**RESOLUTION 2016-24**

**A RESOLUTION ADOPTING A REVISED PURCHASING POLICY FOR CITY OF FRANKLIN, TENNESSEE PROCUREMENTS NOT PERTAINING TO THE DESIGN AND/OR CONSTRUCTION OF NEW INFRASTRUCTURE AND FACILITIES**

**WHEREAS**, in 2004, the Board of Mayor and Aldermen of the City of Franklin established methods to comply with the Municipal Purchasing Law of 1983, as amended, and to provide for a more formal process for the procurement of equipment, services, and materials for the operation of municipal government but not pertaining to the design and/or construction of new infrastructure and facilities; and

**WHEREAS**, on July 26, 2011, the Board of Mayor and Aldermen adopted Resolution No. 2011-26, a resolution adopting a revised purchasing policy for the City; and

**WHEREAS**, on January 14, 2014, the Board of Mayor and Aldermen adopted Resolution No. 2014-06, a resolution adopting a revised purchasing policy for the City; and

**WHEREAS**, on January 27, 2015, the Board of Mayor and Aldermen adopted Resolution No. 2014-90, a resolution adopting a revised purchasing policy for the City; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin for the purchasing policy for the City to recognize and be made compatible with a new disbursements policy for the City; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to explicitly authorize the use of procurement contracts established by a cooperative purchasing arrangement recognized by the City, certain procurement contracts established by the federal General Services Administration, and other arrangements and methods pursuant to Tennessee and/or federal law as alternatives to soliciting sealed bids or proposals pursuant to public advertising; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to clarify that the category of sole-source purchases pertaining to maintaining, expanding, or improving a manufacturer-specific system already in use applies whether that system is the City's or that of another governmental agency with which the City must cooperate in order to provide the public service relevant to the proposed purchase; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to add reference to requests for qualifications as a recognized method of selecting a service provider in certain instances; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to clarify that purchases made by means of a purchasing card pursuant to the City's purchasing card program are to comply with City purchasing policy and procedures; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to explicitly state that purchasing card cardholders are expected to exercise good judgment in making a decision about whether to make a purchase by considering (a) whether the potential purchase is prudent and necessary, and (b) whether the potential purchase would reflect well on the City and the cardholder, and be perceived by the general public as suitable and appropriate; and



Law Dept. approved 06.14.16

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**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to clarify that the cardholder is responsible for ensuring that purchases, with identified exceptions, made by means of a purchasing card pursuant to the City's purchasing card program are completed without sales tax being charged; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to establish a consequence that may be imposed in the event electronic processing of a purchasing card transaction is not completed in a timely manner; and

**WHEREAS**, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to implement a revised Purchasing Policy for procurements not pertaining to the design and/or construction of new infrastructure and facilities in order to reflect these changes and to otherwise update the City's policy.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:**

**Section 1.** The purchasing policy for City of Franklin procurements not pertaining to new construction adopted by Resolution No. 2014-90, and any and all subsequent changes or revisions, are hereby repealed in their entirety. In place thereof, the purchasing policy for City of Franklin procurements not pertaining to the design and/or construction of new infrastructure and facilities, attached as Exhibit A hereto, is adopted.

**Section 2.** The Purchasing Manager of the City shall be responsible for the administration and enforcement of the policy hereby adopted.

**Section 3.** Changes or revisions to the policy hereby adopted shall be made only by resolution of the Board of Mayor and Aldermen of the City of Franklin.

**Section 4.** The effective date of the policy hereby adopted shall be immediate upon passage and adoption of this resolution, the public welfare and the welfare of the City requiring it.

Adopted this 28th day of June, 2016.

**ATTEST:**

**BY:** Eric S. Stuckey

**Eric S. Stuckey, City Administrator/Recorder**

**CITY OF FRANKLIN, TENNESSEE**

**BY:**

**Dr. Ken Moore, Mayor**

**APPROVED AS TO FORM BY:**

Kristen L. Corn

**Kristen L. Corn, Assistant City Attorney**



Law Dept. approved 06.14.16

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TENNESSEE

# Purchasing Policy

for City of Franklin procurements not pertaining to new construction

## A. General Provisions

This City of Franklin ("City") Purchasing Policy shall apply to the purchase of materials, supplies, vehicles and equipment, the purchase of services other than those pertaining to the design and/or construction of new infrastructure and facilities, and to secure leases and lease-purchases and to dispose of and transfer surplus personal property for the proper conduct of the City's business.

