



January 17, 2023

Notice is hereby given of a Regular Meeting of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 5:30 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at <https://www.nactx.us/21> There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments on a listed agenda item by telephone must contact the City Secretary's office by email at vinsonj@nactx.us or by calling 936-559-2506 and providing their name, telephone number and relevant agenda item upon which they wish to speak. All requests to make comments must be received by 12:00 p.m. on January 17, 2023. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. OPEN FORUM. Open Forum is an opportunity for citizens to speak about items not listed on the agenda. In order to address City Council please complete the Open Forum Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, City Council shall not discuss, deliberate, or make any decisions on items discussed during Open Forum. Comments are limited to 3 minutes per person. Open Forum is limited to the first 5 citizens who submit an Open Forum Form.
4. WORK SESSION: Items included under Work Session are intended to provide opportunities for City Council to study and discuss various issues, and gather and analyze information. Council will not take formal action on matters presented at a work session, but may direct staff to place items relating to the matter on future agendas for formal consideration.
 - A. Discuss financing options for capital projects. (Director of Finance)
5. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
6. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Hold a discussion and consider adopting a resolution authorizing the submission of

a Texas Community Development Block Grant program application and adopting required CDBG Civil Rights/Fair Housing policies. (Director of Finance)

- B. Hold a discussion and consider adopting a resolution to designate authorized signatories for the Texas Community Development Block Grant Program (Director of Finance)
7. REGULAR AGENDA: City Council will receive staff recommendations and public input on the following items, and may deliberate and take formal action on the item.
- A. **Public Hearing:** Consider a request for approval of a Zone Change from PD, Planned Development, to R-1, Single Family, for approximately 61 acres of land, being all of a 64.1-acre tract conveyed by HGT Group, LP, to JBSC Development, LLC, as described in Warranty Deed dated March 22, 2022, and recorded in Clerk's Document Number 2022-3135 of the Real Property Records of Nacogdoches County, Texas, SAVE & EXCEPT, 2.7 acres that lies outside of the City Limits of Nacogdoches, generally located at the eastern terminus of Park Street. This request has been submitted by JBSC Development, LLC. Case File ZON2022-09. (City Planner)
 - B. Receive a presentation and hold a discussion regarding the Low Income Housing Tax Credit Program. (Economic Development Director)
 - C. Discuss, consider, and adopt Resolution Number 1323-01-23 in support, no opposition, or opposition for the application of Northway Landing VOA AH, LP to the Texas Department of Housing and Community Affairs for the 2023 competitive nine-percent housing tax credits at risk set aside to rehabilitate affordable rental housing in connection with Northway Landing Apartments, located at 5301 Northway Drive. (Economic Development Director).
 - D. Hold a discussion and give staff direction regarding adoption of the City's Procurement Policy (Purchasing & Contract Specialist)
 - E. Consider appointing members to the following City Boards and Commissions: Building Standards Commission, Airport Advisory Board, Industrial Development Authority, Health Code Advisory Committee, Pine Grove Cemetery Board, Main Street Advisory Committee, Zoning Board of Adjustments and Housing Authority Board. (Mayor)
8. EXECUTIVE SESSION: Executive Sessions are for City Council to receive information and deliberate on matters specified in Subchapter D of the Texas Open Meetings Act. Council may reconvene in open session to vote on the matter.
- A. Deliberation regarding Economic Development negotiations under Government Code Section 551.087 as follows:
 - 1. Discuss or deliberate regarding commercial or financial information the governmental body has received from business prospects that the governmental body seeks to have locate, stay, or expand in or near the

- territory of the governmental body and with which the governmental body is conducting economic development negotiations; and
2. Deliberate the offer of financial or other incentives to business prospects described by Subdivision 1 above.

- B. Personnel Matters - Pursuant to Texas Government Code Section 551-074, deliberations regarding the appointment or employment of a public officer or employee. The subject of this Executive Session is to discuss City Manager search and interim City Manager.

9. ADJOURN.



Jan Vinson, City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at 936/559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on January 11, 2023 at 5 p.m. and remained posted until meeting convened.

Jan Vinson, City Secretary



City Council Meeting

Date: January 17, 2023

Agenda Item: 6.A.

PRESENTER: Pam Curbow, Finance Director

ITEM/SUBJECT: Hold a discussion and consider adopting a resolution authorizing the submission of a Texas Community Development Block Grant program application and adopting required CDBG Civil Rights/Fair Housing policies. (Director of Finance)

SUMMARY/BACKGROUND: Discuss, consider, and adopt a resolution authorizing the submission of a Texas Community Development Block Grant program application and adopting required CDBG Civil Rights/Fair Housing policies.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Pamela Curbow, Director of Finance
curbowp@nactx.us
936-559-2526

ATTACHMENTS: 1. Civil Rights Info for CDBG
2. Resolution

Information regarding Civil Rights Resolutions for 2022 CDBG Grants

The individual items in the TxCDBG Civil Rights Resolutions are policies all grant recipients must adopt at City Council or Commissioner's Court. The policies are outlined in the Housing and Urban Development federal regulations and enforced by the Texas Department of Agriculture as the pass-through agency for grant implementation.

The components of the Civil Rights Resolutions are explained below:

1. Citizen Participation Plan and Grievance Procedures (Form A1013)

- This policy enacts procedures for encouraging public participation and for citizens to file complaints or grievances regarding services provided in the community's TxCDBG project.
- If your community has a certain percentage of non-English speakers, then the procedures must also be provided to the community in that identified language.

2. Section 3 Policy

- This policy enacts steps for your community to follow to provide job training, employment, and contracting opportunities to lower income residents or businesses that self-identify as Section 3 in the community.

3. Excessive Force Policy (Form A1003)

- This policy enacts a plan to prohibit use of excessive force against any individual engaged in non-violent civil rights demonstrations.

4. Section 504 Policy and Grievance Procedures (Form A1004)

- This policy states no individual with handicaps shall be excluded from participation or subject to discrimination in any program or activity of this grant.
- The policy also enacts procedures to file complaints or grievances for any person who believes she or he is subjected to discrimination.

5. Limited English Proficiency (LEP) Standards and Plan (Form A1010)

- This plan identifies if your community has a significant percentage of non-English speakers
- If the Census data indicates that a significant portion of the community population speaks English less than very well, your community must provide language assistance to ensure meaningful access to services in federally assisted programs and activities
- Activities which should be made accessible to LEP persons include:
 - Public Notices and hearings regarding applications for grant funding, amendments to project activities, and completion of grant-funded projects;
 - Publications regarding environmental reviews, civil rights, and other program requirements; and
 - Other program documents as needed.

6. Fair Housing Policy (Exhibit 1015)

- This policy enacts an agreement for the community to affirmatively further fair housing choice and plan at least one activity during the grant contract period. The activity for the community is declaring April as Fair Housing Month and running a public notice on Fair Housing in the local paper.

7. Code of Conduct Policy

- This policy enacts procedures intended to serve as guidelines for the procurement of supplies, equipment, construction services and professional services for the TxCDBG program.
- The policy outlines procedures to mitigate conflicts of interest so as to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of the TxCDBG contract.
- The regulations related to conflict of interest and nepotism may be found at the Texas Government Code Chapter 573, Texas Local Government Code Chapter 171, Uniform Grant Management Standards by Texas Comptroller, 24 CFR 570.489(g) &(h), and 2 CFR 200.318.

RESOLUTION NO. 1322-01-23

A RESOLUTION OF THE CITY COUNCIL OF NACOGDOCHES, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF AGRICULTURE FOR THE COMMUNITY DEVELOPMENT FUND.

WHEREAS, the City Council of the City of Nacogdoches desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, it is necessary and in the best interests of the City of Nacogdoches to apply for funding under the Texas Community Development Block Grant Program;

WHEREAS, the City of Nacogdoches, in consideration for the receipt and acceptance of federal funding if awarded, agrees to comply with all federal rules and regulations prohibiting discrimination, including Section 109 of the Title I of the Housing and Community Development Act (42 U.S.C. 5309) and regulations found in 24 CFR 6; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). ~~these rules and regulations governing citizen participation and civil rights protections as follows:~~

~~in accordance with Section 109 of the Title I of the Housing and Community Development Act (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act~~ WHEREAS, the City of Nacogdoches, in consideration for the receipt and acceptance of federal funding if awarded, further agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections as follows: of 1973 (29 U.S.C. 794);

- ~~and~~ for construction contracts greater than \$10,000, to take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability;
- in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 75, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the Section 3 Service Area;
- in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State's certification requirements at 24 CFR 91.325(b)(6), to adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations;

- in accordance with Executive Order 13166, to take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each TxCDBG project;
- ~~in accordance with Section 504 of the Rehabilitation Act of 1973, to not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and~~
- in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, to conduct at least one activity during the contract period of the TxCDBG contract, to affirmatively further fair housing; and

WHEREAS, the City of Nacogdoches, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS,

1. That a Texas Community Development Block Grant Program application for the Community Development Fund is hereby authorized to be filed on behalf of the City with the Texas Department of Agriculture.
2. That the City's application be placed in competition for funding under the Community Development Fund.
3. That the application be for up to \$500,000.00 of grant funds to provide water improvements.
4. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.
5. That it further be stated that the City of Nacogdoches is committing at minimum \$75,000.00 from its General Fund as a cash contribution toward the construction activities of this water improvement project.
6. The City of Nacogdoches adopts the following policies:
 - a. Citizen Participation Plan and Grievance Procedures (Form A1013);
 - b. Excessive Force Policy (Form A1003);
 - c. Fair Housing Policy (Form A1015);
 - d. Section 504 Policy and Grievance Procedures (Form A1004); and
 - e. Code of Conduct Policy (Form A1002).

7. The City of Nacogdoches affirms its commitment to conduct a project-specific analysis and take all appropriate action necessary to comply with program requirements for the following:

- f. Section 3 economic opportunity;
- g. Limited English Proficiency; and
- h. Activity to affirmatively Further Fair Housing choice.

PASSED AND APPROVED this the 17th day of January, 2023.

CITY OF NACOGDOCHES

Jimmy Mize, MAYOR

ATTEST:

Jan Vinson, CITY SECRETARY

APPROVED AS TO FORM:

Steven Kirkland, CITY ATTORNEY

**CITY OF NACOGDOCHES
CITIZEN PARTICIPATION PLAN
TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

Note to Grant Recipients regarding Limited English Proficiency (LEP) requirements:

In accordance with federal law, if there is a significant number of the population who are non-English speaking residents and are affected by the TxCDBG project, such citizens should have “meaningful access” to all aspects of the TxCDBG project. To provide ‘meaningful access’, Grant Recipients may need to provide interpreter services at public hearings or provide non-English written materials that are routinely provided in English. Examples of such vital documents include Citizen Participation notices (e.g. complaint procedures, hearing notices) civil rights notices, and any other published notice that may allow an eligible person with limited English proficiency to participate in discussing proposed CDBG activities.

For more information, see LEP.gov.

COMPLAINT PROCEDURES

These complaint procedures comply with the requirements of the Texas Department of Agriculture’s Texas Community Development Block Grant (TxCDBG) Program and Local Government Requirements found in 24 CFR §570.486 (Code of Federal Regulations). Citizens can obtain a copy of these procedures at the City of Nacogdoches, 202 E. Pillar, Nacogdoches, TX 75963-5030, (936)559-2502 during regular business hours.

Below are the formal complaint and grievance procedures regarding the services provided under the TxCDBG project.

1. A person who has a complaint or grievance about any services or activities with respect to the TxCDBG project, whether it is a proposed, ongoing, or completed TxCDBG project, may during regular business hours submit such complaint or grievance, in writing to the Mayor, at City of Nacogdoches at 202 E. Pillar, Nacogdoches, TX 75963-5030, or may call (936) 559-2502.

A copy of the complaint or grievance shall be transmitted by the Mayor to the entity that is the subject of the complaint or grievance and to the City of Nacogdoches

2. Attorney within five (5) working days after the date of the complaint or grievance was received.
3. The Mayor shall complete an investigation of the complaint or grievance, if practicable, and provide a timely written answer to person who made the complaint or grievance within ten (10) days.
4. If the investigation cannot be completed within ten (10) working days per 3. above, the person who made the grievance or complaint shall be notified, in writing, within fifteen (15) days where practicable after receipt of the original complaint or grievance and shall detail when the investigation should be completed.
5. If necessary, the grievance and a written copy of the subsequent investigation shall be forwarded to the TxCDBG for their further review and comment.
6. If appropriate, provide copies of grievance procedures and responses to grievances in both English and Spanish, or other appropriate language.

TECHNICAL ASSISTANCE

When requested, the City of Nacogdoches shall provide technical assistance to groups that are representative of persons of low- and moderate-income in developing proposals for the use of TxCDBG funds. The City of Nacogdoches, based upon the specific needs of the community's residents at the time of the request, shall determine the level and type of assistance.

PUBLIC HEARING PROVISIONS

For each public hearing scheduled and conducted by the City of Nacogdoches, the following public hearing provisions shall be observed:

1. Public notice of all hearings must be published at least seventy-two (72) hours prior to the scheduled hearing. The public notice must be published in a local newspaper. Each public notice must include the date, time, location, and topics to be considered at the public hearing. A published newspaper article can also be used to meet this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
2. When a significant number of non-English speaking residents are a part of the potential service area of the TxCDBG project, vital documents such as notices should be published in the predominant language of these non-English speaking citizens.

Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries and will include accommodation for persons with disabilities. Persons with disabilities must be able to attend the hearings and the City of Nacogdoches:

3. The city must make arrangements for individuals who require auxiliary aids or services if contacted at least two days prior to the hearing.
4. A public hearing held prior to the submission of a TxCDBG application must be held after 5:00 PM on a weekday or at a convenient time on a Saturday or Sunday.
5. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter should be present to accommodate the needs of the non-English speaking residents.

The City of Nacogdoches shall comply with the following citizen participation requirements for the preparation and submission of an application for a TxCDBG project:

At a minimum, the City of Nacogdoches

1. shall hold at least one (1) public hearing to prior to submitting the application to the Texas Department of Agriculture.

The City of Nacogdoches

2. shall retain documentation of the hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the proposed use of funds for three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.
3. The public hearing shall include a discussion with citizens as outlined in the applicable TxCDBG application manual to include, but is not limited to, the development of housing and community development needs, the amount of funding available, all eligible activities under the TxCDBG program, and the use of past TxCDBG

contract funds, if applicable. Citizens, with particular emphasis on persons of low- and moderate-income who are residents of slum and blight areas, shall be encouraged to submit their views and proposals regarding community development and housing needs. Citizens shall be made aware of the location where they may submit their views and proposals should they be unable to attend the public hearing.

4. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter should be present to accommodate the needs of the non-English speaking residents.

The City of Nacogdoches must comply with the following citizen participation requirements in the event that the City of Nacogdoches receives funds from the TxCDBG program:

The City of Nacogdoches:

1. shall also hold a public hearing concerning any substantial change, as determined by TxCDBG, proposed to be made in the use of TxCDBG funds from one eligible activity to another again using the preceding notice requirements.

Upon completion of the TxCDBG project, The City of Nacogdoches:

2. shall hold a public hearing and review its program performance including the actual use of the TxCDBG funds.
3. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, for either a public hearing concerning substantial change to the TxCDBG project or for the closeout of the TxCDBG project, publish notice in both English and Spanish, or other appropriate language and provide an interpreter at the hearing to accommodate the needs of the non-English speaking residents.

The City of Nacogdoches:

4. shall retain documentation of the TxCDBG project, including hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the actual use of funds for a period of three (3) years three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.

Signature

Name, Title

Date

09/01/2020

**LA CIUDAD DE
PLAN DE PARTICIPACIÓN CIUDADANA
PROGRAMA DE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

Nota a los receptores de subvención en relación a requisitos de Dominio Limitado del inglés:

De acuerdo con la ley federal hay un número significativo de población que son residentes y que no hablan inglés y son afectados por el proyecto TxCDBG, estos ciudadanos deben tener "acceso significativo" a todos los aspectos del proyecto TxCDBG. Para proporcionar "acceso significativo", receptores de la subvención pueden ser utilizados para proporcionar servicios de interpretación en las audiencias públicas o proporcionar materiales no escritos en inglés que se proporcionan de manera rutinaria en inglés.

Para obtener más información, consulte LEP.gov.

PROCEDIMIENTOS DE QUEJA

Estos procedimientos de queja cumplen con los requisitos del Departamento de Programa de Agricultura de Texas Community Development Block Grant (TxCDBG) y los requisitos del gobierno local de Texas se encuentran en 24 CFR §570.486 (Código de Regulaciones Federales). Los ciudadanos pueden obtener una copia de estos procedimientos en La Ciudad de dirección postal City of Nacogdoches, 202 E. Pillar, Nacogdoches, TX 75963-5030 (936) 559-2502, en horario de oficina.

A continuación, se presentan los procedimientos formales de quejas y quejas relativas a los servicios prestados en el marco del proyecto TxCDBG.

1. Una persona que tiene una queja o reclamación sobre cualquiera de los servicios o actividades en relación con el proyecto TxCDBG, o si se trata de una propuesta, en curso o determinado proyecto TxCDBG, pueden durante las horas regulares presentar dicha queja o reclamo, por escrito a El Alcalde de la Ciudad en City of Nacogdoches, 202 E. Pillar, Nacogdoches, TX 75963-5030 (936) 559-2502.
2. Una copia de la queja o reclamación se transmitirá por el alcalde/el juez a la entidad que es encargada de la queja o reclamación y al Abogado de La Ciudad dentro de los cinco (5) días hábiles siguientes a la fecha de la queja o día que la reclamación fue recibida.
3. El alcalde deberá cumplir una investigación de la queja o reclamación, si es posible, y dará una respuesta oportuna por escrito a la persona que hizo la denuncia o queja dentro de los diez (10) días.
4. Si la investigación no puede ser completada dentro de los diez (10) días hábiles anteriormente, la persona que hizo la queja o denuncia será notificada, por escrito, dentro de los quince (15) días cuando sea posible después de la entrega de la queja original o quejas y detallará cuando se deberá completar la investigación.
5. Si es necesario, la queja y una copia escrita de la investigación posterior se remitirán a la TxCDBG para su posterior revisión y comentarios.
6. Se proporcionará copias de los procedimientos de queja y las respuestas a las quejas, tanto en inglés y español, u otro lenguaje apropiado.

ASISTENCIA TÉCNICA

Cuando lo solicite, La Ciudad proporcionará asistencia técnica a los grupos que son representantes de las personas de bajos y moderados ingresos en el desarrollo de propuestas para el uso de los fondos TxCDBG. La Ciudad, en base a las necesidades específicas de los residentes de la comunidad en el momento de la solicitud, deberá determinar el nivel y tipo de asistencia.

DISPOSICIONES AUDIENCIA PÚBLICA

Para cada audiencia pública programada y llevada a cabo por La Ciudad, se observarán las disposiciones siguientes de audiencias públicas:

1. Aviso público de todas las audiencias deberá publicarse al menos setenta y dos (72) horas antes de la audiencia programada. El aviso público deberá publicarse en un periódico local. Cada aviso público debe incluir la fecha, hora, lugar y temas a considerar en la audiencia pública. Un artículo periodístico publicado también puede utilizarse para cumplir con este requisito, siempre y cuando cumpla con todos los requisitos de contenido y temporización. Los avisos también deben ser un lugar prominente en los edificios públicos y se distribuyen a las autoridades locales de vivienda pública y otros grupos interesados de la comunidad.
2. Cuando se tenga un número significativo de residentes que no hablan inglés serán una parte de la zona de servicio potencial del proyecto TxCDBG, documentos vitales como las comunicaciones deben ser publicados en el idioma predominante de estos ciudadanos que no hablan inglés.
3. Cada audiencia pública se llevará a cabo en un momento y lugar conveniente para los beneficiarios potenciales o reales e incluirá alojamiento para personas con discapacidad. Las personas con discapacidad deben poder asistir a las audiencias y La Ciudad debe hacer los arreglos para las personas que requieren ayudas o servicios auxiliares en caso de necesitarlo por lo menos dos días antes de la audiencia pública.
4. Una audiencia pública celebrada antes de la presentación de una solicitud TxCDBG debe hacerse después de las 5:00 pm en un día de semana o en un momento conveniente en sábado o domingo.
5. Cuando un número significativo de residentes que no hablan inglés se registra para participar en una audiencia pública, un intérprete debe estar presente para dar cabida a las necesidades de los residentes que no hablan inglés.

La Ciudad deberá cumplir con los siguientes requisitos de participación ciudadana para la elaboración y presentación de una solicitud para un proyecto TxCDBG:

1. Como mínimo, La Ciudad deberá tener por lo menos un (1) audiencia pública antes de presentar la solicitud al Departamento de Agricultura de Texas.
2. La Ciudad conservará la documentación de la convocatoria(s) audiencia, un listado de las personas que asistieron a la audiencia(s), acta de la vista(s), y cualquier otra documentación relativa a la propuesta de utilizar los fondos para tres (3) años a partir de la liquidación de la subvención para el Estado. Dichos registros se pondrán a disposición del público, de conformidad con el Capítulo 552, Código de Gobierno de Texas.

3. La audiencia pública deberá incluir una discusión con los ciudadanos como se indica en el manual correspondiente de aplicación TxCDBG, pero no se limita a, el desarrollo de las necesidades de vivienda y desarrollo comunitario, la cantidad de fondos disponibles, todas las actividades elegibles bajo el programa TxCDBG y el uso de fondos últimos contratos TxCDBG, en su caso. Los ciudadanos, con especial énfasis en las personas de bajos y moderados ingresos que son residentes de las zonas de tugurios y tizón, se fomentará a presentar sus opiniones y propuestas sobre el desarrollo de la comunidad y las necesidades de vivienda. Los ciudadanos deben ser conscientes de la ubicación en la que podrán presentar sus puntos de vista y propuestas en caso de que no pueda asistir a la audiencia pública.
4. Cuando un número significativo de residentes que no hablan inglés se registra para participar en una audiencia pública, un intérprete debe estar presente para dar cabida a las necesidades de los residentes que no hablan inglés.

La Ciudad debe cumplir con los siguientes requisitos de participación ciudadana en el caso de que La Ciudad recibe fondos del programa TxCDBG:

1. La Ciudad celebrará una audiencia pública sobre cualquier cambio sustancial, según lo determinado por TxCDBG, se propuso que se hará con el uso de fondos TxCDBG de una actividad elegible a otro utilizando de nuevo los requisitos de notificación
2. Una vez finalizado el proyecto TxCDBG, La Ciudad celebrará una audiencia pública y revisará el desempeño del programa incluyendo el uso real de los fondos TxCDBG.
3. Cuando un número significativo de residentes que no hablan inglés se puede registra para participar en una audiencia pública, ya sea para una audiencia pública sobre el cambio sustancial del proyecto TxCDBG o para la liquidación del proyecto TxCDBG, publicará un aviso en inglés y español u otro idioma apropiado y se proporcionará un intérprete en la audiencia para dar cabida a las necesidades de los residentes.
4. La Ciudad conservará la documentación del proyecto TxCDBG, incluyendo aviso de audiencia(s), un listado de las personas que asistieron a la audiencia(s), acta de la vista(s), y cualquier otro registro concerniente al uso real de los fondos por un período de a tres (3) años a partir de la liquidación del proyecto al estado.

Dichos registros se pondrán a disposición del público, de conformidad con el Capítulo 552, Código de Gobierno de Texas.

Firma/Signature

Nombre, Título /Name, Title

Fecha/Date

09/01/2020

Excessive Force Policy

In accordance with 24 CFR 91.325(b)(6), The City of Nacogdoches hereby adopts and will enforce the following policy with respect to the use of excessive force:

1. It is the policy of The City of Nacogdoches to prohibit the use of excessive force by the law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations;
2. It is also the policy of The City of Nacogdoches to enforce applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction; and
3. The City of Nacogdoches will introduce and pass a resolution adopting this policy.

As officers and representatives of City of Nacogdoches, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.

Signature

Name, Title

Date

09/01/2020

Section 504 Policy Against Discrimination Based on Handicap and Grievance Procedures

In accordance with 24 CFR Section 8, Nondiscrimination based on Handicap in federally assisted programs and activities of the Department of Housing and Urban Development, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309), City of Nacogdoches hereby adopts the following policy and grievance procedures:

1. Discrimination prohibited. No otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development (HUD).
2. City of Nacogdoches does not discriminate on the basis of handicap in admission or access to, or treatment or employment in, its federally assisted programs and activities.
3. City of Nacogdoches recruitment materials or publications shall include a statement of this policy in 1. above.
4. City of Nacogdoches shall take continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipients that it does not discriminate on the basis of handicap in violation of 24 CFR Part 8.
5. For hearing and visually impaired individuals eligible to be served or likely to be affected by the TxCDBG program, City of Nacogdoches shall ensure that they are provided with the information necessary to understand and participate in the TxCDBG program.
6. Grievances and Complaints
 - a. Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for City of Nacogdoches to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.
 - b. Complaints should be addressed to the Mayor, 202 E. Pillar, Nacogdoches, TX 75963-5030 or call (936) 559-2502, who has been designated to coordinate Section 504 compliance efforts.
 - c. A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
 - d. A complaint should be filed within thirty (30) working days after the complainant becomes aware of the alleged violation.
 - e. An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the Mayor. Informal but thorough investigations will afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
 - f. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by Mayor, and a copy forwarded to the complainant with fifteen (15) working days after the filing of the complaint where practicable.

- g. The Section 504 coordinator shall maintain the files and records of The City of Nacogdoches relating to the complaint files.
- h. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the determination/resolution as described in f. above. The request for reconsideration should be made to The City of Nacogdoches within ten working days after the receipt of the written determination/resolution.
- i. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the U.S. Department of Housing and Urban Development. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
- j. These procedures shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and assure that The City of Nacogdoches complies with Section 504 and HUD regulations.

Signature

Name, Title

Date

09/01/2020

Code of Conduct Policy of The City of Nacogdoches

As a Grant Recipient of a TxCDBG contract, City of Nacogdoches shall avoid, neutralize or mitigate actual or potential conflicts of interest so as to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of the TxCDBG contract or impact the integrity of the procurement process.

For procurement of goods and services, no employee, officer, or agent of The City of Nacogdoches shall participate in the selection, award, or administration of a contract supported by TxCDBG funds if he or she has a real or apparent conflict of interest. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No officer, employee, or agent of The City of Nacogdoches shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

For all other cases, no employee, agent, consultant, officer, or elected or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving TxCDBG funds, that has any CDBG function/responsibility, or is in a position to participate in a decision-making process or gain inside information, may obtain a financial interest or benefit from the TxCDBG activity.

The conflict-of-interest restrictions and procurement requirements identified herein shall apply to a benefitting business, utility provider, or other third-party entity that is receiving assistance, directly or indirectly, under a TxCDBG contract or award, or that is required to complete some or all work under the TxCDBG contract in order to meet the National Program Objective.

Any person or entity including any benefitting business, utility provider, or other third-party entity that is receiving assistance, directly or indirectly, under a TxCDBG contract or award, or that is required to complete some or all work under the TxCDBG contract in order to meet a National Program Objective, that might potentially receive benefits from TxCDBG awards may not participate in the selection, award, or administration of a contract supported by CDBG funding.

