider will ensure that this clause concerning the State Auditor's Office's authority to audit state funds and the requirement to fully cooperate with the State Auditor's Office is included in any subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Provider relating to the Contract for any purpose. HUD, the Comptroller General, the General Accounting Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection. **PROVIDER SHALL ENSURE THAT ALL SUBCONTRACTS AWARDED REFLECT THE REQUIREMENTS OF THIS SECTION 7.02, AND THE REQUIREMENT TO COOPERATE.**
- (c) Provider will be deemed to have read and have knowledge of all applicable federal, state, and local laws, regulations, and rules including, but not limited to those identified in **Attachment D**, governing audit requirements pertaining to the Project.

7.03 PERIOD OF RETENTION

All records relevant to this Contract shall be retained for a period subsequent to the final closeout of the State of Texas CDBG-MIT grant program, in accordance with federal regulations. **The Subrecipient will notify all Program participants of the date upon which local records may be destroyed.**

7.04 CONFIDENTIALITY

To the extent permitted by law, Provider and the Subrecipient agree to keep all information confidential, in whatever form produced, prepared, observed, or received by Provider or the Subrecipient to the extent that such information is: (a) confidential by law; (b) marked or designated “confidential” (or words to that effect) by Provider or the Subrecipient; or (c) information that Provider or the Subrecipient is otherwise required to keep confidential by this Contract. Furthermore, Provider will not advertise that it is doing business with the Subrecipient, use this Contract as a marketing or sales tool, or make any press releases concerning work under this Contract without the prior written consent of the Subrecipient.

7.05 PUBLIC RECORDS

Information related to the performance of this Contract may be subject to the Public Information Act (“PIA”) and will be withheld from public disclosure or released only in accordance therewith. Provider shall make any information required under the PIA available to the Subrecipient in portable document file (“.pdf”) format or any other format agreed between the Parties. Failure of Provider to mark as “confidential” or a “trade secret” any information that it believes to be excepted from disclosure waives any and all claims Provider may make against the Subrecipient for releasing such information without prior notice to Provider. Provider shall notify the Subrecipient within twenty-four (24) hours of receipt of any third party written requests for information, and forward a copy of said written requests to the Subrecipient. If the request was not written, Provider shall forward the third party's contact information to the Subrecipient.

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VIII. MISCELLANEOUS PROVISIONS

8.01 INSURANCE

Provider shall acquire for the duration of this Contract insurance with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount and in the form required by **Attachment E** of this Contract, **REQUIRED INSURANCE AND FORM**. Furthermore, Provider shall submit a certificate of liability insurance as required under this Contract, including (if requested) a schedule of coverage (or "underwriter's schedules") establishing to the satisfaction of the Subrecipient the nature and extent of coverage granted by each policy.

Provider shall submit certificates of insurance and endorsements electronically, in the manner requested by the Subrecipient. In the event that any policy is determined to be deficient to comply with the terms of this Contract, Provider shall secure such additional policies or coverage as the Subrecipient may reasonably request or that are required by law or regulation.

Provider will be responsible for submitting renewed certificates of insurance and endorsements, as evidence of insurance coverage throughout the term of this Contract. Provider may not be actively working on behalf of the Subrecipient if the insurance coverage does not adhere to insurance requirements. Failure to submit required insurance documents may result in the cancellation of this Contract.

8.02 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE

PROVIDER AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, PROVIDER SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF PROVIDER'S AND PROVIDER'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. PROVIDER AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE SUBRECIPIENT SHALL NOT BE LIABLE TO THE PROVIDER, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/ OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER. 2) PROVIDER AGREES TO INDEMNIFY AND HOLD HARMLESS THE SUBRECIPIENT, THE GLO, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE SUBRECIPIENT NAMED AS A DEFENDANT IN ANY LAWSUIT AND PROVIDER

MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE SUBRECIPIENT. PROVIDER AND THE SUBRECIPIENT AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

8.03 LEGAL OBLIGATIONS

Provider shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Provider to provide the goods or services required by this Contract. Provider will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Provider agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

8.04 INDEMNITY

EXCEPT FOR DAMAGES DIRECTLY OR PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OF THE SUBRECIPIENT OR THE GLO, PROVIDER SHALL INDEMNIFY AND HOLD HARMLESS THE SUBRECIPIENT, THE STATE OF TEXAS, THE GLO, AND THE OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES OF THE SUBRECIPIENT, THE STATE OF TEXAS, AND THE GLO FROM ANY LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES, OR LIABILITY (INCLUDING ALL COSTS AND EXPENSES OF DEFENDING AGAINST ALL OF THE AFOREMENTIONED) ARISING IN CONNECTION WITH:

- THIS CONTRACT;
- ANY NEGLIGENCE, ACT, OMISSION, OR MISCONDUCT IN THE PERFORMANCE OF THE SERVICES REFERENCED HEREIN; OR
- ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER FEDERAL OR STATE WORKERS' COMPENSATION LAWS, THE TEXAS TORT CLAIMS ACT, OR ANY OTHER SUCH LAWS.

PROVIDER SHALL BE RESPONSIBLE FOR THE SAFETY AND WELLBEING OF ITS EMPLOYEES, CUSTOMERS, AND INVITEES. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS AGREEMENT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO THE SUBRECIPIENT. THE PROVISIONS OF THIS SECTION 8.03 SHALL SURVIVE TERMINATION OF THIS CONTRACT.

8.05 ASSIGNMENT AND SUBCONTRACTS

Provider shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the Subrecipient. Notwithstanding this provision, it is mutually understood and agreed that Provider may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Provider shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Provider as specified in this Contract. Nothing in this Contract shall be construed to relieve Provider of the responsibility for ensuring that the goods

delivered and/or the services rendered by Provider and/or any of its subcontractors comply with all the terms and provisions of this Contract. Provider will provide written notification to the Subrecipient of any such subcontractor performing fifteen percent (15%) or more of the work under this Contract, including the name and taxpayer identification number of subcontractor, the task(s) being performed, and the number of subcontractor employees expected to work on the task.

8.06 RELATIONSHIP OF THE PARTIES

Provider is associated with the Subrecipient only for the purposes and to the extent specified in this Contract, and, with respect to Provider's performance pursuant to this Contract, Provider is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the Subrecipient or the GLO any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Provider or any other party. Provider shall be solely responsible for, and the Subrecipient shall have no obligation with respect to:

- (a) withholding of income taxes, FICA, or any other taxes or fees;
- (b) industrial or workers' compensation insurance coverage;
- (c) participation in any group insurance plans available to employees of the State of Texas;
- (d) participation or contributions by the State to the State Employees Retirement System;
- (e) accumulation of vacation leave or sick leave; or
- (f) unemployment compensation coverage provided by the State.

8.07 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Provider shall comply with all applicable federal, state, and local laws, ordinances, and regulations. Provider shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract including, but not limited to, those attached hereto and incorporated herein for all purposes as **Attachment**

. Provider will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

8.08 NOTICES

Any notices required under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

Subrecipient

City of Tomball

401 Market Street

Tomball, TX 77375

Provider

Langford Community Management Services, Inc.

9017 Hwy 29, Suite 206

Liberty Hill, Texas 78642

Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. Either party may change its address for notice by written notice to the other party as herein provided.

8.10 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Provider irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

8.11 SEVERABILITY

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

8.12 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Provider.

8.13 DISPUTE RESOLUTION

If the CDBG-MIT program imposes a reduction in administrative grant funds due to non-compliance and/or disallowed costs as stipulated by the agency, the contracting parties will negotiate an agreement of payment. If the non-compliance and/or disallowed costs is (are) not the fault or in control of the consulting firm, the County will be responsible for the difference in grant funds.

If the negotiation phase between the contracting entities does not reach an agreement, executives of the contracting entities, with decision-making authority, will enter into mediation to facilitate a settlement by employing a skilled neutral, not to impose a solution, but to assist the parties in reaching agreement. A final binding Arbitration Phase will occur in case the non-binding phase produces no settlement.

8.14 ENTIRE CONTRACT AND MODIFICATION

This Contract, its integrated Attachment(s), and any Technical Guidance issued in conjunction with this Contract, if any, constitute the entire agreement of the parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in such Attachment(s), Technical Guidance Letter shall be harmonized with this Contract to the extent possible. Unless such integrated Attachment, Technical Guidance Letter, or Revision specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the terms of this Contract.

8.15 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract. If the Contract is not executed by the GLO within thirty (30) days of execution by the other party, this Contract shall be null and void. In the sole discretion of the GLO, Work Orders issued, if any, may be executed by the parties in counterparts exchanged by electronic mail.

8.16 THIRD-PARTY BENEFICIARY

The Parties agree that the GLO, as the administrator of the CDBG-MIT program, is a third-party beneficiary to this Contract and that the GLO shall have the right to enforce any provision of this Contract. Provided, however, that GLO shall only enforce a provision Contract after notifying the Parties, in writing, of a potential breach or default of the Contract and allowing the Provider sixty (60) days to cure the breach or default. Venue of any suit under this Section 8.17 shall be in a court of competent jurisdiction in Travis County, Texas. Provider irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

**IN THIS SECTION SHALL BE CONSTRUED
AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

8.17 PROPER AUTHORITY

Each party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Provider acknowledges that this Contract is effective for the period of time specified in the Contract. Any services performed by Provider before this Contract is effective or after it ceases to be effective are performed at the sole risk of Provider.

IN WITNESSETH WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT BY CAUSING THE SAME BE SIGNED ON THIS 21st DAY OF OCTOBER, 2026.

City of Tomball, Texas _____

City/County Representative Signature



Langford Community Management Svcs.

Printed name of Representative

Judy Langford

Title

President
Title

RFP for Grant Administration Services (MIT Reallocation)

Committee Scoring Summary

Committee	Grantworks	Langford	MPACT Strategic Consulting	Traylor Associates
One	90	97	45	74
Two	81	85	65	72
Three	87	92	38	72
Total	258	274	148	218
Average	86	91	49	73

Ranking	2	1	4	3
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City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Approve a Professional Services Agreement with Freese & Nichols, Inc. for Project Number 2027-10002, updates to the Water and Wastewater Master Plan and Impact Fees, for a not-to-exceed amount of \$525,000. This expenditure is included in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.

Background:

The proposed professional services agreement with Freese & Nichols, Inc. (FNI) include a scope of work to update our Water and Wastewater Master Plan and Impact Fees, adopted in 2023, based on the development in the City. During the City's previous master plan projects, the City's water distribution system model and wastewater collection system model were developed with hydraulic modeling software.

In 2022, the City retained FNI to conduct the last update to the Water and Wastewater Master Plan and Impact Fees. The proposed project will update the City's existing water and wastewater master plans, wastewater hydraulic model, and develop capital improvement plans (CIP) for 5-year, 10-year, and 25-year planning periods.

The scope of work for this project will also address the requirements of Chapter 395 of Texas Local Government Code, requiring an update of the water and wastewater impact fees. Study elements will include the preparation of land use assumptions, the development of impact fee eligible capital improvement plans and associated CIP costs, the calculation of the maximum allowable impact fee per service unit and, the update of the service unit equivalency table.

Funds for completing the proposed project were allocated in the FY 2026-2027 Budget as a project in the adopted 2026-2031 Capital Improvement Plan.

Origination: Project Management

Recommendation:

Staff recommends awarding a Professional Services Agreement to Freese & Nichols, Inc. for updates to the Water and Wastewater Master Plan and Impact Fees for a total amount not to exceed \$525,000.00

Party(ies) responsible for placing this item on agenda: Meagan Mageo, Project Manager

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: ☒ No: ☐ If yes, specify Account Number: # 400-613-6409
400-614-6409

If no, funds will be transferred from account # _____ To account # _____

Signed Meagan Mageo
Staff Member

Date

Approved by _____
City Manager

Date

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
CONTRACT NO. 2027-10002
CITY OF TOMBALL
WATER & WASTEWATER MASTER PLAN & IMPACT FEE
UPDATE**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF TOMBALL, TEXAS (the "City"), a municipal corporation of the State of Texas, and Freese & Nichols, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to contract for updates to the City of Tomball Water & Wastewater Master Plan and Impact Fee Study (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to project planning and design, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional services to the City related to professional engineering;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I.
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional services as outlined and defined in the Proposal attached hereto as Exhibit A, and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Engineer compensation as stated in the Section VII.

**SECTION II.
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work in a manner consistent with the professional skill and care ordinarily provided by competent engineering practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly

understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Exhibit "A" without prior written authorization from the City.

SECTION III. OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. It is further understood and agreed that ownership and usage rights associated with the above referenced documents and analyses, hereinafter referred to as instruments, are contingent upon Engineer's completion of the services which will result in the production of such instruments and Engineer's receipt of payment, in full, for said services. Additionally, City understands and agrees that the rights described and provided hereunder shall not preclude or prevent Engineer from continuing to use those processes, analyses and data.

SECTION IV. TIME FOR PERFORMANCE

The time for performance is an estimated 365 calendar day duration beginning from the execution date of this Agreement. Upon written request of the Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Engineer has no control.

SECTION V. COMPLIANCE AND STANDARDS

Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Engineer's performance.