All contracts, leases and lease-purchase agreements are subject to the approval of the Board of Mayor and Aldermen, unless otherwise provided by resolution or ordinance. Any contracts, leases and lease-purchase agreements extending beyond the end of the current fiscal year shall be so noted prior to consideration by the Board of Mayor and Aldermen.

Whenever the City undertakes its own competitive procurement process for the procurement of goods and/or services not pertaining to the design and/or construction of new infrastructure and facilities, then the City is hereby authorized to utilize the one or more of the following procurement methodologies best suited for the intended procurement:

- request for quotations (not for purchases valued at $25,000 or more)
- solicitation for bids
- request for proposals
- request for qualifications

This Purchasing Policy is intended to promote the public interest and preserve and enhance the public trust by establishing a transparent procurement system by which the City conducts its non-construction related purchasing, and by providing vendors with a fair forum for competing for City business.

## B. Responsibilities of Departments

The following are the responsibility of each Department:

1. Departments shall be responsible for purchases and projects valued less than $25,000. (In the context of this Policy, whenever any dollar thresholds are referenced, the estimated total value of the purchase or project, including all components related thereto, either over the course of the term of the award or, in the absence of a term of award, over the course of the next twelve (12) months, shall be considered.)
2. Departments shall use pricing established pursuant to City procurement awards or Tennessee statewide contracts if and as available. The use of pricing established by cooperative purchasing arrangements approved by the City Administrator for use by the City, as well as pricing established by other Tennessee local governments pursuant to a competitive process involving "public advertisement" (hereby defined to mean the same as that term is used in T.C.A. § 6-56-301 *et seq.*, the Tennessee Municipal Purchasing Law of 1983, as it may be amended from time to time) and sealed submittals, are also allowed and may be used in lieu of competitive pricing established by the City.
3. Departments shall advise the Purchasing Office and/or the Finance Department as to the method of payment that best meets the needs of the City.

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4. Before placing an order for any non-emergency purchase valued at or greater than $10,000, departments shall prepare and submit a requisition, on the form prescribed by the Purchasing Office, and await approval thereof. For orders for emergency purchases valued at or greater than $10,000, the requisition may be completed within ten (10) calendar days after placing the order (and see "Emergency Purchases" below).
5. Purchases valued less than $25,000 but not less than $10,000 shall not be made unless and until, wherever possible, the Department shall have obtained and forwarded to the Purchasing Manager competitive pricing quotations from at least three (3) vendors, said quotations to be either supplied in writing by the vendor or reduced to writing by the Department, accompanied by a tabulation of the comparative aspects of the quotations obtained, a recommendation as to which quotation should be accepted and a requisition for the recommended quotation.
6. All foreseeable purchases, including those valued less than $10,000, should not be made unless and until the Department Head or his or her authorized representative is satisfied that the value of the purchase is fairly priced and not more than what would be expected in the current market place. At the discretion of the Department Head or his or her authorized representative, for foreseeable purchases valued less than $10,000, the Department should, whenever it is prudent to do so, obtain multiple competitive pricing quotations, said quotations to be either supplied in writing by the vendor or reduced to writing by the Department.
7. As soon as possible but within ten (10) calendar days of receipt of items ordered, Departments shall be responsible for verifying that the items conform to the order. The process for taking delivery of items is as follows:
   a. Inspect the goods to verify that they are in acceptable condition.
   b. Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
   c. Verify that the number of items ordered have been delivered, making special note when all or part of a particular order has been back-ordered.
   d. Ensure that purchases of capital assets of the City have been properly reported, either directly or indirectly, to the Finance Department and the City's Risk Manager and, if rolling stock, Fleet Maintenance, on forms prescribed by those respective offices, so that records of such purchases may be updated, insurance coverage may be obtained, and vehicle tags may be obtained, all in a timely manner.
8. Regardless of method of payment, departments shall be responsible for reviewing, approving and allocating to the proper budget code all invoices authorized for payment.
9. It shall be the responsibility of each Department to allow time for competitive solicitation, ordering and delivery pursuant to this Purchasing Policy.
10. No employee shall make any indication that he/she will recommend a particular product for purchase, knowingly bind the City to a specific vendor, or make any representation as to his or her authority to bind the City by contract when such is not the case.