Any alleged violations of these standards of conduct shall be referred to The City of Nacogdoches Attorney. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

Signature

Name, Title

Date

These procedures are intended to serve as guidelines for the procurement of supplies, equipment, construction services and professional services for the Texas Community Development Block Grant (TxCDBG) Program. The regulations related to conflict of interest and nepotism may be found at the Texas Government Code Chapter 573, Texas Local Government Code Chapter 171, Uniform Grant Management Standards by Texas Comptroller, 24 CFR 570.489(g) &(h), and 2 CFR 200.318

03/01/2022

Fair Housing Policy

In accordance with Fair Housing Act, The City of Nacogdoches hereby adopts the following policy with respect to the Affirmatively Furthering Fair Housing:

1. City of Nacogdoches agrees to affirmatively further fair housing choice for all seven protected classes (race, color, religion, sex, disability, familial status, and national origin).
2. City of Nacogdoches agrees to plan at least one activity during the contract term to affirmatively further fair housing.
3. City of Nacogdoches will introduce and pass a resolution adopting this policy.

As officers and representatives of City of Nacogdoches, we the undersigned have read and fully agree to this plan and become a party to the full implementation of this program.

Signature

Name, Title

Date



City Council Meeting

Date: January 17, 2023

Agenda Item: 6.B.

PRESENTER: Pam Curbow, Finance Director

ITEM/SUBJECT: Hold a discussion and consider adopting a resolution to designate authorized signatories for the Texas Community Development Block Grant Program (Director of Finance)

SUMMARY/BACKGROUND: Discuss, consider, and adopt a resolution to designate authorized signatories for the Texas Community Development Block Grant program.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Pamela Curbow, Director of Finance
curbowp@nactx.us
936-559-2526

ATTACHMENTS: 1. Resolution

RESOLUTION NO. 1321-01-23

A RESOLUTION OF THE CITY COUNCIL OF NACOGDOCHES, TEXAS AUTHORIZING CITY REPRESENTATIVES IN MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

WHEREAS, the City Council of Nacogdoches desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, it is necessary and in the best interests of the City to participate in the Texas Community Development Block Grant Program; and

WHEREAS, the City Council of Nacogdoches is committed to compliance with federal, state, and program rules, including the current TxCDBG Project Implementation Manual; and

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

That the City Council directs and designates the following to act in all matters in connection with any grant application and the City's participation in the Texas Community Development Block Grant Program:

- The Mayor and/or City Manager shall serve as the City Chief Executive Officer and Authorized Representative to:
 - execute a grant application and any subsequent contractual documents,
 - certify environmental review documents between the Texas Department of Agriculture and the City, and
 - certify the Payment Request form and/or other forms required for requesting funds to reimburse project costs, and
 - be assigned the role of Authorized Official in the TDA-GO grant management system.
- In addition to the above designated officials, should any grant be funded, the Mayor, City Manager, or Director of Finance is authorized to:
 - certify the Payment Request form and/or other forms required for requesting funds to reimburse project costs,
 - prepare and submit other financial documentation, and
 - be assigned the role of Project Director or Payment Processor in the TDA-GO grant management system.

PASSED AND APPROVED this the 17th day of January, 2023.

CITY OF NACOGDOCHES

Jimmy Mize, MAYOR

ATTEST:

Jan Vinson, CITY SECRETARY

APPROVED AS TO FO RM:

Steven Kirkland, CITY ATTORNEY

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for approval of a Zone Change from PD, Planned Development, to R-1, Single Family, for approximately 61 acres of land, being all of a 64.1-acre tract conveyed by HGT Group, LP, to JBSC Development, LLC, as described in Warranty Deed dated March 22, 2022, and recorded in Clerk's Document Number 2022-3135 of the Real Property Records of Nacogdoches County, Texas, SAVE & EXCEPT, 2.7 acres that lies outside of the City Limits of Nacogdoches, generally located at the eastern terminus of Park Street. This request has been submitted by JBSC Development, LLC. Case File ZON2022-09. (City Planner)

SUMMARY/BACKGROUND: The request is for a zone change from PD, Planned Development to R-1, Single Family for approximately 61 acres located at the east end of Park Street. The R-1, Single Family district is intended as an area for low density single-family uses. Lots in this district must be 8,250 square feet in lot area or larger.

This property is part of a larger area that was zoned Planned Development in 2001 for future low density residential subdivisions (including the Village Gate Subdivision). Due to the lack of development activity, the original plans for the PD have lapsed, with the exception of Village Gate, necessitating the approval of new development plans or a change in zoning in order for the property to be developed.

The purpose of the PD district is to provide greater flexibility in land use, density, and other development standards that may vary from the established regulations of other zoning districts, and that more closely reflect special conditions of development sites. The applicant has stated that they intend to develop the property as a residential single family subdivision and meet all of the development regulations of the R-1, Single Family zoning district. Therefore, a PD is not necessary.

This property is also subject to a 380 economic development agreement approved by City Council in March of 2022 for the development of a 143-lot single family subdivision. Per the agreement, the homes to be constructed will be 1,500 to 1,650 square foot homes and will be marketed at \$300,000 and above, adding more than \$38 million to the tax rolls upon completion of the entire subdivision.

Adjacent Land Use & Zoning

The subject property is zoned PD, Planned Development and is undeveloped. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North	Single Family Residential	PD, Planned Development	Undeveloped

South	Rural Development & Single Family Residential	PD, Planned Development	Agriculture & Single Family
East	Rural Development	PD, Planned Development	Undeveloped
West	Single Family Residential	PD, Planned Development	Single Family & Undeveloped

The subject property is located on the east side of the city at the eastern terminus of Park Street. The properties to the west are primarily a mix of single family residential uses. A portion of these residential uses are located outside the city limits, but the majority are zoned PD and located in the Village Gate subdivision constructed in 2001. The property to the south is also zoned PD and mostly developed with agriculture and single family residences, some of which are also located outside the city limits. The area to the north and east is zoned PD, Planned Development and is undeveloped.

STAFF REVIEW:

Per Section 118.139 of the Nacogdoches Zoning Ordinance, the following conditions shall be considered when reviewing an application for zoning change:

Compatibility: The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;

The properties within the immediate vicinity are primarily single family residential uses, including the Village Gate subdivision to the west, and low-density residential uses to the south. The R-2, Single Family zoning district is consistent with the density of the existing single family development pattern in the area.

Orderly Growth and Development: The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;

The majority of the property to the west and south is developed, with the property to the east and north being heavily wooded undeveloped land. The rezoning should not impede the orderly growth of adjacent properties.

Supporting Facilities: Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;

The subject property currently takes direct access from Park St. The property has access to public utilities, with 12-inch water main along the western property boundary and a 6-inch sewer main along the southwest corner of the property. If the zone change is approved, any future residential subdivisions will require the construction and extension of public utilities based on the final development plan.

Drives and Parking: The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

Future development will meet all current driveway and parking requirements.

Nuisances: Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;

If the zone change is approved, future development will comply with City regulations regarding the prevention of offensive odor, fumes, dust, noise and vibrations.

Lighting: Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;

If the zone change request is approved, any new outdoor lighting would be subject to the City's current standards, which requires light fixtures to utilize a down lighting design, and prohibits fixtures that directly project light in all directions.

Landscaping: Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;

Single family construction is not subject to commercial district landscaping requirements.

Comprehensive Plan: The proposed use is in accordance with the comprehensive plan.

Future Land Use

Per the 2003 Comprehensive Plan, the Future Land Use Plan (FLUP) Map designates the subject property as *Single Family Residential*. This land use category is described as, "Conventional one-family detached dwellings (also includes duplexes)."

Thoroughfare Plan

Park Street is a collector road that serves as direct access for this property and the other residential uses in the area. Future development of the property will include the extension of Park Street.

Land Use Policies, Goals & Objectives

The applicant has stated that this rezoning is a response to current needs for newer single family development. The request fits into the Goals of the Comprehensive Plan by encouraging *Growth Inward*, which includes promoting long-term growth in appropriate areas to achieve an efficient, diverse and balanced pattern of land uses, including infill development where appropriate (utilities, compatibility, etc.).

NOTICES & COMMUNITY INPUT:

Staff mailed 13 notices to property owners within the 200-foot notification area. To date, staff has not received any written responses in opposition or in favor of the zone change, but did 3 phone calls from residents of the Village Gate Subdivision with general questions about the future development of the property. Residents of Village Gate also attended the meeting and stated that they supported the single family zoning, but had several questions regarding the impact of the zone change on the remainder of the PD district, and also had questions regarding the design of the future development. City staff clarified that the request only affected the 61 acres submitted by the applicant, and that remainder of the PD district would not be affected. Staff also explained that the zoning request is about land use, and that more detailed subdivision plans would be presented to the Planning & Zoning Commission at a later date. Staff also presented the preliminary lot layout as shown in the 380 agreement approved by City Council in 2022.

This zoning application was also subject to the additional noticing practices that were approved by City Council in January, 2021. These include: a zoning sign located on the subject property; notices published on the City's webpage and social media platforms; and, mailed courtesy notices to property owners within 500 feet of the subject property.

RECOMMENDATION:

P&Z Recommendation

The P&Z Commission heard this item on January 9, 2023 and voted unanimously (4-0) to approve the zone change request from PD, Planned Development to R-1, Single Family.

Staff Recommendation

Staff supports the recommendation of the P&Z Commission to approve of the zone change request to R-1, Single Family.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

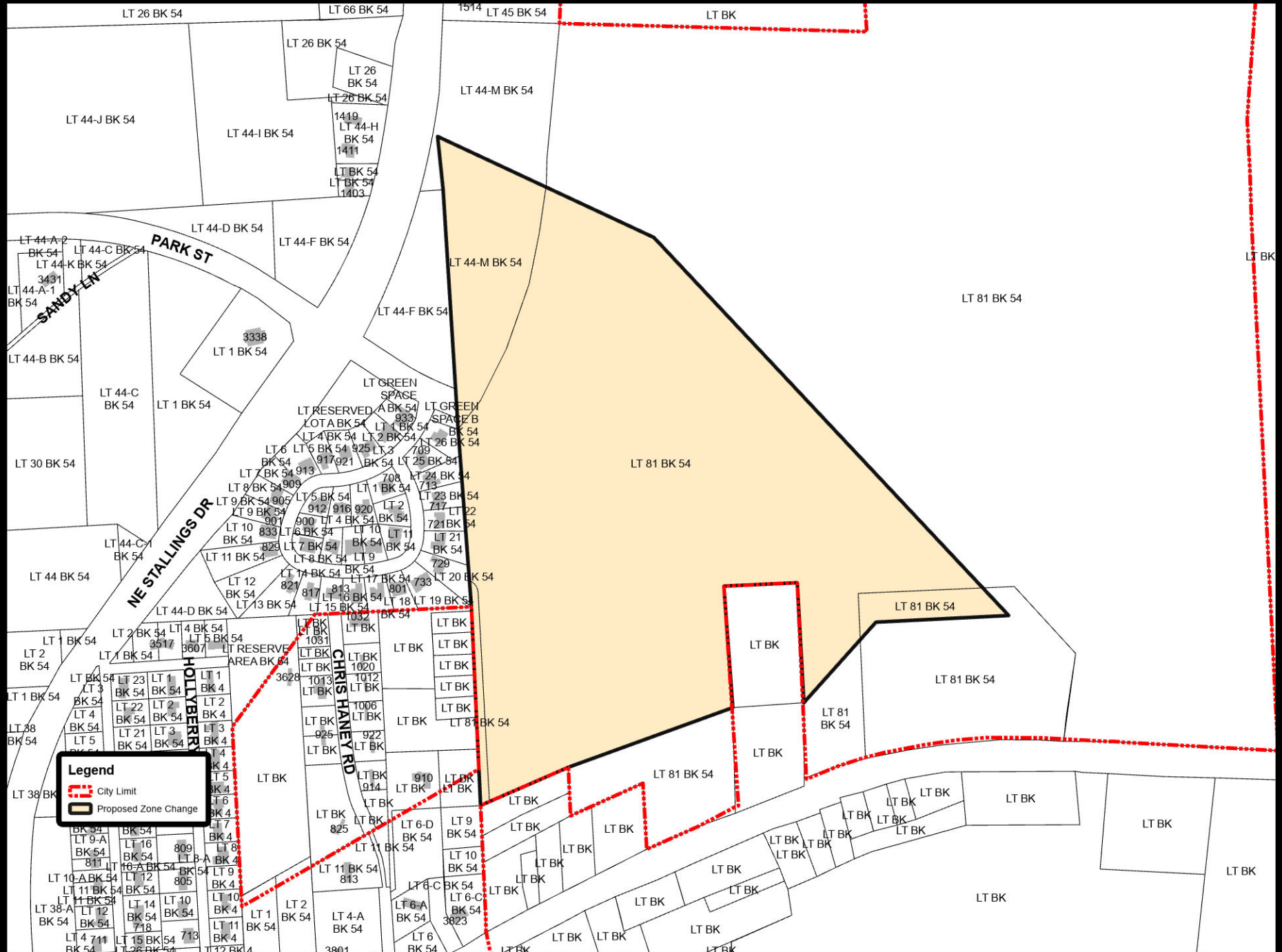
Neighborhood Revitalization and Attainable Housing and Economic Development

CITY CONTACT: Alaina Helton, AICP, City Planner
heltona@nactx.us
936-559-2572

ATTACHMENTS:

1. Location Map
2. Aerial Map
3. Zoning Map
4. Park Village PD Concept Plan (2001)
5. Future Land Use Map
6. Notification Map
7. Site Photos
8. Ordinance

ZON 2022-09



Legend

- City Limit
- Proposed Zone Change

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

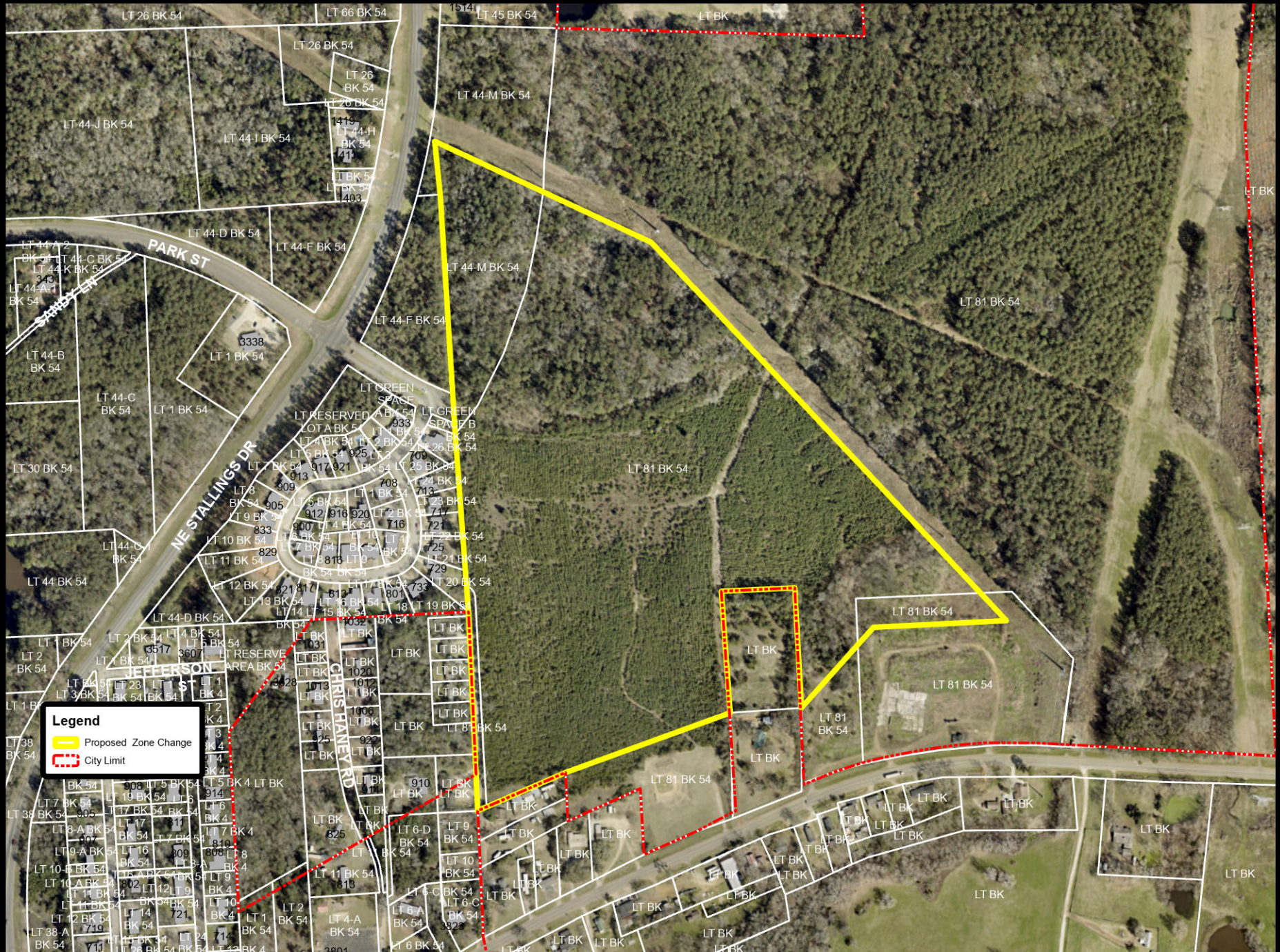


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Date Created: December 15, 2022 Software: ArcGIS Pro 3.0.3



ZON 2022-09



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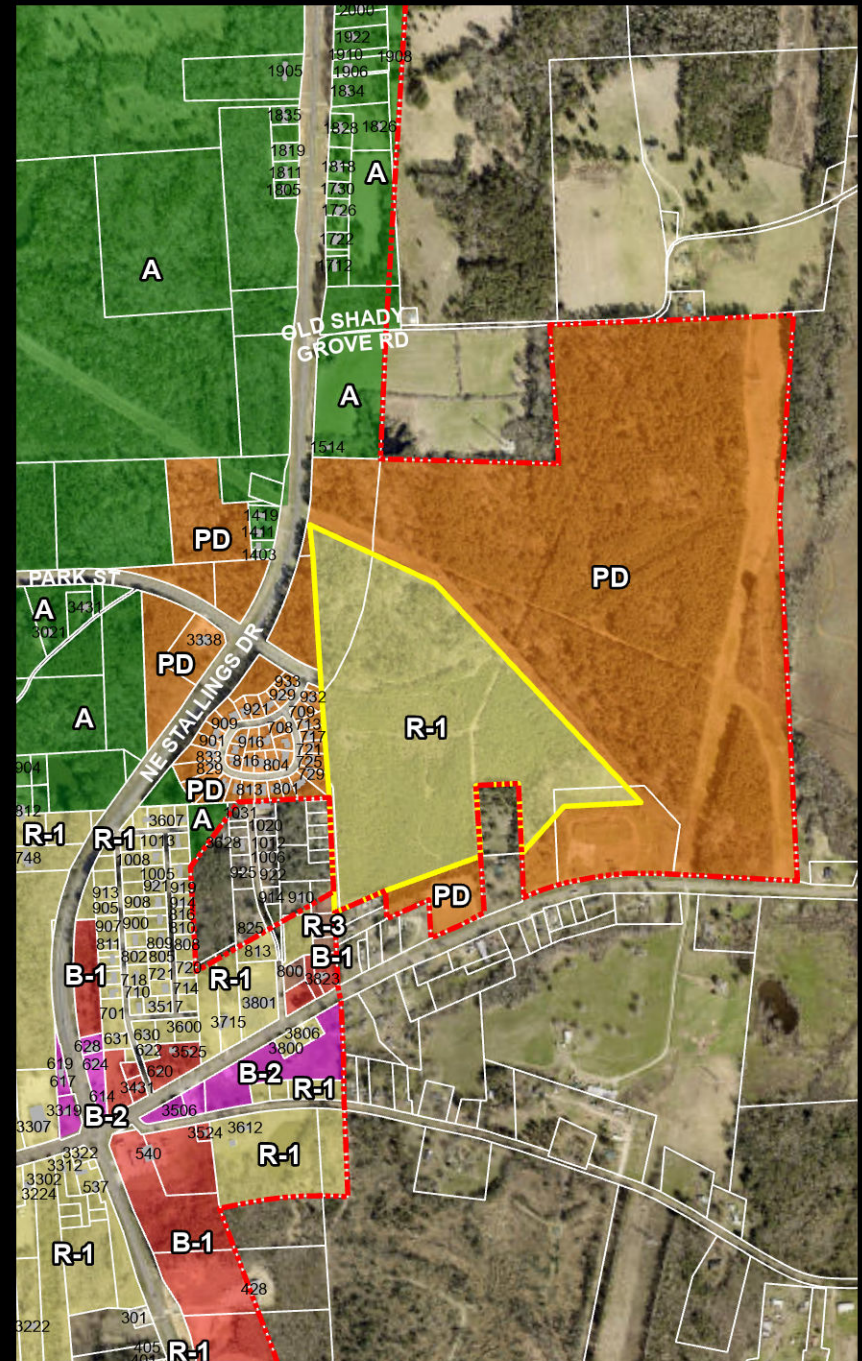
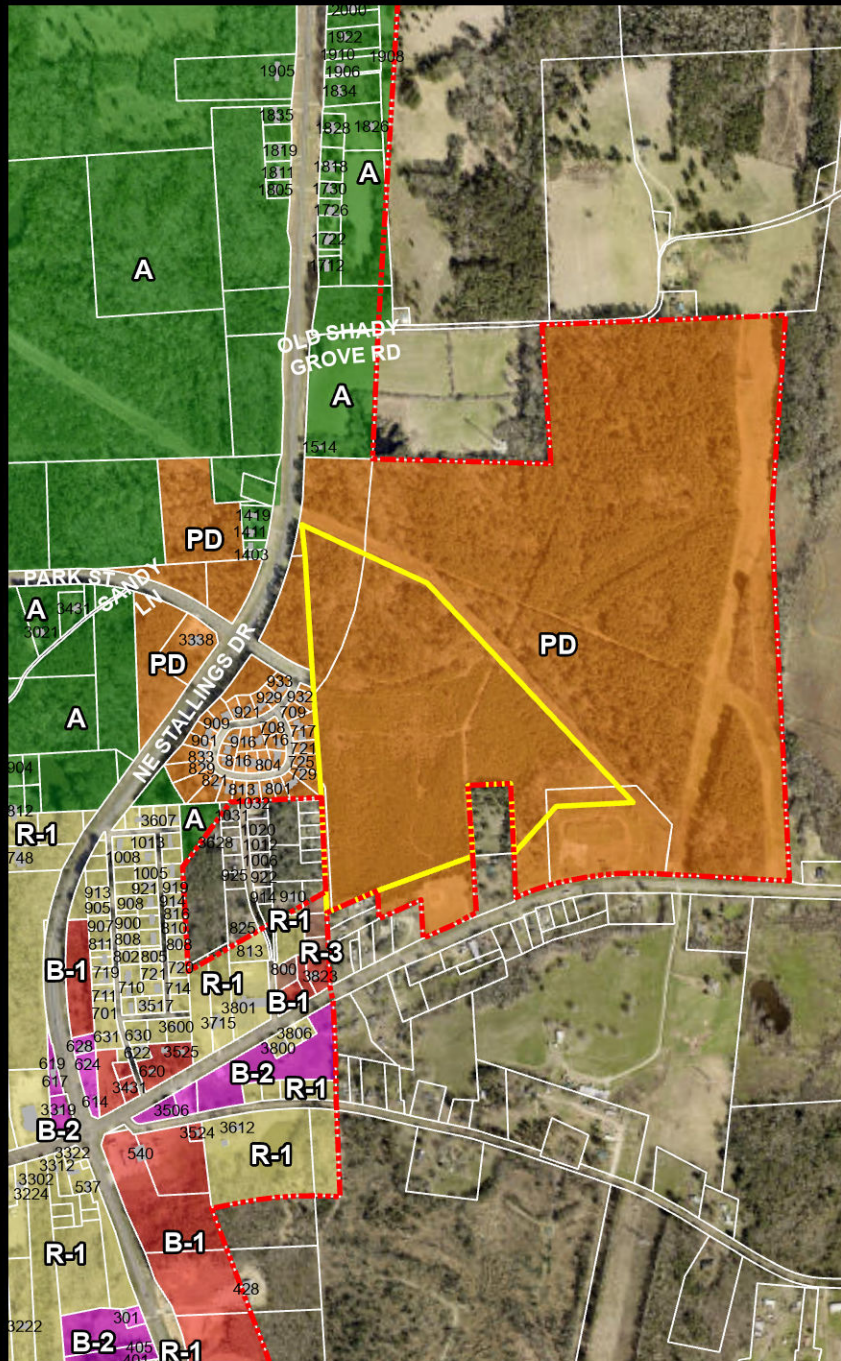
Date Created: December 15, 2022 Software: ArcGIS Pro 3.0.3



Existing Zoning

ZON 2022-09

Proposed Zoning



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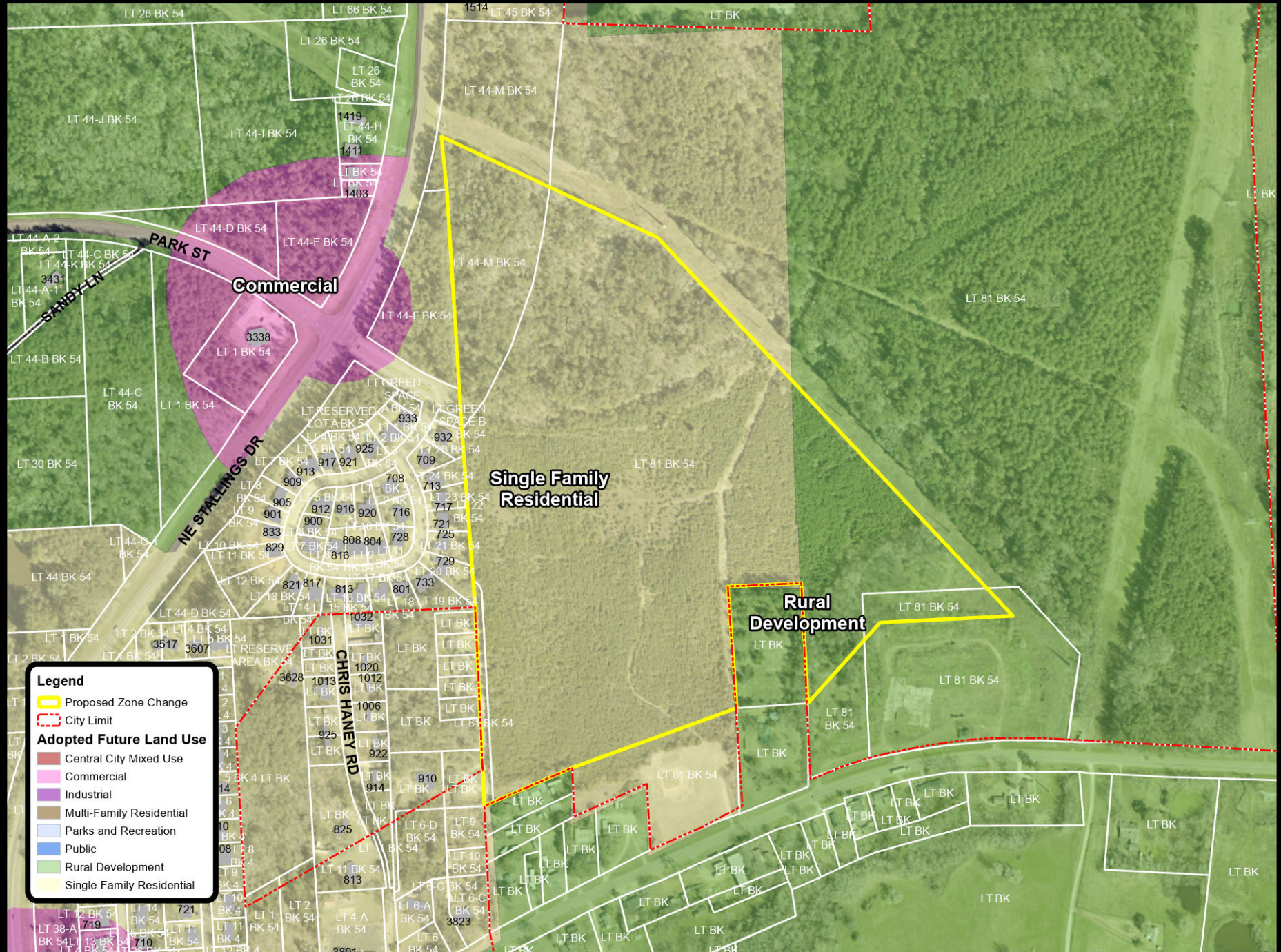
Date Created: December 15, 2022 Software: ArcGIS Pro 3.0.3