SECTION VI. INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify and hold harmless the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control. City agrees that to the extent defense coverage is available under any applicable insurance policy maintained by the Engineer, and such policy provides a defense to additional insureds, the City shall be entitled to such defense as an additional insured under the policy, in accordance with the terms, conditions, and limitations of said policy, which shall satisfy any defense obligation under this Agreement. To the extent that a defense is not provided, Engineer shall reimburse the City for all reasonable defense costs, in the proportion of liability assigned to Engineer in (a) a final, non-appealable judgment, or (b) a written settlement agreement executed by the parties.

SECTION VII. ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Consultant pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed **\$525,000**, including reimbursable expenses as identified in Exhibit "A".

SECTION VIII. INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Exhibit "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness, disease, or death, claims or damages because of injury to or destruction of property, including loss of use resulting therefrom, and claims of errors and omissions.

SECTION IX. TERMINATION

The City may terminate this Agreement at any time by giving seven (7) days prior written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed maps, studies, reports, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION X. ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Consultant at the following address:

Freese & Nichols, Inc.
Attn: Matt Cartwright, PE
11200 Broadway Street, Suite 2320
Pearland, Texas 77584

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Tomball
Attn: Project Manager
501 James Street
Tomball, Texas 77375

**SECTION XI.
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

**SECTION XII.
SUCCESSORS AND ASSIGNS**

The City and Engineer bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the City nor Engineer shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

**SECTION XIII.
DISCLOSURE OF INFORMATION**

Engineer shall under no circumstances release any material or information developed in the performance of its services hereunder without the express written permission of the City.

**SECTION XIV.
MODIFICATIONS**

This instrument, including Exhibits, contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect except a subsequent modification in writing signed by both parties hereto.

**SECTION XV.
ADDITIONAL SERVICES OF ENGINEER**

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Exhibit "A". These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Exhibit "A," up to the amount authorized in writing by the City.

**SECTION XVI.
CONFLICTS OF INTEREST**

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Consultant shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

**SECTION XVII.
PAYMENT TO ENGINEER FOR SERVICES AND
REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

XVIII.
MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence or performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

E. In accordance with Chapter 2270, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Engineer covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Engineer is prohibited from engaging in business with Iran, Sudan or Foreign Terrorist Organizations.

F. In accordance with Chapter 2274 of the Texas Government Code, Engineer covenants that it: (1) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate during the term of this contract against a firearm entity or firearm trade associations.

IN WITNESS WHEREOF, the City of Tomball, Texas, has lawfully caused this Agreement to be executed by its Mayor; and Engineer, acting by its duly authorized officer/representative does now sign, execute and deliver this instrument.

EXECUTED on this ____ day of _____, _____ 2026.

Freese & Nichols, Inc.:



Name: Matt Cartwright, PE

Title: Vice President/Principal

CITY OF TOMBALL, TEXAS

David Esquivel, City Manager

ATTEST:

Thomas Harris III, City Secretary

September 30, 2026

Meagan Mageo
City of Tomball, Texas
501 James St.
Tomball, Texas 77375



**RE: CONTRACT PROPOSAL FOR WATER AND WASTEWATER MASTER PLAN AND IMPACT FEE
UPDATE**

Dear Ms. Mageo:

Freese and Nichols, Inc. (FNI) is pleased to submit this proposal for engineering services to the City of Tomball for the Water and Wastewater Master Plan and Impact Fee Update project.

We appreciate this opportunity to continue to serve the City of Tomball. If you are in agreement with the services described in Attachment A and wish for us to proceed with this project, please return a final professional services agreement for execution. If you have any questions, please do not hesitate to call or e-mail me at (281) 849-6096 or Bailey.Keller@freese.com. Thank you for considering Freese and Nichols and we look forward to working with you on this project.

Sincerely,



Bailey Keller, P.E.
Project Manager
Freese and Nichols, Inc.

City of Tomball

Professional Services for Water and Wastewater Master Plan and Impact Fee Update Scope of Services

PROJECT UNDERSTANDING

Freese and Nichols, Inc. (FNI) will conduct a Water and Wastewater Master Plan and Impact Fee Update (Project) for the City of Tomball (City). The City previously updated their Water and Wastewater Master Plan and Impact Fees in 2023. The current project will update the City's existing water distribution system and wastewater collection system hydraulic models and develop capital improvement plans (CIP) for 5-year, 10-year, and 25-year planning periods.

This Project will also address the requirements, as per Chapter 395 of the Texas Local Government Code, for the update of water and wastewater impact fees in the City of Tomball, Texas. Key study elements include the preparation of land use assumptions, the development of impact fee eligible capital improvement plans and associated CIP costs, the calculation of the maximum allowable impact fee per service unit, and the update of the service unit equivalency table.

A public process facilitated through a Capital Improvement Plan Advisory Committee (CIPAC) will guide the preparation of the land use assumptions and capital improvement plans, as well as provide recommendations to the City Council on impact fee collection rates. A public hearing process will conclude the study and update of impact fees in Tomball. This scope of work does not include development of ordinance language or providing impact fee administration support.

This Project will produce two reports:

1. A combined Water and Wastewater Master Plan Update report, and
2. An Impact Fee Update report

The Project tasks are broken down in **Table 1**:

Table 1: Water and Wastewater Master Plan and Impact Fee Update Tasks

Task	Task Description
Basic Services	
A	Project Management, Kickoff Meeting, and Data Collection
B	Land Use Assumptions and Water Demand and Wastewater Flow Projections
C	Water System Field Pressure Testing
D	Water Model Update, Calibration, and System Analysis
E	Wastewater Flow Monitoring
F	Wastewater Model Update, Calibration, and System Analysis
G	Water and Wastewater Capital Improvements Plan and Master Plan Report
H	Water and Wastewater Impact Fee Analysis, Report, and Public Hearing

BASIC SERVICES: Freese and Nichols, Inc. (FNI) may render the following professional services to the City of Tomball (City) in connection with the project, described as: Water and Wastewater Master Plan and Impact Fee Update.

TASK A: PROJECT MANAGEMENT, KICKOFF MEETING, AND DATA COLLECTION

A1. Project Kickoff Meeting

FNI will meet with City staff to review scope and schedule of the project and critical project milestones. FNI will provide the City with a data request memorandum identifying data needs. This will be an in-person meeting with a virtual option.

A2. Project Management and Communication

Throughout the project, monthly status reports will be submitted that summarize the progress and document upcoming tasks. The monthly status updates will outline any upcoming key decisions which require input from or discussion with the City.

A3. Data Collection and Review

FNI will coordinate with City staff on obtaining data required for the project, including future land use assumptions, development information, any update to GIS files, historical water production data, current facility operational data, water meter billing data, recently completed system improvements and rehab, cost data for recently constructed projects, etc.

TASK B: LAND USE ASSUMPTIONS AND WATER DEMAND AND WASTEWATER FLOW PROJECTIONS

B1. Define Master Plan and Impact Fee Service Areas

FNI will coordinate with the City to update the water and wastewater master plan service areas and the water and wastewater impact fee service areas as needed.

B2. Update Land Use Assumptions and Population and Service Unit Equivalent Projections

Population, non-residential acreage, and land use assumptions will be updated for the water and wastewater service areas for the 5-year, 10-year, and 25-year planning periods utilizing the City's 2025 Comprehensive Plan and available land use and planning data. Latest information from City staff on ongoing and future developments, along with available input from the development community received via City staff, will be incorporated.

FNI will utilize the 10-year land use assumptions developed as part of this task for the impact fee land use assumptions. The equivalent capacity of water meters will be utilized to establish the required service unit equivalents (SUEs) per Chapter 395 of the Local Government Code for both existing and 10-year growth conditions for the impact fee.

This task includes two virtual meetings with City staff to discuss planned developments and future land use assumptions.

B3. Update Water Demand and Wastewater Flow Projections

FNI will analyze historical water demands, wastewater flows, and field collected flow monitoring data and develop per-capita residential and non-residential planning criteria for future water demands and wastewater flows projections. Projected water demands and wastewater flows will be developed

for existing, 5-year, 10-year, and 25-year planning periods for both water and wastewater service areas.

- Water demand projections will include average day, maximum day, and peak hour demands
- Wastewater flow projections will include annual average day and peak wet weather flows

B4. Progress Meeting No. 1: Review Land Use Assumptions and Water Demand and Wastewater Flow Projections

FNI will meet with the City to review draft land use assumptions and projected population, water demands, and wastewater flows. Service unit equivalent projections to be utilized during the impact fee update process will also be discussed. FNI will address comments from City staff and incorporate one (1) round of revisions to finalize the growth and wastewater flow projections. This will be an in-person meeting.

Once finalized for the Project, these assumptions shall serve as the basis for development of the Capital Improvements Plan (CIP) and calculation of impact fees and subsequent analyses, including system analyses and CIP development.

Note: Any subsequent changes to the approved land use assumptions, population projections, or demand/flow projections requested by the City after agreement is achieved will require a contract amendment, including potential adjustments to schedule and fee.

TASK C: WATER SYSTEM FIELD PRESSURE TESTING

C1. Identify and Map Pressure Testing Locations

FNI will coordinate with City staff to choose locations for temporary field pressure recorders. Any areas of concern for the City, including existing areas of low pressures, will be identified as potential pressure recorder locations.

C2. Conduct Temporary Water System Field Pressure Testing

FNI will perform pressure testing that will consist of utilizing up to eight (8) FNI-furnished digital pressure recorders for a two-week time period. Procedures will be prepared for field testing that will include maps showing the proposed pressure recorder locations, required SCADA during the field testing period, and assistance required from the City. It is assumed the City will perform installations and removals of the eight pressure recorders.

C3. Evaluate and Summarize Pressure Data

FNI will review and document pressure data from the temporary pressure testing. FNI will develop dashboards summarizing pressure statistics for each site. A Microsoft PowerBI file of the field recorded pressure data will be created and provided to City staff.

TASK D: WATER MODEL UPDATE, CALIBRATION, AND SYSTEM ANALYSIS

D1. Convert and Update Water Distribution System Hydraulic Model

FNI will convert the City's InfoWater hydraulic water model into InfoWater Pro and will update the model utilizing available data from City's most recent GIS, as-built drawings, construction plans, and operations data. This will be an extended period simulation (EPS) water model and will consist of all 6-inch and larger pipelines, and all pumping and storage facilities.

D2. Update Existing Water Demand Allocation

FNI will utilize water meter billing, water production, and pumping data provided by the City to update the existing water demand allocation in the model throughout the water service area. FNI will spatially geocode water meter locations for active accounts in GIS so the demands can be allocated to the appropriate model nodes.

D3. Conduct Water Model Calibration

FNI will conduct a 24-hour extended period simulation (EPS) water model calibration by adjusting C-factors, peaking factors, diurnal demand curves, and demand distribution to match modeling results to the field pressure measurements and pump/tank operations.

FNI will schedule and attend up to one virtual meeting with the City to discuss operations and calibration.

D4. Conduct Existing and Future Water System Modeling and Analyses

FNI will conduct the following analyses for the existing, 5-year, 10-year, and 25-year planning periods:

TCEQ Capacity Requirements – FNI will evaluate the water distribution system for compliance with the TCEQ Chapter 290 water system capacity requirements. FNI will analyze supply (well production) capacity, pumping capacity, elevated storage capacity, and total storage capacity to assess whether any deficiencies exist. Identified water supply needs will also be compared to the needs identified within the Region H Plan. The supply analysis will be based on the latest tested groundwater well capacities, as provided by the City.

Water System Modeling – FNI will conduct hydraulic modeling consisting of maximum day and peak hour demand conditions. Projected water demands will be spatially allocated within the hydraulic water model. FNI will prepare figures that document system operations and mapping that document system pressures.

Fire Flow Analyses – FNI will utilize the calibrated hydraulic water model to conduct fire flow analysis under existing and future maximum day demands to identify areas with less than adequate fire flow capacity. FNI will prepare mapping of available fire flows.

D5. Progress Meeting No. 2: Review Water Model Update, Calibration, and System Analyses

FNI will meet with the City to discuss the water model update and calibration. Existing and future system analyses will also be discussed. This will be an in-person meeting with a virtual option.

TASK E: WASTEWATER FLOW MONITORING**E1. Flow Meter Locations and Basin Delineation**

FNI will select preliminary flow meter sites, produce mapping, and review with City staff. FNI will conduct field inspections of the selected flow meter locations to confirm suitability for flow monitoring. Items to be investigated include accessibility, hydraulic conditions, and debris depth. FNI will notify City staff of any sites that require cleaning prior to flow monitoring. FNI will also develop updated flow meter basins.

E2. Conduct Wastewater Flow Monitoring

FNI team will install and calibrate ten (10) temporary velocity/depth type flow meters and two (2)

rainfall gauges at the agreed upon locations. Temporary flow meters shall remain in place for up to sixty (60) days.

E3. Evaluate Wastewater Data and Characterize Inflow and Infiltration (I/I)

FNI will evaluate the wastewater system flow monitoring data and prepare flow and depth hydrographs for each monitoring location. The flow data will be summarized showing average dry weather flow and peak wet weather flows at each flow meter site. Rainfall events will also be summarized for total depth and duration. Inflow and infiltration (I/I) will be calculated throughout the system, and figures will be prepared showing the I/I by flow meter basin.

E4. Progress Meeting No. 3: Review Wastewater Flow Monitoring Data and I/I Analyses

FNI will meet with City staff to discuss the flow monitoring and field testing results, including the results of the I/I analysis. This will be an in-person meeting with a virtual option.