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## C. Responsibilities of Purchasing Manager

The following are the responsibility of the Purchasing Manager:

1. The Purchasing Manager shall assist all Departments in purchasing operating materials, supplies, vehicles, equipment and services to which this Purchasing Policy applies.
2. The Purchasing Manager shall be responsible for facilitating the competitive process by which all purchases to which this Purchasing Policy applies and valued at or greater than $25,000 are made.
3. For all purchases to which this Purchasing Policy applies and valued at or greater than $10,000, the Purchasing Manager shall advocate the purchase of required products and services only either from the lowest responsible and responsive bidder or from the responsible and responsive respondent whose proposal or other submittal is most advantageous to the City.
4. The Purchasing Manager shall advise the Departments about the source and availability of products and services needed by the various Departments.
5. The Purchasing Manager shall provide current vendor files available for use and review by Departments.
6. The Purchasing Manager shall, upon request, obtain prices on comparable items.
7. The Purchasing Manager shall provide vendor lists, prepare Purchase Orders as necessary, and maintain orderly files.
8. The Purchasing Manager shall be alert on an ongoing basis for new sources and for improved products and services.
9. In coordination with individual Departments, the Purchasing Manager shall assist in the preparation of specifications.
10. The Purchasing Manager shall prepare all legal notices for competitive solicitations and shall also place additional notice of bid in appropriate publications and place on the City Website as necessary to assure ample opportunity for vendors to bid.
11. The Purchasing Manager shall on an ongoing basis pursue consolidating the purchase of as many products and services as economically possible in order to reduce costs and/or improve services provided to the City.
12. The Purchasing Manager shall investigate complaints from Departments of poor performance by vendors, or complaints about inferior products, and shall, in consultation with the City's Law Department, choose which, if any, remedies are available to the City to pursue.
13. The Purchasing Manager shall be responsible for disposing of the City's surplus personal property of any value by means of a competitive process and in compliance with City ordinance, except in cases involving data security or other mitigating circumstances. The Purchasing Manager shall develop the appropriate documentation for the Finance Department in accordance with the City Code.
14. The Purchasing Manager shall be responsible for administering and overseeing the City's Purchasing Card program.
15. The Purchasing Manager shall be responsible for otherwise administering and complying with this Purchasing Policy and applicable Tennessee state law, specifically T.C.A. § 6-56-301 *et seq.* (Tennessee Municipal Purchasing Law of 1983) and T.C.A. § 12-3-1201 *et seq.* (Public Purchases – Local Governments), as it may be amended from time to time, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined.

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**D. Circumstances under which sealed bids or proposals pursuant to public advertising are not required**

1. Authorized sole-source purchases (see below).
2. Authorized emergency expenditures (see below).
3. Purchases from instrumentalities created by two (2) or more cooperating governments, such as, but not limited to those established pursuant to T.C.A. § 12-9-101, et seq.
4. Purchases from non-profit corporations whose purpose or one of whose purposes is to provide products and services specifically to municipalities, as provided in T.C.A. § 6-56-302.
5. Purchases, leases or lease-purchases of real property, as provided by City ordinance and state law.
6. Purchases, leases, or lease-purchases of used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities, as provided in T.C.A. § 12-3-1202.
7. Purchases through other units of government, as provided in T.C.A. § 12-3-1203(a) and 12-3-1203(c).
8. Purchases pursuant to Tennessee Department of General Services statewide contracts authorized for use by Tennessee local governments.
9. Purchases from Tennessee Rehabilitative Initiative in Correction (TRICOR).
10. Professional service contracts, as provided in T.C.A. § 12-3-1209.
11. Other professional services, including actuarial, architectural design, financial and compliance audit, engineering design, financial advisory, legal counsel and medical.
12. Tort liability insurance, as provided in T.C.A. § 29-20-407.
13. Purchase of fuels, fuel products or perishable commodities.
14. Purchases based on contracts established by a cooperative purchasing arrangement recognized by the City pursuant to Resolution No. 2009-50, as provided in T.C.A. § 12-3-1205.
15. Purchases based on contracts established by the United States General Services Administration (GSA) and authorized by GSA for use by US local governments.
16. Other arrangements and methods pursuant to Tennessee and/or federal law.