0 250 500 1,000 Feet





ZON 2022-09



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Date Created: December 15, 2022 Software: ArcGIS Pro 3.0.3



200 Foot Notification Map

ZON2022-09: Park Street

Legend

 200 Foot Buffer

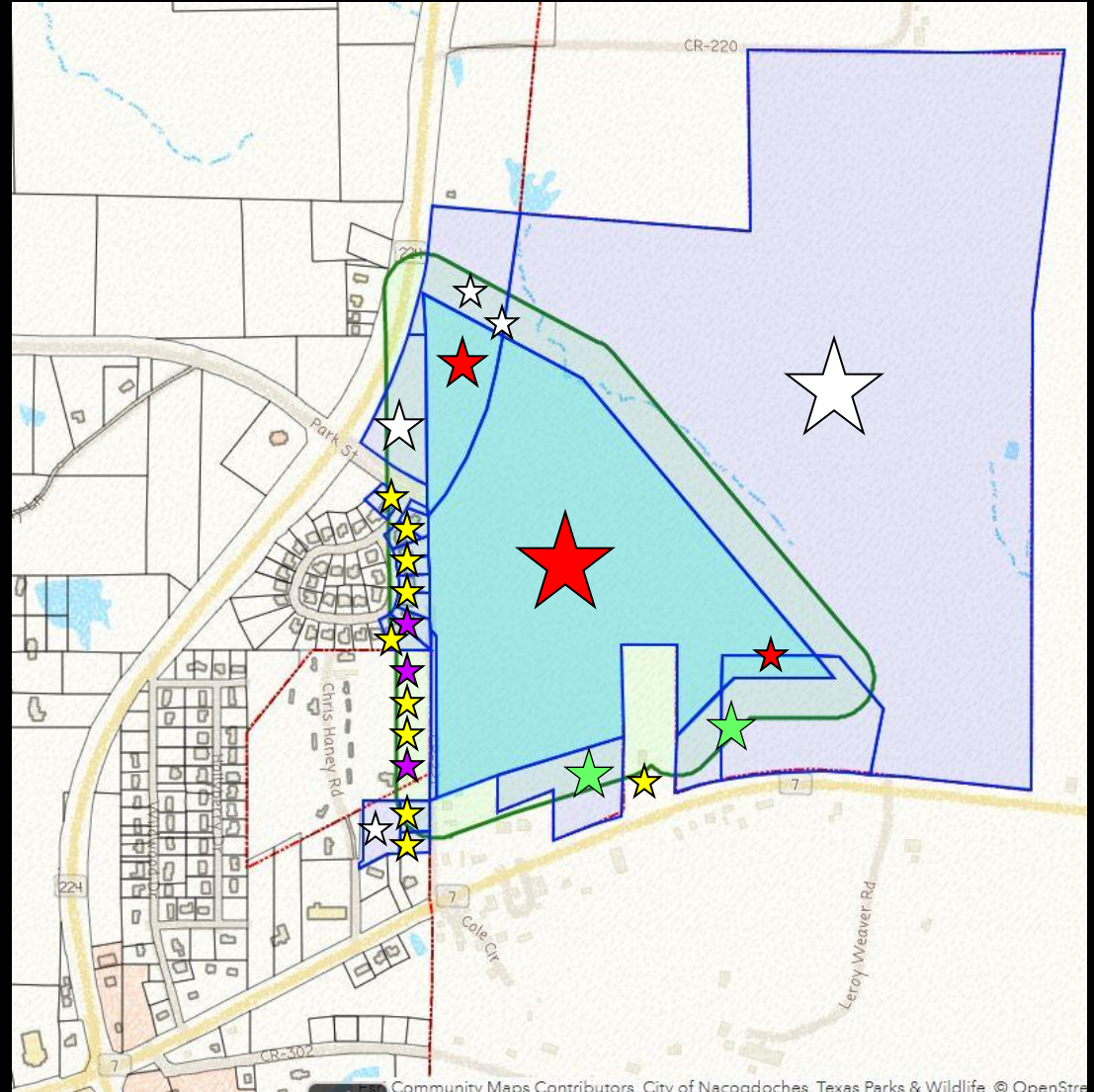
 Zone Change

 Single Family- Rental

 Single Family-
Owner Occupied

 Agriculture

 Undeveloped



Site Photos: ZON2022-09



Village Gate
subdivision sign

Eastern end of Park St.





Beginning of Subject Property





Subject Property





Entrance to Village
Gate Subdivision

Single Family Homes
in the Village Gate
Subdivision



ORDINANCE NO. 1951-01-23

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING THE BOUNDARIES OF A ZONING DISTRICT WITHIN THE CITY OF NACOGDOCHES FROM PD, PLANNED DEVELOPMENT TO R-1, SINGLE FAMILY FOR APPROXIMATELY 61.4 ACRES OF LAND, BEING A PORTION OF A 64.1-ACRE TRACT CONVEYED BY HGT GROUP, LP, TO JBSC DEVELOPMENT, LLC, AS DESCRIBED IN WARRANTY DEED DATED MARCH 22, 2022, AND RECORDED IN CLERK'S DOCUMENT NUMBER 2022-3135 OF THE REAL PROPERTY RECORDS OF NACOGDOCHES COUNTY, TEXAS, LOCATED IN NACOGDCHES, TEXAS; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Zoning Ordinance of the City of Nacogdoches allows the City Council to amend the official zoning map; and

WHEREAS, the property described above and depicted in “**Exhibit A**” is currently zoned PD, Planned Development; and

WHEREAS, the property owner has requested the zoning classification of said property to be changed to R-1, Single Family; and

WHEREAS, the City Council of the City has conducted, in the time and manner and after the notice required by law and the Zoning Ordinance of the City, a public hearing on such request for change in zoning classification; and

WHEREAS, the City Council now deems it appropriate to grant such requested change in classification.

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

SECTION I

Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II

Approval of Zoning Change

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a change in Zoning Classification from PD, Planned Development to R-1, Single Family is hereby approved by the City Council.

SECTION III

Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting change in Zoning Classification as herein provided.

SECTION IV

Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V

Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI

Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII

Filing

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

PASSED AND APPROVED, this the ____ day of _____, 2023, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

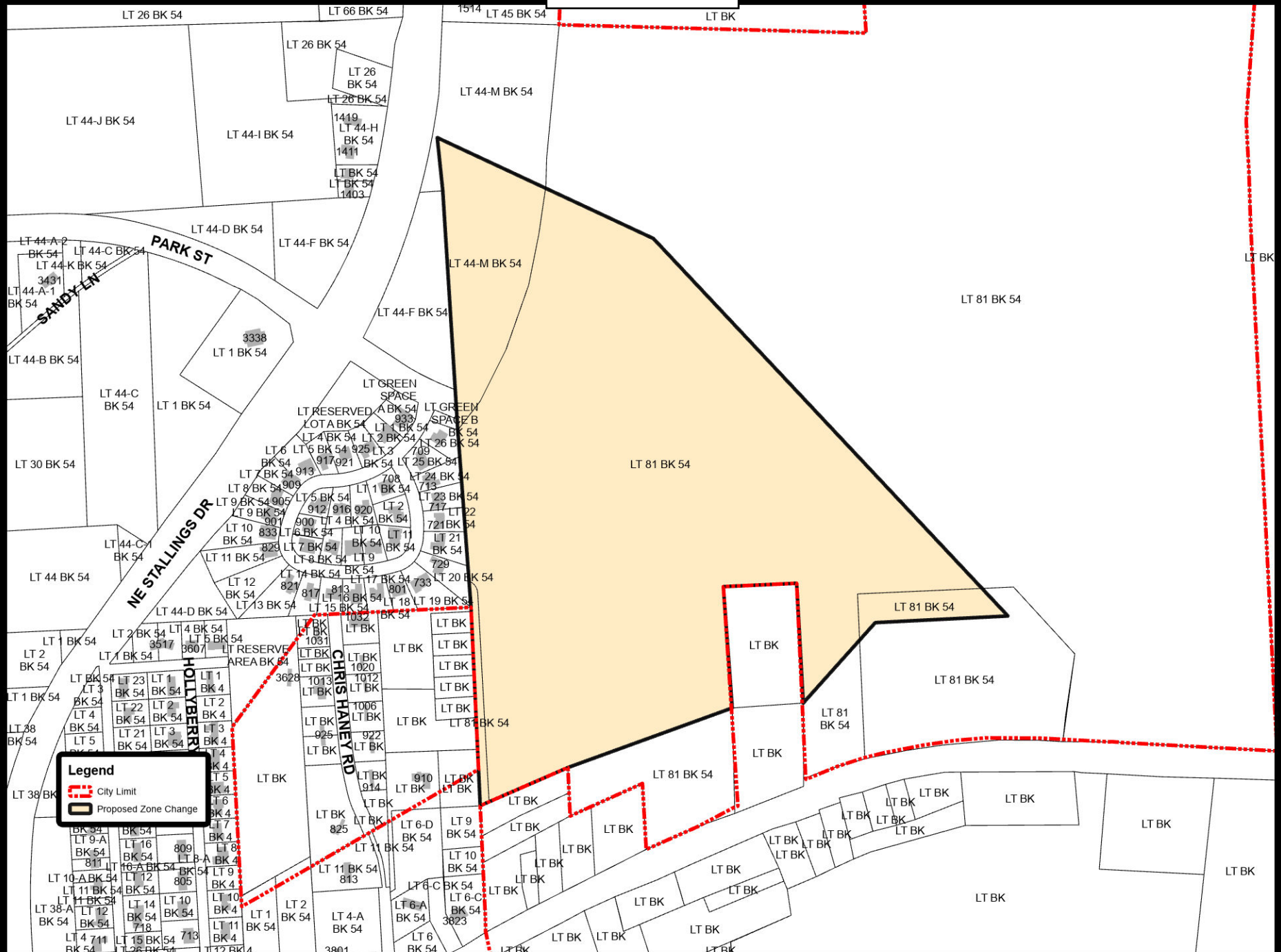
JAN VINSON, City Secretary

STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

ALAINA HELTON, City Planner

Exhibit A



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Date Created: December 15, 2022 Software: ArcGIS Pro 3.0.3

PRESENTER: Larissa Philpot, Economic Development Director

ITEM/SUBJECT: Receive a presentation and hold a discussion regarding the Low Income Housing Tax Credit Program. (Economic Development Director)

SUMMARY/BACKGROUND: Staff is presenting this item in order to inform and educate Council prior to hearing requests for support for low income housing tax credit developments. The requests for resolutions of support will be placed on the February 7th City Council agenda.

The Low Income Housing Tax Credit (LIHTC) program (or HTC program) is a federal program created in 1986 designed to finance the construction of affordable rental housing. The LIHTC program is the primary way new affordable housing is constructed in the United States. In Texas, this program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

The program works by providing a tax credit equal to 9% of the qualified basis of the development. Those tax credits can then be utilized by the project developer or they may be sold or transferred to another entity to provide capital and thus reduce the debt required to finance the project. This debt reduction allows for a lower-than-market rent to be charged for the property. After the property is developed, the applicant must market the property in the surrounding community. Tenants earning up to 60% of the area median family income for their household size who meet the screening and eligibility restrictions of the property may qualify for a reduced rent. The overall median family income for Nacogdoches County is \$68,400. The chart below shows how family size is factored into the income limit calculation.

Household Size	1 Person	2 Person	3 Person	4 Person	5 Person
Income Limit	\$27,900	\$31,920	\$35,880	\$39,840	\$43,080

Each state designs its own Qualified Allocation Plan (QAP). In Texas, the QAP allocates credits within regions, setting up a competitively scored application process in each region. Nacogdoches lies within a rural subregion containing 12 counties. Developments are scored based on the amenities they provide, the demographics of the census tract the proposed development lies within, the development's proximity to previously awarded LIHTC properties, and a development's ability to obtain a resolution of support from the City. Staff has been informed the proposed developments will likely not receive a credit allocation if they do not receive a resolution of support from the City. It is also important to note that only one development will receive a credit allocation in each region.

Nacogdoches contains several housing tax credit developments that were constructed using LIHTC financing in previous years.

Development	Address	Year Awarded
Cordova Rental Units	Various	1993
Commonwealth Apartments	5319 Northway Drive	1996
Commonwealth, Phase II	5319 Northway Drive	1999
Cypress Ridge	2701 Logan Circle	2000
Cardinal Village	1630 Cardinal Street	2002
Spring Hill Apartments	3413 East Main	2002
Nacogdoches Senior Village	605 Harris Street	2006
Vista Pines Apartment Homes	1602 Park Street	2006
Park Estates	1600-2026 Pruitt Hill	2007
Pine Lake Estates	2012 Durst Street	2013
Tower Village	Tower Rd & Park St	2013

This year, the City of Nacogdoches received requests for resolutions of support from two developers. Both proposed developments are located in the Northeast Ward. Introductory meetings are being scheduled with each developer, Larissa Philpot, City Manager Canizares, Mayor Mize or Mayor Pro Tem Boldon, and Northeast Ward Council Member Belanger. At the time of the writing of this staff report, Council member Belanger contacted both developers and invited them to speak at a ward meeting to be held on January 12th.

Ridgebrook Senior Village is proposed to be an 80-unit development, 72 of which will be for low-income tenants. This development is proposed to be located in the area southeast of University Hill apartments, south of Stallings Drive Church of Christ, and northwest of the Kenbrook neighborhood. The development will be accessed from NE Stallings Drive. The vast majority of this proposed site is currently zoned B-2, General Business, which permits multi-family apartments by right. The proposed driveway area is currently zoned R-1, Single Family Residential. Therefore, a zoning change must be approved for the driveway prior to construction. The developers of Ridgebrook Senior Village reached out to Councilmember Belanger in late 2022 and held a neighborhood meeting.

University Park is proposed to be a 50-unit development, all of which will be for low-income tenants. The development is proposed to be just south of 3520 North University Drive. The site is zoned B-2, General Business, which permits multi-family apartments by right.

All the developers have been invited to make presentations and answer questions at the February 7th City Council meeting, after which the City Council will be asked to consider resolutions of support, no objection, or opposition. Any resolutions of support must be received by TDHCA by March 1st in order to be included with the application.

FINANCIAL:

No financial impact associated with this item

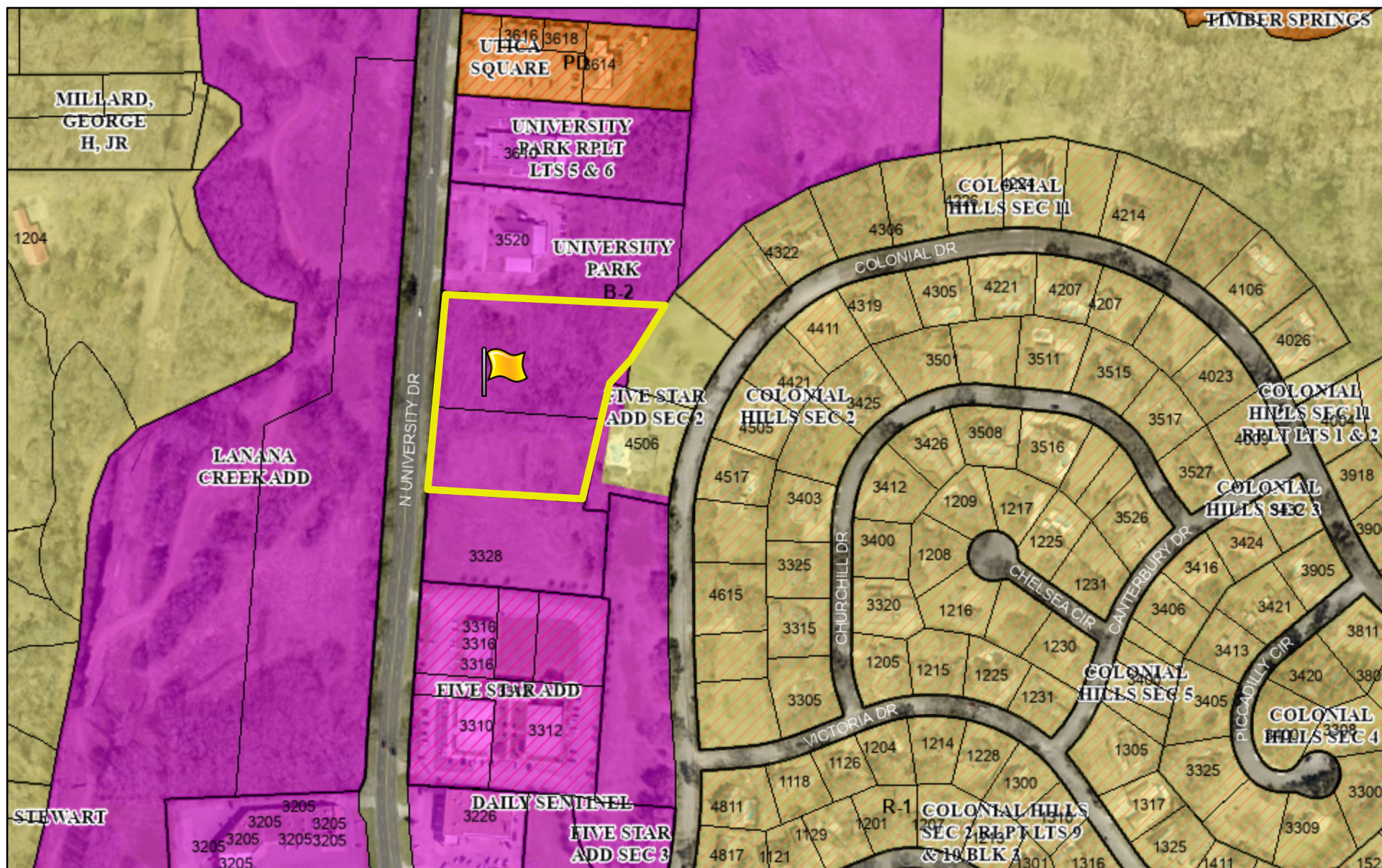
COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Neighborhood Revitalization and Attainable Housing, Economic Development

CITY CONTACT: Larissa Philpot-Brown, AICP, Economic Development Director
lphilpot@nedco.org
936-559-1255

- ATTACHMENTS:**
1. University Park Location Map
 2. Ridgebrook Map

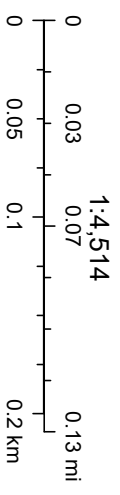
ArcGIS Web AppBuilder



1/3/2023, 2:04:51 PM

 Parcels
  Subdivisions
  Zoning
  Single Family: R-1
 Buildings
  No Restrictions
  General Business: B-2
 Street Labels
 Restrictions
  Planned Development: PD
  City Limits





1001

Zoning

Single Family: R-1

General Business: B-2

1

City Limits

PRESENTER: Larissa Philpot, Economic Development Director

ITEM/SUBJECT: Discuss, consider, and adopt Resolution Number 1323-01-23 in support, no opposition, or opposition for the application of Northway Landing VOA AH, LP to the Texas Department of Housing and Community Affairs for the 2023 competitive nine-percent housing tax credits at risk set aside to rehabilitate affordable rental housing in connection with Northway Landing Apartments, located at 5301 Northway Drive. (Economic Development Director).

SUMMARY/BACKGROUND: The Low Income Housing Tax Credit program (LIHTC or HTC) is a federal program created in 1986 designed to finance the construction of affordable rental housing. The LIHTC program is the primary way affordable housing is constructed and rehabilitated in the United States. A portion of the competitive LIHTC financing is set aside for rehabilitation or reconstruction of existing housing developments that are "at risk" of losing rental subsidies currently provided to their residents.

Nacogdoches contains several housing tax credit developments that were constructed using LIHTC financing. There are approximately 784 units, representing about 16% of the total multi-family units in the City. Nacogdoches does contain more than two times the state average number of units LIHTC per capita. This means developers requesting this financing need a resolution of support from the Nacogdoches City Council in order for their applications to score highly enough to be funded.

Northway Landing, located at 5301 Northway Drive, is an existing 48 unit multi-family affordable housing development. The owners of this property are applying LIHTC through the at risk set aside, which means this project is not in competition with the two applications for new LIHTC construction in Nacogdoches this year.

The owners of Northway Landing, Volunteers of America, have budgeted \$51,000 a unit in hard construction and \$14,500 per unit in site work. They have budgeted \$316,000 in contingencies. The total project budget is approximately \$3.46 million. Ms. Debora Welchel of Volunteers of America will provide a complete scope of work to City Council during her presentation at the January 17th City Council meeting. As a not for profit development for elderly individuals, this property is tax exempt. The City does not receive property tax revenue from this development.

Volunteers of America are requesting the City Council approve a resolution of support of the development as well as a development fee reduction in the amount of \$250. The City Council has three options for this request:

1. Adopt a resolution of support
2. Adopt a resolution of no opposition
3. Adopt a resolution of opposition

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Neighborhood Revitalization and Attainable Housing, Economic Development

CITY CONTACT: Larissa Philpot-Brown, AICP, Economic Development Director
lphilpot@nedco.org
936-559-1255

ATTACHMENTS: 1. Resolutions of Support, No Opposition, Objection

RESOLUTION NO. 1323-01-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, **IN SUPPORT OF THE APPLICATION OF NORTHWAY LANDING VOA AH, LP TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR 2023 COMPETITIVE NINE-PERCENT HOUSING TAX CREDITS TO REHABILITATE AFFORDABLE RENTAL HOUSING IN CONNECTION WITH NORTHWAY LANDING APARTMENTS**

WHEREAS, NORTHWAY LANDING VOA AH, LP (the Applicant) has proposed the rehabilitation of affordable senior rental housing for Northway Landing Apartments, which is located at 5301 Northway Drive, Nacogdoches, Texas 75965; and

WHEREAS, the Applicant has advised that it intends to submit a formal application to the Texas Department of Housing and Community Affairs (TDHCA) for 2023 Competitive 9% Housing Tax Credits (HTC) for Northway Landing Apartments; and

WHEREAS, in accordance with the rules that govern the HTC program, an application may qualify for points for a Resolution of Support and evidence of a commitment of development funding from the governing body of the city in which the proposed development site is located.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, THAT:

SECTION 1.

The findings contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

SECTION 2.

That as provided for in 10 TAC §11.3(c), it is expressly acknowledged and confirmed that the City has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds, and

SECTION 3.

The City, acting through its governing body, hereby confirms that it supports the proposed improvements to the Northway Landing Apartments, which is located at 5301 Northway Drive, Nacogdoches, Texas 75965 and to the Applicant's submission to the TDHCA for HTC and confirms that its governing body has voted specifically to approve the construction or rehabilitation of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Tex. Gov't Code §2306.6703(a)(4), and

SECTION 4.

That this formal action has been taken to put on record the opinion expressed by the City on the date set forth below.

SECTION 5.

The City, acting through its governing body hereby approved a commitment to the Applicant of funding assistance in the amount of \$250.00 in the form of reduced development fees, which contribution is conditioned on an award of the HTC to the applicant. The City will provide a letter to the applicant describing the value and form of the contribution and any caveats to delivering the contribution; and

SECTION 6.

The City acting through its governing body, hereby authorizes, empowers, and directs Mayor to execute this Resolution on behalf of the City and to certify this resolution to TDHCA.

SECTION 7.

That the effect of this resolution takes effect immediately.

DULY RESOLVED by the City Council of the City of Nacogdoches, Texas, on the 17th day January, 2023.

JIMMY MIZE, MAYOR

ATTEST:

JAN VINSON, CITY SECRETARY

RESOLUTION NO. 1323-01-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, HAVING **NO OBJECTION TO THE APPLICATION OF NORTHWAY LANDING VOA AH, LP TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR 2023 COMPETITIVE NINE-PERCENT HOUSING TAX CREDITS TO REHABILITATE AFFORDABLE RENTAL HOUSING IN CONNECTION WITH NORTHWAY LANDING APARTMENTS**

WHEREAS, NORTHWAY LANDING VOA AH, LP (the Applicant) has proposed the rehabilitation of affordable senior rental housing for Northway Landing Apartments, which is located at 5301 Northway Drive, Nacogdoches, Texas 75965; and

WHEREAS, the Applicant has advised that it intends to submit a formal application to the Texas Department of Housing and Community Affairs (TDHCA) for 2023 Competitive 9% Housing Tax Credits (HTC) for Northway Landing Apartments; and

WHEREAS, in accordance with the rules that govern the HTC program, an application may qualify for points for a Resolution of Support and evidence of a commitment of development funding from the governing body of the city in which the proposed development site is located.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, THAT:

SECTION 1.

The findings contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

SECTION 2.

That as provided for in 10 TAC §11.3(c), it is expressly acknowledged and confirmed that the City has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds, and

SECTION 3.

The City, acting through its governing body, hereby confirms that has no objection to the proposed improvements to the Northway Landing Apartments, which is located at 5301 Northway Drive, Nacogdoches, Texas 75965 and to the Applicant's submission to the TDHCA for HTC, and

SECTION 4.

That this formal action has been taken to put on record the opinion expressed by the City on the date set forth below.

SECTION 5.

The City acting through its governing body, hereby authorizes, empowers, and directs Mayor to execute this Resolution on behalf of the City and to certify this resolution to TDHCA.

SECTION 7.

That the effect of this resolution takes effect immediately.

DULY RESOVLED by the City Council of the City of Nacogdoches, Texas, on the 17th day January, 2023.