TASK F: WASTEWATER MODEL UPDATE, CALIBRATION, AND SYSTEM ANALYSIS

F1. Convert and Update Wastewater Collection System Hydraulic Model

The City's existing wastewater collection system model is in the Innovyze InfoSewer modeling software, which is planned for retirement. FNI will identify an appropriate replacement modeling software and convert the existing model to the selected software as part of this effort. FNI will then utilize available data from the City's most recent GIS, as-built drawings, construction plans, and operations data to update and refine the converted model.

F2. Allocate Existing Wastewater Loads

FNI will utilize wastewater effluent flow data, and geocoded water meter information to allocate existing wastewater flows throughout the City. The existing wastewater flows allocated will be updated during the dry weather calibration using the observed flow monitoring data.

F3. Dry Weather Calibration

FNI will select a dry weather period from the field collected flow monitoring data to perform an extended period simulation (EPS) dry weather calibration. The flow distribution in the model will be adjusted as necessary to match the field collected flow data to within industry standard tolerances for the dry weather period. FNI will also utilize the flow meter data to develop and input weekday and weekend diurnal patterns for each flow meter basin in the model. These diurnal patterns will represent the measured daily fluctuation in dry weather wastewater flows in Tomball's collection system. FNI will prepare calibration plots overlaying the modeled dry weather flows vs. the field collected flow data at each flow meter location.

F4. Wet Weather Calibration

FNI will review field collected flow meter and rain gauge data and select a wet weather calibration storm event. The recorded storm hyetograph will be applied to the hydraulic model to perform an EPS wet weather calibration. FNI will utilize and adjust hydrologic parameters in the model so that the peak wet weather flows generated in the model closely match the observed flows. Lift station pumping and wet well levels will be compared against available SCADA and/or flow monitoring data to verify wet weather lift station operations in the hydraulic model. FNI will prepare calibration plots overlaying the modeled wet weather flows vs. the field collected flow data at each flow monitoring location.

F5. Design Storm Development

FNI will develop a design storm hyetograph based on the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 database and input from City staff.

FNI will schedule and attend one virtual meeting with the City to discuss design storm selection.

F6. Conduct Existing and Future Wastewater System Model Analyses

TCEQ Capacity Evaluation – FNI will conduct an evaluation of the wastewater treatment plant capacity based on the permitted average daily flow capacity of the plant and current and projected wastewater flows to identify any average daily flow capacity deficiencies and required future improvements for compliance with the TCEQ Chapter 305 75/90 rule (TCEQ §305.126).

Existing System Analyses – FNI will perform hydraulic modeling using the calibrated hydraulic model to identify existing system deficiencies, surcharging, and other capacity/restriction issues. Mapping will be prepared showing the location and magnitude of all modeled surcharging and overflows.

Future System Analyses – FNI will develop scenarios for the 5-year, 10-year, and 25-year planning periods. Projected residential and non-residential wastewater flows will be distributed in the hydraulic model. Each scenario will be evaluated to assess the system response and peak flow conveyance. Mapping will be prepared showing the results of the future system analyses.

F7. Progress Meeting No. 4: Review Wastewater Model Update, Calibration, and System Analysis

FNI will meet with the City to discuss wastewater model update and calibration and existing and future system analyses results. This will be an in-person meeting with a virtual option.

TASK G: WATER AND WASTEWATER CAPITAL IMPROVEMENTS PLAN AND MASTER PLAN REPORT**G1. Develop Water System Capital Improvements Plan**

FNI will utilize the results of the existing and future model scenario analyses to identify capacity improvements in the water distribution system network, elevated and ground storage, and pumping facilities to serve existing and future needs. Additionally, FNI will utilize model results to develop improvement recommendations to serve areas that are not currently developed. FNI will develop water CIPs consisting of project descriptions, prioritization, justification, phasing, and planning level costs for each proposed project in current dollars including engineering and contingencies. FNI will produce mapping showing recommended improvements for the 5-year, 10-year, and 25-year planning periods as well as improvements needed to correct existing system deficiencies.

G2. Develop Wastewater System Capital Improvements Plan

FNI will utilize the results of the existing and future model scenario analyses to identify capacity improvements to eliminate excessive surcharging and overflows in the collection system. Additionally, FNI will utilize model results to develop improvements to serve areas that are currently not developed. FNI will develop wastewater CIPs consisting of project descriptions, prioritization, justification, phasing, and planning level costs for each proposed project in current dollars including engineering and contingencies. FNI will produce mapping showing recommended improvements for the 5-year, 10-year, and 25-year planning periods as well as improvements needed to correct existing system deficiencies.

Note: If changes to the previously finalized land use projections (Task B) are requested by the City which may result in a reevaluation or update to the CIP, a scope, fee, and schedule amendment would be required.

- G3. Progress Meeting No. 5: Review Water and Wastewater System Capital Improvement Plans**
FNI will meet with City staff to discuss the proposed 5-year, 10-year, and 25-year water and wastewater capital improvement plans. FNI will address City's comments and recommendations. This will be an in-person meeting with a virtual option.
- G4. Prepare Draft Water and Wastewater Master Plan Update Report**
FNI will prepare a Draft Water and Wastewater Master Plan Update Report documenting the water and wastewater hydraulic model update and calibration, analyses, results, and recommendations. One electronic PDF version of the report will be submitted to the City for review.
- G5. Progress Meeting No. 6: Review Draft Water and Wastewater Master Plan Update Report**
FNI will meet with the City to review City staff's comments on the Draft Water and Wastewater Master Plan Report. This will be a virtual meeting.
- G6. Finalize Water and Wastewater Master Plan Update Report**
FNI will incorporate City comments and submit an electronic PDF copy of the final report to the City.
- G7. City Council Presentation**
FNI will prepare a presentation on the results of the master plan update and present to City Council.

TASK H: WATER AND WASTEWATER IMPACT FEE ANALYSIS, REPORT, AND PUBLIC HEARING

- H1. Identify Water and Wastewater CIP Projects for Impact Fees and Calculate Eligible Cost**
FNI will identify which of the proposed water and wastewater CIP projects from **Task G** are eligible for impact fees based on available capacity to serve the projected 10-year growth. FNI will also review ongoing and recently completed water and wastewater improvements and determine which projects are eligible for future cost recovery from the projected 10-year growth. Maps will be prepared showing the existing and proposed water and wastewater capital improvement plan projects to be included in the impact fee calculation.

FNI will calculate the portion of the existing and proposed 10-year water and wastewater CIP project costs eligible for impact fees based on the portion of the project's capacity required to serve growth in the 10-year planning period.
- H2. Calculate Maximum Allowable Impact Fees**
FNI will calculate the maximum allowable water and wastewater impact fees based on the existing and proposed capital improvement costs to support 10-year growth conditions, and in accordance with Chapter 395 of the TLGC using the 50% credit method. An impact fee assessment schedule will be developed based on water meter equivalency factors.
- H3. Conduct Survey of Benchmark Cities to Obtain Latest Water and Wastewater Impact Fees**
FNI will conduct a survey of benchmark cities and obtain the latest water and wastewater impact fees. A graphic will be prepared comparing the benchmark cities to Tomball's max allowable impact

fees.

H4. Progress Meeting No. 7: Review Impact Fee Analysis Results

FNI will meet with the City to review the results of the water and wastewater impact fee analysis including the calculated maximum allowable fees. This will be an in-person meeting with a virtual option.

H5. Develop Draft Water and Wastewater Impact Fee Update Report

FNI will prepare a Draft Water and Wastewater Impact Fee Update Report showing land use assumptions, water and wastewater impact fee eligible capital improvement projects and costs, and maximum allowable water and wastewater impact fees per the requirements of the TLGC Chapter 395. One (1) electronic PDF copy will be delivered to the City for review.

H6. Progress Meeting No. 8: Review Draft Water and Wastewater Impact Fee Update Report

FNI will meet with the City to review City staff's comments on the Draft Water and Wastewater Impact Fee Update Report. This will be a virtual meeting.

H7. Present Impact Fee Analysis Results to Capital Improvements Plan Advisory Committee

Following review by City Staff, FNI will conduct one (1) presentation on the land use assumptions, water and wastewater impact fee eligible CIP projects, and water and wastewater impact fee analysis results to the Capital Improvements Plan Advisory Committee (CIPAC). FNI's presentation will include educational content for the CIPAC on the purpose of impact fees, the process of developing impact fees, and the role of the CIPAC during the impact fee process.

Note: If additional CIPAC meetings are requested by the City, a scope, fee, and schedule amendment would be required.

H8. Finalize Impact Fee Update Report

FNI will incorporate City comments and any comments from the CIPAC and prepare a Final Water and Wastewater Impact Fee Update Report and deliver an electronic PDF copy to the City.

H9. Assist City with Preparation of Presentation for and Attend Public Hearing on Land Use Assumptions, CIPs, and Impact Fee Calculations

FNI will develop a presentation for the public hearing summarizing the land use assumptions, water and wastewater CIPs, and impact fee calculations. FNI will attend the public hearing on impact fees and be available to answer questions. Any costs associated with City of Tomball public hearing notices are not included in this contract.

Summary of Meetings

- Project Kickoff Meeting
- Up to eight (8) coordination meetings with City staff with topics including:
 - Review Land Use Assumptions and Water Demand and Wastewater Flow Projections
 - Review Water Model Update, Calibration, and System Analyses
 - Review Wastewater Flow Monitoring Data and I/I Analyses
 - Review Wastewater Model Update, Calibration, and System Analyses
 - Review Water and Wastewater System Capital Improvement Plans
 - Review Draft Water and Wastewater Master Plan Report

- Review Impact Fee Analysis Results
- Review Draft Water and Wastewater Impact Fee Update Report

Summary of Presentations

- One (1) presentation on the Water and Wastewater Master Plan to City Council
- One (1) presentation to CIPAC on Land Use Assumptions, Impact Fee CIP, Calculated Maximum Allowable Impact Fee, and educational material regarding impact fees
- One (1) presentation at the Public Hearing on Land Use Assumptions, CIP, and Impact Fees

Summary of Deliverables

- Draft Water and Wastewater Master Plan Update Report
- Final Water and Wastewater Master Plan Update Report
- Draft Water and Wastewater Impact Fee Update Report
- Final Water and Wastewater Impact Fee Update Report

Summary of Fee for Engineering Services

FNI proposes to perform the services as described in this Scope of Services for a total lump sum fee of **\$525,000**.

ADDITIONAL SERVICES: Any services performed by FNI that are not included in the Basic Services described above are Additional Services. Additional Services to be performed by FNI, if authorized by Client, are described as follows:

- Extension of flow monitoring beyond 60 days
- Field survey and verification of water and wastewater infrastructure
- Additional meetings with CIPAC, Council, or additional stakeholders
- Developing additional memos or reports beyond the deliverables listed under Basic services scope
- Ordinance development or impact fee implementation support

TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in accordance with the following schedule:

- Data Request to City: within 15 days of notice to proceed (NTP)
- Requested data provided by the City: within 30 days of receiving data request
- Development of Draft Land Use Assumptions for City's Review: 90 days from completion of receipt of requested data
- City to review and provide comments for finalization of the Land Use Assumptions: 15 days from delivery of draft land use assumptions (LUA)
- Draft Water and Wastewater Master Plan CIP to City staff – 270 days* after City approval of land use assumptions
- Draft Water and Wastewater Master Plan Update Report to City staff – 360 days* after City approval of land use assumptions
- Final Water and Wastewater Master Plan Update Report to City staff – 15 days after receiving City comments
- Draft Water and Wastewater Impact Fee Update Report to City – 90* days after City approval of water and wastewater CIPs

- Final Water and Wastewater Impact Fee Update Report to City staff – 15 days after receiving City’s comments on the draft report and CIPAC presentation

**Assuming 60-day flow monitoring period*

If FNI’s services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in Client or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement.

**FREESE
AND
NICHOLS**

Project	Duration	2026			2027												2028													
		Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec		
Water and Wastewater Master Plan Update	18 Months		Flow Monitoring		  Water/Wastewater Model Updates, Calibration, System Analysis, CIP development  												 Draft W/WW Master Plan Report													
Water and Wastewater Impact Fee Update	11 Months												Impact Fee Land Use Assumptions				Impact Fee Calculation & Report		 Impact Fee Public Process						 November 2028					

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City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Adopt, on Second Reading, Ordinance No. 2026-43, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 0.16 acres of land situated within the Revised Map of Tomball from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29. The property is located at the northeast intersection of South Cherry Street and McPhail Street (208 McPhail Street). The applicant is requesting to utilize the property as a real estate office, within the City of Tomball, Harris County, Texas; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters.

Background:

On October 19th, City Council conducted a Public Hearing and **adopted** on First Reading Ordinance No. 2026-43.