**E. Rejection of Bids, Proposals or Other Submittals**

The Purchasing Manager shall recommend to the Board of Mayor and Aldermen to reject any and all bids, proposals or other submittals received pursuant to a formal procurement solicitation issued by the Purchasing Office, or parts thereof, for any product or service to which this Policy applies, whenever, prior to the Board of Mayor and Aldermen making an award pursuant to such a formal procurement solicitation, the Purchasing Manager believes the public interest would be best served by such rejection. The Purchasing Manager shall recommend to the Board of Mayor and Aldermen that it reject any such submittal of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the City by the vendor or contractor whenever, prior to the Board of Mayor and Aldermen making an award pursuant to such a formal procurement solicitation, the Purchasing Manager becomes aware of such default.

**F. Conflict of Interest, Use of Position, Solicitation**

There are several sources of law and regulations, as they may be amended from time to time, that apply to conflicts of interest, use of position and solicitation. They are incorporated by reference and adopted as if fully stated herein.

# Purchasing Policy

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**a. City Charter**

Article VIII ("Finance"), Section 16 ("Officers not to be Interested in City Contracts or Work") of the City of Franklin Charter reads as follows:

> No member of the Board of Mayor and Aldermen, or officer elected by said Board, shall be interested in any contract, or work of any kind whatever, under its control and direction, and any contract in which any such person shall have an interest shall be void and cannot be enforced.

**b. City of Franklin Municipal Code**

Title 1 ("General Administration"), Chapter 8 ("Ethics") of the City of Franklin Municipal Code sets forth the Code of Ethics for the City of Franklin, which applies to all full-time and part-time elective or appointed officials and employees of the City.

**c. City of Franklin Regulations**

Article XXII ("General Policies and Procedures"), Section E ("Business Dealings"), of the City of Franklin Human Resource Manual, as it may be amended from time to time, reads as follows:

> Except for the receipt of such compensation as may be lawfully provided for the performance of City duties, and except as noted below, no City officer or employee shall be privately interested in or profit, directly or indirectly, from business dealings with, of or by the City.
> Regular full-time, regular part-time and temporary employees of the City may, subject to the approval of the City Administrator, contract to perform services for the City by meeting the following criteria: (1) the service performed must not be any service which the employee might provide in the normal scope of their regular duties; (2) the employee would be required to bid or submit a proposal in the same manner as any other prospective provider of service; and (3) the service performed must not present a conflict of interest nor a conflict of time with the employee's regular duties.

Article XXII ("General Policies and Procedures"), Section I ("Use of Position"), of the City of Franklin Human Resource Manual, as it may be amended from time to time, reads in part as follows:

> No City officer or employee shall make or attempt to make private purchases in the name of the City, nor otherwise use or attempt to use status as a City employee to secure unwarranted privileges or exemptions.

Article XXII ("General Policies and Procedures"), Section F ("Acceptance of Gratuities"), of the City's Human Resource Manual, as it may be amended from time to time, reads as follows:

> No City officer or employee shall accept or solicit any money or other consideration or favor from anyone other than the City for the performance of an act which the officer or employee would be required or expected to perform in the regular course of employment; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be an attempt to influence the individual's actions with respect to City business. For further explanation, see Title 1, Chapter 8 ("Ethics"), of the Municipal Code.

**d. Statutes**

Certain Tennessee statutes may apply to purchases involving city officers, committee members, etc. Selected statutes may be found in Appendix A to this Purchasing Policy attached hereto for reference.

### G. City Officer and Employee Communication with Vendors

Between the time a procurement solicitation for sealed submittals is issued by the City and the time an award is made, members of the Board of Mayor and Aldermen as well as employees of the City shall refrain from any form of communication with one or more vendors that may be competing for the award about any aspect of the procurement other than either in the context of a public meeting or by way of the Purchasing Office. The foregoing is not meant to preclude a representative of the City from answering questions from vendors if the question is already addressed in the solicitation documents, if the City representative is certain of the correct answer and if the Purchasing Office is informed of the communication. Otherwise, any inquiries from one or more vendors that may be competing for such an award shall be directed to the Purchasing Office which shall determine if an addendum to the solicitation should be prepared and issued to all vendors known or thought to be interested in the procurement opportunity. Vendors that may be competing for a procurement award shall be instructed that, until that award has been made, they shall not communicate about either the content of or the procurement process pertaining to this procurement solicitation with any official, employee or other representative of the City except through the City's Purchasing Office. The City reserves the right to disqualify any vendor that initiates unauthorized communication with the City during the procurement phase.