JIMMY MIZE, MAYOR

ATTEST:

JAN VINSON, CITY SECRETARY

RESOLUTION NO. 1323-01-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, OBJECTS TO THE APPLICATION OF NORTHWAY LANDING VOA AH, LP TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR 2023 COMPETITIVE NINE-PERCENT HOUSING TAX CREDITS TO REHABILITATE AFFORDABLE RENTAL HOUSING IN CONNECTION WITH NORTHWAY LANDING APARTMENTS

WHEREAS, NORTHWAY LANDING VOA AH, LP (the Applicant) has proposed the rehabilitation of affordable senior rental housing for Northway Landing Apartments, which is located at 5301 Northway Drive, Nacogdoches, Texas 75965; and

WHEREAS, the Applicant has advised that it intends to submit a formal application to the Texas Department of Housing and Community Affairs (TDHCA) for 2023 Competitive 9% Housing Tax Credits (HTC) for Northway Landing Apartments; and

WHEREAS, in accordance with the rules that govern the HTC program, an application may qualify for points for a Resolution of Support and evidence of a commitment of development funding from the governing body of the city in which the proposed development site is located.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, THAT:

SECTION 1.

The findings contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

SECTION 2.

That as provided for in 10 TAC §11.3(c), it is expressly acknowledged and confirmed that the City has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds, and

SECTION 3.

The City, acting through its governing body, hereby confirms objection to the proposed improvements to the Northway Landing Apartments, which is located at 5301 Northway Drive, Nacogdoches, Texas 75965 and to the Applicant's submission to the TDHCA for HTC, and

SECTION 4.

That this formal action has been taken to put on record the opinion expressed by the City on the date set forth below.

SECTION 5.

The City acting through its governing body, hereby authorizes, empowers, and directs Mayor to execute this Resolution on behalf of the City and to certify this resolution to TDHCA.

SECTION 7.

That the effect of this resolution takes effect immediately.

DULY RESOVLED by the City Council of the City of Nacogdoches, Texas, on the 17th day January, 2023.

JIMMY MIZE, MAYOR

ATTEST:

JAN VINSON, CITY SECRETARY



City Council Meeting

Date: January 17, 2023

Agenda Item: 7.D.

PRESENTER: Drew Flores, Purchasing Specialist

ITEM/SUBJECT: Hold a discussion and give staff direction regarding adoption of the City's Procurement Policy (Purchasing & Contract Specialist)

SUMMARY/BACKGROUND: Discuss and consider adopting a City Procurement Policy to help direct the City and its departments toward a centralized procurement process in accordance with State Local Codes. Discussion will include the City's purchasing procedures, ranging from small dollar purchases up to competitive sealed bidding procedures. Procedures to be discussed are informal bidding and quotations, purchasing from Historically Underutilized Businesses, Requests for Proposal, Requests for Qualification, Invitations to Bid, purchasing through State Contracts and exemptions to state laws.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Drew Flores, Purchasing & Contract Specialist
floresd@nactx.us
936-559-2539

ATTACHMENTS: 1. Procurement Policy January 2023 (2)
2. Presentation



City of Nacogdoches

Procurement Policy – January 2023

Effective Date	
Revision Date	
Approved as to Content Finance Director	
Approved as to Form City Attorney	
Approved by City Manager	

City of Nacogdoches Contacts

City Attorney	936-559-2503
City Secretary	936-559-2506
Finance Director	936-559-2526
Assistant Finance Director	936-559-2529
Purchasing and Contract Specialist	936-559-2539
City Engineer	936-559-2522
Assistant City Engineer	936-559-2515
Internal Technologies Manager	936-559-2531
Senior Accountant	936-559-2533
Accountant	936-559-2528
Accounts Payable Coordinator	936-559-2512

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INTRODUCTION

I. PURPOSE

The purpose of this manual is to establish uniform policies and procedures for the procurement of materials and services that are consistent with State law(s) and City of Nacogdoches policies. It is the individual responsibility of each employee involved in the procurement process to understand the policies upon which these procedures are based, the meaning, and intent of the procedures. If there are any questions relative to policy or procedure, or the ability of the employee to respond effectively to the requirements of the procedures, then it is the responsibility of the employee to bring such matters to the attention of their immediate supervisor before any action is taken. The fundamental purpose of these procedures is not to restrict the effectiveness of the individuals involved in the procurement, but to provide a foundation for effective and consistent practices resulting in a positive and professional relationship between City of Nacogdoches employees, the vendors with whom we do business, and ultimately the citizens we serve.

II. POLICY STATEMENT

The City shall make expenditures to promote the best interests of the citizens of Nacogdoches. The City shall encourage free and unrestricted competition on all purchases, ensuring the taxpayers the best possible return on and use of their tax dollars. It shall be the policy of the City to fully comply with and make purchases or expenditures pursuant to this manual which includes policies, rules, regulations, procedures, state and federal law.

III. GOALS AND OBJECTIVES

As caretakers of the public trust and guardians of taxpayer dollars, all departments of the City of Nacogdoches hold particular responsibility for conducting procurements in a deliberate, fair, transparent, and ethical manner. The goals of the City when making purchases are to:

- Purchase the proper goods or services to meet the needs of the City.
- Get the best possible price for the good or service.
- Get the best value for public dollars expended.
- Have the good or service available where and when it is needed.
- Ensure a continuing supply of needed goods and services.
- Allow responsible bidders a fair opportunity to compete for the government's business, through statutory requirements for competitive bids and proposals combined with the City's purchasing procedures.
- Provide minority and women-owned businesses an opportunity to compete in the contract award process.

- Stimulate the local economy and job market by allowing local businesses an opportunity to compete in the City contract award process.

IV. INVOICES

With the implementation of the new organizational structure / procurement policy, we have revised the invoice approval process.

There are new forms to be used, effective immediately (attached and saved at H:/Share/Forms/ApprovalSlipsUpdated2021). All old forms should be destroyed. If you submit invoices with the old forms after 7/1, they will be returned to you for correction. Please advise all employees to destroy all old forms and delete the eCopy from their computers if applicable.

Invoices to be signed as follows:

Submitted By: Department Employee (one making purchase &/or coding invoices)

Department Manager: See Authorized Managers List - All invoices of any amount

Director: See Directors on List - Only invoices over \$10,000

Assistant Finance Director: All invoices of any amount

Finance Director: All invoices over \$25,000

Council & City Manager: All purchases/bids/RFPs/RFQs over \$50,000

All invoices will be signed by the employee making the purchase/coding the invoice as well as by the department manager. Only invoices over the appropriate thresholds will be forwarded to the division director for approval.

This manual cannot address every situation. When an unusual situation occurs or a difficult legal problem arises, the city manager, or his/her designee, may approve exceptions to this policy, when in the best interests of the City, so long as the proposed exceptions are consistent with local, state, and federal laws. The final authority for City purchasing procedures is the law itself.

CODE OF ETHICS AND CONFLICT OF INTEREST

I. PURPOSE

The purpose of this chapter is to remind employees that a special responsibility is imposed on all employees who are entrusted with purchasing responsibility for the City. When performing the purchasing function, we are required to perform with the highest degree of integrity, to secure best economic results, to be innovative in accomplishing our mission and to always comply with State statutes and City policies and procedure.

As City of Nacogdoches employees, we are entrusted with the safety and welfare of the citizenry. In return for their confidence in city government, citizens expect our decisions to be made in the public's interest and to be free of personal gain or private interest.

The very nature of the purchasing function makes it critical that all players in the process remain independent, free of obligation or suspicion, and completely fair and impartial. Maintaining the integrity and credibility of a purchasing program requires a clear set of guidelines, rules, and responsibilities to govern the behavior of purchasing employees. Credibility and public confidence are vital throughout the purchasing and contracting system. Any erosion of honesty, integrity or openness tends to be more injurious to purchasing than to most other public programs. The shadow of doubt can be as harmful as the conduct itself. It is with this in mind that the following procedures are set forth. Every person employed by the City of Nacogdoches and performing public purchasing should abide by this code of ethics.

II. POLICY AND PROCEDURES

A. Code of Ethics

A City of Nacogdoches employee may not be directly involved in the purchasing process if they:

- Participate as an employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action knowing that the employee, or member of their immediate kinship, has an actual or potential financial interest in the purchase or contract, including prospective employment.
- Solicit or accept anything of value from an actual or potential vendor or accept other employment or compensation that could reasonably be expected to impair an employee's independence of judgment in the performance of the employee's official duties.
- Be employed by, or agree to work for, a vendor or potential vendor or accept other employment or engage in a business or professional activity that an employee might

reasonably expect would require or induce the employee to disclose confidential information acquired by reason of the official position.

- Knowingly disclose confidential information for personal gain or accept other employment or compensation that could reasonably be expected to impair an employee's independence of judgment in the performance of the employee's official duties.
- Make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interest and the interest of the City of Nacogdoches.
- Be directly involved in the purchasing process with a company in which their spouse or immediate kinship is an officer, manager, or paid consultant of a business providing a product or service with the City of Nacogdoches.
- Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised an employee's official powers or performed the employee's official duties in favor of another.
- Have a personal interest in an agreement or purchase executed by the City of Nacogdoches.

B. If a Violation Occurs

- When an actual or potential violation of any of these standards is discovered, the employee involved shall promptly file a written statement concerning the matter with an appropriate supervisor. The employee may also request written instructions for disposition of the matter.
- When an actual or potential violation occurs and is not disclosed and remedied, the employee involved may be reprimanded, suspended, or dismissed. The vendor or potential vendor may be barred from receiving future contracts and/or have an existing contract canceled.

C. Conflict of Interest Statement

All employees of the City of Nacogdoches who are involved in the purchasing of any supplies, goods, products, or services must execute relevant conflict of interest statements as required by applicable local, state, and federal laws and the City of Nacogdoches' policies/procedures.

STATUTORY AND LEGAL REQUIREMENTS

I. PURPOSE

The purpose of this chapter is to provide you with a summary of the statutory and legal requirements for purchasing activities for the City of Nacogdoches. This list is not intended to be comprehensive, but a list of the most common statutes for purchasing related laws. When there is a specific question that cannot be addressed in the Procurement Policy, you should seek the advice of the City Attorney and the statutes themselves.

II. PROCUREMENT RELATED STATUTES

A. City Charter

1. Article III Taxation. Sec. 5. - Expenditures

Expenditures shall be legal only on the basis of appropriations in the budget, and on the authority of warrants issued by the director of accounting and approved by the Chairman of the Council for the Council.

For good cause shown, the City Council may pass resolutions transferring appropriations made from one (1) department to another department, but in no event shall the total appropriations made for all the departments of the City exceed the reasonably anticipated revenues for the City in excess of fixed charges for that year.

2. City Charter, Article V. Sec. 5. - Powers and Duties of City Manager

To act as purchasing agent for the City and to purchase all merchandise, materials and supplies needed by the City; to establish a suitable storehouse where such supplies can be kept, and from which same shall be issued as needed, and to adopt such rules and regulations governing requisitions and the transaction of business between himself, as such purchasing agent, and the heads of the departments, officers and employees of the City, as the City Council may approve.

The City Manager, as purchasing agent, shall have the authority to bind the City for up to \$5,000.00 from anyone (1) vendor within any three (3) month period for unbudgeted purchases without the approval of the Council.

B. Budget Finance Policies and Procedures

1. Expenditure Policy

Expenditures shall be legal only on the basis of appropriations in the budget, and on the authority of warrants issued by the Director of Finance and approved by the City Council. Purchases and contracts over \$3,000 will conform to an informal bidding

process and those over \$50,000 will conform to a formal bidding process as outlined by the City of Nacogdoches.

C. Local Government Code

1. Chapter 176; Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information

This statute provides the disclosure requirements of businesses doing business with the City, those businesses interested in doing business with the City, and City employees responsible for contracting for goods and services. These requirements are intended to prevent undue influence between City employees and vendors.

2. Chapter 252; Purchasing and Contracting Authority of Municipalities

This statute provides the competitive bidding requirements and the exceptions to competitive bidding. It also provides that certain authority for municipal charter provisions prevail over the statute.

It covers areas such as public notice requirements, awarding bids, time warrants, changes to plans and specifications, and the alternative competitive proposal for goods, services, and civil construction contracts for \$1.5 million or less. This chapter also includes enforcement provisions including civil and criminal penalties for violations.

3. Chapter 253, Sale or Lease of Property by Municipalities

This statute governs the terms, conditions, and notice requirements which the City may convey, lease, or sell real property owned by the City.

4. Chapter 271; Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments

a. State Cooperation in Local Purchasing Programs (271.081)

Provides for the extension of state contract prices to participating local governments when the General Services Commissions considers it feasible.

b. Cooperative Purchasing Program (271.101)

Allows the City to participate in a cooperative purchasing program with another local government or a local government organization.

c. Purchases from Federal Schedule Sources of Supply (271.103)

Allows the City to purchase goods or services available under Federal supply schedules of the United States General Services Administration (GSA) to the extent permitted by federal law.

d. Procedure for Awarding Contracts if Municipality Receives Identical Bids (271.901)

Provides for the casting of lots in a manner prescribed by the Mayor if the City receives identical bids, in nature and amount, as the lowest and best bids.

e. Consideration of Location of Bidder's Principal Place of Business (271.905 and 271.9051)

Provides the terms and conditions which the City may grant local preference to bidders within the City of Nacogdoches.

5. Chapter 272; Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments

Governs the terms, conditions, and notice requirements which the City may convey, lease, or sell real property owned by the City. The terms and conditions defined within this section also pertain to the sale or lease by counties and other local governments.

D. Government Code

1. Chapter 791; Interlocal Cooperation Contracts

Also known as the Interlocal Cooperation Act; authorizes local governments to enter into cooperative purchasing agreements and other agreements for government functions.

2. Chapter 2251; Payment for Goods and Services aka Prompt Payment Act

Stipulates that the City shall pay all payments owed not later than 30 days after the goods or services are received, or the date that the invoice is received, whichever is later. This acts also requires that when payment is not made as required, the City shall automatically add interest to the payment at the rate of one percent per month.

3. Chapter 2252; Contracts with Government Entity - Disclosure of Interested Parties (GC 2252.908)

Stipulates that the City may not approve a contract without first obtaining a Form 1295 promulgated by the Texas Ethics Commission. This applies to all contracts over one million dollars and/or any contract that requires an action or vote by the City Council.

4. Chapter 2253; Public Work Performance and Payment Bonds

Requires payment and performance bonds for contracts on certain public works projects and sets the standards for when the bonds are required and the amount of the bond.

5. Chapter 2254; Professional and Consulting Services

States that contract for the procurement of defined professional services may not be awarded on the basis of bids. Instead, they must be awarded on the basis of demonstrated competence and qualifications, so long as the professional fees are consistent with, and not higher than the published recommended practices and fees of the various professional associations and do not exceed any maximums provided by law.

6. Chapter 2269; Contracting and Delivery Procedures for Construction Projects

Governs the contracting and delivery procedures for facility construction contracts, including alternative delivery methods for certain projects. When entering into a construction contract for a public facility, the City may use alternative methods that provide best value for the City. However, the City must, before advertising, first determine the method that provides best value.

LOCAL PREFERENCE

I. PURPOSE

The City of Nacogdoches believes it is important to provide local vendors with opportunities to provide goods and services to the City. This belief is based upon the fact that the active uses of commercial properties in the City benefits the community through stabilization of the property tax base, the creation of local sales tax and the provision of employment opportunities for citizens of the community and surrounding region.

The purpose of this chapter is to establish a local preference policy by promoting the City of Nacogdoches businesses, consistent with Sections 271.905 and 271.9051 of the Texas Local Government Code allowing for “Consideration of Location of Bidder’s Principal Place of Business” in the award of competitively bid contracts.

This chapter will cover:

- Criteria for Local Preference.
- Local Preference as a Best Value Determination.
- Local Preference Bidder Application.
- Exceptions to the Policy.
- Award of Contract(s).

II. DEFINITIONS

- A. Bidder** - A responsible person or business entity that submits a responsive bid.
- B. Differential** - The price difference between the local bidder and the lowest bidder.
- C. Local Business** - For-profit business with a principal place of business located within the incorporated city limits of City of Nacogdoches.

III. POLICY AND PROCEDURES

A local business may be granted a preference (as outlined below) when the City determines that a local bidder offers the best combination of contract price and additional economic development opportunities for the City created by the contract award.

A. Criteria for Local Preference

The criterion for Local Preference as it pertains to the award of points to bidders within certain vicinities when scoring RFP’s can be identified as two types of determinations:

1. A local preference as a best value determination
2. A local preference as a price based determination

The chart below is a summary of the statutory provisions for local preferences.

Local Government Code 271.9051	Local Government Code 271.905
5% price differential	3% price differential
Construction bids less than \$100,000	All other bids, excluding construction and services, \$500,000 or greater
All bids, including services, less than \$500,000	

B. Local Preference as a Best Value Determination

Price is only one of a number of determining factors that are taken into consideration for evaluation purposes as provided in Local Government Code 252.043. As a result, an additional weighted factor will be added to all such bids for bidders meeting local preference criteria. The appropriate weight will be consistent with the criteria outlined in the chart above. Best Value may take into consideration the award of more or less points for being within the proximity of the city, county, or DETCOG region, based on the logistics and feasibility of providing the product or service rendered.

C. Local Preference as a Price Based Determination

In a price based determination of local preference weighting, The City will follow the statutory provision of Local Government code 252.043 regarding lowest responsible bids.

1. 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.
2. A three percent (3%) price differential will apply to bids, excluding construction and services, \$500,000 or greater.

D. Local Preference Bidder Application

A new and completed application must be submitted with each bid. This application serves to ensure the qualifications of a bidder as local bidder and serves as the basis for meeting the statutes requirement that the City find, in writing, that a bidder is a local bidder.

E. Exceptions

This policy does not apply to expenditures:

1. Obtained through a Request for Qualifications (RFQ).
2. Bids involving Federal funds.

F. Award of Contract(s)

The City may award a contract to the lowest responsible bidder, local bidder or reject all bids.

IV. EXHIBITS

1. Local Preference Application and Local Bidder Affidavit (Exhibit A)

PROCUREMENT CARDS

I. PURPOSE

The purpose of this chapter is to establish a purchasing card (P-Card) program to provide the City with an efficient and controllable method of making small dollar commodity and travel purchases. The p-card operates similar to a credit card, and carrying one is a privilege to the employees based on need and trust. Although the p-card is issued to the employee, it remains City property and can be rescinded at any time. This chapter will cover topics such as roles, responsibilities, policies, and procedures for use of the p-card by City employees.

II. DEFINITIONS

- A. Approver** – An employee at a supervisory level that is responsible for reviewing and verifying of transactions for one or more cardholders. The Approver must have appropriate signature authority and electronically signs off on the expense and travel reports monthly.
- B. Cardholder** – An employee with a City p-card issued in their name, who is authorized to make purchases in accordance with this policy.
- C. Cardholder Acknowledgment Form** – A form that must be executed by the cardholder to acknowledge their understanding of responsibilities associated with the City issued p-card.
- D. City P-Card** – A procurement card designated for purchasing small dollar items for the City and for authorized travel expenditures.
- E. Credit Card Application and Change Form** – A form that must be filled out and approved by the cardholder's supervisor indicating maximum spending thresholds for single transactions and monthly limits.
- F. Department P-Card Delegate** – An employee that has been delegated by a department to create and submit p-card expense reports for one or more employees in their respective department.
- G. Finance Department** – Responsible for payment, billing, program audits, and day-to-day operations of the City's p-card and travel expense system.
- H. P-Card Vendor** – Issuing bank for the City p-cards.
- I. Program Administrator** – An individual(s) in the finance department that sets up new accounts with the bank and handles requests associated with the p-card program. This person also serves as the point of contact for administrative issues with the P-Card Vendor.

III. POLICY

Cardholders must follow all purchasing and travel policies and procedures when using the City's p-cards. The total amount of any single p-card purchase (including handling charges, freight, and transportation) shall not exceed purchase limits established for each cardholder.

The program administrator will advise each cardholder of purchase limits at the time of issuance.

Any single purchase over limit(s) found in Exhibit B must be approved, in advance, by the program administrator and all bidding requirements must be followed and documented. Use of this card is not intended to replace effective procurement planning, which enables volume discounts, nor is it intended to preempt City policies and procedures or State law. The p-card is intended for approved and budgeted purchases that benefit the City of Nacogdoches. Split purchasing to avoid the transaction or monthly limit(s) is not allowed.

Payment for goods and services must be made out of the fiscal year in which the goods or services were purchased or performed. **In other words, goods may not be purchased and/or services may not be performed during one fiscal year then paid for out of the next fiscal year.**

Additionally, the following responsibilities, procedures, and reporting requirements must be adhered to. Failure to follow these p-card policies and procedures may result in the p-card being suspended or terminated. Unauthorized purchases are prohibited, and cardholder will be subject to disciplinary action (up to and including termination) via Finance Department write up and referral to the Human Resources Department.

IV. ROLES AND RESPONSIBILITIES

A. Cardholder

The employee promises to comply with the p-card rules and regulations by signing the Cardholder Acknowledgment Form.

Additionally, the Cardholder is responsible for:

- Using the card only for authorized purchases. A hard copy detailed receipt must be obtained from the vendor each time the card is used. Online and telephone charges must also be documented by a receipt. Receipts must be requested from the vendor if not initially presented.
- Holding and securing the card at all times. Use of the card is limited to the individual person named on the card. The p-card should have "Identification Required" written

on the signature line, with indelible ink, to encourage verification by vendor and reduce risk for fraud.

- Purchasing items within the transaction limits for the maximum amount of each transaction, the maximum monthly transaction total, and the type of merchant where the card may be used.
- Accessing the internet (either from home or work), in order to reconcile his/her statement every billing cycle. Each Cardholder is provided a card with a unique card number and a user ID/password for secure access to the cardholder's account on the vendor's website.
- Checking their statement on a weekly basis and processing any transaction that appear. Waiting until the end of the month is unacceptable; as there are short time constraints on reviewing the statement.
- Printing a cycle statement, assembling the accumulated receipts, having the department director sign the statement, and forwarding the package to the program administrator. This must be completed each cycle when transaction have occurred.
- Using *only* his/her assigned card. Cards must not be loaned to another employee for his/her use. There will be no exceptions. "Walk-in" accounts are not authorized. If an employee does not have a p-card, they will not be able to make city purchases.
- Immediately notifying the p-card vendor (JPMorgan Chase Bank), their supervisor, and the program administrator if the card is lost or stolen. Contact number for JPMorgan Chase Bank is 1-800-890-0669. Cardholder must then complete the lost card form and submit it to the program administrator promptly.

The supervising department head must notify the program administrator immediately upon the resignation or termination of any p-card holder and the p-card must be turned in.

B. Approver

The approver monitors all aspects of individual p-cards under their oversight and may recommend changes to and or removal of a p-card at any time. The approver is also an information source for cardholders and must have a working knowledge of the vendor's website and how to properly process transactions each cycle.

Additionally, the approver is responsible for:

- Accessing the internet to perform routine approval of the transactions made by his/her cardholders.
- Receiving email notices regarding cardholder's transactions, making any necessary changes, and approving each cycle statement. Upon approval, the statement should be forwarded to the program administrator for statement processing.

- Contacting the finance department to set up an alternate approver during any prolonged absence.

C. Department Director

The department director will also review purchases in their respective department for propriety to ensure that purchases are made in accordance with applicable procedures.

Additionally, the department director is responsible for:

- Designating cardholders and approvers.
- Designating which employees will be issued a card and what transaction and merchant limits shall apply to the card's use.
- Ensuring that purchases are authorized and within City policies.
- Implementing more stringent internal authorization procedures (if necessary) that its' cardholders must follow in order to make purchases with the card.

D. Program Administrator

The program administrator is responsible for:

- Being the City's point of contact for any cardholder questions or problems and monitors all usage of the card(s).
- Verifying all information about the cycle transactions prior to downloading the information to the general ledger. However, they have no approval power over card transactions.
- Maintaining a working knowledge on all procedures in the p-card process. The Administrator may not modify or revise the policy, but rather is tasked with implementation and advising the City Manager of problems that may prompt a need to revise the policy.
- Ensuring all cardholders are properly trained in the use of the p-card before the card is issued.
- Reporting to the department director and director of finance any cardholder infractions or potential infractions.
- Reviewing p-card information in real time and adjusting cardholder accounts; including cancelling any p-card, if necessary.

C. Finance

The finance department is responsible for:

- Providing credit card software training, when necessary.
- Reviewing charges on p-cards. Finance has the authority to review, in detail, any charge related to the p-card program.

- Auditing the program to ensure adherence to the policies and procedures.
- Assisting departments on the expense and travel management system.

V. PROGRAM INFORMATION

A. P-Card Payment

The City is fully responsible for the p-card payment and all associated liability. Payments are made to the p-card vendor monthly. At the end of each billing cycle, each employee's p-card spending limits are re-set for the new month.

B. Eligibility to Obtain a P-Card

To obtain a City-issued p-card, an employee must:

- Hold a position in which the use of the p-card will increase efficiency and cost-savings. The position would need to make frequent small purchases and/or travel various times throughout the year.
- Be a full-time employee or part-time permanent employee.
- Receive approval from the department manager or director by submitting the credit card application and change form.
- Complete p-card training and review/sign the cardholder acknowledgment form.

C. Issuing the P-Card

- Department manager or director submits requests via email to the program administrator for new procurement card. The email must include the credit card application and change form, the name of the individual cardholder, and the appropriate transaction limits being requested.
- The program administrator will request the purchasing card from JPMorgan Chase Bank.
- Upon receipt of the card, the program administrator will schedule employee's training. Upon completion of training, the cardholder signs the cardholder agreement in the presence of the program administrator, and the program administrator issues the card to the new cardholder.
- The new cardholder receives copies of:
 1. Cardholder Agreement.
 2. Applicable Forms.
 3. User Guide for JPMorgan Chase Bank website.
 4. Purchasing Card Policy and Procedure.

D. Transaction/Card Limits

Each individual purchasing card will have transaction and/or spending limits. The program administrator has the ability to limit types of purchases, places of purchases,

and hours of day purchases on each individual card. The total purchase price, as printed on the individual credit card receipt, is known as the “transaction amount.” The purchasing card may be limited by the merchant type, transaction amount, and monthly transaction limit. Each cardholder will be set up with limits for each of these categories. A card transaction will be denied, when swiped, if the transaction exceeds any of the limits.

The department director, program administrator, and the finance director determine limits jointly. However, the limits may not exceed those set in the policy guidelines (Exhibit B). After a limit is exceeded, employees must utilize the regular purchase order process or the department director may petition the program administrator for a temporary increase in transaction limits.

E. Sales Tax

The City is a sales tax-exempt entity.

The tax-exempt identification number (TEID) is **75-6000621**.

P-card holders must notify vendors that the City is tax exempt prior to making a purchase. Should tax be inadvertently charged, the cardholder is responsible for contacting the vendor to have the tax removed and obtain a corrected receipt or the cardholder may be responsible for reimbursing the tax amount to the City. However, when traveling, charges such as hotel charges, food charges and fuel charges will most likely be taxed.