On October 12th, the Planning & Zoning Commission conducted a public hearing and considered the Zoning request. The applicant presented their proposed plans and **individuals from the public expressed their opposition to the rezoning request citing its incompatibility with the area.**

Origination: Wendy Kaiser

Recommendation:

The Planning & Zoning Commission recommended **denial with 3-1 vote.**

Party(ies) responsible for placing this item on agenda: Jeremy Griffin (Community Development Director)

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from _____ # _____ To Account: # _____
account: _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date

ORDINANCE NO. 2026-43

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.16 ACRES OF LAND SITUATED WITHIN THE REVISED MAP OF TOMBALL FROM THE SINGLE-FAMILY RESIDENTIAL (SF-6) ZONING DISTRICT TO THE OLD TOWN (OT) ZONING DISTRICT ON LOTS 23 AND 24 OF BLOCK 29. THE PROPERTY IS LOCATED AT THE NORTHEAST INTERSECTION OF SOUTH CHERRY STREET AND MCPHAIL STREET (208 MCPHAIL STREET). THE APPLICANT IS REQUESTING TO UTILIZE THE PROPERTY AS A REAL ESTATE OFFICE, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Whereas, Luke and Michelle Tamez, have requested to amend the Tomball Code of Ordinances, by rezoning approximately 0.16 acres of land situated within the Revised Map of Tomball from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within three hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

Whereas, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City's receipt of the requested rezoning; and

Whereas, the City Council deems it appropriate to grant a rezoning to the Old Town (OT) District.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The rezoning classification of the Property is hereby changed and is subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as hereby stated, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE _____ DAY OF _____ 2026.

COUNCILMAN MICHNA	_____
COUNCILMAN GARCIA	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN COVINGTON	_____
COUNCILMAN PARR	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE _____ DAY OF _____ 2026.

COUNCILMAN MICHNA	_____
COUNCILMAN GARCIA	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN COVINGTON	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

Thomas Harris III
City Secretary

Exhibit “A”

Location: 208 McPhail Street, within the City of Tomball, Harris County, Texas.



**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION (P&Z)
OCTOBER 12, 2026
&
CITY COUNCIL
OCTOBER 19, 2026**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, October 12, 2026, at 6:00 P.M.** and by the City Council of the City of Tomball on **Monday, October 19, 2026, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

Zoning Case Z26-08: Request by Wendy Kaiser to consider a zone change from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lot 22S of the Baker Unrecorded Plat, one lot containing approximately 0.29 acres of land, situated in the J House Survey, Abstract 34, located south the southwest intersection of Hicks Street and Baker Drive (304 Baker Drive). The applicant is requesting to utilize the property for residential or office use.

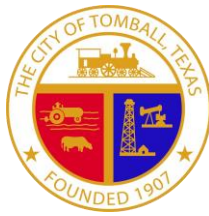
Zoning Case Z26-010: Request by Luke and Michelle Tamez to consider a zone change from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29 situated within the Revised Map of Tomball; two lots containing approximately 0.16 acres of land located at the northeast intersection of South Cherry Street and McPhail Street (208 McPhail Street). The applicant is requesting to utilize the property as a real estate office.

C E R T I F I C A T I O N

I hereby certify that the above notice of the meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 6th day of October 2026 by 5:00 p.m., and remained posted for at least three consecutive business days preceding the scheduled time of said meeting.

Caleb Mittanck
Caleb Mittanck
City Planner

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1019 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.tomballtx.gov.



City of Tomball
Community Development Department

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z26-10

9/21/2026

The Planning & Zoning Commission will hold a public hearing on **October 12, 2026 at 6:00 PM**, in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas to recommend approval or denial to City Council on a request by Luke and Michelle Tamez to consider a zone change from Single Family Residential (SF-6) to Old Town (OT) for Lots 23 and 24, Block 29, Revised Map of Tomball, containing approximately 0.16 acres of land, located at 208 McPhail Street, Tomball, Texas.

This hearing is open to any interested person. Opinions, objections, and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only the area which is highlighted in green on the map is being considered for **re-zoning**. The blue area is the notification area. All owners of property within 300 feet of the subject property, as indicated by the most recently approved city tax roll, are required to be notified. Whether recommended for approval or denial by the Planning & Zoning Commission, this case will be heard by the City Council for First Reading with public hearing on **October 19, 2026 at 6:00 PM** in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions please contact the Planning Division, by telephone (281-290-1491) or by email address planning@tomballtx.gov.

For the PLANNING & ZONING COMMISSION
Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z26-10

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

Name:
Parcel I.D.:
Address:

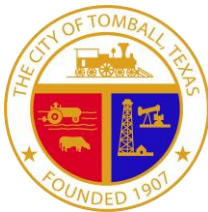
Email: planning@tomballtx.gov

I am in favor ☐

I am opposed ☐

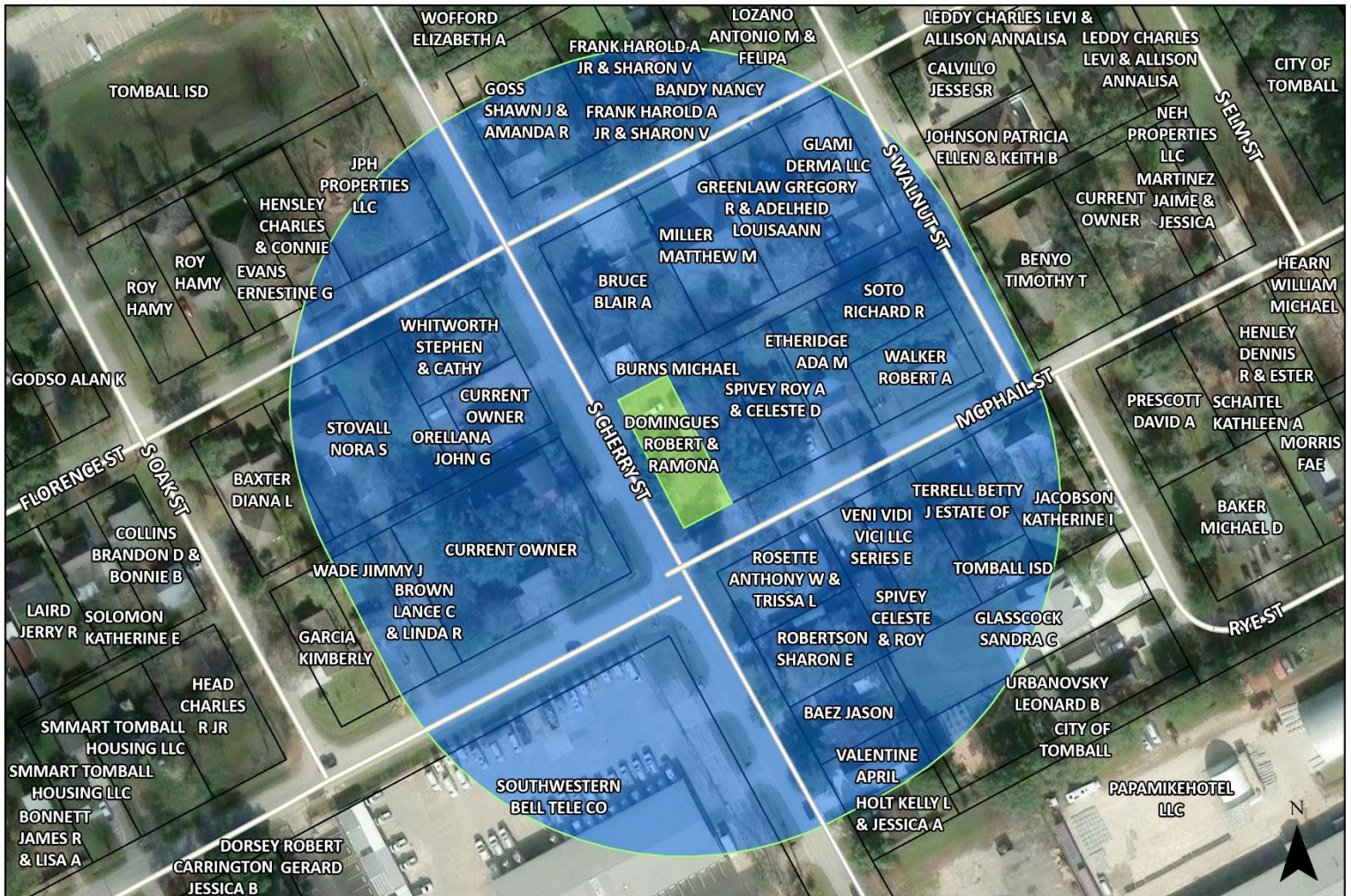
Additional Comments:

Signature: _____



City of Tomball
Community Development Department

Z26-10



Notification Boundary

Zoning Case

Zoning Case #: Z26-10
Current Zoning: SF-6 (Single Family Residential - 6)
Proposed Zoning: OT&MU (Old Town & Mixed Use)

Legend

- Rezoning Boundary
- 300' Notification Boundary

CASE #: Z26-10

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

Name: DOMINGUES ROBERT & RAMONA
Parcel I.D.: 0352630290040
Address: 208 MCPHAIL ST

Email: planning@tomballtx.gov

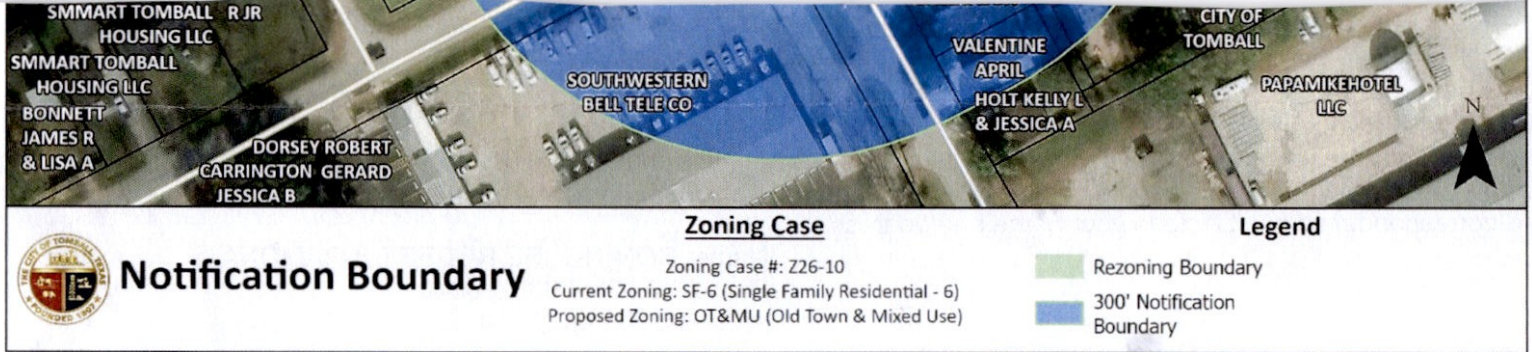
I am in favor ☒

I am opposed ☐

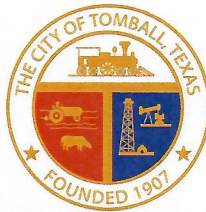
Additional Comments:

Signature: R. Dom

501 James Street • TOMBALL, TEXAS 77375



501 James Street • TOMBALL, TEXAS 77375



City of Tomball
Community Development Department

STOVALL NORA S
307 FLORENCE ST
TOMBALL, TX 77375-4619

NOTICE OF PUBLIC HEARING

RE: Zone Change Case Number Z26-10

9/21/2026

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This hearing is open to any interested person. Opinions, objections, and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as listed below. All responses must be signed.

The attached map shows the area of this request. Only the area which is highlighted in green on the map is being considered for **re-zoning**. The blue area is the notification area. All owners of property within 300 feet of the subject property, as indicated by the most recently approved city tax roll, are required to be notified. Whether recommended for approval or denial by the Planning & Zoning Commission, this case will be heard by the City Council for First Reading with public hearing on **October 19, 2026 at 6:00 PM** in the City Council Chambers at City Hall, 401 Market Street, Tomball, Texas.

If you have any questions please contact the Planning Division, by telephone (281-290-1491) or by email address planning@tomballtx.gov.

For the PLANNING & ZONING COMMISSION

Please call (281) 290-1491 if you have any questions about this notice.

CASE #: Z26-10

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Community Development Department
501 James St., Tomball TX 77375

Name: STOVALL NORA S
Parcel I.D.: 0352630300028
Address: 307 FLORENCE ST

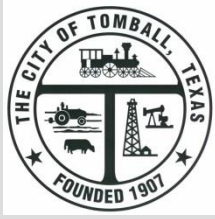
Email: planning@tomballtx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: Nora S. Stovall



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: October 12, 2026

City Council Public Hearing Date: October 19, 2026

Rezoning Case: Z26-10

Property Owner(s): Robert and Ramona Domingues

Applicant(s): Luke and Michelle Tamez

Legal Description: Request by Luke and Michelle Tamez to consider a zone change from the Single-Family Residential (SF-6) zoning district to the Old Town (OT) zoning district on Lots 23 and 24 of Block 29 situated within the Revised Map of Tomball; two lots containing approximately 0.16 acres of land located at the northeast intersection of South Cherry Street and McPhail Street (208 McPhail Street).

Location: 208 McPhail Street (Exhibit “A”)

Area: 0.16 acres

Comp Plan Designation: Medium- Density Residential (Exhibit “B”)

Present Zoning: Single-Family Residential (SF-6) (Exhibit “C”)

Request: Rezone from Single-Family Residential (SF-6) to Old Town (OT)

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North	Single-Family Residential (SF-6)	Residential
South	Single-Family Residential (SF-6)	Residential
East	Single-Family Residential (SF-6)	Residential
West	Single-Family Residential (SF-6)	Residential

BACKGROUND

The subject property has been within the City of Tomball’s Single Family Residential (SF-6) zoning district since the adoption of zoning in February 2008. The applicant’s request aims to allow for a commercial real estate brokerage office.

ANALYSIS

Comprehensive Plan Analysis: The property is designated as “Medium-Density Residential” by the Comprehensive Plan’s Future Land Use Map. The Medium-Density Residential designation is intended promote housing diversity and affordability to serve a range of local employment types, income levels, and age brackets. Appropriate land uses include duplexes, quadplexes, single-family detached homes, single-family attached homes, patio homes, parks, and schools.

Staff Review Comments: The Old Town (OT) zoning district supports a mix of residential and commercial uses and is intended to integrate into existing residential areas by supporting residential land uses as well as low-intensity commercial. The request to rezone the subject property to Old Town is generally not conforming with the Future Land Use Plan. South Cherry Street is designated by the Major Thoroughfare Plan as an “Existing Minor Arterial” street which is intended for residential and commercial traffic being directed to “Major Arterial” streets. The applicant is proposing to utilize the existing building for a real estate brokerage office.

PUBLIC COMMENT

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on September 22, 2026. Any public comment forms will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

EXHIBITS

- A. Aerial Location Map
- B. Future Land Use Plan
- C. Zoning Map
- D. Site Photos
- E. Rezoning Application

Exhibit "A"
Aerial Location Map



Location

Zoning Case

Zoning Case #: Z26-10
Current Zoning: SF-6 (Single Family Residential - 6)
Proposed Zoning: OT&MU (Old Town & Mixed Use)

Legend

 Rezoning Boundary

Exhibit “B” Future Land Use Plan

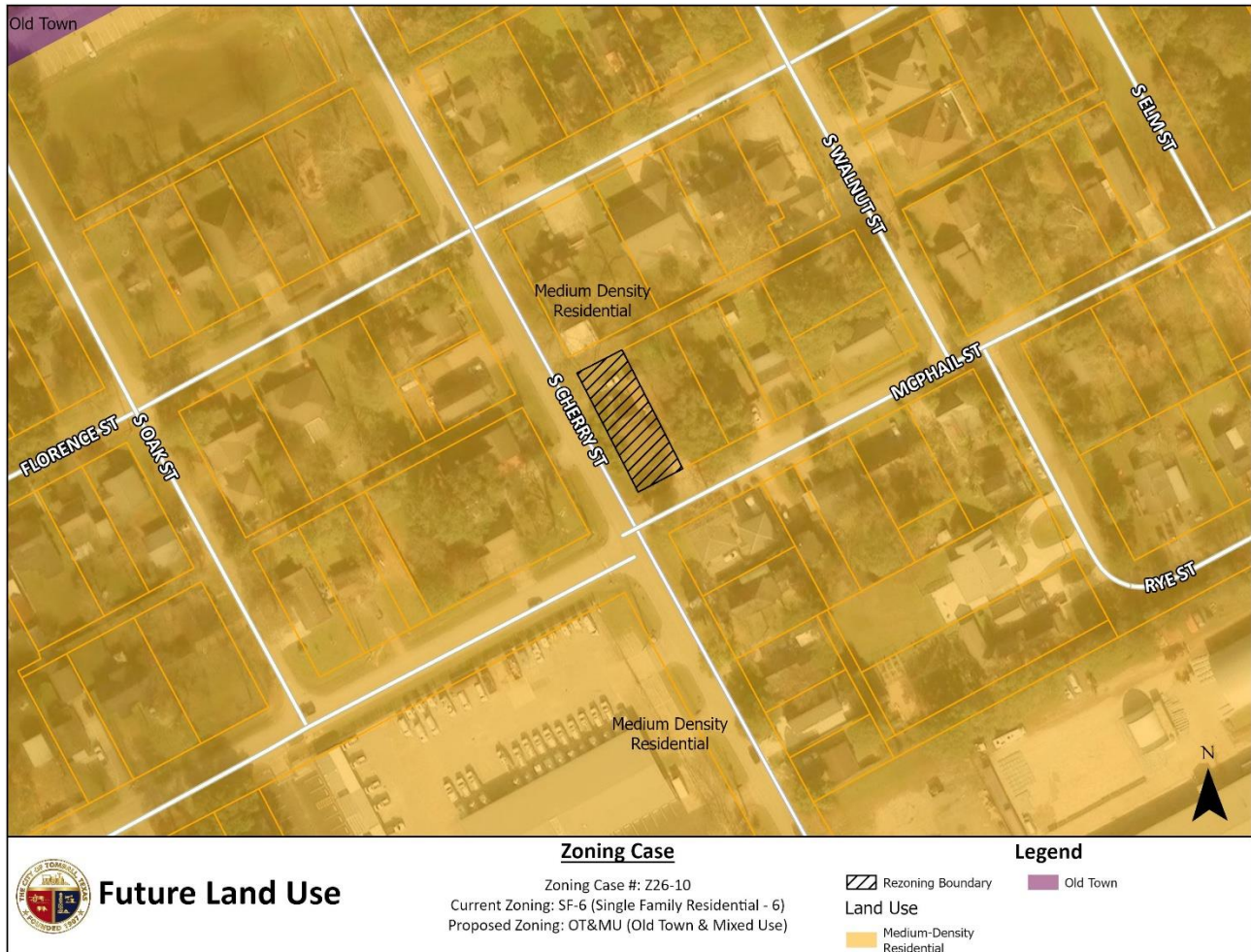


Exhibit "C" Zoning Map



**Exhibit “D”
Site Photo(s)**

Subject Property (North)



Neighbor (South)



Neighbor (West)



Neighbor (East)



Exhibit "E"

Rezoning Application

Revised: 08/25/2023



APPLICATION FOR RE-ZONING

Community Development Department
Planning Division

APPLICATION REQUIREMENTS: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

FEES: Must be paid at time of submission or application will not be processed.

- \$1,000.00 fee for requests to rezone to standard zoning districts
- \$1,500.00 fee for request to rezone to Planned Development districts.

DIGITAL APPLICATION SUBMITTALS:

PLEASE SUBMIT YOUR APPLICATIONS AND PLANS DIGITALLY WITHIN SMARTGOV

WEBSITE: ci-tomball-tx.smartgovcommunity.com

Applicant

Name: Luke Tamez & Michelle Tamez Title: Applicant
Mailing Address: 12002 Lucky Meadow Dr City: Tomball State: TX
Zip: 77375 Contact: Luke Tamez
Phone: (346) 273- 7800 Email: tamezluke@gmail.com

Owner

Name: ROBERT DOMINGUES & RAMONA DOMINGUES Title: Owners
Mailing Address: 208 Mcphail St City: Tomball State: TX
Zip: 77375 Contact: RAMONA DOMINGUES
Phone: (832) 640-4150 Email: Monadomingues@gmail.com

Engineer/Surveyor (if applicable)

Name: Precision Surveyors Title: Professional Land Surveyor
Mailing Address: 950 Threadneedle St #150 City: Houston State: TX
Zip: 77079 Contact: James P Walkoviak
Phone: (281) 496-1867 Fax: () Email:

Description of Proposed Project: Rezoning for a Commercial Real Estate Brokerage office.

Physical Location of Property: Corner on Mcphail & Cherry St.

[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: LTS 23 & 24 BLK 29 TOMBALL

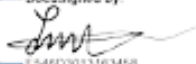
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: (SF-6) : Single Family Residential 6

Current Use of Property: Single Family Residence
 Proposed Zoning District: (SF-6) : Single Family Residential 6
 Proposed Use of Property: Commercial Use- Old Town Zoning
 HCAD Identification Number: 0352630290040 Acreage: 0.1606979

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

<p><small>DocuSigned by:</small>  <small>E:54ED3012163458</small></p>	<p><small>Signed by:</small>  <small>421-1610101-30492</small></p>	<p>8/31/2026</p>
<p>X Signature of Applicant</p>		<p>Date</p>
<p><small>Authenticator</small>  <small>X</small></p>	<p><small>Authenticator</small>  <small>X</small></p>	<p>08/31/26</p>
<p>Signature of Owner</p>		<p>Date</p>

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.

Sec. 551.074 – Personnel Matters: To deliberate the appointment of Assistant City Manager.

Background:

Origination:

Recommendation:

Party(ies) responsible for placing this item on agenda: Thomas Harris III, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: _____

If no, funds will be transferred from account # _____ To account # _____

Signed	_____	Approved by	_____
	Staff Member		City Manager
	Date		Date

City Council Agenda Item Data Sheet

Meeting Date: November 2, 2026

Topic:

Consideration of and Action on a variance request from Kohrville Rd LLC for alcohol sales at 22623 Hufsmith-Kohrville Road, Tomball, Tx, due to proximity to a public school property.

Background:

Section 4-2 of the City of Tomball Code of Ordinances prohibits the sale of alcoholic beverages within 300 feet of any church, public or private school, or public hospital located within the city limits. Distance must be measured in accordance with V.T.C.A., Alcoholic Beverage Code § 109.33.

A variance request was submitted by Kohrville Rd LLC for the property located at 22623 Hufsmith-Kohrville Road, which is within 300 feet of the Tomball ISD campus at 11211 FM 2920.

City Council previously considered this variance on August 3, 2026 and August 17, 2026. The request did not pass. Kohrville Rd LLC has since requested reconsideration of their alcohol-distance variance.

Origination: Kohrville Rd LLC

Recommendation: Approve or deny alcohol variance request.

Party(ies) responsible for placing this item on agenda: City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____ **Approved by:** _____
Staff Member Date City Manager Date



**TEXAS ALCOHOLIC
BEVERAGE COMMISSION**
Texas Helping Businesses & Protecting Communities

**Required
Certifications**

Join TABC in the fight against human trafficking

L-CERT (7/2025)

Submit this form to the proper officials to obtain certification for the type of license/permit for which you are applying as required by TX Alc. Bev. Code, Sections 11.37, 11.39, 11.46(b), 61.37, 61.38, 61.42 and Rule §33.13. This Required Certifications form must be submitted with your Initial Application form.

Contact your local TABC office for assistance.

LOCATION INFORMATION

1. Trade Name of Location (Name of restaurant, bar, store, etc.) Roadstar			
2. Owner of Business/Applicant (Name of Corporation, LLC, etc.) Kohrville Rd LLC			
3. Type of Owner ☐ Corporation ☐ Limited Partnership ☒ Limited Liability Company ☐ Limited Liability Partnership ☐ Partnership ☐ Other:			
4. Location Address 22623 Hufsmith Kohrville Rd			
City Tomball		County Harris	State TX
Zip Code 77375			
5. Mailing Address 10701 Corporate Dr Suite 209			
City Stafford		County Fort Bend	State TX
Zip Code 77477			
6. Business Telephone Number 346-767-7855		E-mail Address info@calibretx.com	
7. Application for: ☒ Original ☐ Reinstatement License/Permit Number ☐ Change of Location License/Permit Number ☐ Reinstatement and Change of Trade Name License/Permit Number ☐ Change of Location and Trade Name License/Permit Number			
8A. Type of Off-Premise Retailer License/Permit: ☐ BF Retail Dealer's Off-Premise License ☐ BQ Wine and Malt Beverage Retail Dealer's Off-Premise Permit ☐ LP Local Distributor's Permit ☐ E Local Cartage Permit ☐ ET Third-Party Local Cartage Permit ☐ P Package Store Permit ☐ Q Wine Only Package Store			
8B. Type of On-Premise Retailer License/Permit: ☐ BE Retail Dealer's On-Premise License ☒ BG Wine and Malt Beverage Retail Dealer's On-Premise Permit ☐ BP Brewpub License ☐ E Local Cartage Permit ☒ FB Food and Beverage Certificate ☐ LH Late Hours Certificate ☐ MB Mixed Beverage ☐ WP Waterpark Permit			
8C. Type of Wholesaler's, Distributor's, or Manufacturer's License/Permit: ☐ BB General Distributor's License ☐ BC Branch Distributor's License ☐ BN Nonresident Brewer's License ☐ BW Brewer's License ☐ JD Bonded Warehouse (Dry Area) ☐ D Distillers and Rectifiers Permit - allows on-premise consumption ☐ DS Out-of-State Winery Direct Shipper's Permit ☐ G Winery - allows on-premise consumption ☐ J Bonded Warehouse ☐ S Nonresident Seller's Permit ☐ SD Brewer's Self-Distribution License ☐ W Wholesaler's Permit ☐ X General Class B Wholesaler Permit			
9. For On or Off-Premise Applicants, Indicate Primary Business Type at this Location ☐ Bar ☐ Civic Center ☒ Convenience Store ☐ Delivery Company ☐ Grocery/Market ☐ Hotel ☐ Motel ☐ Movie Theater ☐ Package Store ☐ Public Entertainment Fac. (PEF as defined in Sec. 108.73) ☐ Racetrack ☐ Restaurant ☐ Sexually Oriented ☐ Sporting Arena			

Trade Name: _____ Roadstar

Location Address: 22623 Hufsmith Kohrville Rd City: Tomball County: Harris

Off-Premise CertificationsPer Sec. 11.37, not later than the 30th day after the date a prospective applicant for a permit...requests certification, the city secretary...shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.**Certificate of City Secretary: P, Q, BF, BQ**

TX Alc. Bev. Code, Section 11.37 & 61.37

☐ CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought as the place of business is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

Permits/Licenses Wet For	Based on most recent local option election, area is wet for:
☐ BF	The legal sale of malt beverages for off-premise consumption only ☐ greater than 5% alcohol by volume OR ☐ 5% or less alcohol by volume
☐ BF, BQ, Q	The legal sale of malt beverages and wine for off-premise consumption only
☐ BF, BQ, Q, P	The legal sale of all alcoholic beverages for off-premise consumption only

OR

☐ I hereby refuse on this _____ day of _____, 20____, to certify this location.

SIGN

HERE _____, _____, TEXAS
City Secretary/Clerk City**SEAL****On-Premise Certifications**Per Sec. 11.37, not later than the 30th day after the date a prospective applicant for a permit...requests certification, the city secretary...shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.**Certificate of City Secretary (FOR MB, MB/FB, BG, BG/FB, BE, & BE/FB)**

TX Alc. Bev. Code, Section 11.37 & 61.37

I hereby certify on this _____ day of _____, 20____, that this location address is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

Permits/Licenses Wet For	Based on most recent local option election, area is wet for:
☐ MB	Mixed Beverage Permit
☐ MB/FB	Mixed Beverage Restaurant Permit with required Food and Beverage Certificate
☐ BG*	Wine and Malt Beverage Retail Dealer's On-Premise Permit
☐ BG/FB*	Wine and Malt Beverage Retail Dealer's On-Premise Permit with required Food and Beverage Certificate
☐ BE*	Retail Dealer's On-Premise License
☐ BE/FB*	Retail Dealer's On-Premise License with required Food and Beverage Certificate
*Mark box on right for BE and/or BE/FB	☐ greater than 5% alcohol by volume OR ☐ 5% or less alcohol by volume
*Mark box on right for any of the following license or permit types BG, BG/FB BE, BE/FB	Election for given location was held for: ☐ legal sale of malt beverage/wine (17%) on-premise OR ☐ legal sale of malt beverage/wine (14%) on-premise

SIGN

HERE _____, _____, TEXAS
City Secretary/Clerk City**SEAL****Certification for Late Hours Certificate (LH)**

TX Alc. Bev. Code, Chapters 29 & 70 et seq.

I hereby certify on this _____ day of _____, 20____, that one of the below is correct:

☐	The governing body of this city or county has by ordinance or order authorized the sale of mixed beverages between midnight and 2:00 A.M.;
OR	
☐	The governing body of this city or county has by ordinance or order authorized the sale of malt beverage between midnight and _____ A.M.;
OR	
☐	The population of the city or county where premises are located was 500,000 or more according to the 24 th Decennial Census of the United States as released by the Bureau of the Census on April 1, 2020;
OR	
☐	The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2020).

SIGN

HERE _____, _____, TEXAS
City Secretary/Clerk City**SEAL**

Trade Name: _____

Roadstar

Location Address: 22623 Hutsmith Kohrville Rd

City: Tomball

County: Harris

Wholesaler, Distributor or Manufacturer Certifications

Per Sec. 11.37, not later than the 30th day after the date a prospective applicant for a permit...requests certification, the city secretary...shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.

Certificate of City Secretary for: J

☐ CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this ____ day of _____, 20__, that this location address is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

SIGN

HERE _____, TEXAS
City Secretary/Clerk City

SEAL

Certificate of City Secretary for Winery (G) Applicants

Per Sec. 16.011, "A winery permit may be issued for premises in an area in which the sale of wine has not been authorized by a local option election..."

I hereby certify on this ____ day of _____, 20__, that this location address ☐ is ☐ is not in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

OR

☐ I hereby refuse on this ____ day of _____, 20__ to certify this location.

SIGN

HERE _____, TEXAS
City Secretary/Clerk City

SEAL

Certificate of City Secretary for: BW & D

I hereby certify on this ____ day of _____, 20__, that this location address is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages, and

☐ does ☐ does not allow for on-premise consumption and

☐ does ☐ does not allow for off-premise consumption in accordance with 501.035 of the Election Code.

OR

☐ I hereby refuse on this ____ day of _____, 20__ to certify this location.

SIGN

HERE _____, TEXAS
City Secretary/Clerk City

SEAL

Certificate of City Secretary for: BB, BC, W & X

Applicants Per Sec. 251.79 "a wholesaler's permit, general class B wholesaler's permit, or a general or branch distributor's license may be issued and licensed premises maintained in any area where the sale of any alcoholic beverage is legal."

I hereby certify on this ____ day of _____, 20__, that this location address ☐ is ☐ is not in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

OR

I hereby refuse on this ____ day of _____, 20__ to certify this location.

SIGN

HERE _____, TEXAS
City Secretary/Clerk City

SEAL

Trade Name: _____

Roadstar

Location Address: 22623 Hufsmith Kohrville Rd

City: Tomball

County: Harris

Off-Premise Certifications

Per Sec. 11.37, not later than the 30th day after the date a prospective applicant for a permit...requests certification, the county clerk...shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order....

Certificate of County Clerk: P, Q, BF, BQ

TX Alc. Bev. Code, Section 11.37 & 61.37

☐ CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought as the place of business is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

Permits/Licenses Wet For	Based on most recent local option election, area is wet for:
☐ BF	The legal sale of malt beverages for off-premise consumption only ☐ greater than 5% alcohol by volume OR ☐ 5% or less alcohol by volume
☐ BF, BQ, Q	The legal sale of malt beverages and wine for off-premise consumption only
☐ BF, BQ, Q, P	The legal sale of all alcoholic beverages for off-premise consumption only

OR

☐ I hereby refuse on this _____ day of _____, 20____ to certify this location.

SIGN

HERE _____ County Clerk _____ County

SEAL**On-Premise Certifications**

Per Sec. 11.37, not later than the 30th day after the date a prospective applicant for a permit...requests certification, the county clerk...shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order....

Certificate of County Clerk (FOR MB, MB/FB, BG, BG/FB, BE, & BE/FB)

TX Alc. Bev. Code, Section 11.37 & 61.37

I hereby certify on this _____ day of _____, 20____, that this location address is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

Permits/Licenses Wet For	Based on most recent local option election, area is wet for:
☐ MB	Mixed Beverage Permit
☐ MB/FB	Mixed Beverage Restaurant Permit with required Food and Beverage Certificate
☐ BG*	Wine and Malt Beverage Retail Dealer's On-Premise Permit
☐ BG/FB*	Wine and Malt Beverage Retail Dealer's On-Premise Permit with required Food and Beverage Certificate
☐ BE*	Retail Dealer's On-Premise License
☐ BE/FB*	Retail Dealer's On-Premise License with required Food and Beverage Certificate
*Mark box on right for BE and/or BE/FB	☐ greater than 5% alcohol by volume OR ☐ 5% or less alcohol by volume
*Mark box on right for any of the following license or permit types BG, BG/FB BE, BE/FB	Election for given location was held for: ☐ legal sale of malt beverage/wine (17%) on-premise OR ☐ legal sale of malt beverage/wine (14%) on-premise

SIGN

HERE _____ County Clerk _____ County

SEAL**Certification for Late Hours Certificate (LH)**

TX Alc. Bev. Code, Chapters 29 & 70 et seq.

I hereby certify on this _____ day of _____, 20____, that one of the below is correct:

☐	The governing body of this city or county has by ordinance or order authorized the sale of mixed beverages between midnight and 2:00 A.M.;
OR	
☐	The governing body of this city or county has by ordinance or order authorized the sale of malt beverage between midnight and _____ A.M.;
OR	
☐	The population of the city or county where premises are located was 500,000 or more according to the 24 th Decennial Census of the United States as released by the Bureau of the Census on April 1, 2020;
OR	
☐	The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2020)

SIGN

HERE _____ County Clerk _____ County

SEAL

Trade Name: Roadstar

Location Address: 22623 Hufsmith Kohrville Rd

City: Tomball

County: Harris

Wholesaler, Distributor or Manufacturer Certifications

Per Sec. 11.37, not later than the 30th day after the date a prospective applicant for a permit...requests certification, the county clerk...shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order....

Certificate of County Clerk for: J

☐ CHECK HERE IF NOT IN CITY LIMITS

I hereby certify on this ____ day of _____, 20__, that this location address is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

SIGN

HERE _____, _____ County
County Clerk

SEAL

Certificate of County Clerk for Winery (G) Applicants

Per Sec. 16.011, "A winery permit may be issued for premises in an area in which the sale of wine has not been authorized by a local option election..."

I hereby certify on this ____ day of _____, 20__, that this location address ☐ is ☐ is not in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

OR

☐ I hereby refuse on this ____ day of _____, 20__ to certify this location.

SIGN

HERE _____, _____ County
County Clerk

SEAL

Certificate of County Clerk for: BW & D

I hereby certify on this ____ day of _____, 20__, that this location address is in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages, and

☐ does ☐ does not allow for on-premise consumption and

☐ does ☐ does not allow for off-premise consumption in accordance with 501.035 of the Election Code.

OR

☐ I hereby refuse on this ____ day of _____, 20__ to certify this location.

SIGN

HERE _____, _____ County
County Clerk

SEAL

Certificate of County Clerk for: BB & BC, W & X

Applicants Per Sec. 251.79 "a wholesaler's permit, general class B wholesaler's permit, or a general or branch distributor's license may be issued and licensed premises maintained In any area where the sale of any alcoholic beverage is legal."

I hereby certify on this ____ day of _____, 20__, that this location address ☐ is ☐ is not in a "wet" area for this type of license or permit and inside the boundaries of this jurisdiction, where it is legal to sell such alcoholic beverages.

OR

I hereby refuse on this ____ day of _____, 20__ to certify this location.

SIGN

HERE _____, _____ County
County Clerk

SEAL

Trade Name: _____ Roadstar _____

Location Address: 22623 Hufsmith Kohrville Rd _____ City: Tomball _____ County: Harris _____

**Publisher's Affidavit for All Applicants Except BN, DS, S
TX Alc. Bev. Code, Section 11.39 and 61.38**

Name of newspaper		ATTACH PRINTED COPY OF THE NOTICE HERE Click here to see example of newspaper publication
City, County		
Dates notice published in daily/weekly newspaper (MM/DD/YYYY)		
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown.</i>		
Signature of publisher or designee		
Sworn to and subscribed before me on this date (MM/DD/YYYY)		
Signature of Notary Public		
SEAL		

Comptroller of Public Accounts Certificate for All Applicants

TX Alc. Bev. Code, Section 11.46 (b) & 61.42 (b)

This is to certify on this _____ day of _____, 20_____, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit and that none of the persons making this application are indebted to the State of Texas.

Sales Tax Permit Number _____ Outlet Number _____

Print Name of Comptroller Employee _____

Print Title of Comptroller Employee _____

SIGN HERE _____ **FIELD OFFICE** _____ **SEAL**



**TEXAS ALCOHOLIC
BEVERAGE COMMISSION**
Texas Helping Businesses & Protecting Communities

**Initial Application
Reinstatement
Change of Location**

**Required
Certifications form
L-CERT must be included**

Join TABC in the fight against Human Trafficking

L-IA (10/2022)

TABC has enhanced our license and permit application process. We encourage you to take advantage of our user-friendly online application process through the Alcohol Industry Management System (AIMS). If you are unable to submit your application via AIMS, you may complete the paper application below. **If you submit a paper application, it will take considerably longer to obtain your license or permit.**

Complete this form to apply for an original license or permit, or to make certain changes to an existing license or permit. Ultimate responsibility for the privilege of holding such license or permit rests on the applicant or license/permit holder. Visit our website (www.tabc.texas.gov) for statutory requirements, authorities or to find your local office.

Initial Information

1. Application for:					
☒ Original	☐ Reinstatement	License/Permit Number _____	☐ Reinstatement and Change of Trade Name	License/Permit Number _____	
	☐ Change of Location	License/Permit Number _____	☐ Change of Location and Trade Name	License/Permit Number _____	
2A. Type of Off-Premise License/Permit					
☐ BF Retail Dealer's Off-Premise License	☐ ET Third-Party Local Cartage Permit	☐ P Package Store Permit			
☐ BQ Wine and Malt Beverage Retail Dealer's Off-Premise Permit	☐ LP Local Distributor's Permit	☐ Q Wine Only Package Store			
2B. Type of On-Premise License/Permit					
☐ BE Retail Dealer's On-Premise License	☐ E Local Cartage Permit	☐ MB Mixed Beverage			
☒ BG Wine and Malt Beverage Retail Dealer's On-Premise Permit	☒ FB Food and Beverage Certificate	☐ RM Mixed Beverage Permit with required Food and Beverage Certificate			
☐ BP Brewpub License	☐ LH Late Hours Certificate	☐ WP Waterpark Permit			
2C. Type of Wholesaler's, Distributor's, or Manufacturer's License/Permit					
☐ BB General Distributor's License	☐ D Distillers and Rectifiers Permit - allows on-premise consumption	☐ SD Brewer's Self-Distribution License			
☐ BC Branch Distributor's License	☐ G Winery - allows on-premise consumption	☐ W Wholesaler's Permit			
☐ BW Brewer's License	☐ J Bonded Warehouse	☐ X General Class B Wholesaler Permit			
3. Trade Name of Location (Name of restaurant, bar, store, distribution company, etc.) Roadstar					
4. Location Address Street Number Street Name 22623 Hufsmith Kohnville Rd					
City Tomball		County Harris	State TX	Zip 77375	
5. Mailing Address Street Number Street Name 10701 Corporate Dr					
City Stafford			State TX	Zip 77477	
6. Business Phone 346-767-7855		Alternate Phone	E-mail Address info@calibrebx.com		

Business Information

7. Owner of Business/Applicant (Name of Corporation, Sole Proprietor, LLC, etc.) Kohnville Rd LLC		8. SSN or Federal Employer Identification Number (FEIN)	
<p>• If you hold an active TABC license/permit under the SSN or FEIN listed in question #8 and there have been no changes to the ownership structure of the business since you filed your last application, skip to question #11.</p> <p>• If you hold an active TABC license/permit under the SSN or FEIN listed question #8, and there has been a change in the ownership or business structure since you filed your last application you must complete the entire Business Section below and Personal History Sheets (PHS) for any added person or persons.</p> <p>• If you do not currently hold an active TABC license/permit, complete the entire Business Information section, all necessary ownership information and personal history sheets. Select the entity page(s) that correspond with your business structure. All officers, directors, stockholders, and trustees, holding ownership in this business must be disclosed. Individual applicants complete this application and L-PHS (Personal History Sheet).</p>			
9. ☐ Individual ☐ Officer ☐ Director ☐ Stockholder ☐ Trustee (Mark All That Apply)			
Last Name Manasiya		First Name Danish	MI Title Manager
SSN ☐ Out of Country	Date of Birth (mm/dd/yyyy)	Class & No. of Shares/Percentage Membership or Units Held 100%	
☐ Officer ☐ Director ☐ Stockholder ☐ Trustee (Mark All That Apply)			
Last Name		First Name	MI Title
SSN ☐ Out of Country	Date of Birth (mm/dd/yyyy)	Class & No. of Shares/Percentage Membership or Units Held	
☐ Officer ☐ Director ☐ Stockholder ☐ Trustee (Mark All That Apply)			
Last Name		First Name	MI Title
SSN ☐ Out of Country	Date of Birth (mm/dd/yyyy)	Class & No. of Shares/Percentage Membership or Units Held	

☐ Officer ☐ Director ☐ Stockholder ☐ Trustee (Mark All That Apply)			
Last Name		First Name	MI Title
SSN ☐ Out of Country	Date of Birth (mm/dd/yyyy)	Class & No. of Shares/Percentage Membership or Units Held	

☐ Officer ☐ Director ☐ Stockholder ☐ Trustee (Mark All That Apply)			
Last Name		First Name	MI Title
SSN ☐ Out of Country	Date of Birth (mm/dd/yyyy)	Class & No. of Shares/Percentage Membership or Units Held	

☐ Officer ☐ Director ☐ Stockholder ☐ Trustee (Mark All That Apply)			
Last Name		First Name	MI Title
SSN ☐ Out of Country	Date of Birth (mm/dd/yyyy)	Class & No. of Shares/Percentage Membership or Units Held	

If additional space is necessary, use the appropriate form for your business structure (L-C, L-L, L-C, L-P).

Background Information

10A. Has any person listed in the business information section, or his or her spouse, been finally convicted or received deferred adjudication for any of the offenses below? If so, indicate by checking all that apply. If any boxes are checked, and it has not been five years since the termination of a sentence, parole or probation served, attach an explanation.

- ☐ any felony offense
- ☐ prostitution
- ☐ bookmaking
- ☐ gambling or gaming
- ☐ bootlegging
- ☐ vagrancy offense involving moral turpitude
- ☐ any offense involving dangerous drugs, synthetic cannabinoids or controlled substances as defined in Texas Controlled Substances Act
- ☐ any offense involving firearms or a deadly weapon
- ☐ any offense involving drink solicitation
- ☐ more than three violations of the Texas Alcoholic Beverage Code relating to minors
- ☐ violations of the Texas Alcoholic Beverage Code resulting in a criminal fine of \$500
- ☐ violations of an individual's civil rights or discrimination against an individual on the basis of race, color, creed or national origin

10B. If any person listed in the Business Section has had a TABC license or permit canceled, attach an explanation.

Property Ownership/Lease/Sublease/Management Information

Complete question 11A. or 11B. to document owner of property. If land and building are owned by different entities, group partners/officers of each entity separately in spaces in 11B.

Individual Property Owner

11A. Full Legal Name (Last, First, Middle): _____ Date of Birth (mm/dd/yyyy) _____ SSN _____

Property Owner Information (If owner is business entity)

11B. Name of Business Entity _____ Federal Employer Identification Number (FEIN) _____

12. If operating under a lease at the location listed in question 4, complete the following:

Expiration date(s)/Options _____

Monthly rental amount \$ _____

If other fees and payments are due to the landlord, indicate amount and reason \$ _____ Reason: _____

If you are you operating under any concession, service or management agreement(s) that contain terms for services or management beyond property rental, complete question number 13. Attach copy of all agreements.

If question 13 does not apply, go to question 14.

13A. Indicate if you are:

☐ Sublessor ☐ Concessionaire ☐ Management Company

13B. Entity Name of Sublessor, Concessionaire or Management Company: _____

13C. FEIN of Sublessor, Concessionaire or Management Company: _____

Enter information for individual or business entity below

Full Legal Name of Individual, Partner, Officer (Last, First, Middle)	FEIN or SSN
Full Legal Name of Individual, Partner, Officer (Last, First, Middle)	FEIN or SSN
Full Legal Name of Individual, Partner, Officer (Last, First, Middle)	FEIN or SSN
Full Legal Name of Individual, Partner, Officer (Last, First, Middle)	FEIN or SSN

Use form L-SL if additional space is needed

13D. Enter contract information below:

Expiration date(s)/Options _____

Monthly fee \$ _____

13E. If you have a sublessor that differs from the management company enter sublessor name below.

Sublessor Name _____ FEIN _____

14A. Do you or anyone else at the location operate under a franchise agreement? ☐ Yes ☒ No

14B. If "YES," as required under Section 109.53 do you maintain exclusive control of ALL phases of the purchase, sale, service and brands of alcoholic beverages? ☐ Yes ☒ No

If there are any agreements, excluding questions 13-14, which involve alcohol in any way, you MUST attach copies of those agreements.

Sales Information for Following License/Permit Types:
MB/FB, BG/FB, BE/FB

15. Provide projected (future) sales data for first 12 months of operation.

Sales Year (YYYY) 20 26
 Alcoholic Beverage Sales \$ 400,000
 Food Sales \$ 350,000
 Other Sales \$ 375,000
 Total Sales \$ 1,125,000

Additional Requirements you are Attesting to for Food and Beverage Certificate Only:

- Food service will be maintained on the licensed premise.
- There is a permanently designated food service facility on the licensed location.
- Multiple entrees per meal are available to customers.
- Food items are prepared for consumption on or off the licensed location.
- Hours of operations for sale and service of food and alcoholic beverages are the same. Note, food may be sold or served before or after the legal hours for sale of alcoholic beverages.
- If the designated food service facility on the licensed location is operated by a separate business entity, the business entity will provide records for food service for the purpose of inspections or audit.
- If the premise is a hotel, separate food service facility for each separate area for restaurants, lounges or bars are maintained.

Mark only one of the boxes below to identify the method that qualifies the location to hold a Food & Beverage Certificate.
 See Food and Beverage Certificate Application Document Guide pg.5 for additional information

- ☐ In addition to the above requirements, you qualify as a restaurant as defined by Rule 33.5(b)(6)
- The location operates its own permanent food service facility with commercial cooking equipment on its premises; and
 - Prepares and offers to sell multiple entrees for consumption on or off the premises
- ☒ In addition to the above requirements, you qualify based on the projected receipts from the sale of alcoholic beverages by the license or permit holder at the location will be 60% or less of the total receipts from the location.

Location Information

16. If you share the premises with another business entity enter tradename(s) of business(es) and sales and use tax number(s) below:

Trade Name _____

Sales & Use Tax Number _____

17. Is the proposed location in a hotel or motel? If "Yes" attach diagram. ☐ Yes ☒ No
18. Will the license/permit embrace the entire location address as shown in question #47? ☒ Yes ☐ No
 If "NO," attach a diagram of your premises as required by Section 11.49.

Finance Information

19. Enter the total amount of investment from all sources for this location. \$ 10,000
 Please be prepared to provide copies of all documents related to the financing of this location.

20. List all sources of funds advanced to you for your business. If a partnership or corporation, list entity along with partners/officers.

Name, Corporation, Partner/Officer Danish Manasiya		Date of Birth mm/dd/yyyy) 12/15/1987
SSN or FEIN	Terms Savings from previous employment	Amount \$10,000
Name, Corporation, Partner/Officer		Date of Birth mm/dd/yyyy)
SSN or FEIN	Terms	Amount \$

If more space is needed, attach additional page

Measurement Information

Click here for measurement instructions, information, and requirements

21. Will the premises be within 1,000 feet of a private/public school? ☐ Yes ☒ No
22. Is any property line of your premises within 300 feet of a residential address or established neighborhood association? ☐ Yes ☒ No

On-Premise Licenses And Permits Only

Measurement information for applicants in municipalities with a population of 1.5 million or more

23. Will your business be located within 300 feet of a residence, church, school, day care or social service facility?
 If "YES," will 75% or more of the applicant's actual or anticipated gross revenue be from the sale of alcoholic beverages?
 If "YES," to both questions, you must notify all tenants or property owners of your intent to apply for an alcoholic beverage license/permit within five days of the filing of an original application. Has such notice been given as required by Section 11.52? ☒ Yes ☐ No
☐ Yes ☒ No
☐ Yes ☐ No

Brewpub (BP) Only

24. Do you, the applicant, intend to sell your alcoholic product directly to other retailers? ☐ Yes ☐ No
25. Do you, the applicant, intend to sell your alcoholic product to wholesalers/distributors? ☐ Yes ☐ No
26. Will you, the applicant, be engaged in the business of brewing and packaging malt liquor in quantities sufficient to operate a brewpub not later than 6 months after the date of issuance of the original license? ☐ Yes ☐ No
27. If required under Section 11.381 and 81.381, provide exact date the required sign was posted at the location. Exact Date: _____

Bonded Warehouse (J – Wet / JD – Dry)

28. In general terms, specify what other goods and commodities are stored in this warehouse.

29. Are you providing services to permit holders other than storage ☐ Yes ☐ No
30. Is at least 50% of gross revenue during each three (3) month quarter derived from goods and merchandise other than alcoholic beverages? ☐ Yes ☐ No
31. Is the location in a wet or dry area? ☐ Wet ☐ Dry

Brewers (BW)

32. Do you, the applicant, intend to engage in the business of brewing and packaging malt beverage in Texas within the three-year period covered by the original license and one successive renewal in quantities to qualify as a bona fide brewing manufacturer? ☐ Yes ☐ No
- 33A. Do you, the applicant, intend to contract with another brewery to produce your product?
 If "Yes," provide the TABC license/permit number of that brewery. _____ ☐ Yes ☐ No
- 33B. Is your product brewed at their location? ☐ Yes ☐ No
- 34A. Do you, the applicant, intend to utilize an alternating proprietorship agreement to produce your product?
 If "Yes," provide the TABC license/permit number of that brewery. _____ ☐ Yes ☐ No
- 34B. Is your product brewed at their location? ☐ Yes ☐ No
35. If you intend to operate under an alternating or contract brewing agreement, do you, the applicant, own a fee interest in a brewing facility?
 If "No," please submit a Fee Interest Bond which must be on file and approved prior to the issuance of your license/permit. Fee Interest Bond form and instructions can be downloaded here: [Forms | TABC \(txas.gov\)](https://www.tabc.com/forms) ☐ Yes ☐ No
36. Do you, the applicant, hold a Brewer's Notice issued by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury?
 If "Yes," please provide TTB Brewers Notice Number _____ and attach copy. ☐ Yes ☐ No

Brewers (BW), Distillers and Rectifiers (D), Winery (G)

37. Is any property line of your premises within 300 feet of a residential address or established neighborhood association? ☐ Yes ☐ No
38. Do you, the applicant, intend to sell for on-premise consumption?
 If "YES," you must notify each residential address and established neighborhood association(s). A copy of the completed notice must be submitted along with a list of all addresses notified; as required by Section 11.393 and 61.38. Click [Notice of Application](#) to view and print notice. ☐ Yes ☐ No

Wholesalers (W)

39. Do you, the applicant, intend to sell malt liquor? ☐ Yes ☐ No
NOTE: You must submit a territorial agreement from the actual manufacturer of the product.

Distributors (D)

40. Do you, the applicant, have an adequate building, storage facilities, sufficient employees, delivery vehicles and rolling stock to provide service and sales for each brand of malt beverage in an amount equal to the demand for the product from all retailers in applicant's assigned territory?
NOTE: If you are applying for a General Distributor's License, Local Distributor's Permit or Branch Distributor's License, you must submit a territorial agreement from the actual manufacturer of each malt beverage product you are handling. ☐ Yes ☐ No

Winery (G)

41. I, the applicant, declare that I have the appropriate federal authority to qualify as a Texas winery and have all necessary information and documentation to complete the application. ☐ Yes
42. Do you, the applicant, intend to engage in any activity authorized by the winery permit on the permitted premise of another winery?
 If "YES," provide the TABC permit number of that winery _____ and attach a copy. ☐ Yes ☐ No

WARNING AND SIGNATURE

If applicant is principal party listed below must sign
 Individual/Individual Owner
 Partnership/Partner
 Limited Partnership/General Partner

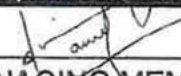
Corporation Officer
 Limited Liability Company/Officer or Manager

Each licensee or permittee shall have exclusive occupancy and control of the entire licensed location with respect to the sale of alcoholic beverages. Any arrangement that surrenders such control of the employees, premises or business, including profits and losses, to persons other than the licensee or permittee is unlawful.