### H. City Officer and Employee Business Dealings with the City

See Article XXII ("General Policies and Procedures"), Section E ("Business Dealings"), of the City of Franklin Human Resources Manual.

See also Title 1 ("General Administration"), Chapter 8 ("Ethics"), of the City of Franklin Municipal Code.

### I. Tie Bids and Tie Quotes

In the event of tie bids or tie quotes (that is, when two or more responsible and responsive vendors offer products that meet all specifications, terms and conditions at identical total pricing for the minimum or estimated quantity indicated), then the tie bids or tie quotes shall be broken by means of one of the following methods, in descending order:

1. The award shall be made to the vendor who bid or quoted the soonest delivery of the product or completion of the service of all the vendors submitting the tie bids or tie quotes.
2. The award shall be made to the vendor who offered the pricing for the longest period of time for potential future orders of all the vendors submitting the tie bids or tie quotes.
3. If one or more of the vendors submitting the tie bids or tie quotes competed for the City's business the last time the City solicited bids or quotes for the same product or service, then the award shall be made to the vendor who offered the lowest pricing at that time of all the vendors submitting the tie bids or tie quotes.
4. If one or more of the vendors submitting the tie bid or tie quote have done business with the City within the most recent 24 months, then the award shall be made to the vendor who has done the most business with the City (measured in dollars) in that time frame of all the vendors submitting the tie bids or tie quotes.
5. The award shall be made by means of random selection, such method to be administered by the Purchasing Manager and to give equal opportunity to all the vendors submitting the tie bids or tie quotes.

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### J. Determining Responsible and Responsive Respondents

As noted above, products and services shall be purchased either from the lowest responsible and responsive bidder or from the responsive and responsible respondent whose proposal or other submittal is most advantageous to the City. In determining whether a competing vendor is responsible and responsive, the following shall be taken into consideration:

1. The ability of the competing vendor to perform the contract or provide the material or service required.
2. Whether the competing vendor can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
3. The character, integrity, reputation, judgment, experience, and efficiency of the competing vendor.
4. The previous and existing compliance by the competing vendor or a predecessor in interest with laws and ordinances relating to the contract or service.
5. The quality of the competing vendor's performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector customers.
6. The sufficiency of financial resources and the ability of the competing vendor to perform the contract or provide the service.
7. The ability of the competing vendor to provide future maintenance and service for the use of the materials, supplies, vehicles, equipment or contractual service contracted.
8. Compliance by the competing vendor with all specifications in the solicitation for bids or proposals.
9. The ability of the competing vendor to deliver and maintain any requisite bid bonds or performance bonds.

### K. Emergency Purchases

When in the judgment of the City Administrator, the Department Head or the Purchasing Manager there exists an emergency impinging on public health, safety or welfare and a purchase valued at or greater than $10,000 is necessary, then the competitive purchasing provisions contained in this Purchasing Policy may be waived; provided, however, that if the emergency purchase is valued at or greater than $25,000 it shall be reported to the Board of Mayor and Aldermen at its next scheduled meeting.

### L. Sole-Source Purchases

In the context of this Policy, whenever any dollar thresholds are referenced, the estimated total value of the purchase or project, including all components related thereto, either over the course of the term of the award or, in the absence of a term of award, over the course of the next twelve (12) months, shall be considered. Sole-source purchases valued at less than $10,000 may be authorized by the end-user department. Sole-source purchases valued at less than $25,000 but not less than $10,000 may be authorized by the Purchasing Manager upon being satisfied that it is not possible to obtain competitive pricing quotations from at least three (3) vendors. Except as noted below, sole-source purchases valued at or greater than $25,000 may not be made unless and until individually authorized by the Board of Mayor and Aldermen. Authorized sole-source purchases do not require sealed bids or proposals pursuant to public advertising. The criteria for evaluating sole-source purchases valued at or greater than $10,000 are presented in Appendix B to this Purchasing Policy. Sole-source purchases valued at or greater than $25,000 that do not require individual authorization by (but which shall still be reported to) the Board of Mayor and Aldermen include:

a. Repairs to, maintenance of, licenses for and/or maintenance agreements for products already in use by the City, so long as the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and so long as the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated. Examples: engine repairs made by the manufacturer or the manufacturer's representative for a vehicle; license and maintenance agreements for computer software.

b. Purchases of items necessary to maintain, expand or improve a manufacturer-specific system already in use by the City, and/or another governmental agency with which the City must cooperate in order to provide the public service relevant to the proposed purchase, and that requires interconnectivity of and/or communication between the component parts, so long as the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and so long as the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated. Examples: water meters and related parts; traffic signal equipment and related parts; athletic field lighting (and related parts) connected to a centralized master control; automated external defibrillators; cardiac monitors; telemetry/supervisory control and data acquisition equipment.

c. Purchases of items that have, for good and sufficient reason, previously been standardized by the City, so long as the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and so long as the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated. Examples: low-pressure wastewater collection grinder pumps and related parts; self-contained breathing apparatus; vehicle exhaust evacuation systems at individual fire stations, including installation if only one authorized installer is assigned to serve the City; vehicle extrication equipment.

**M. Purchasing Card Program**

The Purchasing Card Program shall be administered by the Purchasing Manager pursuant to procedures established therefor. The Purchasing Manager shall coordinate with Department Heads in determining to which employees and officers of the City to issue Purchasing Cards. Employees who are authorized and expected to travel on behalf of the City and at the City's expense shall be issued purchasing cards and are expected to use same in lieu of being given travel advances.

Employees' participation in the City's Purchasing Card Program is a privilege and a convenience that includes certain responsibilities. Although the purchasing card is issued in the cardholder's name, it is City property and therefore must be used in accordance with City policy and rules, as well as with objectively reasonable judgment, especially as follows:

1. The Purchasing Card is provided to employees based on their need to purchase authorized goods and services. A card may be revoked at any time based on change of assignment or location. The card is neither an entitlement nor a reflection of title or position.

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2. The card may be used only for authorized obligations of the City; use of the card for a purchase other than an authorized obligation of the City (such as personal purchases as well as alcoholic beverages and entertainment), even if intended for future reimbursement, are specifically prohibited.
3. Purchases made with the card are to comply with City purchasing policy and procedures. Such City procurement rules as the need for procurement requisitions, the basis for pricing, contracting, whether a certificate of insurance is necessary to require of the service provider, adequacy of budgeted funding, and timing of payment relative to delivery of the product or service, all apply regardless of method of payment (such as by purchasing card).
4. The cardholder is the only person entitled to use the card and is accountable for all charges attributable to the card.
5. Cardholders are expected to exercise objectively reasonable judgment in making a decision about whether to make a purchase by considering (a) whether the potential purchase is prudent and necessary, and (b) whether the potential purchase would reflect well on the City and the cardholder, and be perceived by the general public as suitable and appropriate. Improper use of a City purchasing card, especially intentional and unreported but even unintentional and reported, including personal purchases as well as alcoholic beverages and entertainment, even if reimbursed, may be considered misappropriation of City funds, which may result in disciplinary action, up to and including termination.
6. Other than for out-of-state purchases and purchases from fast-food restaurants (at which customers place and pay for the order before sitting down at a table), the cardholder is responsible for ensuring that the transaction is completed without sales tax being charged. If a transaction has been completed on which sales tax was charged in error, then the cardholder is responsible for contacting the vendor and requesting that the amount of the sales tax be credited back to the same City purchasing card to which the sales tax was charged. Documentation of this effort, and of the vendor's response, shall be submitted in addition to the supporting documentation for the transaction.
7. Cardholders are expected to comply with internal control procedures in order to protect the City's assets. This includes (a) not permitting anyone other than the cardholder to use the card; (b) making sure that each transaction is electronically processed in full and on time; (c) keeping and submitting on time detailed invoices or itemized payment receipts that substantiate each and every charge attributed to the purchasing card issued to the cardholder; (d) assisting the City upon request with reconciling the City's billing cycle statements; and (e) taking reasonable precautions to secure the purchasing card against loss and/or theft.
8. If electronic processing of a purchasing card transaction is not completed by the deadline and the Purchasing Office has not been previously notified of the need for a delay, then the monthly credit limit for the respective purchasing card may be reduced to $0 until the processing is complete. This consequence applies to any transaction that has not been coded, explained with a comment, and approved by the individual assigned to approve purchasing card transactions for that cardholder. Credit limits will be restored to the previous amounts once electronic processing is complete.
9. Failure to submit on time adequate and legible supporting documentation for each transaction or to otherwise comply with City rules will carry consequences, possibly including reduction or loss of card spend authority, reimbursement of the City by the employee for unauthorized and/or unsubstantiated purchases, and/or disciplinary action, up to and including termination.
10. Cardholders are responsible for resolving any discrepancies by contacting the vendor and/or the issuing bank.
11. A lost or stolen purchasing card shall, as soon as possible upon discovery of the loss or theft, be reported to the City Purchasing Office and/or to the issuing bank.

12. A cardholder must surrender his or her card upon termination of employment (i.e., retirement or voluntary or involuntary separation).

**N. Payment for Purchases**

All payments to vendors and service providers shall be made either by purchasing card (in accordance with this Policy) or by one of the City's other methods of payment (in accordance with the City's Disbursements Policy).

**O. Consolidation of Purchases**

The Purchasing Manager, working in cooperation with Departments, shall on an on-going basis investigate ways and methods to consolidate as many purchases as possible. The purpose of consolidation is to allow the City to realize economies of scale, savings through reducing inventories of parts and supplies as well as reducing the number of vendors and accompanying financial record keeping.

**P. Use of Internet Auctions for Purchases of City Property**

The use of internet auctions is generally prohibited as a method for making City purchases unless specifically authorized in advance by the City Administrator.

**Q. Vendor Protests**

Vendor protests shall be handled in accordance with the City's Vendor Protest Procedure for procurements not pertaining to new construction, as approved by resolution of the Board of Mayor and Aldermen.

**R. Disciplinary Action**

Any employee who fails or refuses to comply with the provisions of this Purchasing Policy shall be subject to disciplinary action pursuant to and as provided in the Human Resources Manual, as it may be amended from time to time.

**S. Requests for Proposals**

Requests for competitive sealed proposals shall be used pursuant to T.C.A. § 12-3-1207 and may be used only when qualifications, experience, or competence are more important than price in making the purchase, and either (1) when there is more than one (1) solution to a purchasing issue and competitive sealed proposals would assist in choosing the best solution; or (2) when there is no readily identifiable solution to a purchasing issue and competitive sealed proposals would assist in identifying one (1) or more solutions. The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors. The award shall be made to the responsible respondent whose proposal the governing body determines is the most advantageous to the City, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation.

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## T. Requests for Qualifications

Requests for qualifications may be used pursuant to T.C.A. § 12-3-1209 for legal services, fiscal agent, financial advisor or advisory services and similar services by professional persons or groups of high ethical standards, or pursuant to T.C.A. § 12-4-107 for architectural, engineering and construction services.

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## APPENDIX A
## SELECTED STATUTES APPLYING TO OFFICERS, COMMITTEE MEMBERS, ETC.

**T.C.A. § 6-54-107. Interest of officer in municipal contracts prohibited.**

**a.** No person holding office under any municipal corporation shall, during the time for which such person was elected or appointed, be capable of contracting with such corporation for the performance of any work that is to be paid for out of the treasury. Nor shall such person be capable of holding or having any other direct interest in such a contract. "Direct interest" means any contract with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

**b.** No officer in a municipality shall be indirectly interested in any contract to which the municipality is a party unless the officer publicly acknowledges such officer's interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality.

**c.** 1. Any member of a local governing body of a county or a municipality who is also an employee of such county or municipality may vote on matters in which such member has a conflict of interest if the member informs the governing body immediately prior to the vote as follows: "Because I am an employee of (name of governmental unit), I have a conflict of interest in the proposal about to be voted. However, I declare that my argument and my vote answer only to my conscience and to my obligation to my constituents and the citizens this body represents."

2. In the event a member of a local governing body of a county or a municipality has a conflict of interest in a matter to be voted upon by the body, the member may abstain for cause by announcing such to the presiding officer. Any member of a local governing body of a county or municipality who abstains from voting for cause on any issue coming to a vote before the body shall not be counted for the purpose of determining a majority vote.

3. The vote of any person having a conflict of interest who does not inform the governing body of such conflict as provided in subdivision (c)(1) shall be void if challenged in a timely manner. As used in this subdivision (c)(3), "timely manner" means during the same meeting at which the vote was cast and prior to the transaction of any further business by the body.

4. Nothing in this subsection (c) shall be construed as altering, amending or otherwise affecting the provisions of § 12-4-101(a). In the event of any conflict between this subsection (c) and § 12-4-101(a), the provisions of § 12-4-101(a) shall prevail.

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**T.C.A. § 6-54-108. Penalty for unlawful interest of officer.**

Every officer of such corporation who shall unlawfully be concerned in making such contract, or who shall unlawfully pay money upon the same to or for any person declared incapable in § 6-54-107, shall forfeit the amount so paid; and such officer shall be jointly and severally liable to an action for the same, which action may be prosecuted by any citizen of the corporation in its name.

**T.C.A. § 12-4-101. Personal interest of officers prohibited.**

(a) (1) It is unlawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall or may be interested, to be directly interested in any such contract. "Directly interested" means any contract with the official personally or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation. This subdivision (a)(1) shall not be construed to prohibit any officer, committee person, director, or any person, other than a member of a local governing body of a county or municipality, from voting on the budget, appropriation resolution, or tax rate resolution, or amendments thereto, unless the vote is on a specific amendment to the budget or a specific appropriation or resolution in which such person is directly interested.

....

(b) It is unlawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges such officer's interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.

(c) (1) Any member of a local governing body of a county or a municipality who is also an employee of such county or municipality and whose employment predates the member's initial election or appointment to the governing body of the county or municipality may vote on matters in which the member has a conflict of interest if the member informs the governing body immediately prior to the vote as follows: "Because I am an employee of (name of governmental unit), I have a conflict of interest in the proposal about to be voted. However, I declare that my argument and my vote answer only to my conscience and to my obligation to my constituents and the citizens this body represents." The vote of any such member having a conflict of interest who does not so inform the governing body of such conflict shall be void if challenged in a timely manner. As used in this subdivision (c)(1), "timely manner" means during the same meeting at which the vote was cast and prior to the transaction of any further business by the body.

(2) Any member of a local governing body of a county or a municipality who is also an employee of such county or municipality and whose employment began on or after the date on which the member was initially elected or

appointed to serve on the governing body of the county or municipality shall not vote on matters in which the member has a conflict of interest.

(3) (A) In the event a member of a local governing body of a county or a municipality has a conflict of interest in a matter to be voted upon by the body, such member may abstain for cause by announcing such to the presiding officer.

(B) (i) Any member of a local governing body of a municipality who abstains from voting for cause on any issue coming to a vote before the body shall not be counted for the purpose of determining a majority vote.

(ii) This subdivision (c)(3)(B) shall in no way be construed to apply to any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census.

....

**T.C.A. § 12-4-102. Penalty for unlawful interest.**

Should any person, acting as such officer, committee member, director, or other person referred to in § 12-4-101, be or become directly or unlawfully indirectly interested in any such contract, such person shall forfeit all pay and compensation therefor. Such officer shall be dismissed from such office the officer then occupies, and be ineligible for the same or a similar position for ten (10) years.

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## APPENDIX B
## SOLE-SOURCE PURCHASES VALUED AT OR GREATER THAN $10,000

Sole-source purchases valued at or greater than $10,000 shall be made only when an item is unique and possesses specific characteristics that can be filled by only one source and must have prior approval by the Purchasing Manager or, if the purchase is valued at or greater than $25,000, then the Board of Mayor and Aldermen. In determining whether to authorize sole-source purchases valued at or greater than $10,000, factors such as the following shall be considered:

1. whether the vendor possesses exclusive and/or predominant capabilities or the item contains a patented feature providing a superior utility not obtainable from similar products;
2. whether the product or service is unique and easily established as one-of-a-kind;
3. whether the program requirements can be modified so that competitive products or services may be used;
4. whether the product is available from only one source and not merchandised through wholesalers, jobbers or retailers; and
5. whether items must be interchangeable or compatible with in-place items.

After review of the written justification from the requisitioning department and ascertaining that the item to be purchased meets one or several of the above criteria, and so long as the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and so long as the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated, then, in lieu of competitive purchasing procedures, the Purchasing Manager shall either authorize the sole-source purchase or, if the purchase is valued at or greater than $25,000, then forward the request to the Board of Mayor and Aldermen for its consideration.

Based in part on Rule No. 0690-3-1-.03(3) of Rules of the Tennessee Department of General Services, Purchasing Division.