F. Documentation

The cardholder must retain all charge slips and itemized receipts and submit them to the appropriate department p-card delegate or finance. Receipts must be attached to a monthly expense report or scanned and electronically attached to the transaction receipt in the p-card vendor’s online system. The cardholder is responsible for contacting the vendor to obtain copy of any missing receipt.

1. **Over-the-Counter Purchases** - When the purchase is made over the counter, the cardholder shall retain the "customer copy" of the charge receipt and any available invoices. Prior to signing the merchant’s copy, the cardholder is responsible for making sure that the vendor lists the quantity, fully describes the item(s) on the charge slip and assures that sales tax is not added to the transaction. When purchases are made at restaurants the detailed receipt that shows a breakdown of items purchased is required.
2. **Online & Phone Purchases** - When making a purchase by telephone or via the internet, the cardholder shall also print any order, pricing, and purchase verification

pages that verify the purchase. When the items arrive, all shipping and invoice documents must also be maintained with the reconciled statement.

3. **Purchase Overrides** - In certain instances, a card may be declined related to blocked MCCs or purchase threshold limits. A cardholder may contact the program administrator to obtain an authorized override of the lock or decline.
4. **Missing Documentation** - If the Cardholder does not have documentation of a transaction listed, he/she shall contact the vendor to obtain the missing receipt. If documentation cannot be obtained then the cardholder must reconcile the transaction with a signed explanation that includes a description of the item(s) purchased, date of purchase, vendor's name, and reason for the lack of supporting documentation. When the approving official approves, he/she is also approving the information listed in the memo. Statements for missing documentation will not be accepted from vendors that a replacement receipt can be obtained from (Wal-Mart, Lowes, etc.). If a cardholder continually fails to provide merchant receipts, then he/she may be subject to disciplinary action; up to and including termination of employment.

Please note that City p-card information and transactions are public information and are subject to open records requests.

G. Submitting Statement

The cardholder's billing cycle ends on the 5th day of each month and a statement is ready for approval. The cardholder should reconcile purchases online on the 10th of each month and submit the report and receipts to finance no later than the 15th of each month. Upon completion of the cycle, the cardholder will be required to complete a series of steps.

H. Statement Review Process

On the 10th day of the month, the cardholder must go to the JPMorgan Chase Bank website, as assigned when card is issued.

Upon entering the website, the cardholder does the following:

1. Signs on to the website using individual cardholders' password.
2. Selects the most recent completed month's statement.
3. Reconciles any transactions that have not been previously done. After the transactions have been reconciled and the cardholder has agreed that the statement is true and correct to the best of their knowledge, the cardholder must approve the statement.
4. Prints an expense report, attaches receipts, signs, and submits to approver.

Once the cardholder submits their transactions, the approver does the following:

1. Logs on to the website, reviews for accuracy, and clicks the supervisor reviewed button.
2. Signs the expense report and forwards to purchasing/finance for payment.

Please note:

- The cardholder can and is strongly urged to review individual transactions as they occur at any time during the month.
- Failure by either the cardholder or approver to properly edit and process all transactions, approve statements in a timely manner, and do so on a continuing basis, may result in revocation of cardholder privileges.

I. Returns

Each cardholder is responsible for coordinating returns with the vendor and making sure a proper credit slip is obtained. Credit shall be issued to the cardholder's account. Cash refunds are not allowed.

J. Restrictions

1. Employees may *not* use the card for the following:
 - a. Any purchases of items for personal use.
 - b. Cash refunds or advances.
 - c. Any purchases of goods/services or, or at a merchant type not considered prudent or of good judgment.
 - d. Any transaction amounts greater than the cardholder's transaction limit.
 - e. Items under contract unless an emergency exception is granted by purchasing/finance.
 - f. Alcohol or liquor of any kind. Patronization of bars, drinking places and package liquor stores should not be paid for with the p-card. No exceptions.
 - g. Separate, sequential, and component purchases, or any transactions made with intent to circumvent City purchasing policy or state law.
 - h. Any other purchase specifically excluded in the City purchasing policy.
2. Supporting documentation **must** accompany each transaction.
3. The card may **not** be used for personal use or gain, including but not limited to, paying for spouse/family expenses incurred while traveling. Only City business expenses are allowed and the cardholder should pay personal expenses separately.

K. Revocation of the P-Card

The p-card is subject to revocation at any time at the discretion of the finance director and/or department director. The program administrator may also recommend to the

finance director and department director that the card be revoked upon indication of any violation of the purchasing card policy and procedures. When a card is revoked, changes are made on-line and take effect immediately. The program administrator is further authorized to temporarily suspend use of the card if unauthorized use is discovered and such use poses a threat to internal financial controls.

L. Closing a P-Card Account

A card may be closed because of an employee's separation, a change in employee's duties, and/or other reasons. To cancel a p-card, the approver must send written authorization via email or inter-office mail to the program administrator, noting the date the card should be closed and that the p-card has been destroyed or will be destroyed.

If an employee leaves the City unexpectedly and the card is not returned, it is critical to notify the program administrator immediately so that the account can be closed. In some instances, the department may be directed in writing to destroy a card and a verification email sent to the program administrator.

M. Disputed Charges

1. A charge may be considered disputable if one of the following conditions exists:
 - A transaction on any statement is not authorized by the cardholder.
 - The amount billed on any statement differs from the amount authorized.
 - A transaction was billed twice.
 - A credit voucher for the transaction has been received, but the credit is not reflected on the statement.
 - The account has been charged, but the merchandise or services have not been received and/or rendered.
 - The account has been charged, but the merchandise has been returned and no credit for that returned merchandise has been received.
2. If the cardholder determines a charge is disputable, the charge must be reviewed by the approver to determine if any abuse has occurred or if the charge is valid.
3. If a charge is considered disputable (not fraudulent), the cardholder must attempt to resolve the issue directly with the vendor and/or the p-card vendor. Once reported to the p-card vendor, the charge will be classified under "Dispute," and they will attempt to resolve the issue with the vendor. After the dispute has been resolved, the cardholder must verify all remaining credits and charges are accurate.

N. Fraudulent Charges

Any suspected fraudulent use or misapplication of the card must be reported immediately to the p-card vendor and program administrator for investigation and appropriate action. Once a charge has been determined to be fraudulent, the p-card

vendor will immediately cancel and reissue the card. If the p-card vendor suspects a security breach or fraudulent activity on a card, they will immediately block the card and contact the cardholder to confirm if the activity on the card is legitimate.

O. Lost or Stolen Cards

The City is financially liable for a lost or stolen p-card, if subsequently used. In the event a p-card is lost or stolen, the cardholder must **IMMEDIATELY** notify the program administrator of the loss or theft. If the p-card was stolen, the cardholder must then report the theft of the p-card to the police department. The program administrator must be contacted to request a replacement p-card. The cardholder must also notify the approver of the loss or theft.

A card that is subsequently found by the cardholder after reported lost shall be destroyed.

VI. EXHIBITS

- 1. Transaction Limits (Exhibit B)**
- 2. P-Card Acknowledgment Form (Exhibit C)**

PURCHASES \$50,000 and LESS

I. PURPOSE

This chapter provides City-wide standard procedures for procurement activities below the statutory thresholds requiring informal competitive bidding or proposals and establishes the approval levels for purchase requisitions. The intent is to streamline the day-to-day routine administrative functions of the City by delegating authority to designated employees with fiscal responsibility. These delegated authorities can be found in section III, subsections D and E of this chapter.

The purpose of this chapter is to:

- Facilitate the purchase of quality goods and services.
- Obtain the best possible prices and value for goods and services.
- Promote efficient decision-making and ensure that actions and decisions are taken by appropriate approval levels.
- Ensure that the expenditures of funds are made in accordance with applicable laws, regulations, and City policies.
- Provide fiscal integrity and an auditable internal control environment.
- Establish internal controls to guard against misappropriation of public funds.

II. DEFINITIONS

A. Best Value – Other criteria, in addition to cost, established to determine best value for the City. Best value criteria may include (but is not limited to) the following:

- Total price or long-term cost to acquire the goods and services.
- Bidder's experience and reputation.
- The quality of the bidder's goods and services.
- Local business presence.
- Other relevant criteria listed in the City's solicitation (Request for Quotes/Proposals).

B. Central Master's Bidders List (CMBL) - The **CMBL** is a state vendor database, available through the Texas Comptroller of Public Accounts, used by governments to identify vendors to receive government bid solicitations based on the products or services they can provide. Searches can be made by "all vendors" using the National Institute of Governmental Purchasing's (NIGP) commodity classifications and codes listings. Manufacturers, suppliers, and other vendors wishing to furnish materials, equipment, supplies, and services to governments in Texas register for the CMBL to receive bidding opportunities. The CMBL is also a HUB directory search database. Searches can be made

to automatically default to "CMBL Only" to perform a search for vendors, including [Texas Certified HUBs](#) who have elected to register on the CMBL.

- C. Cooperative Contract** - an agreement between a local, state, regional, or federal government and businesses. The contract secures affordable rates and establishes delivery terms on goods that many agencies or offices need to have.
- D. Department** - Any department within the City that purchases goods, equipment, or services for continued daily operations.
- E. Director** - Appointed by the city manager to serve as the head of one or more departments.
- F. Encumbrance** - The process where the City reserves funds for the financial obligation of the purchase of supplies, goods, services, and equipment.
- G. Historically Underutilized Businesses (HUBs)** - A business that has been certified by the Texas Comptroller of Public Accounts according to the process outlined in the Texas Administrative Code.
- H. Invoice** - An itemized bill for goods or services provided to the City and should include an invoice date, purchase order number, individual prices, and extended pricing.
- I. Local Business Presence** – Individuals or firms (prime contractor or subcontractor) whose principal place of business for providing goods or services is located in the corporate city limits of Nacogdoches or firms that have a branch office located in the Nacogdoches Corporate City Limits that have been in operation for the last three (3) years.
- J. Manager** - Serves as the head of a division.
- K. Purchase Order** - A document issued to a specific vendor by finance staff setting forth the descriptions, quantities, prices, discounts, payment terms, date of performance or shipment, and standard terms and conditions. A purchase order records the financial obligation of the City to pay for goods or services properly received; therefore, a purchase order is also required for all contracts with an expenditure of funds entered into by the City Manager, or his/her designee. For expenditures without a separate contract, the purchase order acts as the contract for the expenditure and acceptance of a purchase order by a vendor forms an agreement between the City and the seller.
- L. Purchase Requisition** - An electronic document generated by a department to notify the finance department of items it needs to order, their quantity, and the timeframe. A purchase requisition is not an authorization to make a purchase.
- M. Vendor** - Person or business enterprise interested in or providing goods, equipment, or services to the City as fulfillment of obligations from an agreement or purchase order.

III. POLICY

A. General

For purchase awards, the City will adhere to city purchasing policies and procedures, all state and local statutes, and the city budgetary and fiscal policies.

B. Council Resolution

On November 7, 2017, City Council adopted a resolution providing authority to the city manager or his/her delegates to contract for purchases \$50,000 and under. Thereby through this policy the city manager delegates signature approval authority to city department managers for all purchase requisitions created by their department amounting to less than \$50,000. This delegation does not preclude the city manager from approving any purchase requisitions he has so delegated.

C. Segregation of Duties

In order to ensure proper internal controls, each department must maintain a separation of duties. At a minimum, two (2) different people must conduct the following functions:

1. Requisition Entry
2. Requisition Approval
3. Receipt of Goods or Services (signing the invoice)

D. Purchasing Threshold \$3,000 and less

Purchases \$3,000 and less are non-competitive and are made by the department without approval of the Finance Department. However, the Finance Department is always available to assist when making purchases of any value and all kinds. Employees should use their p-card for these types' purchases, if able.

E. Purchasing Threshold \$3,000.01 to \$50,000

Purchases within these limits are considered informal and require competitive bidding/proposals with a minimum of three written bids/quotes/proposals. Departments are required to seek bids/quotes/proposals by contacting vendors with a local business presence and at least two HUB vendors located in Nacogdoches County, if available for the commodity type purchase to be made.

F. Purchase of Motor Vehicles

In order to maintain a uniform fleet of vehicles and utilize tax dollars, all motor vehicle purchases (excluding Police Tahoes and Fire/Rescue Trucks) will be made by the finance department. City departments will request vehicles during budget preparation cycle via the asset request form and finance will arrange the purchase of a standard vehicle

meeting the department's needs. Emergency replacement vehicle purchases will also be made through the finance department, when necessary.

G. Local Bidders and Suppliers for City Purchases

The City Council encourages utilization of local bidders and suppliers for all City procurements. Therefore, local business presence will be an evaluation criterion to be utilized for all purchases.

H. Best Value Procurement

All contracts and purchases shall be handled so as to obtain the best value for the City, with bids, proposals or quotations solicited whenever practical.

I. Separate, Sequential or Component Purchasing

Intentionally separating, splitting, or making component purchases (split purchases) to avoid competitive bidding as required by state law, the City's code of ordinances, and purchasing policies is prohibited and is a violation of state procurement laws and carries statutory penalties. Violation of this policy will result in the employee being referred to the human resources department by the finance department with disciplinary action up to and including immediate termination.

IV. PROCEDURE

A. Procurement Life Cycle

Generally, all purchases \$50,000 or less follow this basic process:

1. Need or business purpose is recognized by department.
2. Verify budgeted funds are available for the purchase.
3. Identify supplier sources.
4. Specification(s) are prepared and suppliers contacted.
5. Department solicits informal bids, quotes, or proposals, when applicable.
6. Evaluate bids then supplier selection.
7. Department enters purchase requisition.
8. Purchase requisition is approved pursuant to this policy and department delegated authority.
9. Finance prepares purchase order.
10. Department must acknowledge receipt of the item/service by signing and dating the invoice.
11. Accounting will disburse payment.

B. Purchasing Threshold \$3,000 and less

- Credit Card (P-Card); or
- Check Request (Accounts Payable); or
- Purchase Order

No competitive bids or quotes are required. Employees, designated by the director, may make small dollar purchases that are budgeted for amounts \$3,000 or less for goods and services that benefit the City of Nacogdoches; however, the department manager or director must approve the purchase. These purchases may be paid either through the City's procurement card (P-Card), check request (signed invoice), or purchase order issued by finance. The City prefers that the p-card is used primarily for these small dollar purchases for efficiency purposes. P-Card purchases are processed in accordance with the City's procurement card policies & procedures.

C. Purchasing Threshold \$3,000.01 to \$50,000

- Three Competitive Quotes or
- Cooperative Quote; or
- Other Exemption

All purchases over \$3,000 up to and including \$50,000 require *(unless exempt by City policy)*:

1. Requisition Summary Form to be completed by departments on the city's shared network drive.
2. Exemption Form to be completed by departments if competitive bidding is exempt under state law (not applicable for existing city contracts or cooperative purchases).
3. Purchase Requisition approved by the department.
4. Purchase Order issued by finance.

The **Purchase Requisition Summary Form** will help you with the following procedures:

- **Quotes**

1. Vendor Quotes - The department shall coordinate to obtain three or more competitive quotes. All vendors must be provided identical terms, conditions, and specifications when soliciting quotes. All details of quotes must be documented on the form.

2. Cooperative Purchase Quotes - The department shall coordinate with the appropriate cooperative contractor (Buyboard, Sourcewell, TX SmartBuy, Etc.) to provide a quote for the goods or services required that are available under an active cooperative contract. Department shall retrieve a copy of the cooperative contract and provide to finance. In some cases, the desired purchase (and vendor) is available

on multiple cooperative programs. Departments should seek to get multiple cooperative quotes, if possible.

- **Solicitations**

Departments develop specifications, prepare solicitations (request for quote/bid) and consults finance, as needed. For solicitations issued by finance, the department in collaboration with finance will define and finalize the purchase requirements and specifications.

- **Identify and Contact Suppliers**

1. Department will determine available suppliers to provide the goods, equipment or services required. Finance may assist departments in researching for available suppliers.
2. City may contact other known firms, local or non-local, including using the CMBL master database available through the Texas Comptroller of Public Accounts, for locating vendors or suppliers to provide a bid/quote for goods or services needed by the City. City shall use the CMBL for locating Texas certified HUB vendors or suppliers. Below is the website link to the CMBL:

<https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>

- **HUB Requirements and Contacting HUB Certified Firms**

Before making purchases of more than \$3,000 and less than \$50,000, the City must check the list of Texas certified HUBs on the Texas Comptroller's Office website to determine if there are Historically Underutilized Businesses (HUBs), within Nacogdoches County, which supply the goods or services being purchased. If a certified HUB(s) is on the list, the City is required to contact and request a quote from at least two (2) HUBs, on a rotating basis for each procurement. If the list fails to identify a HUB in Nacogdoches County, the City is exempt from this requirement.

- **Evaluate and Select Supplier**

Departments and finance should detail in the specifications the best value criteria they will use to evaluate vendor responses. The best value selection of a contractor is based on a determination of which bid/proposal offers the best combination of price and performance, where quality is considered an integral performance factor. The City should determine if bidder/proposer is responsive and responsible to provide the goods, equipment, or services requested. The City should document the evaluation and award decision of selected supplier(s). Vendor submitted agreements/contracts or any non-standard terms and conditions for City acceptance, should be reviewed and approved by legal prior to an award. Finance

may be consulted in the vendor selection process. Awards should be based on best value (which may include lowest overall cost bidder or best value bidder) to the City.

- **Requisition/Purchase Order Entry**

All department supporting information for the purchase, for example: quotes obtained, completed documents, exemption form, supplier lists, and documentation on firms contacted for bids/quotes, shall be provided to finance prior to processing the purchase order. The requisition/purchase order requires vendor name, quantity, description, account code(s), unit price, total price, required delivery dates, freight, payment terms, etc. Finance will always be available to assist the department(s) in obtaining this information. Requisitions/Purchase Orders are entered in the City's financial management system.

- **Approvals**

Approvals must be made within the signature authority pursuant to Exhibit B of this policy, as may be amended from time to time.

- **Purchase Order**

Following receipt of signature authority approval and information as required in this policy and procedure, the finance department will issue and send the purchase order to the requested department; encumbering funds from the department based on the general ledger account codes entered. The vendor/supplier awarded the purchase will be bound by the City's purchase order standard terms and conditions. If a contract is more appropriate for a purchase, then the contract administration policy shall be followed.

- **Receipt and Acceptance of Goods or Services**

Upon receipt of the goods or services, the department will acknowledge the receipt and acceptance by signing and dating the invoice and submitting the invoice to accounting. Department should conduct an after-delivery inspection of maintenance, repair, operating supplies, and other goods and services prior to use to ensure compliance with specifications and contractual agreements.

- **Invoices**

Department employees, designated by the director, will acknowledge receipt of goods and services by signing and dating the invoice for verification of receipt. Accounting will review receiving information to the approved purchase order and pay the vendor.

- **Disputes**

Departments will administer and manage their contracted purchases. Should a problem exist with goods received or services performed, which would warrant a

delay in payment, the department must notify accounting within two (2) working days by email or other written notification. Such notification shall describe the problem and request a “hold” on the invoice until the problem is resolved. The department shall keep accounting informed as the status changes. Finance may be consulted for assistance in bringing a vendor into compliance with the contract.

V. EXHIBITS

- A. Approval Thresholds**
- B. Purchase Requisition Summary Form**

VI. REFERENCE

Search for HUBs

<https://mycpa.cpa.state.tx.us/tpasscmlsearch/>

PURCHASES OVER \$50,000

I. PURPOSE

The purpose of this chapter is to outline the statutory requirements for the expenditure of funds over \$50,000. There are several statutes that govern the purchase of goods, general services, professional services, and construction services. This chapter will focus on the Sealed Competitive Bidding and Sealed Competitive Proposal procedure for goods and general services. Procurement procedures for professional services and construction services are found in other chapters in the Procurement Policy.

II. DEFINITIONS

- A. Best Value** - Pursuant to Local Government Code 252.043, if the sealed competitive bidding requirement applies to the contract for goods or services, the contract may be awarded to the lowest responsible bidder (see definition below) or to the bidder who provides goods or services at the best value for the City. In determining the best value for the City, we may consider:
1. the purchase price
 2. the reputation of the bidder and of the bidder's goods or services
 3. the quality of the bidder's goods or services
 4. the extent to which the goods or services meet the City's needs
 5. the bidder's past relationship with the City
 6. the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and non - profit organizations employing persons with disabilities
 7. the total long -term cost to the City to acquire the bidder's goods or services, and
 8. any relevant criteria specifically listed in the request
- B. Bid Advertisement** - A public notice put in the newspaper of general circulation, containing basic information about the solicitation including the time and place the bids/proposals will be opened and acknowledged.
- C. Bid List** - A list of contractors who have indicated an interest in doing business with the City of Nacogdoches.
- D. Competitive Bidding** - The process wherein a contractor openly competes with other contractors, through a formal process for the City's business.
- E. Component Purchases.** Purchases of component parts that in normal purchasing practices would be purchased in one purchase.
- F. Encumbrance.** The process where the City reserves funds for the purchase of supplies, goods, services, and equipment. Typically, a purchase order is used to record the financial obligation (encumbrance) of the City.
- G. Goods.** A generic term that includes all types of personal property to be purchased by the City, equipment, supplies, materials, component, and repair parts.

- H. Invitation to Bid (ITB).** A formal written document that requests from bidders a firm price and delivery details for specified merchandise listed in the term's conditions and specifications of the bid documents.
- I. Lowest Responsible Bidder.** A contractor who offers the lowest bid which meets all the specifications, requirements, terms, and conditions of the Invitation to Bid. It is expressly understood that the lowest responsible bidder includes any related costs to the City, using a long-term concept. The term "responsible" refers to the financial and practical ability of the bidder to perform the contract. The term is also used to refer to the experience or safety record of the vendor.
- J. Purchase.** An act that includes the acquisition of goods or services, to include the act of leasing personal or real property. Separate, sequential, and component purchases shall be treated as a single purchase.
- K. Purchase Order.** A purchase order is a formal, binding, legal agreement issued by the City Finance Department and may be used in lieu of a written contract for commodity purchases. A purchase order is requested by a department requisition that details the merchandise or services required. When accepted by a vendor without qualifications within a specified time period, the agreement becomes a contract. A Purchase Order grants the vendor the authority to deliver the goods or services and invoice for the same. It is the City's commitment to accept the specified goods or services and pay for them at the agreed price. A purchase order encumbers/reserves funds.
- L. Request for Proposal (RFP).** A formal written document requesting that potential vendors make an offer (proposal) for goods or services to the City. Price is an essential evaluation criterion, but the RFP may stipulate other criteria and relative importance.
- M. Requisition.** The source document for all purchasing activity. This form communicates a department needs to the Finance Department and authorizes the City to enter into a contractual relationship for delivery of goods or services. A requisition is for communicating internal requirements and should not be used by Departments for the order and delivery of goods or services. The Department requisition must be approved in accordance with the delegated authority.
- N. Separate Purchases.** Purchases made separately of items that in normal purchasing practices would be purchased in one purchase.
- O. Sequential Purchases.** Purchases made over a period of time of items that in normal purchasing practices would be purchased in one purchase.
- P. Services.** A generic term to include all work or labor performed for the City as an independent contractor, including maintenance, construction, manual, clerical, or professional services.
- Q. Specifications.** Statements containing a detailed description of the terms of the contract, as well as specific details for the goods or services. The details or specifications should be descriptive, but not restrictive.
- R. Vendor.** A generic term applied to individuals and companies alike, who provide goods and services to the City.

III. POLICY AND PROCEDURES

An expenditure of funds over \$50,000 requires formal bids or proposals for goods and services. Solicitations must be advertised in the local paper, acknowledged at a public opening, and summarized in a tabulation/evaluation form. A purchase order will be issued only after approval by the Nacogdoches City Council. *Any attempt to circumvent the bidding process or Council approval process by requesting separate, sequential, or component purchases is a violation of state law and carries criminal penalties. Intentional sequential purchasing will result in termination.*

A. Invitation to Bid (ITB)

The Invitation to Bid is typically used for equipment, supplies, materials, parts, or other commodity type purchases. The steps in this process include:

1. *Development of specifications.* The department is responsible for developing a concise description of goods or services they seek to buy and the requirements the vendor must meet to be considered for the award. A specification may include requirements for testing, inspection, preparing any goods or services for delivery, or installing them for use. The specification is the total description of the goods and services desired to be purchased.

In order to assure fair and competitive bids, brand names should not be used in specifications unless it is made clear to each bidder that the brand name is being used for reference only. This can be accomplished by adding an “or equal” statement behind the brand name. This statement will indicate to the bidder that other brand names will be considered if they offer specifications that are equal or better than the specifications listed in the bid. Brand names can be specified, as the only brand that will be accepted in cases where the brand specified is the only product that will work with the existing parts or equipment.

2. *Advertisement.* All ITBs are required to advertise a notice of the time and place at which the 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. The date of the first publication must be *before* the fourteenth (14th) day before the date set to publicly open the bids and read them aloud. (Local Government Code 252.041)
3. *Pre-Bid Conference (if applicable).* The Department may invite potential vendors to attend a pre-bid meeting to discuss contract requirements and answer vendor questions.
4. *Addenda.* If it becomes necessary to make a change after the project goes out for bid, but before contract is awarded in order to clarify, modify, or support the information in the original bid document, you must issue an addendum to all known

interested parties. The addendum should be acknowledged by the vendor at the time the bid is submitted and should become part of the awarded contract documents.

5. *Receipt of Bids.* Bids shall be received until the date and time specified in the ITB. Bids received after the advertised date and time, shall be returned to the bidder unopened.
6. *Public Bid Opening.* All bids properly received on or before the due date and time shall be opened and publicly read aloud.
7. *Bid Tabulation.* All bids received should be summarized in a bid tabulation. Unit prices and totals listed should be used for comparison.
8. *Department Evaluation.* The department is responsible for evaluating all bid(s) received to determine if they are complete and comply with the specifications.
9. *Award of Bid.* The contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality (see definition of best value).
10. *Identical Bids.* Pursuant to Local Government Code 271.901, if the City receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body must enter into a contract with only one of those bidders. If only one of the bidders submitting identical bids is a resident of the City, the City must select that bidder. However, if two or more of the bidders (or none of the bidders) are residents of the City, the City must select one of the bidders by the casting of lots. The casting of lots is prescribed by the mayor and must be conducted in the presence of the governing body.

B. Request for Proposal (RFP)

The Request for Proposal is generally used for services, and in some cases for goods where it is difficult to precisely define the specifications. The RFP consists of weighted criteria where cost is not the only determining evaluation factor. The RFP may include other evaluation factors with their relative importance. All evaluation factors must be specified in the RFP and considered in recommending award.