The applicant, license/permit holder, agent, servant or employee may not directly or indirectly have any overlapping ownerships or other prohibited relationships (including unfair competition and unlawful trade practices) between those engaged in the alcoholic beverage industry at different levels, that is, between a manufacturer and a wholesaler or retailer, or between a wholesaler and a retailer, as the words "wholesaler," "retailer," and "manufacturer" are ordinarily used and understood, regardless of the specific names given a license/permit. Reference Chapter 102 et seq.

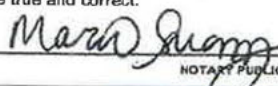
WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years."

By signing you are swearing to all information and attachments provided are correct.

PRINT NAME DANISH MANASIYA **SIGN HERE** 

TITLE MANAGING MEMBER

Before me, the undersigned authority, on this 20th day of January, 2026, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE  **SEAL**



To: CLS <info@calibretx.com>

Subject: FW: TABC Application- Sign Off- Roadstar

Good morning,

I was forwarded your application for a license to sell alcohol at your proposed development at 22623 Hufsmith-Kohrville Road. Due to the proximity of your property to the Tomball ISD property, your application cannot be approved. Below is a map illustrating the Tomball ISD property and excerpt from our code regarding alcohol sales. There is a variance option available, but that would need to be approved by City Council. If you want to go that route, I will need a formal variance request letter and I would strongly suggest reaching out to Tomball ISD to determine if they have any objections to your request. Thank you.



Subject: FW: Request for Tomball ISD No-Objection Letter – Alcohol Permit Variance for 22623 Hufsmith Kohrville Rd
Date: Wednesday, July 15, 2026 at 3:28:54 PM Central Daylight Time
From: Amy Schindewolf
To: CLS, Holly Sherman

Good afternoon,

I apologize for the delay in response. I am reaching out to inform you that the district has no objection to your client moving forward with business. Thank you,

Amy Schindewolf

Deputy Superintendent

From: CLS <info@calibretx.com>
Sent: Friday, June 26, 2026 4:07 PM
To: Elections <elections@tomballisd.net>; Linda Stoll <LindaStoll@tomballisd.net>
Cc: Danish Manasiya <danishmanasiya@hotmail.com>
Subject: Re: Request for Tomball ISD No-Objection Letter – Alcohol Permit Variance for 22623 Hufsmith Kohrville Rd

CAUTION: This email originated from outside of Tomball ISD. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please forward suspicious emails to security@tomballisd.net

Good afternoon,

Hope all is well. Reaching out to see if you have any updates on this. Looking forward to a response back! Have a great weekend!!

Best Regards,

--

<image001.png>

Fahad K. Rajabali
Co-Founder
10701 Corporate Dr
Suite 209
Stafford, Texas 77477
m: 713.679.0692
e: Fahad@calibretx.com
<http://www.calibretx.com>

July 15, 2026

To Whom It May Concern:

Tomball Independent School District has reviewed the variance request related to the proposed alcohol/beer permit for the property located at 22623 Hufsmith Kohrville Rd, Tomball, Texas 77375.

Based on the information provided, Tomball ISD has no objection to the city considering the requested variance. This letter does not constitute approval of any permit or license but confirms that the district does not object to the variance request being reviewed through the applicable City process.

Sincerely,



Dr. Martha Salazar-Zamora

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Consideration of and action on Resolution No. 2026-46. A Resolution of the City Council of the City of Tomball, Texas, designating the City's representative and alternative to the General Assembly of the Houston-Galveston Area Council for the year 2027.

Background:

The Houston-Galveston Area Council (H-GAC) is the voluntary association of local governments for Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Walker, Waller, and Wharton counties comprising the Gulf Coast State Planning Region designated by the Governor of Texas. Each member city with a population not in excess of 99,999 according to the most recent Federal Census shall select one (1) member of its governing body as its representative and one (1) member of its governing body as an alternate to the General Assembly. In the event that a representative becomes ineligible to serve or resigns, the representative's duly appointed alternate shall assume the duties and exercise the powers of that representative. If a representative is unable to attend a meeting, the representative's duly appointed alternate shall assume the duties and exercise the powers of that representative for that meeting.

The designation of City of Tomball representative and alternate to the General Assembly must be submitted by November 16, 2026. The individuals designated to the General Assembly will also receive details about our upcoming caucuses on December 4th.

Origination: Rick Guerrero, Chief Outreach & Government Affairs Officer, H-GAC.

Recommendation:

Designating Representative and Alternate Representative for H-GAC 2027 General Assembly.

Party(ies) responsible for placing this item on agenda: Thomas Harris III, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____ Approved by _____
Staff Member Date City Manager Date



To: Mayor Lori Klein Quinn, City of Tomball
Subject: 2027 General Assembly Designations
From: Rick Guerrero
Date: October 19, 2026

The Houston-Galveston Area Council has had an exciting and eventful 2026. We remain dedicated to better serving our member governments. We are working to do this by continuing to bring the conversation to your communities to listen to your needs and determining how we can help improve quality of life across the region. As we look forward to 2027, we ask that you continue contributing to our regional discussion by appointing elected representatives from your city to represent you and be a part of our decision-making process.

Enclosed is the designation form for your representative and alternate to the General Assembly. Please submit the completed form before November 16th, 2026, to HGACMembership@h-gac.com. The individuals designated to the General Assembly will also receive details about our upcoming caucuses on December 4th. We highly encourage them to attend to participate in the election of the Home Rule Cities representative to the H-GAC Board of Directors.

If you have any questions or need assistance, feel free to contact us at any time. Thank you for your continued participation and support for the Houston-Galveston Area Council. We look forward to working with you in the coming year.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Guerrero', is positioned below the word 'Sincerely,'.

Rick Guerrero
Chief Outreach and Government Affairs Officer
Houston-Galveston Area Council



DESIGNATION OF REPRESENTATIVES
HOUSTON-GALVESTON AREA COUNCIL
2027 GENERAL ASSEMBLY AND BOARD OF DIRECTORS
HOME RULE CITY

WHEREAS, the Houston-Galveston Area Council is the voluntary association of local governments for Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Walker, Waller, and Wharton counties comprising the Gulf Coast State Planning Region designated by the Governor of Texas; and

WHEREAS, membership in the Houston-Galveston Area Council shall be voluntary. Any County, City, or Independent School District located in whole or in part within the Gulf Coast State Planning Region may become a member by appropriate action of its governing body, and payment of dues; and

WHEREAS, Article III of the Houston-Galveston Area Council bylaws state that the General Assembly shall consist of delegates from all member governmental entities of the Council; and

WHEREAS, all members of the General Assembly shall be elected officials of the Commissioner's Court, City Council, or Independent School District Board of Trustees which they represent; and

WHEREAS, each member city with a population not in excess of 99,999 according to the most recent Federal Census shall select one (1) member of its governing body as its representative and one (1) member of its governing body as an alternate to the General Assembly; and

WHEREAS, in the event that a representative becomes ineligible to serve or resigns, the representative's duly appointed alternate shall assume the duties and exercise the powers of that representative. In the event that a representative is unable to attend a meeting, the representative's duly appointed alternate shall assume the duties and exercise the powers of that representative for that meeting.

BE IT RESOLVED, by the City of _____ that the following be and are hereby designated as the representative and alternate of the GENERAL ASSEMBLY AND BOARD OF DIRECTORS of the Houston-Galveston Area Council for the year 2027:

REPRESENTATIVE: _____

ALTERNATE: _____

THAT the Executive Director of the Houston-Galveston Area Council be notified of the designation of the hereinabove named representative and alternate.

PASSED AND ADOPTED, this ____ day of _____, 2026.

APPROVED:

Mayor

ATTEST:

RESOLUTION NO. 2025-55

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF TOMBALL, TEXAS, FOR THE DESIGNATION OF ITS
REPRESENTATIVE AND ALTERNATE FOR THE
HOUSTON-GALVESTON AREA COUNCIL 2026 GENERAL
ASSEMBLY**

* * * * *

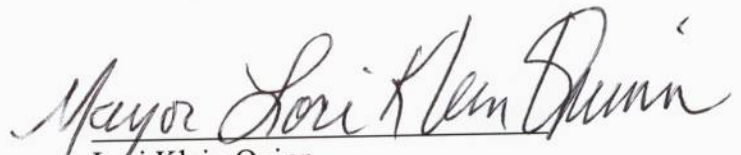
BE IT RESOLVED, by the Mayor and City Council of Tomball, Texas, that Paul Garcia Councilman, Position 2, of the City of Tomball, be, and is hereby designated as its Representative to the **GENERAL ASSEMBLY** of the Houston-Galveston Area Council for the year 2026.

FURTHER, that the Official Alternative authorized to serve as the voting representative should the hereinabove named representative is unable to attend, become ineligible, or should he/she resign, is Lori Klein Quinn, Mayor, of the City of Tomball.

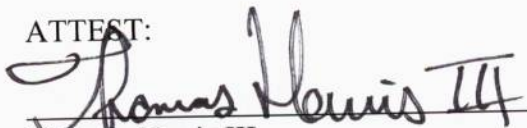
THAT the Executive Director of the Houston-Galveston Area Council be notified of the designation of the hereinabove named representative and alternate.

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 3RD DAY OF NOVEMBER 2025.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN GARCIA	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN COVINGTON	<u>AYE</u>
COUNCILMAN PARR	<u>AYE</u>


Lori Klein Quinn
Mayor

ATTEST:


Thomas Harris III
City Secretary

RESOLUTION NO. 2026-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, DESIGNATING THE CITY’S REPRESENTATIVE AND ALTERNATE TO THE GENERAL ASSEMBLY OF THE HOUSTON-GALVESTON AREA COUNCIL FOR THE YEAR 2027; AUTHORIZING THE REPRESENTATIVE AND ALTERNATE TO PARTICIPATE IN THE HOME RULE CITIES CAUCUS; AUTHORIZING THE MAYOR TO EXECUTE THE HOUSTON-GALVESTON AREA COUNCIL DESIGNATION FORM; DIRECTING NOTICE TO THE HOUSTON-GALVESTON AREA COUNCIL; MAKING FINDINGS OF FACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Houston-Galveston Area Council (“H-GAC”) is the voluntary association of local governments for Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Walker, Waller, and Wharton counties comprising the Gulf Coast State Planning Region designated by the Governor of Texas, and functions as a regional planning commission under Chapter 391 of the Texas Local Government Code; and

WHEREAS, the City of Tomball, Texas (the “City”) is a home-rule municipality located within the Gulf Coast State Planning Region and is a member of H-GAC; and

WHEREAS, Article III, Section 1 of the Bylaws of H-GAC (the “Bylaws”) provides that the General Assembly of H-GAC shall consist of delegates from all member governmental entities of H-GAC; and

WHEREAS, Article III, Section 2 of the Bylaws requires that all members of the General Assembly be elected officials of the governing body they represent, and provides that each member city with a population not in excess of 99,999 according to the most recent Federal Census shall select one member of its governing body as its representative and one member of its governing body as an alternate to the General Assembly; and

WHEREAS, the population of the City according to the 2020 Federal Census was 12,341, and the City is therefore entitled to select one representative and one alternate to the General Assembly; and

WHEREAS, Article III, Section 2 of the Bylaws further provides that, if a representative to the General Assembly becomes ineligible to serve or resigns, the representative’s duly appointed alternate shall assume the duties and exercise the powers of that representative, and that, if a representative is unable to attend a meeting of the General Assembly, the alternate shall assume those duties and exercise those powers for that meeting; and

WHEREAS, by letter dated October 19, 2026, H-GAC requested that the City designate its representative and alternate to the General Assembly for 2027 and submit the designation before November 16, 2026; and

WHEREAS, the City Council finds that the City’s continued participation in H-GAC serves the public interest by giving the City a voice in regional planning and in the policies and programs administered by H-GAC; and

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

SECTION 1. FINDINGS OF FACT.

The findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. DESIGNATION.

The City Council hereby designates the following members of the City Council as the City’s representative and alternate to the General Assembly of the Houston-Galveston Area Council for the year 2027:

REPRESENTATIVE:

ALTERNATE:

SECTION 3. EFFECTIVE DATE.

This Resolution shall take effect immediately from and after its passage and approval.

PASSED, APPROVED, AND ADOPTED this the 2nd day of November, 2026.

CITY OF TOMBALL, TEXAS

Lori Klein Quinn, Mayor

ATTEST:

Thomas Harris III, TRMC, City Secretary

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: November 2, 2026

Topic:

Consideration of and action on changing 2027 July 4th Celebration and Street Fest to be held on Saturday, July 3, 2027.

Background:

Moving Tomball's July 4th Celebration & Street Fest to Saturday, July 3, 2027, would allow the event to take place on a weekend while avoiding a Sunday celebration on July 4. This adjustment would also give residents and visitors an opportunity to celebrate Independence Day ahead of the observed federal holiday. Several Houston-area municipalities, including Fulshear, League City, Missouri City, and Bellaire, have successfully hosted Independence Day celebrations on alternative dates in previous years.

Origination: Marketing

Recommendation:

Staff recommends approval for date change to line up with optimal participation both externally and internally.

Party(ies) responsible for placing this item on agenda:

Chrislord Templonuevo, Marketing
Director

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____	Approved by _____
Staff Member _____	City Manager _____
Date _____	Date _____