1. *Develop scope of work.* The Department is responsible for preparing a Statement of Work (SOW) or Technical Requirements that functionally define the technical capability and performance requirements of the department regarding such goods or services.
2. *Advertisement.* All ITBs are required to advertise a notice of the time and place at which the 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. The date of the first publication must be *before* the fourteenth (14th) day before the date set to publicly open the bids and read them aloud. (Local Government Code 252.041)

3. *Pre-Proposal Conference (if applicable).* Pre-proposal conferences can be a valuable tool for the early detection and clarification of possible ambiguities, unforeseen and nonessential restrictions, or technical errors in the specifications. The conference is a meeting of potential proposers and the City of Nacogdoches representatives. At the conference, the City goes over the specifications, explaining the scope, objectives, and techniques of the proposed purchase. Vendor inquiries and points of possible conflict are noted.
4. *Addenda.* If it becomes necessary to make a change after the project is advertised, but before contract is awarded in order to clarify, modify, or support the information in the original document, you must issue an addendum to all known interested parties. The addendum should be acknowledged by the vendor at the time the Proposal is submitted and should become part of the awarded contract documents.
5. *Acknowledgment of responses.* Most RFPs are not publicly read aloud at the published date and time to allow for unbiased best and final offers and to protect the City's competitive advantage.
6. *Evaluation Committee.* A committee may be formed to evaluate the Proposal(s) received using the criteria as defined within the specifications. This committee should consist of a diverse group of City staff, and consultants when applicable. Committee members are selected by the using department on the basis of their knowledge of the particular project being developed and/or of their knowledge of the particular field involved. Each voting committee member is expected to attend all committee meetings. Absenteeism of a member may require a substitution. The committee should remain intact throughout the evaluation process to help avoid unbalanced scoring. It is imperative that each proposal be treated as confidential throughout the evaluation process. Committee members shall not divulge any information on any proposal or evaluations to anyone outside the committee during the evaluation process.
7. *Evaluation of proposals.* Cost is not the only determining evaluation factor; however, its relative importance to other evaluation factors must be specified in the RFP and considered in recommending award. During the evaluation, the City may choose to interview one or more firms. After any interviews, Proposal(s) must be ranked in order with the highest evaluated score being ranked number one.
8. *Negotiation.* Negotiation may be conducted with the top ranked firm(s). If a successful contract cannot be negotiated with the highest ranked firm, then the City will begin negotiations with the next highest ranked firm and continue this process until successful negotiations are completed.

9. *Award of Contract.* Once the negotiations are complete, a written recommendation outlining the recommendations of the selection committee shall be carried forward with a proposed contract document through any applicable boards, committees or commissions and City Council for approval.

C. Protests and Contested Awards

1. *Formal Written Protest* - A formal protest from a bidder or proposer shall be submitted in writing to the City of Nacogdoches Purchasing and Contracts Specialist for consideration. The Purchasing and Contracts Specialist will work with the using department, Legal and other subject matter experts as necessary and appropriate, to formulate a response to the protest. A protest must be in writing and must be supported by sufficient information to enable the protest to be considered. A protest will not be considered if it is not supported with adequate justification, or if it is not received by the Purchasing and Contracts Specialist within the time limits set forth in the sections below. A protest, if any, may be submitted upon the following reasons:
 - i. A protest relating to restrictive procedures, alleged improprieties, or other similar situations arising prior to bid opening or proposal due date must be submitted so that it is received by the City of Nacogdoches Purchasing and Contracts Specialist no later than five (5) working days prior to the specified opening or due date and may only be protested once.
 - ii. A protest relating to requests for changes to or approval of equals, or clarifications and modifications of the specifications must be submitted so that it is received by City of Nacogdoches Purchasing and Contracts Specialist within five (5) working days prior to the specified opening or due date and may only be protested once.
 - iii. A protest of the award of contract must be submitted so that it is received by the City of Nacogdoches Purchasing and Contracts Specialist no later than five (5) calendar days following the award date.
2. *Notification Process* - In the event staff is notified of a potential protest, staff shall notify the Purchasing and Contracts Specialist, applicable chain-of-command, and City Council, as appropriate.
3. *Protests related to the City's purchasing practices* may be submitted directly to the City Manager within five (5) working days following any action taken by the Purchasing and Contracts Specialist.

D. Exceptions to the Competitive Procurement Procedures

Exemptions to the competitive bidding and the competitive sealed proposal processes are listed in LGC Section 252.022. A Department making a purchase that may be

exempt from the competitive procurement's requirements should confer with the Finance Department and/or City Attorney, who will assist in making this determination.

Some of the common exemptions that may apply include:

1. A procurement made because of public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the City's property.
2. A procurement necessary to preserve or protect the public health or safety of the City's residents.
3. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
4. A procurement for personal, professional, or planning services.
5. A procurement for work that is performed and paid for by the day as the work progresses.
6. A purchase of land or right-of-way.
7. A procurement of items that available from only one source (note: sole source purchases require the completion of the Competition Exemption Form – see exhibit F).
8. Goods purchases by the City for subsequent retail sale by the City.

All purchases to be made that are claimed to be exempt from competitive bidding procedures, formal or informal, must be accompanied with the Competition Exemption Form (see exhibit F).

IV. EXHIBITS

A. Competition Exemption Form

CONTRACT ADMINISTRATION

I. PURPOSE

The purpose of this chapter is to safeguard City resources and to minimize the City's financial, legal, operational, and compliance related risks by establishing authority and responsibilities with regard to reviewing and executing contracts and related change orders. This chapter will cover:

- A. Contract Authority** - to define who may sign contracts on behalf of the City
- B. Contract Routing** - to ensure that contracts are executed as intended and in accordance with applicable law, regulation, and City policies.
- C. Change Orders** - to establish standard procedures for changes that occur after the performance of a contract has begun.
- D. Renewals** - to provide consistency in terms, conditions and pricing in contracts that are eligible to be renewed annually.

Any attempt to circumvent the contract policy or Council approval process by requesting separate, sequential, or component contracts is a violation of state law and carries criminal penalties.

II. DEFINITIONS

- A. Contract** - For purposes of this Policy, a Contract is any document intended to set forth terms of an agreement between the City and an external party. *A document need not be labeled as a contract or agreement to be covered under this Policy.* A document is a Contract under this Policy if it describes the obligation of the City, either to do something or to pay money.
- B. Change Order** - A change order modifies a contract after the performance of the contract has started and can only change the following:
 - 1. plans or specifications; or
 - 2. quantity of the work to be performed; or
 - 3. quantity of materials, equipment, or supplies to be furnished.A change order is only appropriate to change a project in a manner consistent with the original bid specifications.
- C. Encumbrance** - The process where the City reserves funds for the purchase of supplies, goods, services, and equipment. Typically, a purchase order is used to record the financial obligation (encumbrance) of the City.
- D. Material** - A contract provision is "material" if it is one of the essential or key provisions at the core of an agreement or original bid specifications.

III. POLICY and PROCEDURE

A. Contract Authority

- 1. *General Authority to Contract.* The City Council has the express responsibility to approve all budgeted expenditures subject to competitive bidding/proposals. All other contracts for budgeted items must be approved by the City Manager or his

designee. All contracts, regardless of value, must be in a form approved by the City Attorney.

2. *City Council to City Manager.* The City Council has delegated to the City Manager authority to execute those contracts approved by Council.
3. *City Manager.* The City Manager will approve and execute contracts \$25,000 or more, but not to exceed \$50,000.
4. *City Manager to Director.* The City Manager may delegate approval and authority to execute contracts less than \$25,000. This delegation does not preclude the City Manager from signing any contracts he has so delegated.
5. *City Manager to Finance/Purchasing.* City Manager delegates to Finance/Purchasing to approve and execute all purchase orders issued pursuant to City policies and procedures establishing the financial obligation of the City.

B. Contract Routing

1. *General.* To be valid and binding on the parties to the contract, all contracts subject to this policy must be routed for approval and executed in the sequence set forth below:
 - 1st In most cases, the vendor should execute two (2) original contracts first and provide proof of insurance pursuant to the terms of the contract.
 - 2nd Contract Manager will obtain the Disclosure of Interested Parties Form 1295; check the Comptrollers website for terrorist watchlist and companies that boycott Israel; obtain the proper Certificate of Insurance; review the Performance/Payment Bond (if applicable); and initiate the Contract Routing Form. (See section V. Reference)
 - 3rd Finance will review the funding sources.
 - 4th Legal must review all non-standard forms or modified standard forms. Legal requests thirty (30) days review for all non-standard contracts or modified standard contracts and ten (10) days review for all standard contract documents. Once approved, the contract may be forwarded for execution as follows:
 - a. to the Department Director (if less than \$25,000)
 - b. to the City Manager (\$25,000 or more, but not-to-exceed \$50,000.)
 - c. to the City Secretary (if Council approval is required).
 - 5th City Secretary and Finance will maintain one (1) fully executed electronic version of the contract each for records retention. The other original hard copy will be returned to the Contractor.

C. Change Orders

1. *General.* The City will adhere to all state statutes and City policies and procedures.
2. *Changes in quantity of work to be performed or of quantity of materials, equipment, or supplies to be furnished.* An increase or decrease over \$50,000 must be approved by City Council. The City Manager or his designee provided below may approve change orders of \$50,000 or less provided that the change order, or the cumulative of the change orders, cannot increase or decrease the contract by more than

twenty-five percent (25%). This delegation does not preclude the City Manager from signing any change order he has so delegated.

\$3,000 and less	Contract Manager
Less than \$25,000	Contract Manager, Department Director; and Finance Director
\$25,000 - \$50,000	Contract Manager, Department Director; and Finance Director;
Greater than \$50,000	Department Director; and Finance Director; and City Manager; and City Council

3. *Changes in plans or specifications for professional services*
 - i. When the original Contract amount plus all change orders is \$50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$50,000. When a change order results in a total revised contract amount that exceeds \$50,000, the City Council must approve such change order prior to commencement of the services or work; and
 - ii. When the original contract amount plus all change orders is greater than \$50,000, the City Manager or his designee may approve the written change order if the change order does not exceed \$50,000 and the sum of all change orders does not exceed 25% of the original contract amount. When a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work; and
4. *Fiscal Funding.* The City is not allowed to take on any unfunded liability. The total price in the original agreement may not be increased because of changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for at the time a bond sale is authorized. Therefore, a department should not request a change order or amendment unless there are unencumbered funds to pay for the change order or amendment.
5. *Material Changes.* Material changes in scope, quantities, or related work may not be made. A material change is defined as substantial revisions. "Bidding presupposes that due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items covered by the contract, upon the same thing. It requires that all bidders be placed upon the same place of equality and that they each bid upon the same terms and conditions involved in all the items and parts of the contract, and the proposal specify as to all bids the same or substantially similar specifications." *Attorney General Opinion MW-296.*

6. *Effective.* No change order or amendment is effective until approved by the City Council, if required, or the City Manager or designee, and communicated in writing to the Contractor.
7. *Change Order Routing.* Change orders must be pre-approved prior to authorizing the work as set forth below:
 - i. Contractor
 - ii. A/E Consultant (if applicable)
 - iii. Contract Manager (you may stop here if the change is \$3,000 or less)
 - iv. Finance
 - v. Department Director (you may stop here if the change is \$25,000 or less)
 - vi. City Manager (you may stop here if the change is greater than \$25,000 and \$50,000 or less)
 - vii. City Council (must approve all changes greater than \$50,000)
8. *Recording.* A copy of all change orders must be recorded with the original contract document and a copy to Finance so that the original encumbrance may be modified.

D. Renewals

1. *Terms.* Renewal terms for contracts subject to competitive bidding typically should be limited to two (2) renewals following the original 12-month term (3 years total) of the City. Exceptions to this requirement must be approved by the City Manager or City Attorney.
2. *Multiple Award Contracts.* When multiple vendor awards occur, if all vendors do not agree to renew, the contract in its entirety should be rebid.
3. *Contract Changes.* The renewal must be under the same terms and conditions as the original contract, provided that the unit price under the original contract may, by mutual agreement of both parties, be increased by no more than ten (10%) percent of the original contract price.
4. *Vendor Performance.* Vendor performance will be a critical decision factor when deciding whether or not to renew or rebid a contract. In addition to vendor performance, price and overall best value to the City will also be critical decision factor elements.

IV. EXHIBITS

1. Contract Routing Form
2. Change Order Form

V. REFERENCE

Comptrollers Website for Terrorist Watchlist and Companies that Boycott Israel

<https://comptroller.texas.gov/purchasing/publications/divestment.php>

PROCUREMENT OF PROFESSIONAL SERVICES

I. PURPOSE

This chapter applies to personal, professional, and planning services. It is the intent to establish fairness and consistency in the selection process while obtaining the best value (quality services at a reasonable price) for the City in accordance with the applicable legal requirements.

II. DEFINITIONS

- A. Consulting Services** - The service of studying or advising the City under a contract that does not involve the traditional relationship of employer and employee.
- B. Personal Services** - Services provided to the City personally by a particular individual. Any contribution of machinery and equipment compared to total cost must be substantially less than the contribution of wages.
- C. Planning Services** - Services primarily intended to guide the City to ensure the orderly and coordinated development of land areas.
- D. Professional Services** - Services rendered by a person or firm that requires years of education and service for one to attain competence and which calls for high order of intelligence, skill, and learning. (Mental or intellectual skills, rather than physical or manual) (Op. Tex. Att'y Gen. Nos. JM-1038 (1989), JM-940 (1988), MW-344 (1981)).
- E. Request for Proposal** - A formal written document requesting that potential contractors make an offer proposal) for goods or services to the City. Price is an essential evaluation criterion, but the RFP may stipulate other criteria and their relative importance. At least one of the following statutes must be adhered to when utilizing the RFP method of procurement:
 - LGC 252.031 (b) - goods and-services
 - LGC 252.043(d-1) --civil construction of \$1.5 Million or less
 - GC 2254.003 - professional services (other than A/E)
 - GC 2269.151 - vertical construction.
- F. Request for Qualifications (GC 2254.004)** - a formal written document used when soliciting providers of architectural, engineering or land surveying services. The City shall comply with Government Code 2254.004 in the procurement of these services. The City must first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications. After a firm has been selected based on qualifications and experience, then a fair and reasonable fee shall be negotiated. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the City shall formally end negotiations with that firm and select the next most highly qualified firm and begin negotiations with that provider for a fair and reasonable price.
- G. Statement of Qualifications.** A Statement of Qualifications is a Firm's response to the City's Request for Qualifications.

III. GENERAL INFORMATION

- A. Exempt from Competitive Bidding.** Professional Services are exempt from competitive bidding (Texas Local Government Code § 252.022 (4)). The Professional Service Procurement Act (Texas Government Code § 2254) governs the procurement of professional and consulting services.
- B. Consultation with City Attorney.** The Professional Services Procurement Act does not address all professional services. A municipality has the ability to determine whether particular services, in addition to those services identified in Chapter 2254 of the Texas Government Code, are “professional services” for the purpose of exemption from competitive bidding requirements. If unsure whether a procurement is considered a Professional Service subject to this chapter, or which process to use, consultation with the City Attorney may be necessary.
- C. Procurement Method.** The method used to procure these services will vary according to the nature of the services, this chapter, and state law requirements. Generally, the Request for Proposal(s) (RFP) or the Request for Qualification(s) (RFQ) process will be used as described in this chapter.

IV. POLICY

- A. Procurement of Architectural, Engineering or Surveyor Services.** When procuring architectural, engineering, or land surveying services, or when any portion of the project includes these services, the City shall:
1. Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications.
 2. Attempt to negotiate with that a contract for a fair and reasonable price.
- A.1.** A contract with a Licensed Engineers Seal is required for Public Works Project:
- If Electrical or Mechanical Engineering is involved; *and*
 - If the completed project exceeds \$8,000
- A.2.** A contract with a Registered Architect’s Seal is required for Public Works Projects:
- If the Project is an Institutional residential facility; *or*
 - If the Project is a Public Building; *and*
 - The Public Building is to be used for education, assembly, or office occupancy; *and*
 - The Public Building is new and construction cost exceed \$100,000; *or*
 - If the Public Building is an alteration or addition to an existing building and construction costs exceed \$50,000 and the alteration or addition requires removal, relocation, or addition of walls or partitions or alteration or addition of an exit.
- A.3.** An RFQ must be used when:
- The services involve a construction project that is valued at \$1,500,000 or more; *or*
 - Any contract for a portion of work including architectural, engineering, or land surveying services valued at \$150,000 or more.

A.4. Architectural, engineering or land surveying services where the total contract is valued under \$150,000 may be procured by evaluation of qualifications by City staff utilizing firm Statement of Qualifications (SOQ) on file and updated at least annually.

A.5. A RFQ is not required when:

- The proposed project is the extension or expansion of a previous project; however, in all instances, the ultimate selection of a provider of one or more of these services must be made to the most highly qualified provider.

B. Other Professional Services. When procuring all “other professional services,” the City shall make the selection and award: i) on the basis of demonstrated competence and qualifications to perform the services, and ii) for a fair and reasonable price.

B.1. An RFP must be used when the work includes planning, analysis, studies, or personal services and is valued at \$50,000 or more.

B.2. An RFP is not required when:

- The proposed project is the extension or expansion of a previous project; however, in all instances, the ultimate selection of a provider of one or more of these services must be made to the most competent and qualified provider.

V. PROCEDURE

A. Request for Qualification Procedure for Architects, Engineers and Surveyors.

An RFQ sets forth criteria by which the selection of these types of Professional Services will be made. Below are some of the evaluation criteria commonly used. The criteria should be customized to each RFQ solicited and need not include every listed criterion. Criteria - weighting factors may be utilized to identify the relative importance placed upon these items:

- Summary of prospective provider administration, organization, and staffing.
- Competence and qualifications of the individuals who will be directly responsible for the management and delivery of the proposed work.
- Technical adequacy of the personnel and sub - consultants to be utilized for the proposed work.
- Experience of the service provider based upon previous work similar to that of the type considered.
- Success of the service provider based upon the record of performance on other projects (both City of Nacogdoches and projects for other entities).
- History of provider's accuracy of cost estimates and ability to perform within budget constraints.
- Workload capacity and history of performing work within a specified schedule; and Proposed approach for the design project or study.

In response to the RFQ, the prospective provider of these Professional Services is asked to submit a sealed Statement of Qualifications.

B. Request for Proposal Procedure for all other Professional Services.

A Request for Proposal(s) must be used when the RFP work includes planning, analysis, studies, or personal services. The same criteria as set forth in the RFQ process may be used in the RFP process with the addition of pricing. Types of criteria regarding pricing include asking about the total proposed price, pricing methodology, estimated number of hours and hourly rate(s) and similar pricing information.

Weighted criteria must be used in the RFP process. The RFP must specify the relative importance of price and other evaluation factors. Like the RFQ, each RFP should be customized based on the unique circumstances of each solicitation. In response to the RFP, the prospective provider submits Sealed Proposals. Sealed Proposals will be evaluated using the following methodology:

- All firm(s) reasonably considered to be selected based on criteria set forth in the RFP may be given an opportunity to make a presentation and / or interview with the City.
- Proposals will be evaluated based on the weighted criteria published in the RFP.
- Proposals will be ranked in order based on the weighted scores; and
- Contract negotiations will begin with the top ranked firm.
- Should negotiations with the highest ranked firm fail to yield a contract, negotiations will formally end and will commence with the next highest ranked firm until an agreement is reached.
- The City may, in its sole discretion, award a Professional Services contract without interviews or negotiations, and based solely on information supplied in the responses.

C. Award of Contracts. Fees for Professional Services should be consistent with and not higher than the recommended practices and fees which may be published by the applicable professional associations and in no event may exceed any maximums provided by law.

Approval of Professional Services contracts for \$50,000 or less may be presented to the City Manager, or his designee, for approval, and contracts for more than \$50,000 must be presented to City Council for approval.

VI. EXHIBITS**1. Texas Board of Architectural Examiners**

Flowchart for when to engage an Architect or Excepted Engineer for Design and Construction Observation

2. Texas Board of Engineers

Flowchart for when a Professional Engineer is required on a Project

PROCUREMENT OF CONSTRUCTION SERVICES

I. PURPOSE

The purpose of this chapter is to describe the *unique* provisions for the procurement of construction services requiring an expenditure of funds over \$50,000. This chapter will cover:

- A. Bid Advertisement
- B. Bid Bonds
- C. Payment Bonds
- D. Performance Bonds
- E. Contractor Safety Records
- F. Prevailing Wage Labor Rates
- G. Liquidated Damages
- H. Change Orders

Additionally, this chapter will cover the options for procurement delivery methods for facilities and civil construction:

- A. Competitive sealed bids
- B. Competitive sealed proposals
- C. Request for Proposal for Construction Manager-at-Risk
- D. Request for Proposal for Construction Manager Agent
- E. Request for Qualifications for Design Build, and
- F. Request for Proposal for Job Order Contracts.

II. DEFINITIONS

- A. Addendum** - A formal written modification or clarification to an invitation to bid or request for proposal. An addendum amending the solicitation may be issued after the solicitation is released but prior to the deadline for receipt of bids/proposals.
- B. Award** - Approval by the City Council, City Manager, or their designee, under whose authority a purchase order or contract is executed.
- C. Bid Advertisement** - A public notice put in a newspaper of general circulation, containing basic information about the solicitation including the time and place the bids/proposals will be opened and acknowledged.
- D. Bonds**
 - 1. **Bid Bond.** A bond required of a contractor that ensures that the general contractor will enter into the contract for which he has submitted a formal written bid/proposal.

2. **Payment Bond.** A bond required that ensures that all suppliers and subcontractors of the contractor will be paid for work and/or material supplied in the course of the contract.
 3. **Performance Bond.** A bond required that guarantees contractor performance during the execution of the contract.
- E. Change Order.** A change order modifies a contract after the performance of the contract has started and can only change the following:
1. plans or specifications; or
 2. quantity of the work to be performed; or
 3. quantity of materials, equipment, or supplies to be furnished.
- A change order is only appropriate to change a project in a manner consistent with the original bid specifications.
- F. Competitive Sealed Bid.** A formal written document that requests bidders to submit a firm price and delivery pursuant to the terms, conditions, specifications, and drawings of the bid documents.
- G. Competitive Sealed Proposal.** A formal written document requesting that potential contractors make an offer (proposal) for construction services to the City. Price is an essential evaluation criterion, but the CSP may stipulate other criteria and their relative importance.
- H. Construction Manager at Risk.** A delivery method by which the City contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and provide consultation during the design and construction, rehabilitation, or repair of a facility.
- I. Construction Manager Agent.** 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 trade contractors.
- J. Design Build.** A delivery method by which the City contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.
- K. Job Order Contract.** A procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature, but the delivery times, types, and quantities of work required are indefinite.
- L. Liquidated Damages.** Monetary damages whose amount is designated during the formation of the contract for the City to assess as compensation upon a specific breach of contract, i.e. late performance.

III. POLICY AND PROCEDURES

A. Alternative Procurement Methods

1. **General** - On November 7, 2017, City Council adopted a resolution granting authority to the City Manager and designated employees, at his discretion, to determine which alternative procurement method provides the best value to the City pursuant to TEXAS GOVERNMENT CODE, Chapter 2269 Contracting and Delivery Procedures for Construction Projects, Section 2269.053.
2. **Delegated Authority** - The City Manager delegates to the City Engineer to determine the alternative procurement method that provides best value to the City.

E. Public Advertisement

Departments are responsible for publishing the advertisement in a newspaper of general circulation within the County. The date of the first advertisement must be before the 14th day before the date set to publicly open the bids and read them aloud. Bids must be published at least once each week for two consecutive weeks. The notice to bid must include the following:

1. Description of the work to be performed.
2. Location where the specifications, plans, and bidding forms are available.
3. Time and place for submitting bids.
4. Time and place of bid opening.

F. Bid Security

A bid security is recommended for all public works contracts; however, it is not required by State statute. A bid security accomplishes two things: 1) assurance that the contractor bidding the work will execute the contract documents in accordance with the plans and specifications, and 2) assurance that the contractor bidding is eligible to obtain proper Performance and Payment Bonds.

If a bid security is required in the bid documents, bidders must submit with their bid a bid bond, cashiers' check, or certified check in the amount of five (5%) percent of the maximum amount bid, payable without recourse to the City of Nacogdoches.

The bid security will be retained by the City until the successful bidder has executed the Agreement and furnished all required insurance, bonds, and other required certifications.

The City may retain the bid security of all bidders who may have a reasonable chance of receiving the award. The City may return all bid securities to bidders which are not competitive.

G. Pre-Bid/Pre-Proposal Conference

When necessary, a pre-bid conference is conducted to discuss the project. Bidders are highly encouraged to attend and participate in the conference. The Department provides information about the bidding requirements, purchasing procedures and

technical specifications to ensure that City standards are complied with. The pre-bid conference is typically conducted in the following manner as may be determined to be relevant, helpful, or appropriate by the Department:

1. All attendees sign an attendance roster.
2. Provides a brief introduction of the project title, size, scope, and construction time.
3. Discuss the bid process including bonding and insurance requirements.
4. Establish the deadline for questions and requests for clarification (if not included in the bid documents).
5. If applicable, the consulting Engineer or Architect discusses the project details including a review of the drawings and specifications allowing time for questions and answers.
6. Any other matters determined to be of importance to the Department; and
7. Record the minutes of the meeting.

H. Addenda

All questions about the meaning or intent of the Sealed Competitive Bid or Contract Documents should be directed to the City's Project Manager. The Project Manager may consult with the consulting Engineer or Architect for all technical interpretation or clarifications. The Department will issue any addenda required to modify or clarify the bidding documents to all known interested parties.

Such addenda and letters of clarification may be labeled as official "Addendums" to the contract and if so, shall become part of the executed contract and modify the contract documents accordingly.

No oral or other interpretation or clarifications will be considered official or binding.

I. Qualifications of Bidders

The City may conduct such investigations as deemed necessary and as may be allowed by law to determine the responsibility of prospective bidders.

To determine which bidders are responsible, the City may require prospective bidders to submit one or more of the following:

1. Bidders' financial records.
2. Information relating to whether the bidder has paid or settle all claims for payment promptly.
3. Bidder's previous experience.
4. Description of bidder's present commitments.
5. Where bidder maintains a permanent place of business.
6. Whether bidder has adequate plant and equipment available to complete the work properly and expeditiously.
7. Description of bidder's technical experience related to the project.
8. References for work similar in size and scope to the project being bid.

9. Listing of proposed subcontractors.
10. List of proposed suppliers and materials; and
11. Bidders' safety record.

J. Contract Documents

The bidding and contract documents and their priority from most important to least are as follows:

1. City's Standard Form of Construction Agreement.
2. Addendum to the Agreement, if applicable.
3. General Conditions.
4. Special Conditions.
5. Technical Specifications.
6. Drawings.
7. Instructions to bidders and other notices to bidders or Contractor.
8. Performance Bond, Payment Bond, Bid Bond, and other Bonds as applicable; and
9. Contractor's Bid Proposal.

Where possible, provisions shall be harmonized so as not to be conflict with one another. Only in cases of direct conflict, the resolution of such conflict shall be determined in order of priority of documents listed above.

K. Payment Bond

For all contracts in excess of \$50,000 for the constructing, altering, or repairing a public building or carrying out or completing any public work, before commencing work, the vendor must execute a payment bond in the full amount of the contract, in a form prescribed by the City.

A payment bond is required solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or subcontractor to supply labor or material for the public work project.

L. Performance Bond

For all contracts in excess of \$100,000 for the constructing, altering, or repairing a public building or carrying out or completing any public work, before commencing work, the vendor must execute a performance bond in the full amount of the contract, in a form prescribed by the City.

A performance bonds provided a guarantee of the faithful performance of the work in accordance with the plans, specifications, and contract documents.

M. Award of the Contract

The contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the construction of highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and

taxiways, drainage projects, or related types of work generally associated with civil engineering. (See LGC 252.043(d-1))

The City reserves the right to reject any and all bids, to waive any and all informalities and irregularities not involving price, time, or changes in the work and to disregard all non-conforming, non-responsive, unbalanced, or conditional bids.

IV. PROCUREMENT DELIVERY METHODS.

A. Facilities Construction

1. **Competitive Bidding** - In either case below, the contract must be awarded at the bid amount submitted by the vendor in their response to the invitation to bid.
 - i. *Lowest Responsible Bidder* – A procurement method whereby the award of the contract is made to the vendor who offers the lowest bid which meets all the specifications, requirements, terms, and conditions of the Invitation to Bid.
 - ii. *Best Value* – If the sealed competitive bidding requirement applies to the contract, the contract may be awarded to the lowest, responsible bidder OR to the bidder providing the best value for the City. The best value criteria must be expressly provided for in the invitation to bid.
2. **Alternative Procurement Methods**
 - i. **Request for Proposal** – A procurement process requesting proposals, ranking proposals, negotiating the contract, and then executing the contract with a general contractor.
 - a. *Competitive Sealed Proposal* - A vendor is selected, and a contract awarded based on weighted criteria in the RFP. Proposals are evaluated, ranked and negotiations may occur with the top ranked contractor. Scope or time modifications may be negotiated, and any price change associated with the modification.
 - b. *Construction Manager at Risk* – The City may select a Construction Manager at Risk utilizing a one-step process or a two-step process. Historically, the City has utilized the one-step process which allows us to consider both qualifications and pricing in the request for proposal. Under this method, the CMAR is responsible for contracting directly with the trade contractors and subcontractors.
 - c. *Job Order Contracting* – This procurement method is available for use only when the work called for in the contract is of a recurring nature for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility.
3. **Request for Qualification** – A procurement method whereby the selection of the contractor must be made on the same professional services procurement rules provided for in the Professional Services Procurement Act.

- i. *Construction Manager Agent* – Utilizing this method, the City would be responsible for contracting directly with trade contractors and subcontractors. The City may retain a construction manager-agent for assistance in the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.
- ii. *Design Build* – The design build solicitation is always a two-step process: the first step is evaluating the statements of qualifications and step two is contract negotiations with the top ranked firm. Under this type of construction contract procurement, the City must award a single contract to a firm who both designs and constructs the facility.

B. Civil Construction

Civil engineering construction includes highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects or other related types of projects.

1. Competitive Bidding

- i. *Lowest Responsible Bidder* – A procurement method whereby the award of the contract is made to the vendor who offers the lowest bid which meets all the specifications, requirements, terms, and conditions of the Invitation to Bid.
- ii. **Request for Proposal**
 - i. *Competitive Sealed Proposal* – This procurement method may be used for contracts with a value of \$1.5 million or less pursuant to Local Government Code 252. A vendor is selected, and a contract awarded based on weighted criteria in the RFP. Proposals are evaluated, ranked and negotiations may occur with the top ranked contractor. Scope or time modifications may be negotiated, and any price change associated with the modification.

V. EXHIBITS

A. The Basic Procurement Process Flowchart

PROCUREMENT WITH FUNDS RECEIVED UNDER FEDERAL & STATE GRANTS

I. PURPOSE

This chapter applies to all City purchases made in whole or part with money received from federal or state grant programs. This includes grant funds that the City may receive directly as well as indirectly. An example of receiving indirect federal grant money is when federal transportation funding is disbursed to the City via the Texas Department of Transportation.

II. POLICY AND PROCEDURES

A. General

Each procurement funded with grant money must comply with the terms of the specific grant involved as well as other applicable chapters in this Manual. The Department applying for and using grant money is responsible for complying with the unique grant terms and with coordinating same with the Finance Department.

In cases where conflicts between the term of the grant and this chapter, or the any chapter in the Procurement Policy cannot be harmonized, the more stringent requirement shall apply.

B. Federal Grant Requirements

The most common requirements that must be met to receive funds from federal grant programs are:

1. SAM.gov Exclusion Record Check
2. Buy America Preference
3. Section 3 Preference
4. Davis-Bacon and Related Acts
5. Nondiscrimination and Equal Opportunity requirements (fair housing, Civil Rights Act, Americans with Disabilities Act)
6. Hiring of military personnel

This list is not exhaustive and not all the requirements may apply to a particular grant; therefore, the recipient Department is responsible for doing all necessary research and ensuring compliance.

The following should be consulted as a starting point in determining what requirements may apply to a particular grant: Procurement standards: 2 CFR 200.317-326 Effective Date: 2 CFR 200.110 will be followed.

C. System for Award Management (SAM) check

The System for Award Management (SAM) provides a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and non-financial assistance and benefits.

The recipient department must do a check on all prospective participants and may not contract with any entity or individual that has been found guilty of unfair business practices and subsequently “debarred” or suspended per the SAM check. This check must be done prior to the purchase of any federal funding acquisition regardless of the purchasing method: contract, purchase order, accounts payable, procurement card, etc.

D. Conflict of Interest for Federal Grants

Pursuant to 24 C.F.R. 85.36, no employee, officer, or agent of the grantee (City) or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: 1) the employee, officer, or agent; 2) any member of his immediate family; 3) his or her partner, or 4) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. Upon written request by the City and pursuant to the conditions provided in the 24 C.F.R. 570.611, HUD may grant exceptions to the conflict-of-interest provisions on a case -by - case basis.

III. REFERENCE MATERIALS

<https://www.sam.gov/portal/SAM/>

- Search Records (you do not need to create an account)

INTERLOCAL COOPERATIVE PURCHASING

I. PURPOSE

The City participates in various local, state, and national purchasing cooperatives. The City must enter into Interlocal Agreement with these Cooperatives. Purchases made pursuant to these Interlocal Agreements and these policies satisfy the City requirement(s) to solicit competitive bids or proposals.

II. DEFINITIONS

- A. **Cooperative** - Purchasing Cooperative means the “organization” created that makes approved contracts available for the City’s use. Membership is typically required. The Cooperative is responsible for competitively soliciting the goods or services in lieu of the City doing so.
- B. **Cooperative Purchasing Program** - Cooperative Purchasing Program means the contracts (one or more) that are available through the specific Cooperative.
- C. **Federal Supply Program** - The Federal Supply Program is managed by the General Services Administration, a Department within the United States Federal Government, responsible for contracting and supplying for federal agencies. The City is able to utilize select contracts under the Federal Supply Program without an Interlocal Agreement and without having to solicit bids or proposals.
- D. **Interlocal Agreement** - An interlocal agreement is a formal written contract between local governments and/or between the City and local government organizations (cooperatives) to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies, and services.

III. POLICY AND PROCEDURES

A. Interlocal Agreements.

The City Council must approve the interlocal agreement authorizing the City’s use of the contracts available through the Cooperative Program.

1. *Cooperation with other local governments.* Pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, local governments may contract directly with other local governments to increase their efficiency and effectiveness. Examples of some interlocal agreements the City has:
 - i. City of Fort Worth (for P-Card Program Services)
 - ii. Tarrant County
2. *Cooperative Purchasing Programs.* Local Government Code, Chapter 271, Subchapter F allows the City to participate in cooperative purchasing programs with

another local government or a local government organization. Example of some interlocal agreements the City has:

- i. State of Texas Cooperative Purchasing Program
- ii. Houston Galveston Area Council of Governments
- iii. BuyBoard
- iv. TIPS/TAPS (region VIII Education Service Center)

3. *Cooperative Purchasing through Federal Supply Programs.* Local Government Code 271, Subchapter G allows the City to purchase goods or services available under Federal supply schedules to the extent permitted by federal law. Schedule 70, which includes a variety of Information Technology products, software and services and Schedule 84, which includes facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment and any other contracts marked with a COOP advantage icon are available for City use. Example of the Federal Supply Program:

- i. United States General Services Administration (GSA)

B. Expenditure of Funds.

City Council must expressly authorize the expenditure of funds over \$50,000 made through any contract available through an approved Interlocal Agreement.

C. Best Value.

City departments are encouraged to research goods and services available through approved Cooperative(s) websites to determine if the needed goods or services are available and one or more Cooperative programs. If available on more than one cooperative, the Department should compare prices among the Cooperatives and local vendors to obtain the best value.

D. Contracts and Purchase Orders.

Depending on the nature and value of the purchase, a contract may be required to satisfy other City purchasing and contracting policies and procedures. Finance either submits approved purchase orders to the applicable cooperative or directly to the vendors that have contracts with the specific cooperative.

IV. REFERENCE MATERIALS

GSA IT Schedule 70 for IT Products | GSA Schedule 70 | GSA IT Contract ([gsascheduleservices.com](https://www.gsa.gov/schedule))
GSA Schedule 84 - GSA Schedule Contract Services ([gsascheduleservices.com](https://www.gsa.gov/schedule))

PROCUREMENT of INFORMATION TECHNOLOGY PRODUCTS and SERVICES

I. PURPOSE

The effective use of information technology is one of the key strategies in improving organizational productivity, customer service and public access to City information. The purpose for this chapter to ensure that all purchases of automated information system related goods or services accomplish these goals:

- Standardize the type and quality of equipment in the City's inventory
- Help ensure that interoperability between systems is maintained
- Help ensure that purchases are made with a minimum of delay and confusion
- Facilitate tracking of requests and help expedite the purchasing process
- Assist IT in maintaining accurate inventories for insurance, licensing, and other purposes; and
- Contribute to the most effective use of City resources

II. DEFINITIONS

A. Information Technology (IT) - IT is an assembly of computer hardware, software, firmware, or any combination of these, configured to accomplish specific information-handling operations, such as communication, computation, dissemination, processing, and storage of information.

III. POLICY AND PROCEDURES

All requests for computer equipment, software, automated telecommunications, and related services or supplies must be submitted to the Information Technology (IT) Systems Department for review and technical evaluation. The IT Department will review each request for compatibility considerations; cost effectiveness of the request; any additional recurring or ongoing costs related to the purchase; availability of adequate implementation, maintenance, and support resources; training requirements; and if any alternatives that would effectively meet the users' needs. **No purchases for computer related equipment or supplies are allowed without IT Manager approval.**

IV. BEST VALUE PURCHASES OF IT

Products or services that are associated with automation information systems or telecommunication systems may be purchased through the Texas Department of Information Resources (DIR) or other approved Purchasing Cooperative Programs.

Purchases made through approved Purchasing Cooperative programs satisfy the City's competitive bidding requirements.

However, the City is responsible for determining "best value" when making these procurement decisions. The purchase must be in the City's best interest and based on best value criteria such as:

- installation costs and hardware costs
- the overall life cycle cost of the requested equipment
- the estimated cost of employee training and estimated increase in employee productivity estimated software and maintenance costs
- compliance with applicable standards and compatibility; and
- other criteria determined to be in the City's best interest

When possible, at least three (3) vendors should be invited to quote or bid on automated information system purchases greater than \$3,000. Selected vendors should be provided with specifications. This may be done via mail, email or in person. Regardless, the method should be consistent and well documented. Information technology purchases greater than \$50,000 shall be made through a formal Request for Proposal process. Exceptions include those items purchased through purchasing cooperative(s) that have already met competitive bidding requirements. Purchases made through the General Services Administration (GSA) Schedule 70 and Texas Multiple Award Services (TXMAS), or other approved Purchasing Cooperative programs satisfy the City's competitive bidding requirements and may be subject to the procedures described in this section as determined by the City Manager, Director over IT, and IT Manager (or their designees).

INSPECTING and RECEIVING GOODS and SERVICES

I. PURPOSE

The purpose of this chapter is to cover shipping terms and procedures for the proper inspection of all goods and services and record them as having been received.

II. POLICY

It shall be the responsibility of the using department to inspect all equipment, supplies, services performed, and to initiate the payment process.

III. PROCEDURES

A. Inspection

All deliveries should be inspected promptly and in the presence of the supplier or shipper, whenever possible. The individual inspecting the merchandise or service performed should pay particular attention whether the goods or services received match the quantities and specifications in the City's Purchase Order (PO).

All goods not received properly or not in compliance with the contract should be documented. The receiving department is responsible for notifying the Contractor so corrective action can be implemented.

B. Damage

When an item is defective, damaged, or does not meet specifications, the vendor shall be notified by the receiving department to arrange return of the merchandise. Types of damage:

1. *Visible damage* – if the goods are visibly damaged, receiving personnel should instruct the freight line driver to:
 - i. Note the damage on the freight bill; and
 - ii. Sign the freight bill.
2. *Concealed damage* – If there has been concealed damage, save the shipping cartons. Notify the freight line and request an "inspection report of concealed damage." Any shipping documentation or freight bill should note the damage.
3. *Packing materials* – all boxes and packing materials should be kept in the event of visible or concealed damage freight shipments.

C. Returns

To avoid possible restocking fees, returns should only be made after determining that a claim has been filed and that authorization has been given by the vendor to return the goods.

D. Receiving

Verify that the merchandise received meets the specifications defined on the PO or contract. All relevant documentation should be retained by the Department. The employee receiving the materials must verify that all items were shipped as stated on the delivery ticket and verified by the City's Purchase Order. Upon satisfactory receipt of goods or services, the Department must sign the invoice acknowledging receipt and authorizing the Finance Department to pay for the goods or services.

E. Shipping Terms

Purchase Order (PO) terms regarding transportation charges and transfer of title generally fall into the following categories:

1. *Free on Board (F.O.B.) Destination* – the supplier maintains responsibility (title) until the merchandise reaches its destination as noted on the PO. The cost of shipping and the risk of loss are borne by the supplier. ***This is the preferred method to reduce risk and liability for the City of Nacogdoches.***
2. *F.O.B. Destination Freight Collect* - title passes at destination and the City pays the freight.
3. *F.O.B. Destination Freight Collect and Allowed* – title passes at destination and the City pays the freight and deducts it from the supplier's invoice.
4. *F.O.B. Destination, Freight Prepaid* – title passes at destination and the supplier pays the freight.
5. *F.O.B. Origin* – the responsibility/title is transferred from the supplier to the City at the origin of the shipment. The City owns the goods in transit and files any claims. The City has total responsibility. The payment of the freight charges is determined by contract terms. ***This is not a preferred method as it imposed the greatest risk and liability on the City.***
6. *F.O.B. Origin Freight Collect* – title passes at origin and the City pays the freight.
7. *F.O.B. Origin, Freight Prepaid and Added* – title passes at origin and suppliers pays the freight and then collects the charges from the City by adding them to the invoice. ***This shipping term is commonly seen on suppliers' quotes.***
8. *F.O.B. Origin, Freight Prepaid and Charged Back* – title passes at origin; supplier pays the freight and adds it on the supplier's invoice.
9. *Cash on Delivery (COD)* – the City of Nacogdoches does not accept or pay COD charges.

The default delivery for all City of Nacogdoches PO's will be F.O.B. Destination unless the user department specifies otherwise after consultation with the Finance Department. It is not recommended to use any of the F.O.B. Origin terms since it transfers the responsibility of filing claims to the City if the merchandise is damage or stolen during transit.

VENDOR PAYMENTS

I. PURPOSE

The purpose of this chapter is to cover the process for timely payment of vendor invoices following the proper receipt of goods and services.

II. POLICY and PROCEDURE

A. General

Accounts Payable in the Finance Department is responsible for processing all invoices and payments to vendors.

B. Invoices

Unless otherwise specified, all invoices shall be submitted to City of Nacogdoches, Accounts Payable, PO Box 635070, Nacogdoches, TX 75963, and issued as required by the Purchase Order or Agreement. Each invoice must reference the unique Purchase Order number and include the Vendor's complete name and remit to address. If applicable, transportation and delivery charges must be itemized on each invoice. A copy of the bill of lading and the freight waybill must be submitted with the invoice if applicable.

C. Payment Terms

All payments will be processed in accordance with Texas Prompt Payment Act, *Texas Government Code*, Subtitle F, Chapter 2251. The City will pay Vendor within thirty days after acceptance of goods or materials delivered, or the day of receipt of a **correct** invoice, whichever is later. The Vendor may charge a late fee (fee shall not be greater than that permitted under the Texas Prompt Payment Act) for payments not made in accordance with this prompt payment policy. This policy does not apply to payments made by the City in the event: (a) there is a bona fide dispute between the City and Vendor concerning the good delivered, that causes the payment to be late; (b) the terms of a federal agreement, grant, regulation or statute prevents the City from making a timely payment with Federal funds; (c) there is a bona fide dispute between the Vendor and a subcontractor and its suppliers concerning deliveries made, which caused the payment to be late; or (d) the invoice is not mailed to the City in strict accordance with instructions on the Purchase Order or Agreement, or other such contractual agreement.

CAPITAL ASSETS

I. PURPOSE

The purpose of this chapter is to cover the policy and procedure for recording the purchase of capital assets.

II. POLICY and PROCEDURE

A capital asset is real or personal property with a value of \$5,000 or more and useful life over one year or longer. Fixed assets and inventory shall be reasonably safeguarded, properly accounted for, and sufficiently insured. Responsibility of safeguarding the City's assets lies with the Department in whom the fixed asset is assigned. The Finance Department is responsible for recording the assets and maintaining the permanent records of the City's fixed assets including description, cost, department of responsibility, date of acquisition, depreciation and expected useful life.

The user department is responsible for completing the Inventory/Fixed Asset Form (Exhibit A) and promptly turning it into Finance.

III. EXHIBIT

A. Inventory/Fixed Asset Form

DISPOSAL OF SURPLUS PROPERTY

I. PURPOSE

The purpose of this chapter is to establish policy and procedures for the proper disposal of City property. The City is committed to managing surplus property, such as vehicles, used furniture, and equipment, in a manner that is fiscally responsible, reduces harmful environmental impacts, and promotes the City's reduce-reuse-recycle philosophy. This policy explains the process to dispose of City surplus property.

II. DEFINITIONS:

- A. Assets** - Real or personal property with a value of \$5,000 or more and useful life over one year or longer.
- B. Personal property** - Any property that is movable or not attached to the land such as furniture, fixtures, vehicles, equipment, tools, instruments, clothing, or other such items of value.
- C. Real Property** - Real property is land, including the building or improvements on it, or it is natural assets, such as minerals and water.
- D. Salvage** - Personal property, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete so that it has no value for the purpose for it was originally intended.
- E. Surplus** - Personal property, other than waste or salvage, that is currently not needed for the foreseeable future but still possesses some usefulness for the purpose for which it was intended.

III. POLICY AND PROCEDURES

A. Policy

The City is committed to maximizing the value received upon the disposal of personal property no longer required for City operations ("Surplus Property"). Disposal of Surplus Property is necessary as goods and equipment used for City operations becomes unusable or are replaced due to damage, obsolescence, or the need for upgraded goods and equipment to facilitate efficient City operations. It is the policy of the City to dispose of Surplus Property in a manner that will serve a "public purpose."

All asset dispositions should be routed through the Finance Department for disposal. An asset change of status request form should be provided to the Finance Department by the disposing department; departments requesting surplus assets should send an asset change of status form to Finance with justification for acquiring the new item. If the

requested asset is increasing a department's fleet size the transfer must be approved by the City Manager.

B. Procedures

1. Disposition of Personal Property

Methods of disposition of surplus City property include, but are not limited to the following:

- i. Make available to other City Departments
- ii. Online Auctions
- iii. Public Auctions
- iv. Transfers to other governmental agencies through the Interlocal Agreement process
- v. Advertisements for sealed bids: soliciting bids from sources, known to use or purchase for sale, like items
- vi. Recycling
- vii. Trade-in on new equipment when in the best interest of the City; and
- viii. Donation, taking the following into consideration:
 - a. Pursuant to any applicable statutory provisions.
 - b. If undertaking to sell the property by auction or competitive bid would likely result in no bids or a bid price that is less than the City's expenses required for the bid process.
 - c. The donation serves a public purpose; or
 - d. The organization will provide the City with adequate consideration such as relieving the City of transportation or disposal expenses related to the property.

2. Disposition of Real Property

The City may sell real property owned by the City pursuant to all City Charter, State & Federal Law, and Local Ordinances.

3. Disposition of Abandoned or Unclaimed Property

The disposition of abandoned or unclaimed property shall be made in accordance with Article 18.17 of the Code of Criminal Procedure as it may be amended from time to time.

4. Grant Purchases

The disposal of surplus property purchased with State or Federal funds may have specific grant requirements regarding the disposition. Each department using grant money is responsible for complying with the unique grant terms and with proper disposition within the grant requirements.

IV. REFERENCE MATERIALS

The Texas Constitution prevents the using of public funds for private purposes. TEX. CONST. arts. III, § 52(a) (prohibiting the legislature from authorizing a city to “grant public money or thing of value in aid of, or to any individual, association or corporation”), XI, § 3 (prohibiting a city from making any appropriation or donation to a private corporation or association). A transaction to dispose of personal property does not violate these provisions of the constitution if: (1) it has as its predominant purpose the accomplishment of a public purpose of the city (as opposed to a private purpose); (2) the city places sufficient controls on the transaction to ensure that the public purpose is carried out; and (3) the city receives a return benefit. See Tex. Att’y Gen. Op. Nos. GA-0583 (2007) (discussing the lease of a county-owned generator to a radio station), GA-0085 (2003) (discussing the sale of county-owned dirt to a private party), GA-0084 (2003) (discussing a city’s conveyance of personal property and equipment to a volunteer firefighter-EMS association).

V. EXHIBITS

1. Change of Status Form

EXHIBITS

Exhibit A	Local Preference Application and Local Bidder Affidavit
Exhibit B	Transaction and Monthly Limits
Exhibit C	P-Card Acknowledgement
Exhibit D	Approval Thresholds
Exhibit E	Purchase Requisition Summary Form
Exhibit F	Competition Exemption Form
Exhibit G	Contract Routing Form
Exhibit H	Change Order Form
Exhibit I	Texas Board of Architectural Examiners Flowchart
Exhibit J	Texas Board of Engineers Flowchart
Exhibit K	Alternative Procurement Delivery Flowcharts
Exhibit L	Inventory/ Fixed Asset Form
Exhibit M	Change of Status Form

Application for Local Preference Consideration

Section 271.905 & 271.9051 of the Texas Local Government Code
“CONSIDERATION OF LOCATION OF BIDDERS PRINCIPAL PLACE OF BUSINESS”:

If you DO NOT have your principal place of business located within the City of Nacogdoches city limits – STOP – DO NOT fill out this form.

In accordance with Section 271.905 and/or 271.0951 of the Texas Local Government Code, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three to five percent of the lowest bid price received from a bidder who is not a resident of the local government, the local government may enter into a contract with (a) the lowest bidder or (b) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

THIS “APPLICATION FOR LOCAL PREFERENCE CONSIDERATION” DOES NOT MEAN THAT THE CITY OF NACOGDOCHES WILL AWARD BIDS/PROPOSALS TO ONLY THOSE BUSINESSES LOCATED WITHIN THE CITY LIMITS. THE CITY COUNCIL OF NACOGDOCHES RESERVES THE RIGHT TO AWARD TO THE LOWEST RESPONSIBLE BIDDER OR TO THE BIDDER WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THE CITY OF NACOGDOCHES.

BIDDERS WHO WISH TO QUALIFY UNDER THE LOCAL PREFERENCES LAW MUST HAVE THEIR PRINCIPAL PLACE OF BUSINESS LOCATED WITHIN THE NACOGDOCHES CITY LIMITS.

If your principal place of business is within the Nacogdoches city limits AND you want to apply for local preference consideration, then you MUST complete this form:

In order to receive consideration, bidders must submit the attached affidavit to:

Finance Department
City of Nacogdoches
P.O. Box 635030
202 East Pilar Street
Nacogdoches, TX 75961

LOCAL BIDDER AFFIDAVIT

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name (sometimes referred to herein as “bidder”): _____

Texas Comptroller of Public Accounts Sales & Use Tax Number: _____

Local Physical Address (must be within the City limits): _____

1. Is the above address the principal place of business for the business named above?
_____ Yes _____ No
2. Year your business was established in the City of Nacogdoches: _____
3. Has bidder, in the last twenty-four (24) months, claimed or represented to any other entity seeking or requesting bids or proposals that your principal place of business was in any city or location other than the City of Nacogdoches? ____ Yes ____ No
4. Does your business have more than one office in the State of Texas? ____ Yes ____ No
If yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation: _____
5. How many residents of the City of Nacogdoches are employed at the above business location?
_____.
6. Was the local business required to pay business and/or real property tax for the most recent tax year? ____ Yes ____ No
If yes, did the local business pay any of this tax to the City of Nacogdoches? ____ Yes ____ No
7. Please provide any additional economic development benefits to the City of Nacogdoches.

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation, or entity intentionally submitting false information to the City in an attempt to qualify for eligibility may be prohibited from bidding on projects with the City of Nacogdoches.

Authorized Signature: _____ **Date:** _____

Printed Name and Title: _____

TRANSACTION and MONTHLY LIMITS

Cardholder Class	Per Transaction	Per Month
City Manager, Department Directors, Management and Mayor/Council	<\$2,999.99	\$10,000.00
Supervisory, Division Heads and Supervisors	<\$2,999.99	\$7,500.00
Staff and All other Employees	\$1,500.00	\$5,000.00

Note: Department Heads may set limits for their staff cardholders for any amount up to the transaction limit.

Acknowledgment of Card Receipt and Cardholder's User Agreement

Please read and sign this form.

Employee Name: _____

Department: _____

Card Number: _____

Transaction limits are: Each \$ _____ Monthly \$ _____

Accounts Payable Coordinator: Olga Ortiz (936) 559-2512

You are being entrusted with a City of Nacogdoches Purchasing Card issued by JP Morgan Chase Bank. The card is provided to you to take care of your need to purchase materials for the City. It is not an entitlement nor reflective of title or position. The card may be revoked at any time without your permission. Your signature below indicates that you have read the accompanying Purchasing Card Policy and will comply with the policy and the terms of this user's agreement.

I understand that I will be making financial commitments on behalf of the City and will strive to obtain the best value for the City when making purchases.

1. This purchasing card is issued in my name. **I will not allow any other employee or person to use my assigned card.**
2. I have received and understand the City of Nacogdoches Purchasing Card Policy as well as this cardholder's agreement, and I will comply with both. Failure to do so may be considered misappropriation of funds and may subject me to revocation of card privileges and disciplinary action, up to and including termination of employment.
3. **I will approve each transaction on a weekly basis**, then review, reconcile, and approve the cardholder's expense report through the Internet at the end of the month.
4. I will use the card only for authorized purchases.
5. I understand that should I violate the terms of this Agreement, whether knowingly or by error, and use the card for personal use or gain, that I will reimburse the City per the Reimbursement Procedure detailed in the Purchasing Card Policy.
6. I will obtain a hard copy receipt from the vendor each time the card is used. When ordering by phone or via the Internet, I will request the vendor provide me with a receipt. **Failure to provide receipts will result in disciplinary action ranging from revocation of my purchasing card up to termination.**
7. I am responsible for immediately notifying my immediate supervisor and the Program Administrator if the card is lost or stolen.

8. Upon my resignation/termination or request by my immediate supervisor or the Program Administrator, I will surrender my assigned card to the Program Administrator.
9. As I am solely responsible for all charges on the card, I will reconcile my monthly statement and resolve any billing discrepancies, by either contacting the supplier or JP Morgan Chase Bank, before submitting the report to immediate supervisor for approval.

Training Completed and Card Issued

Employee Signature: _____ **Date:** _____

APPROVAL THRESHOLDS

Limits	Method of Approval	Signature Authority
\$3,000 and Less	P-Card or Invoice	Manager or Director
\$3,000 - \$24,999	Requisition/Purchase Order	Director and Finance
\$25,000 - \$50,000	Requisition/Purchase Order	Director, Finance and Finance Director
Over \$50,000	Requisition/Purchase Order	Director, Finance & City Manager* *City Council must authorize the expenditure of funds

Purchase Requisition Summary Form



City of Nacogdoches, Texas Purchase Requisition

Department _____

Requisition #: _____

Date _____

(Purchasing Department Use only)

Ship to Address _____

Purchase Order #: _____

Item #	Description & Specifications	Fund # Dept # Acct. #	Qty.	Unit of Measure	Budget Amount	
					Each	Extension
1			1	1	\$0.00	\$0.00
2			0		\$0.00	\$0.00
3			0		\$0.00	\$0.00
4			0		\$0.00	\$0.00
5			0		\$0.00	\$0.00
6			0		\$0.00	\$0.00
7			0		\$0.00	\$0.00
8			0		\$0.00	\$0.00
9			0		\$0.00	\$0.00
10			0		\$0.00	\$0.00
					TOTAL:	\$0.00

Intended Use

Requested By _____ Date _____

Finance Approval _____ Date _____

Dept. Head _____
Approval _____ Date _____

Administration Approval _____ Date _____

COMPETITION EXEMPTION FORM

In accordance with the City of Nacogdoches' Procurement Policy, all expenditures exceeding **\$3,000** are subject to **competition**. Consequently, every expenditure for which competition does not occur must have an explanation of the statutory exemption applicable, per state purchasing law (ref: TLGC 252.022). This exemption form must be signed by the department director and submitted along with the purchase order request documentation.

NOTE: Per City Procurement Policy, this exemption must be approved and a purchase order issued before the purchase may be made.

Vendor Name: _____

Description of Goods/Services: _____

Expenditure Amount: _____

Explanation/Justification: _____

Check all applicable blocks.

_____ 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;

_____ to preserve or protect the public health or safety of the municipality's residents;

_____ for unforeseen damage to public machinery, equipment, or other property;

_____ for personal, professional, or planning services;

_____ items that are available from only one source (sole). **Please choose the type of sole source below:**

- _____ 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;
- _____ 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;

_____ purchase of rare books, papers, and other library materials for a public library;

_____ personal property sold by a political subdivision of this state, state agency or entity of the federal government;

_____ personal property sold under an interlocal contract for cooperative purchasing; Insert Contract # _____

_____ 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

By signing this Exemption Form, I hereby assume responsibility and legal implications for any inaccuracies and inconsistencies in the completion and submission of this form. My signature below indicates I have reviewed, interpreted, and understand the appropriate laws, policies and legal ramifications of signing such document and confirm that the exemption noted above is true, accurate, and completed to the best of my knowledge and ability.

Requestor Name (Print): _____ Department: _____

Department Director Approval (Signature): _____

Date: _____

December 2022

CONTRACT ROUTING FORM

Contract No. _____ Project No. _____ Bid No. _____ RFP No. _____

☐ Bid ☐ New Contract ☐ Renewal ☐ Change Order ☐ Amendment ☐ Assignment ☐ Other

NAME OF CONTRACTOR:

CONTRACT DESCRIPTION:

CONTRACT VALUE:

BUDGETARY/FINANCIAL SUMMARY:

GRANT FUNDED: ☐ NO ☐ YES If YES, Grant No.

SIGNATURES RECOMMENDING APPROVAL

CONTRACT MANAGER

DATE

APPROVED and EXECUTED

FINANCE DIRECTOR

DATE

CITY ATTORNEY

DATE

DEPARTMENT DIRECTOR (may execute <\$25,000)

DATE

CITY MANAGER (may execute \$25,000-\$50,000)

DATE

MAYOR (if applicable)

DATE

CITY SECRETARY (if applicable)

DATE

Contract Manager Use Only

Insurance Certificates:

Performance Bond:

Payment Bond:

Attach Form 1295:

Terrorist Watch List:

For City Secretary Use Only

Council Date:

Item No.

Originals sent to Legal:

For Legal Use Only

Scanned into Laserfiche:

Original sent to Contract
Manager:

Change Order Form

CHANGE ORDER NO.	DATE:	Contract No.
P.O.#	PROJECT:	

OWNER: City of Nacogdoches P.O. Box 635030 Nacogdoches, Texas 75963	CONTRACTOR: Ph: Fax:
---	---------------------------------------

PURPOSE OF THIS CHANGE ORDER:

- A.
B.
C.

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1						\$0.00
2						
3						
					TOTAL	\$0.00

THE NET AFFECT OF THIS CHANGE ORDER IS % INCREASE/DECREASE.

LINE 1 (acct. number)

LINE 2 (acct. number)

LINE 3 (acct. number)

TOTAL CHANGE ORDER

0.00

ORIGINAL CONTRACT AMOUNT

CHANGE ORDER NO. 1

CHANGE ORDER NO. 2

REVISED CONTRACT AMOUNT

#DIV/0!

% CHANGE

#DIV/0!

% CHANGE

#DIV/0!

% TOTAL CHANGE

\$0.00

ORIGINAL CONTRACT TIME

Time Extension No. 1

Revised Contract Time

Days

Days

Days

0

SUBSTANTIAL COMPLETION DATE

REVISED SUBSTANTIAL COMPLETION DATE

APPROVED

A/E CONTRACTOR (if applicable)

Date

FINANCE DIRECTOR (over \$3,000)

Date

CONTRACTOR

Date

CITY MANAGER (\$25,000 and over)

Date

CITY ENGINEER (if applicable)

Date

CITY ATTORNEY (over \$50,000)

Date

CONTRACT MANAGER (\$3,000 or less)

Date

MAYOR (over \$50,000)

Date

DEPARTMENT DIRECTOR (over \$3,000)

Date

CITY SECRETARY

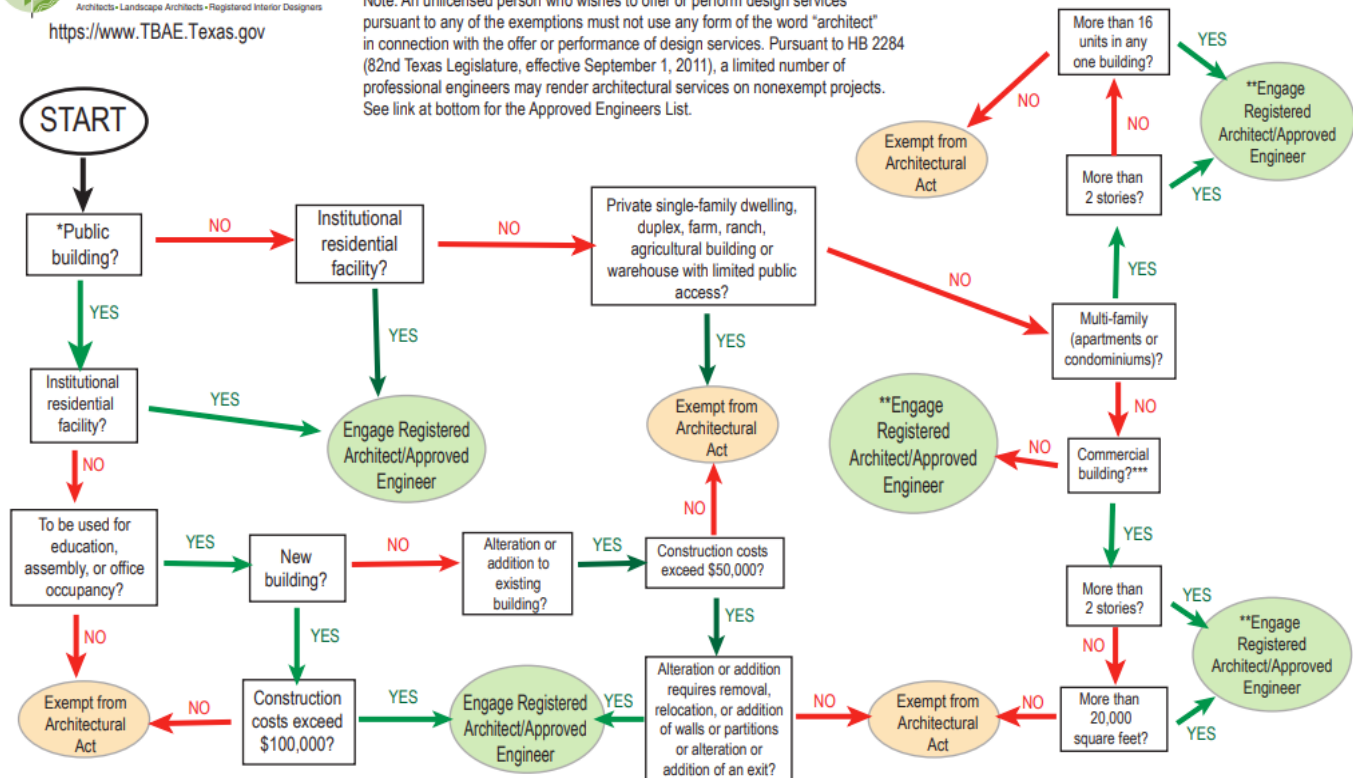
Date

Texas Board of Architectural Examiners Flowchart



When to Engage an Architect or Approved Engineer for Design and Construction Observation

Note: An unlicensed person who wishes to offer or perform design services pursuant to any of the exemptions must not use any form of the word "architect" in connection with the offer or performance of design services. Pursuant to HB 2284 (82nd Texas Legislature, effective September 1, 2011), a limited number of professional engineers may render architectural services on nonexempt projects. See link at bottom for the Approved Engineers List.



* "Public Building" means any building that is owned by a State agency, a political subdivision of the State, or any other public entity in Texas.

** If a project involves only the alteration of an existing building and the alteration does not involve a substantial structural or exitway change to the building, the project is exempt from the architectural act.

*** "Commercial building" means an enclosed structure primarily used for the purchase, sale, or exchange of commodities or services.

List of Approved Engineers, pursuant to HB 2284: <https://www.tbae.texas.gov/Content/documents/Home/ApprovedEngineerList.pdf>

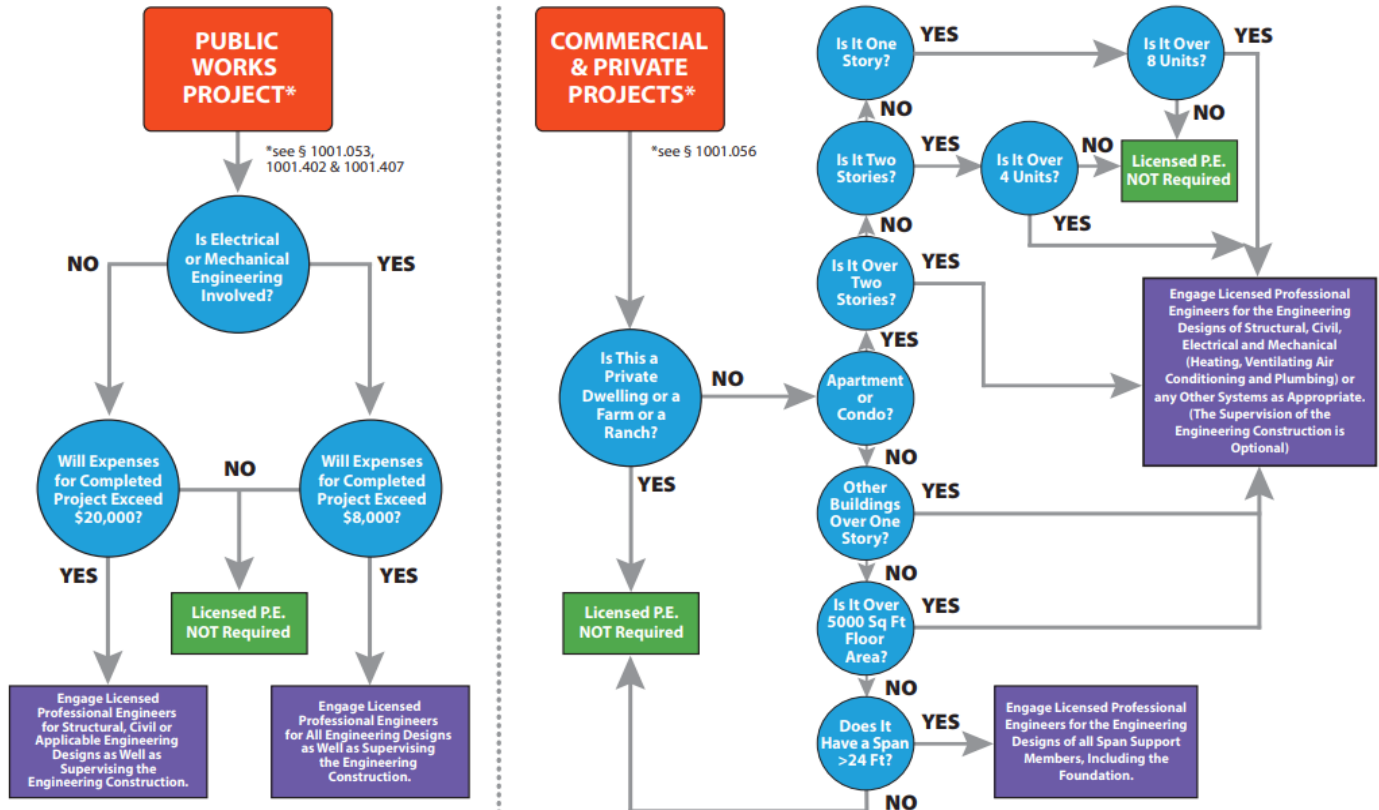
More copies of this flowchart: <https://www.tbae.texas.gov/Content/documents/LawsEnforcement/ArchRequiredFlowChart.pdf>

Verify the registration status of a TBAE registrant: <https://www.tbae.texas.gov/PublicInformation/FindDesignProfessional>

This page revised September, 2018

Texas Board of Professional Engineers Flowchart

When is a **Professional Engineer** required on a project?

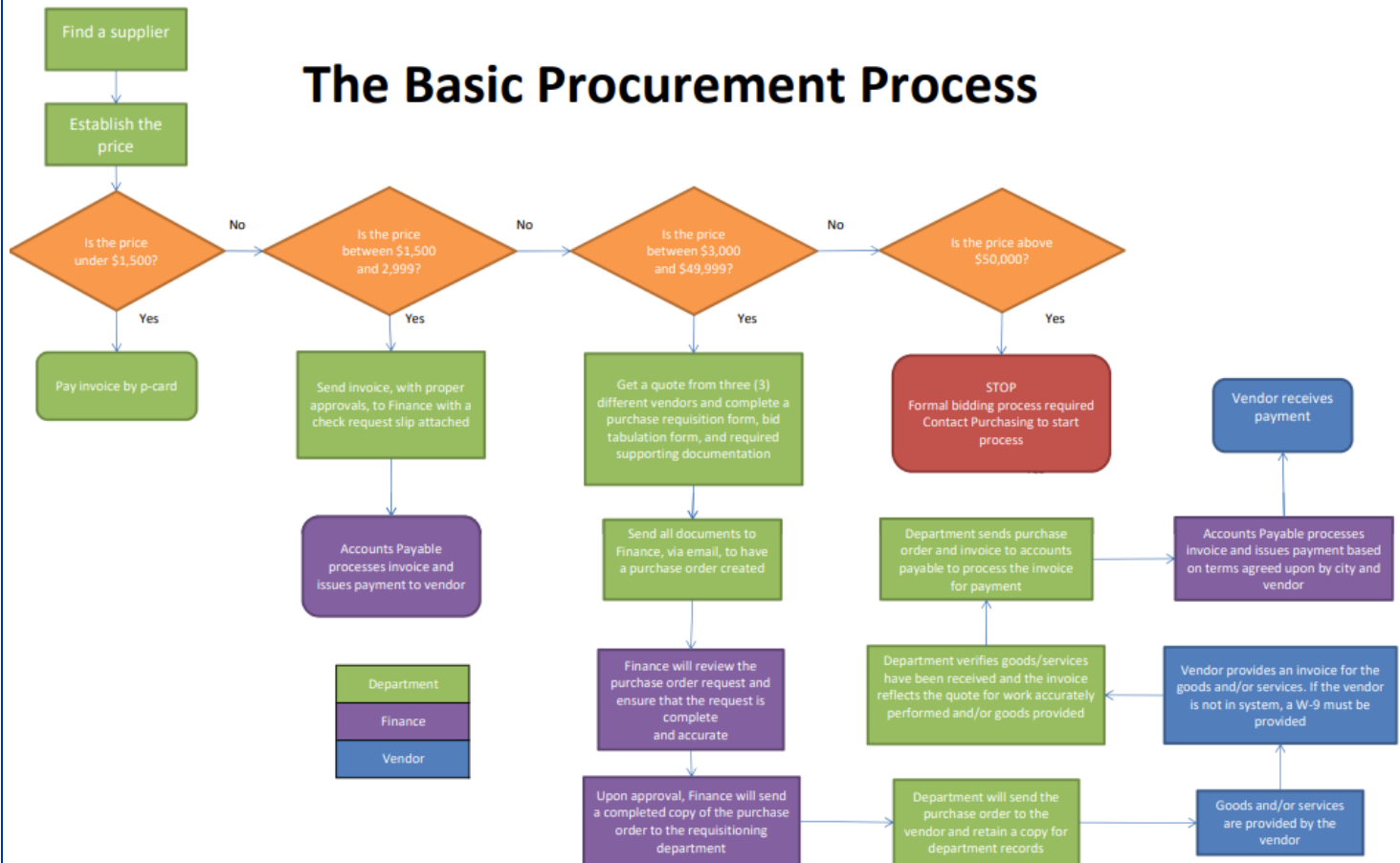


This flowchart is intended for guidance purposes only and the Texas Engineering Practice Act and Rules govern final interpretation. Local codes and ordinances may be more restrictive as long as not in conflict with the Texas Engineering Practice Act and Rules.

Visit <http://engineers.texas.gov/downloads.htm> for a copy of the Texas Engineering Practice Act and Board Rules and download this diagram.

The Basic Procurement Process Flowchart

The Basic Procurement Process



Inventory / Fixed Asset Form**CHANGE OF STATUS FORM ONLY**

*This form is submitted if there is a change in an existing fixed asset or if an item is being sold or destroyed.

(Circle one of the following)

Change Transfer Delete

Change: Only items remaining in same department but with a change in serial number, vehicle unit, model number, etc.

Transfer: Only items being transferred from one department to another. The department **receiving** the item should submit the form.

Delete: Only items being sold or destroyed and no longer exist as city asset.

Asset Description: _____

Serial/Vin Number: _____

Fixed Asset #: _____

Change Requested: _____

Dept. Name and #: _____

Date: _____

If item sold or traded give \$ amount: _____

If item is a transfer request, enter the info below on equipment it is replacing.

Asset Description: _____

Serial/Vin Number: _____

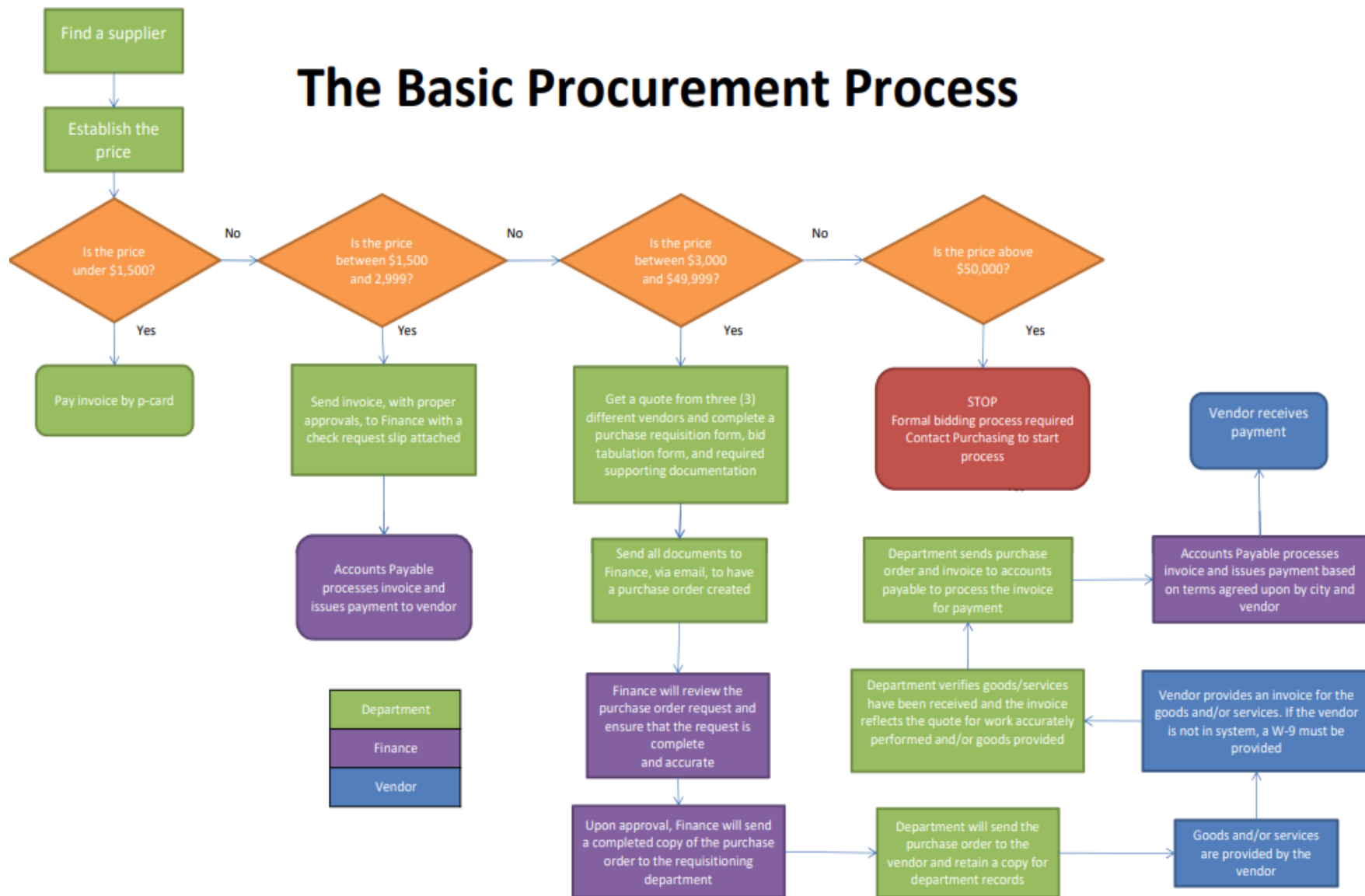
Fixed Asset #: _____

Change Requested: _____

Dept. Name and #: _____

Date: _____

The Basic Procurement Process



Procurements of \$50,000 or More

- Procurement of products or services amounting to \$50,000 or more must utilize the competitive sealed proposal procedure
 - The exception to this rule is that procurement of professional services are not subject to competitive sealed proposals, but rather subject to qualifications based proposals. These are known as Requests for Qualification (RFQ)
 - Competitive sealed proposals are issued to the public in the following forms
 - Invitation to Bid (ITB)
 - This proposal type is preferred when the goal is primarily price-sourcing
 - Request for Proposal (RFP)
 - This proposal type is preferred when the goal is primarily process sourcing
 - The only exception to this procedure being used is when a City goes the route of State Contract, Cooperative or Interlocal Agreement
 - All ITB, RFP, and RFQ procurements over \$50,000 are to be opened publicly and go before council for final approval

Procurement and Contracting with Historically Underutilized Businesses (HUBs)

- LGC Sec. 252.0215 states that a municipality making an expenditure of more than \$3,000 but less than \$50,000 shall contact at least two historically underutilized businesses.
 - If the list fails to identify one in the municipality's county, the municipality is exempt
 - There are exemptions to this rule, outlined in an internal exemption form on the next page.
 - General exemptions are listed in LGC 252.022

COMPETITION EXEMPTION FORM

In accordance with the City of Nacogdoches' Procurement Policy, all expenditures exceeding **\$3,000 are subject to competition**. Consequently, every expenditure for which competition does not occur must have an explanation of the statutory exemption applicable, per state purchasing law (ref: TLGC 252.022). This exemption form must be signed by the department director and submitted along with the purchase order request documentation.

NOTE: Per City Procurement Policy, this exemption must be approved and a purchase order issued before the purchase may be made.

Vendor Name: _____

Description of Goods/Services: _____

Expenditure Amount: _____

Explanation/Justification: _____

Check all applicable blocks.

- _____ 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;
- _____ to preserve or protect the public health or safety of the municipality's residents;
- _____ for unforeseen damage to public machinery, equipment, or other property;
- _____ for personal, professional, or planning services;
- _____ items that are available from only one source (sole). **Please choose the type of sole source below:**
- _____ 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;
 - _____ 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;
- _____ purchase of rare books, papers, and other library materials for a public library;
- _____ personal property sold by a political subdivision of this state, state agency or entity of the federal government;
- _____ personal property sold under an interlocal contract for cooperative purchasing; Insert Contract # _____
- _____ 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

By signing this Exemption Form, I hereby assume responsibility and legal implications for any inaccuracies and inconsistencies in the completion and submission of this form. My signature below indicates I have reviewed, interpreted, and understand the appropriate laws, policies and legal ramifications of signing such document and confirm that the exemption noted above is true, accurate, and completed to the best of my knowledge and ability.

Requestor Name (Print): _____ Department: _____

Department Director Approval (Signature): _____

Date: _____

Local Preference and Local Procurement

- LGC Sec. 271.905 states that if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three (3) percent of the lowest bid price received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with:
 - (1) the lowest bidder; or
 - (2) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.
- Most notable barrier to entry for local vendors has been worker's compensation requirement
 - To protect both parties, the City requires a range of insurance coverage types as outlined in contracts and City Charter
 - Worker's compensation coverage for construction contracts is statutory (TLC 496.096)

Questions?



City Council Meeting

Date: January 17, 2023

Agenda Item: 7.E.

PRESENTER: Jan Vinson, City Secretary

ITEM/SUBJECT: Consider appointing members to the following City Boards and Commissions: Building Standards Commission, Airport Advisory Board, Industrial Development Authority, Health Code Advisory Committee, Pine Grove Cemetery Board, Main Street Advisory Committee, Zoning Board of Adjustments and Housing Authority Board.
(Mayor)

SUMMARY/BACKGROUND: Two times per year, the City Board interviews are conducted. The Interview Committee, which is made up of City Council Members, completed interviews for the above boards and will make recommendations to fill vacant/termed positions.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Community Engagement/Diverse Environment

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2504

ATTACHMENTS: