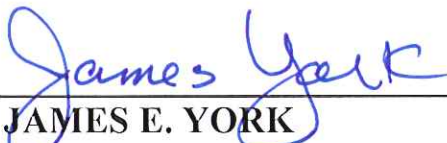


CITY OF KNOXVILLE
PROCUREMENT POLICIES & PROCEDURES

Purchasing Division
Effective Date: July 24, 2015

Approved By:  (July 24, 2015)
JAMES E. YORK
Sr. Director, Finance & Accountability Department
City of Knoxville

City of Knoxville Procurement Policies and Procedures

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1.0 Introduction

1.1 Purpose

The purpose of this document is to set forth policies, procedures, and standards for the City of Knoxville's Purchasing Division and all City departments that execute purchases. It serves as a "procurement user's guide" for City employees and officials, and all purchases shall be processed in accordance with these policies and procedures. The Finance Director may establish other guidelines as necessary. The contents of this document are not intended to conflict with any existing law. In the unlikely event that any aspect of this manual conflicts with law, the law shall take precedence.

1.2 Applicability

The procedures and policies established in this document apply to all employees and agents of the City of Knoxville involved (directly or indirectly) in purchasing goods and services of any type. Any order, agreement, or obligation that is contrary to these policies and procedures is void, and no person shall have any claim or demand whatsoever against the City.

However, these policies and procedures do not take precedence over federal regulations such as the U.S. Department of Housing and Urban Development (HUD) regulations concerning procurements. For example, in cases where the City, through the Department of Community Development, expends HUD funds to procure products, services, or real property, then HUD regulations shall prevail.

1.3 Updating the Procurement Policies and Procedures

These policies and procedures will be reviewed and updated as needed. As revisions occur, replacement pages will be published with corresponding publication dates and revision numbers. Outdated portions of the document are to be removed and replaced with these revised pages as they are released. The Purchasing Agent will issue revisions and deletions to this document. Prior to such issuance, the revisions shall be reviewed and approved by the Senior Director of the Finance and Accountability Department. The Purchasing Agent shall be responsible for disseminating and communicating the revisions. Departments desiring to update or adjust the Procurement Policies and Procedures should send a memorandum to the Purchasing Division requesting such changes with supporting rationale.

1.4 Purchasing Division Responsibilities

The Purchasing Division is responsible for the procurement of all City supplies, equipment, and services; and for the disposal of all surplus property in accordance with the City Charter; as well as property management services for real estate sales and disposals. Purchasing maintains a warehouse for all surplus equipment and also has oversight of the mail services to all City departments. **The Purchasing Division is the SOLE entity vested with the responsibility of procuring equipment, materials, services, and real property for the City.**

1.5 Mission Statement and Objectives

To accomplish the responsibilities described above, the Purchasing Division's Mission Statement and Objectives are as follows:

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1.5.1 Purchasing Division Mission Statement

To provide an effective and efficient centralized procurement process, while obtaining quality goods and services for use by all operating departments and agencies of the City of Knoxville, and to do so in a timely and economical manner that facilitates the performance of City operations.

1.5.2 Objectives

- a) Dispose of surplus property in accordance with the City code.
- b) Strike the right balance between wise purchasing and providing timely support to City departments.
- c) Increase the amount of business that the City of Knoxville does with disadvantaged businesses to reach the goal of 10%. The definitions for disadvantaged business enterprises (DBE), minority-owned businesses (MOB), and woman-owned businesses (WOB) are found in Section 10 of this document.
- d) Maintain the integrity of the procurement process in a manner that facilitates competitive bidding for all while closely adhering to the City of Knoxville's procurement code.

1.5.3 Responsibilities of Requisitioning Departments

Purchasing must be a combined effort between departmental purchasers, City agent purchasers, and the Purchasing Division. Only when each of these entities performs properly will the purchasing process maximize savings for taxpayers. All departments should adhere to the policies and procedures contained in this document. Requisitioning Department responsibilities are outlined below:

- a) Allow ample lead-time for the Purchasing Division to process the requisition, issue the Purchase Order (PO), and allow the supplier time to deliver the needed items. **Twenty-one (21) days is the minimum necessary lead-time for sealed bid items.** The designations "ASAP" and "Immediately" should not be used.
- b) To prepare a complete and accurate description of the materials to be purchased, as the requisition instructions indicate.
- c) Advise the Purchasing Division of defective merchandise or dissatisfaction with vendor performance.
- d) Promptly receive requisitioned items and process payment requests promptly. Receiving is electronic and is done in the ORBIT system in most cases.

1.5.3.1 Requisitioning Process

The City of Knoxville's Purchasing Division uses an automated procurement system to facilitate the flow of paperwork and enable City departments to meet operational requirements efficiently. The software utilized is Oracle and is referred to in the City as the "ORBIT system." Requisitioners' user manuals are available at the City's intranet site

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<http://insideknoxville.knx/default.aspx>.

In most instances, the first step in procuring products or services is submitting a requisition to the Purchasing Division. The information provided in a requisition is very important. Specifications for materials, supplies, equipment, and services shall be worded or designed to promote open and competitive bidding. The Purchasing Division may return requisitions to the requisitioning department when the data is not accurate or complete.

To submit a requisition, the department should use the iProcurement module in ORBIT. The requisition is prepared, sent to the departmental authorizer(s) for approval, then sent to the Purchasing Division. The Purchasing Agent reviews the requisition and (if completed properly) assigns it to a buyer for action.

Some common requisitioning mistakes to avoid are:

- Insufficient description or too much abbreviation
- No word description - just part or model numbers
- Incorrect unit of measure or incorrect quantity
- Restrictive or incorrect specifications

2.0 Definitions

- a) Addendum: An addition or supplement to a solicitation document issued prior to the opening date. This written instrument issued by the Purchasing Division modifies or clarifies the solicitation prior to the due date. "Addenda" is the plural form of the word.
- b) Approved equal: Alike; uniform; the same with respect to efficiency, worth, value, amount or quality.
- c) Agent: A person or business authorized to act on the City of Knoxville's behalf or a person who acts in an official capacity for the City of Knoxville.
- d) Best Interests of the City: Term used in granting a purchasing official the authority to use discretion in taking whatever action is most advantageous to the government. The term is used when it is difficult to anticipate unusual circumstances that may arise, substituting for specific directions that would, under normal circumstances, be delineated by law or regulation.
- e) Best Value: Means more than low cost. It includes initial cost, all continuing operating costs, service, quality, and other factors related to the acquisition such as delivery time, qualifications and reputation of a vendor, and so forth.
- f) Bid Bond: An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.
- g) Bid Deposit: A written agreement or check in or by which third party guarantees that a bidder will accept a contract as bid, if it is awarded.

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- h) Blanket Purchase Order: An agreement in which a contractor or supplier agrees to provide goods or services to a purchaser on a demand basis; the agreement generally establishes prices, terms, conditions, and the period covered, although no quantities are specified; shipments are to be made when and as required by the City. Also called blanket agreement, blanket purchase, and standing order.
- i) Buyer: An assistant to the Purchasing Agent. The buyer is responsible for negotiating with vendors and obtaining quotes and information from which bids are solicited.
- j) Capital Items: Equipment with an expected life span of one (1) year or more and a value (usually) in excess of \$5,000.
- k) Construction: The building, alteration, demolition, or repair (including, but not limited to, dredging, excavating and painting) of buildings, structures, highways, and other improvements/additions to real property.
- l) Contract: An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property, or any other item.
- m) Contract Modification: The alteration of a provision within an existing contract.
- n) Debarment: The disqualification of a person or business to receive the award of a contract or purchase order by the City.
- o) Design-Build: A project under which the City enters into a contract with a seller, firm, or consortium of firms to design and build a public project/system, or an operable segment of such project/system, that conforms to specific performance criteria; and (2) may include an option to finance, or operate for a period of time, the project/system or segment or any combination of designing, building, operating, or maintaining such project/system or segment. A design build project also means a construction project in which the City enters into a contract with a seller, firm, or consortium of firms both to design and construct a project or facility that is the subject of the project
- p) Disadvantaged Business Enterprise (DBE): A business that is owned or controlled by socially and economically disadvantaged individuals. This includes minority-owned businesses, woman-owned businesses, small businesses, and service disabled veteran-owned businesses.
- q) Evaluation of Bid: Process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, and other characteristics of the bid that determine the eventual selection of a winning bid.
- r) Evaluated Bid Price: Dollar amount of a bid after bid adjustments pursuant to a precise mathematical formula set forth in the ITB, which measures the effective price to the City. Such formula shall take into account factors that contribute to the economy and effectiveness in the operation of a procured item, such as reliability, maintainability, useful life, and residual value.

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- s) Immediate Family: Defined as spouse, children (including natural, step, and adoptive), parents (including natural, step and adoptive), siblings, grandparents, and grandchildren, and any other individual residing within the employees household who is a legal dependent of the employee for income tax purposes.
- t) Invitation to Bid (ITB): Formal request to prospective vendors soliciting price quotations or bids; contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.
- u) Performance Bond: An irrevocable line of credit that provides the City the right to draw on the line, is valid for the duration of the contract, and does not have any other qualifications. The line of credit must be with a bank that is federally chartered and FDIC insured. The purpose of the bond is to protect the City against a cash loss that might result if the vendor does not deliver as promised.
- v) Pre-bid Conference: A meeting held with potential vendors, after an ITB, RFP, RFQ or Letters of Interest is posted but before the submission deadline, in order to promote uniform interpretation of work statements and specifications by all prospective contractors.
- w) Procurement: Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. Also includes all functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including description of requirements, selection and solicitation of sources, preparation and award of contract, contract administration, and all phases of warehousing and disposal.
- x) Procurement Advisory Board: The Board consists of the Purchasing Agent and five other individuals who rotate through the Board every three years – an attorney, a senior administrator (the Comptroller or his/her designee) from the Finance Department, a Director, the Title VI Officer, and an employee at large. The Board is responsible for ruling on protest appeals, vendor debarments, and disagreements between the Purchasing Division and the departments regarding sole source procurements. Additionally, this Board is the final authority to settle disputes concerning award recommendations for bids, proposals, or qualifications and sole source procurement justifications. When evaluating a protest appeal, the Purchasing Agent becomes a non-voting member.
- y) Protest: Complaint about a governmental administrative action or decision brought by a vendor with the intention of achieving a remedy. A protest is a controversy that may occur during solicitation and through award of a contract. It often takes the form of a written objection to an ITB, RFP, or RFQ solicitation or to a proposed award.
- z) Purchase Order (PO): Legal document authorizing a purchase from a vendor. A PO should contain statements about the quantity, description, and price of the goods or services ordered; terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

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- aa) Request for Proposal (RFP): All documents used to solicit competitive proposals. A bid solicitation method used for requirements exceeding authorized limits when it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirements, or other factors will be considered in the selection of the contractor in addition to price, or only one source is being solicited.

- bb) Sole Source Procurement: An award for a commodity, which can only be purchased from one supplier, often because of its technological, specialized, or unique character.

- cc) Professional Services: The services of individuals, teams, or organizations which are licensed and certified (as required) in their particular field of expertise and adhere to an industry accepted set of technical or ethical standards. Examples include, but are not limited to, accountants, appraisers, archaeologists, attorneys, business consultants, architects, engineers, law firms, physicians, researchers, real estate brokers, and so forth.

3.0 General Procurement Information

Sections 4.0 and 5.0 of this document detail the mechanisms by which the Purchasing Division procures products and services. The following chart depicts how the decision is made whether to enter into competitive bidding or whether other procurement mechanisms will be employed, and is provided below for guidance.

All purchases made by the City of Knoxville are governed by both State and local laws. The manner in which those purchases are made is governed in large part by the cost of the purchase. The following thresholds indicate the lawful manner of purchase. (Note: P-card purchases are governed by monthly credit limits and single purchase limits, so they are not governed by these thresholds.) When planning a purchase for the City, employees must bear the following thresholds in mind:

\$0 →\$4,999	\$5,000→\$24,999	\$25,000+
Departmental Discretion	Three Quotes Required	Sealed Bid/RFP Required

<p>\$4,999 and under</p> <p>Steps in the Process:</p> <ol style="list-style-type: none"> 1. Department calls the vendor and places order. NOTE: Exercise due diligence in researching the price of items to ensure the price is fair and reasonable before placing the order. 2. Department submits Quick PO Payment Request to Purchasing for approval 3. Purchasing okays QPO Payment Request and forwards it to A/P for payment <p>OR</p> <ol style="list-style-type: none"> 1. Requisition issued by Department 2. Purchase Order issued by Purchasing 	<p style="text-align: center;">Departmental Choice: Requisition/PO or Quick Pos</p>
<p>\$5,000 to \$24,999</p> <p>Steps in the Process:</p> <ol style="list-style-type: none"> 1. Requisition issued by Department 2. Purchasing gathers three written quotes 3. Purchase Order issued by Purchasing 	<p style="text-align: center;">Three Quotes Required</p>

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\$25,000 and over

Competitive Sealed Bid Required

Steps in the Process:

1. **Requisition** issued by Department
2. Purchasing responds with an ITB, RFP, or RFQ and receives **Sealed Bids/Proposals**
3. Goods – results in a **Purchase Order**
Services – results in a PO or a contract with a **Purchase Order** attached
4. Invoice sent by Department to A/P with a **Purchase Order Payment Request**

Direct Payments

Direct Payments should only be used to pay for things for which quotes cannot be acquired or where competitive pricing cannot be achieved, such as utility bills, dues and subscriptions, or legal notices. (For appropriate use and further information, requisitioners are referred to the *ORBIT Requisitioners' Manual*, p. 54.)

4.0 Competitive Bidding and Specifications

4.1 General

Whenever possible, all specifications for materials, supplies, equipment, and services shall be designed to promote open and competitive bidding. The Purchasing Agent shall ensure all competitive bidding is fair and open.

An **Invitation to Bid** (ITB) typically requests bids for a good or service for which a set of specifications can be clearly defined. This may be a one-time purchase, a pricing agreement for ongoing purchases, or an ongoing service of a repetitive nature. The vendor response is a sealed bid when the price is \$25,000 or above. The lowest bid meeting the stated specifications normally results in a purchase order, and possibly a contract.

A **Request for Proposal** (RFP) is a document soliciting sealed proposals wherein organizations or teams describe the product(s), service(s), or combination thereof which they will provide to the City, as well as the price they will charge based on specifications in the document. The RFP is used when factors other than price and technical specifications are to be considered in selecting the winning vendor. The vendor response is a proposal. The RFP normally results in the award of a contract to the most responsive firm/team that will provide the best value to the City.

Goods, materials, and supplies (called “goods”) should in most cases be awarded to the lowest responsive and responsible bidder. “Responsive” means that the bid meets the specifications and criteria set forth. “Responsible” means that the bidder is capable of performing or is not otherwise disqualified. In the event a bidder is not responsive and/or not responsible, the bid is to be disqualified.

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Goods and certain services, or a combination of goods and services, may be procured as a “good” if the end product is more important than the service that goes toward its production or when the vendor has little discretion in determining its actual content or form. Examples include, but are not limited to, pest control, security services, moving and hauling, charter services, printing, and maintenance services.

ITB or RFP documentation is available on the City of Knoxville website www.knoxvilletn.gov/purchasing, or at the Purchasing Division; City/County Building, Suite 667; 400 Main Street; Knoxville, TN 37902. In cases where large documents or engineering drawings are involved, a charge for copying, compiling, and shipping may be made. Such charges will be defined on a case-by-case basis, payable in advance, and will be based on current market prices in the Knoxville area for such services.

Most Invitations to Bid, Requests for Proposals, and Request for Qualifications valued over \$25,000 are posted on the Purchasing Division's website at: <http://www.knoxvilletn.gov/purchasing>. The only exception is for professional services, which may or may not be posted. Suppliers are invited to visit this location routinely to see if any of the posted documents are projects for which they would be interested in submitting a bid or proposal.

A vendor’s general or standing request for notice for all ITBs/RFPs or all of a given type shall not suffice as a request for a specific ITB/RFP and shall create no obligation for the City.

Mischaracterization of an item to be procured as a good or service shall not constitute an error in procurement if the requirements of this policy are met, but it may be grounds for the City to terminate the procurement process.

ITBs and RFPs may result in contracts and may require the approval of the City Council. Guidelines for those requirements for various types of ITBs, RFPs, and RFQs are given in the ITB/RFP/RFQ Contract matrix (see Appendix 2-APP).

All purchases shall be based upon the principle of competitive bidding except as noted in the section titled “Exceptions to Competitive Bidding.”

4.2 Invitation to Bid (ITB)

Competitive sealed bids are used for all purchases expected to exceed \$25,000. The purchase is initiated with a request from a department. The department should allow three to four weeks for the Purchasing Division to process the ITB and to allow businesses to fully and openly compete.

The Purchasing Division posts the ITB on the procurement website as the primary means of public notification. Additionally, to promote maximum competition when publishing an ITB, RFP, or RFQ, the Purchasing Division uses financial software to send automated emails to those vendors who are registered with the City as providing the solicited goods/services. The Purchasing Division may also post an advertisement in the local paper and/or may send notice to prospective bidders as secondary means of notification. However, the only legal means of public notification is the City of Knoxville's procurement website, located at

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www.knoxvilletn.gov/purchasing, and it is the sole responsibility of all potential bidders to view the City's website to determine whether or not ITBs have been published for which they are interested in bidding.

The Purchasing Division is the only organization within the City authorized to respond to inquiries from potential bidders once the ITB has been released. Departments that receive such questions shall refer the inquiring party to the Purchasing Division. **The only method by which the Purchasing Division shall accept questions, requests for clarification, or any form of inquiry from potential bidders is in writing.** In most cases, questions will be received until five (5) working days prior to the submission deadline date stated in the ITB.

Once questions are received, the Purchasing Division shall work with the requisitioning department to prepare the appropriate response from the City and shall post the response(s) in the form of an addendum to the ITB; this will be published on the Purchasing Division's website (www.knoxvilletn.gov/purchasing) for review by all potential bidders. Additionally, the Purchasing Division shall endeavor to contact the inquiring party to advise it that the answer to its question(s) is now posted on the website. However, it is ultimately the sole responsibility of all potential bidders to view the City's website to determine whether or not addenda have been published pertaining to the ITB in which they are interested.

Invitations to Bid (ITBs) shall specify the following:

- Time and place bids will be opened.
- Amount or number of articles or services required.
- Based on the complexity or the scope of work, the Purchasing Division or requisitioning department may require a pre-bid conference.
- Amount, if any, of a bid bond or bid deposit to accompany the bid/proposal. Note that bid bonds are not normally required for projects estimated to cost less than \$100,000
- Amount, if any, of a performance bond required of the successful bidder to be posted at contract signing. The amount of a performance bond is 100% of the total cost of the contract. Performance bonds are required for construction contracts valued at \$25,000 or more. The City may require performance bonds for other service-based contracts, but such bonds shall not be excessive and shall not be required with the primary intent being to limit competition.
- Insurance requirements as provided by the Risk Management Division.
- General declaration of the contract terms and conditions that shall be required.
- Whether other governmental organizations may purchase from the contract.
- Period of time (normally 60 days) during which each bidder must hold its bid open.
- As a general rule, the ITB should be issued **at least** fourteen (14) calendar days before the date that the bids are scheduled to open. Additional time should be allowed when fourteen (14) calendar days are not sufficient for vendors to adequately prepare a bid. The Purchasing Agent shall make the final decision concerning the time required.
- Non-Collusion Affidavit, if applicable
- Form I or II from Equal Business Opportunity Program (EBOP), if applicable
- Specifications based on brand names and product numbers: References to brand names, trade names, model numbers or other descriptions peculiar to specific brand products are normally made to establish a required level of quality and functional

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capability. They are not normally intended to exclude other products of equal value. Comparable products of other manufacturers will usually be considered if proof of comparability and equal value is contained in the bid. However, the City reserves the right to seek specific brand and models which serve its best interest. The Purchasing Agent shall make this determination.

- ITBs dealing with federally-funded procurements for Knoxville Area Transit (KAT) must contain appropriate Federal Transportation Administration (FTA) clauses and protest procedures. Proposers/bidders also must meet prequalification criteria, and the City must acquire and record all appropriate certifications (see Appendix 10-APP.)

It is the vendor's responsibility to notify the Purchasing Agent prior to bid opening if it appears that defined specifications are not fair and open.

It is the vendor/supplier's responsibility to furnish with the bid such specifications, catalog pages, brochures, or other data to provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide this data may be considered justification for rejection of a bid. Additionally, there are some cases when the City will not accept products of equal value. This will be stated in the Invitation to Bid.

Bids must be received at the specified location on or before the date and hour designated for the bid opening. All bids received will be date and time stamped by the Purchasing Division to show compliance with the designated opening date and time. Late bids will not be considered. Bids that arrive late due to the fault of U. S. Postal Service, United Postal Service, DHL, FEDEX, any delivery/courier service, or any other carrier of any sort are still considered late and shall not be accepted by the City. Such bids shall remain unopened and will be returned to the submitting entity upon request. The clock on the wall above the bid box in the City's Purchasing Division is the only authorized timepiece pertaining to the time for the opening of bids, proposals, or statements of qualifications.

All bids received on time shall be publicly opened and examined by the Purchasing Division at the time and place specified in the ITB. The names of the bidders and the bid amounts are read aloud after verifying that all requested documentation has been submitted.

All bids, with the name of the bidder, shall be recorded, become a matter of public record, and are open to public inspection after bid opening. The Purchasing Agent has the authority to waive technicalities, irregularities, and/or abnormalities concerning bid submissions. Additionally, the Purchasing Agent may follow up with individual organizations after the bid opening to obtain bid documents or to obtain clarifications regarding bid pricing, product specifications, or other information pertinent to the bid when it is in the best interest of the City.

Each bid must state the full name and business address of the bidder. If the vendor is a corporation, the name shall be stated as it appears in the corporate charter. The vendor's authorized agent must sign each bid in ink. Unsigned bids may be rejected. The person signing the bid must show his/her title and, if requested by the City, must furnish satisfactory proof of his/her authority to bind his/her company in contract. Bids must be typewritten or in ink; otherwise they may not be considered. Faxed or emailed bids are not acceptable.

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When more than one item is specified in the ITB, the City has the right to determine the low bid vendor(s) either on the basis of each individual item, a group of items, or the total of all items, with the intention of achieving the best value for the City.

All material, supplies, and equipment offered and furnished must be new unless the ITB specifically permits used, remanufactured, or reconditioned items. ITBs that permit used, remanufactured, or reconditioned items shall require a warranty. The Purchasing Agent has the authority to waive this requirement on a case-by-case basis, when it is in the best interest of the City.

The ITB can be re-issued if it is determined that specifications were defined so as to limit competition. If no bids are received, it can be re-issued if there is good reason to believe that some bids may be received as a result. If not, the Purchasing Agent can authorize the buyer to begin a search for unsealed quotes.

After opening and evaluating the bids received, the Purchasing Division will normally award the purchase to a specific vendor via a Purchase Order. A Purchase Order is legal document authorizing a purchase from a vendor. A PO should contain statements about the quantity, description, and price of the goods or services ordered; terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

The Purchase Order is computer generated and addressed to the selected vendor. The issue date, point of delivery, description, quantity, unit price, and a total price of the equipment, service, or material is contained within the PO. The acceptance of a PO by the vendor is subject to the standard terms and conditions of the City. The terms and conditions are publicly displayed in the ITB or RFP and must be complied with in order to successfully complete the PO.

Any proposed change to any PO must be submitted to the Purchasing Division. A change order will not be done until such request has been submitted. The vendor should place the PO number on all invoices submitted for payment.

Improperly identified bids may be opened, solely for identification, and only by a member of the Purchasing Division. If a sealed bid is opened accidentally, the person who opens it should immediately close the envelope and reseal it to the extent possible, sign the envelope, and deliver it to the Purchasing Division. The Purchasing Agent or designee should then immediately write on the envelope an explanation of the circumstances of the opening, the date and time opened, and affix his/her signature. Bids opened by mistake or for identification purposes must be resealed in the envelope, and no information contained therein can be disclosed prior to the public bid opening.

4.2.1 Bid Evaluations

There are two (2) steps in bid evaluations:

- a) The Purchasing Division determines whether or not a bid is responsive. Responsive bids are bids that conform to the specifications that were published in the ITB. If a bid fails to meet these specifications, it is considered non-responsive and may be discarded in its entirety. Alternative bids will not be considered unless called for in

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the ITB. Responsible bids are bids which are submitted by entities who are clearly capable of providing the products or services described in the ITB.

- b) The Purchasing Division determines the lowest bid. Only objective and measurable criteria are used to evaluate the bid price. Examples include, but are not limited to, base cost of the item or service, transportation costs, warranties, and so forth. Discounts are not normally considered until the winning bid is selected.

When the successful bidder's price exceeds the amount budgeted for that particular product or service by the requisitioning department, the Purchasing Division may contact the bidder to work with the bidder to lower the price. However, when the successful bid is within budget, then discussions with one or more of the bidders, after the bids have been submitted, are expected to be unnecessary as award of the contract will be made based on price and price related factors alone.

4.2.2 Bid Cancellations

Occasionally it is necessary to cancel certain bids. Although the issuance of an ITB does not compel the City to award a contract, an ITB should only be cancelled when there are clear and compelling reasons to believe that the cancellation is in the City's best interest. The Purchasing Agent is the person who shall determine whether or not to cancel an ITB. Cancellation must be executed in a non-biased manner and the following guidelines apply.

4.2.2.1 Prior to Opening

Each Invitation for Bid will state that the invitation may be cancelled if deemed necessary by the Purchasing Division.

The invitation may be cancelled for the following reasons:

- The City no longer requires the supplies or services.
- The City can no longer reasonably fund the procurement.
- Proposed amendments to the ITB significantly alter the nature of the bid, and it is best to issue a new ITB.

If cancelled prior to the bid opening date, all bids will remain sealed and become part of the permanent file. Notice of the bid cancellation shall be posted on the Purchasing Division's website at www.knoxvilletn.gov/purchasing.

4.2.2.2 After Opening

The invitation may be cancelled for the following reasons:

- The supplies or services are no longer necessary.
- Ambiguous or otherwise inadequate specifications were used in the ITB.
- The invitation did not provide for consideration of all factors of significance to the City.
- Prices exceed available budgeted funds, and it would not be appropriate to adjust quantities.
- All acceptable bids contain unreasonable prices.

If the bid is cancelled, a notice of Bid Cancellation shall be posted on the City's procurement website at www.knoxvilletn.gov/purchasing.

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4.3 Construction Procurement

Construction contracting requires special steps and skills in the purchasing process. Careful preparation of the ITB can result in significant long-term savings. All construction-related projects estimated to equal or exceed \$50,000 in value require a stamped set of drawings and specifications from a properly licensed architect, landscape architect, or engineer.

Construction projects estimated to cost less than \$50,000 do not require said stamped drawings and specifications. Among the topics that a construction-related ITB should cover are:

- a) Instructions to bidders consisting of: definitions; bidding procedures; examination of bids; substitution policy; qualification of bidders; and rejection of bids
- b) General Contract Conditions consisting of: contract documents, architect; owner; contractor; subcontractors; miscellaneous provisions; time; payments and completion; protection of persons and property; insurance; changes in work; correction of work; and termination of the contract
- c) Other sub-topics such as: City-owned or furnished equipment; labor related regulations; site conditions; rules covering acceptance of work; contractor responsibilities and rights; list of specifications; method of pricing; tax exemption status of the City; and basis for award

An Evaluation Committee shall review all properly submitted bids. The Panel typically will include the buyer, the project manager, the construction manager, the architect, a senior member of the Finance Department (if the cost is expected to exceed \$250,000), and often the Law Department. Construction firm bids should include the following pertaining to their bids.

- a) Names of officers and partners
- b) Experience and equipment
- c) Current construction contracts and projected future work
- d) Trade union relationships
- e) Association memberships
- f) List of subcontractors utilized
- g) Resumes of key personnel
- h) Latest financial statements (profit & loss along with balance sheet for last two years)

If the apparent low bidder is qualified for the type of work to be performed, and all other aspects of the firm's background are satisfactory, the firm is invited to a pre-award meeting. At this meeting, key personnel from the contracting party and the key personnel from the City will review all aspects of the scope of work, terms, and conditions to assure mutual understanding.

4.3.1 Design-Build Projects. While the City normally uses the design-bid-build process for construction projects, it may also use the "Design-Build" process as defined in section 2.0 (O) of this document. The Design-Build process is one in which the winning submitter is responsible for both the project's design and construction. When using this process, the procurement method is determined by

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value as explained in FTA C 4220.1F. In other words, if the construction costs of the project outweigh the design services costs, then the City would use competitive negotiations or sealed bids for the entire procurement. However, in the rare circumstance where the design (e.g., A&E services, surveying, mapping, program management, etc.) costs outweigh construction costs, then the City would use a qualification-based procurement procedure.

4.3.2. Construction Related Cost Reimbursement Contracts. Section 2-872 of the City's Code of Ordinances governs the use of "cost reimbursement contracts." When following that section of the Code of Ordinances to determine whether or not it is likely that no other type of contract shall be less costly to the City than a cost reimbursement contract, the Purchasing Division ensures that the construction to be done in said cost reimbursement contract must be at least 10% below the engineer or architects estimate of said project. In other words, if a cost reimbursement contract will not be at least 10% below the engineer or architect's estimate of the contract, then a cost reimbursement contract will not be used.

4.3.2 Bonds in Construction Procurement

In the solicitation of construction services, a bid bond or other form of bid guarantee satisfactory to the City is required and such bond shall be provided by a surety company authorized to conduct business in Tennessee. Failure to submit a bid bond when the ITB requires a bid bond may result in rejection of the bid.

4.3.3 Contract Performance and Payment Bonds

Performance and payment bonds, executed by a surety company authorized to do business in Tennessee in an amount equal to one hundred percent (100%) of the contract price, are required for all construction contracts that are equal to or greater than \$25,000 in value. The successful bidder is required to submit such bonds to the City, when required, before a construction contract is signed. Both bonds will be increased if the price of the project increases through change orders or amendments.

The major differences between construction contracting and other purchases are:

- A required pre-bid meeting, usually at the site;
- The requirement that each bid contains a bid bond equaling five percent (5%) of the contract price when the contract price equals \$100,000 or more;
- The requirement for a performance bond from the successful bidder for an amount equal to 100% of the contract; and
- The requirement for a payment bond from the successful bidder for an amount equal to 100% of the contract price/cost.

4.4 Requests for Proposal (RFP)

The procedure for utilizing a RFP is as follows:

4.4.1 Initiating RFP

A department determines the need for a product or service and notes that other factors besides cost and specifications must be considered to select a vendor/supplier (i.e., qualifications and experience, plan to accomplish the scope of work, financial soundness of the firm, and similar considerations). Pursuant to TCA § 12-3-1207 (2013), an RFP is only

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to be used when qualifications, experience, or competence are more important than price in making the purchase; and a) there is more than one solution to a purchasing issue and competitive proposals will assist in choosing the best solution; b) there is no readily identifiable solution to a purchasing issue and proposals will assist in choosing the best solution; or c) when there is no readily identifiable solution to a purchasing issue and proposals will assist in identifying one or more solutions. Additionally, cost shall constitute no more than a maximum of 49 percentage points (on a 100 point scale) of the evaluation criteria. Requesting Departments should allow six to seven weeks for processing of a RFP to permit full and open competition. Before preparing any RFP, the requesting department must confirm that it has the funds available to execute any ensuing contract based on a reasonably accurate projection of what the contract cost will be. To formally initiate the RFP, the requesting department shall submit a requisition in ORBIT so that Purchasing can ensure the requisition passes “funds check” and that the RFP is properly assigned to a buyer.

4.4.2 Preparing RFP

The department prepares a draft RFP stating the products/services it wants to procure, a timeline, the scope of work, selection criteria, and other items as described in the City’s RFP template (available on the City’s intranet website <http://insideknoxville.knx> and also in the Purchasing Division). The department also provides Purchasing with suggested names of persons who will evaluate and rank the submitted proposals; the department also provides a draft newspaper advertisement to the Purchasing Division, if applicable. The Purchasing Division reviews (and revises as needed) the RFP to ensure adherence to all procurement codes, applicable laws, and City policies/procedures. The Purchasing Agent approves the list of proposed Evaluation Committee members (normally comprised of five people), or requests that new name(s) be submitted. The intent is to promote open and fair competition.

RFPs dealing with federally-funded procurements for Knoxville Area Transit (KAT) must contain appropriate Federal Transportation Administration (FTA) clauses and protest procedures. Proposers/bidders/qualifiers also must meet prequalification criteria, and the City must acquire and record all appropriate certifications (see Appendix 10-APP).

4.4.3 Vendor Notification

The Purchasing Division posts the RFP on the Purchasing Division’s website and may notify prospective vendors, including vendors suggested by the submitting department. Purchasing may also post an advertisement for the RFP in the local newspaper for public notification.

4.4.4 Addenda

The Purchasing Division answers questions from proposers in the form of addenda to the RFP by posting them on the City’s website. NOTE: The Purchasing Division is the only organization authorized to answer questions pertaining to the RFP. A deadline for submitting questions is published in the RFP and Purchasing will not answer questions pertaining to the RFP after this date and time. This is to ensure all potential proposers have adequate notification of addenda prior to opening of the proposals.

4.4.5 Pre-Proposal Conference

For some procurements, the submitting department may hold a pre-proposal conference to ensure the scope of work is clear and to answer questions by potential proposers. A representative from the Purchasing Division will chair the conference and ensure that the

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salient points of the meeting are posted as an addendum to the RFP in order that all vendors have access to the same information. The pre-proposal conference may be mandatory. Failure to attend a mandatory pre-proposal meeting is grounds for rejecting a proposal. If such a meeting is mandatory, it will be stated clearly in the RFP or an addendum.

4.4.6 Public Opening

At the date and time specified in the RFP, all proposals are opened publicly in the Purchasing Division and the names of the proposing organizations are stated for the record. At this time, names and addresses of the proposing organizations are recorded on a "proposal tabulation sheet." The Purchasing Agent has the authority to waive technicalities, irregularities, and/or abnormalities concerning proposal submissions. Additionally, the Purchasing Agent may follow up with individual organizations after the proposal opening to obtain proposal documents or clarifications when it is in the best interest of the City.

Once the proposals are opened, copies of the proposals are then provided to the originating department for distribution to the Evaluation Committee. The Purchasing Division retains the original proposals that hold the proposer's actual signature, and these are kept on file in the Purchasing Division. Only the name of the entities that submitted a proposal shall be made public until such time as the Evaluation Committee makes a recommendation.

Note that late proposals will not be considered. Proposals that arrive late due to the fault of U. S. Postal Service, United Postal Service, DHL, FEDEX, any delivery/courier service, or any other carrier of any sort are still considered late and shall not be accepted by the City. Such proposals shall remain unopened and will be returned to the submitting entity upon request.

4.4.7 Evaluation Committee

The Evaluation Committee evaluates the proposals to determine the entity that will do the best job at the best value for the City. Evaluations are based on a 100-point scale that rank orders the selection criteria in relative importance. A typical break down for the point rating system is as follows:

Price	40 points/percent
Experience/Qualifications of the proposing entity	20 points
Feasibility of Plan	20 points
Experience/Qualifications of the firm's project manager	10 points
Delivery Schedule	<u>10 points</u>
Total	100 points

NOTE: The points allocated to price/cost cannot exceed 49 points per state law.

The point rating system above is only an example. Actual point allocations are to be adjusted to fit the requirements of the City and the particular RFP to which they relate.

Procurements estimated to cost \$250,000 or above MUST have a senior member of the Finance Department (the Purchasing Agent, the Comptroller, or the Deputy Finance Director) or designee on the Evaluation Committee. The director (or his/her representative) of the requisitioning department chairs the committee, and each committee member has an equal vote. The other members of the committee should have particular knowledge/expertise

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pertaining to the proposals under evaluation and should include persons with project responsibility. A member of the Purchasing Division will also serve on the committee when this adds value to the procurement process. Any logical method of evaluating the proposals may be used. However, a common technique is to read the proposals individually, conduct a site survey (if applicable), interview candidates that meet the specifications in order to clarify issues and answer questions, then reconvene the committee for a group discussion before preparing the final scores. The final scores may be done either individually or as a group depending on the guidance of the committee chairperson. No member of the committee may divulge any information about the evaluation until the recommended selection is made and the submitting department director concurs with the panel's recommendation. The Evaluation Committee must score the proposals based on the selection criteria stated in the RFP and rank order the proposals based on these scores.

A member of the Engineering Department shall serve on all Evaluation Committees for RFPs and RFQs pertaining to architectural/engineering services and engineering services in general. The chair of the Evaluation Committee is responsible for notifying the Engineering Department and ensuring its participation on the Committee.

Before evaluating any proposals each member of the Evaluation Committee shall sign a Disclosure Statement (see Appendix 8-APP) affirming that neither they nor their immediate family members have any affiliation (financial or otherwise) with the individuals, teams, or firms being evaluated as part of the project or initiative in order to avoid conflicts of interest. This form shall be submitted to the Purchasing Division and shall be placed in the RFP packet as an official part of the record.

4.4.8 Evaluation

After the selection recommendation is complete, the chairperson provides a written recommendation memo to the Purchasing Agent listing the evaluation scores and the respective rationale. This document is submitted by the requisitioning department to the Purchasing Division. The Purchasing Agent can approve the recommendation or return it to the Panel for re-evaluation when it is deemed to be against the best interest of the City or when the recommended selection appears to be at odds with fair and open competition. In the event of disputes between the committee and the Purchasing Agent concerning this matter, the Procurement Advisory Board shall make the final decision.

4.4.9 Vendor Notification

After approval of the recommendation, the Purchasing Division sends correspondence to the proposers, indicating the top-ranked, or short list, proposals. It also will inform the proposers that the award is contingent upon a contract resulting from negotiations with the top-ranked firm; and that, should negotiations not result in a contract, negotiations will commence with the second-ranked firm, and down the rankings as necessary, until a contract is agreed upon.

4.4.10 Amendment to Request for Proposals

In cases where, either before or after receipt of proposals, the City significantly changes, relaxes, increases, or otherwise modifies a Request for Proposals requirement, the Purchasing Division may issue a written addendum to allow all offerors an opportunity to respond to the revised solicitation.

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If the amendment is issued after the deadline for proposal submissions, the amendment must offer a new deadline for the submission of revised proposals, allowing the proposers a reasonable opportunity to respond with a revised proposal.

4.4.11 Finalizing the Terms

The Evaluation Committee then negotiates with the most responsive/responsible firm to iron out the terms of a contract. During these negotiations, the Panel may seek to lower the cost to the City, adjust the delivery time, and whatever else is needed to best serve the needs of the City. However, the Panel cannot significantly alter the requirements and terms set forth in the RFP, as this is the standard used by each entity to prepare its proposal. If the Panel is unable to come to agreeable terms with the most responsive organization, it may negotiate with the next most responsive firm.

4.4.12 Council Approval

After the terms of a contract are agreed upon, the recommendation is sent to City Council for approval if the price is \$25,000 or more. To send a contract to Council for approval, the submitting department sends the Purchasing Agent a memo requesting that a contract be prepared, an Agenda Information Sheet (AIS) that lays out the facts for Council, and the winning proposal with any other terms negotiated outside the proposal. Once all documents are received and reviewed for accuracy, the Purchasing Agent submits this documentation to the Law Department and the proposed contract is placed on the Agenda for the next City Council meeting to obtain its approval. Guidelines for contract requirements are given in the ITB/RFP/Contract Matrix (see Appendix 2-APP).

4.4.13 Contract Preparation

The Law Department prepares the contract when the information packet is received from the Purchasing Division. After Council approves the resolution, the Mayor, Finance Director, Law Director, and winning organization sign the contract. If the contract price is less than \$25,000, it does not require Council approval, a request for contract is sent to the Purchasing Division, and the Purchasing Agent coordinates the action with the Law Department.

4.4.14 Purchase Order Generation

The resulting contract is sent to the Finance Department which inputs the information into the ORBIT database and sends it to the Purchasing Agent for final approval. The Purchasing Division then generates a Purchase Order as the payment mechanism.

4.4.15 Public Record

When the contract is signed, it becomes a matter of public record, along with a list of proposers, information about the evaluation process and the names of the Evaluation Committee. Bid bonds are returned to the proposers by the Purchasing Division after the contract has been awarded.

4.5 Tie Breaker Process

4.5.1 Tied Bids

A tie bid exists when two or more bidders offer goods and/or services that meet all specifications, terms, and conditions at identical prices, including cash discount offered and any other value based factors. A tie will be broken by the following methods, in descending

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order of preference:

- a) The buyer may re-evaluate bid items individually or in groups. For example, if there are multiple items on a bid, the buyer may consider each item individually.
- b) City of Knoxville business
- c) Minority-owned business
- d) Woman-owned businesses
- e) Small Business
- f) Knox County Business
- g) Businesses whose headquarters are located in one of the 10 counties that surround Knox County
- h) Businesses whose headquarters are located within the State of Tennessee
- i) By lot or coin toss, witnessed by both the requisitioner and a representative from the Purchasing Division, and properly documented

4.5.2 Tied Proposal Evaluation Scores

In the event that a proposal evaluation process results in two or more proposals receiving evaluation scores that tie for the rank of highest score, the City shall request best and final cost proposals from only those proposers with scores that tie. The City will then evaluate the best/final proposals from the tied firms to make a selection.

4.6 Exceptions to Competitive Bidding

- Purchases under \$5,000 are not subject to competitive bidding.
- Purchasing under the authority of another governmental entity's process.
- Emergency purchases are not subject to competitive bidding.
- Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source, or when purchasing from only one source is clearly in the best interest of the City of Knoxville. The department requesting the sole source procurement must send a sole source justification memorandum to the Purchasing Agent in which it requests permission to procure products or services as a sole source. The memorandum must explain why the department believes there is sufficient rationale for procuring the items/services as a sole source utilizing one or more of the factors described in the following paragraph. The Purchasing Agent shall approve or disapprove the sole source justification memo based on the criteria below. In the event of a dispute between the director of the requesting department and the Purchasing Agent, the Procurement Advisory Board shall make the final ruling. Sole Source Procurements are only valid for a three year duration. In other words, at least every three years the Purchasing Agent must determine whether or not a sole source procurement is still valid. If the sole source procurement is not still valid, then the procurement shall be competed out via an ITB, RFP, or RFQ solicitation.

Factors to be considered in sole source purchases include:

- Whether the item is a proprietary product. A proprietary product is one that is manufactured and marketed by a person or persons having the exclusive right to manufacture and sell the product.
- Whether the vendor possesses exclusive or predominant capabilities or the items contain a patented feature providing superior utility not obtainable from similar products.

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- Whether the product or service is unique and easily established as one of a kind.
- Whether the department requirements can be modified so that competitive products or services may be used.
- Whether the product is available from only one source and not merchandised through wholesalers, jobbers, and retailers.
- Whether items must be interchangeable or compatible with in-place items.
- Whether the cost of conversion, including but not limited to, disruption, re-training, and replacement precludes bidding competitively.
- Whether the product is to be used in an instructional setting and the intent is to provide instruction on the specific product or diversity of products.
- Other justifications that are clearly in the best interests of the City of Knoxville and are approved by the Purchasing Agent.

4.7 Competitive Negotiation

A contract may be entered into by competitive negotiation only in cases when it is not practical for the City to obtain needed goods/services by the competitive bid process. This process is to attempt to solicit bids from at least three providers and begin negotiations with the lowest bidder. Complete documentation of the solicitation process and negotiations must be maintained, including the reasons for pursuing this process.

Competitive negotiation may be appropriate when one of the following is true:

- Emergency procurements are necessary and there is no time for the normal procurement process;
- No acceptable proposals were received during the RFP process;
- Rates payable for the services are regulated by law; or
- The estimated price of the request is below \$10,000.

4.8 Bid Withdrawals, Revisions, and Rejections

The information in this section also applies to RFP responses.

Before bid opening, a vendor may withdraw a bid entirely and/or submit a substitute bid. However, the vendor must clearly identify the bids (i.e., by dates) to prevent confusion. After bid opening, a vendor may withdraw a bid only where there is an obvious clerical error such as a misplaced decimal point, or when enforcement of the bid would impose unconscionable hardship due to an error resulting in a quotation substantially below the other bids received. Withdrawal is considered only upon written request with acceptable justification.

In cases of errors in the computation of prices for multiple items, the unit price governs.

If the Purchasing Division determines that a bidder provided information which he/she knew, or should have known, was materially incorrect, the bid may be rejected and the vendor may be barred from doing business with the City of Knoxville.

A bid may not be revised after opening. However, the Purchasing Division may clarify the contents of the bid when the documentation is ambiguous or contains clearly discernable errors. Additionally, after evaluation is complete and the successful bidder is selected, the City may negotiate to alter the bid in a way favorable to the City. For example, prices may

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be reduced, time requirements may be revised, and the bid may be revised to supply omitted terms, etc. In no event shall negotiations amend the bid such that the apparent successful bidder no longer offers the best bid. Bids that restrict the rights of the City are considered non-responsive, and the bid may be rejected.

All bids may be rejected when:

1. the cost exceeds the requisitioning department's budgeted funds allocated for the product or service;
2. gross errors exist in the ITB;
3. the need for the procurement no longer exists;
4. funds are unavailable;
5. all bids fail to meet specifications;
6. a determination is made that the goods/services can be more economically delivered through an agreement with another government agency; or
7. a determination is made that proceeding with the procurement is detrimental to the best interests of the City.

The reason(s) for the rejection of a bid or bids must be documented and approved by the Purchasing Agent and a letter sent to all bidders informing them of this decision. Said letter is considered to be "sent" when it is posted on the City's procurement website.

Submission of a bid shall not create rights, interests, or claims of entitlement for any bidder, including the successful bidder. Notwithstanding any action or agreement to the contrary, no such right, interest, or claim shall exist unless a purchase order or contract has been issued or a contract is fully executed.

All bids are subject to rejection by the Purchasing Agent or Finance Director when it is deemed to be in the best interest of the City of Knoxville.

4.9 Single Bid Response

Should the City receive only one response from an ITB, the sole bidder will be awarded the procurement as long as:

- The price is fair, reasonable, and consistent with current market conditions as determined by the City of Knoxville's Purchasing Division;
- There is no hint of collusion among the bidders; and
- There were no inhibiting factors that limited participation of potential vendors.

4.10 Time Sensitive Procurements

It is in the best interest of the City of Knoxville, and particularly that of the requisitioning department, to pre-plan procurements to allow sufficient lead time for purchases. If a requirement is to be bid, departments should do their best to allow a lead-time of twenty-one (21) days. For non-bid items a similar lead-time is suggested. However, occasionally departments will need a rush order, yet the order is not a true emergency. In these cases the Purchasing Division will expedite the process. The requisitioning department should write in the "Note to Buyer" section of the electronic ORBIT requisition all details related to delivery requirements in such situations. A follow-up phone call is also helpful to draw attention to the situation.

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4.11 Best Value vs. Best Price for Bids and Proposals

Under most circumstances the lowest price on a bid or quote will be awarded the purchase order. However, the Purchasing Agent may authorize the award based on the “best value” to the City, as defined above (see Section 2.0(e)). The Purchasing Agent also will consider past performance of a company when evaluating the best value for the City. Examples of factors that may reflect negatively on a company seeking to enter into a new agreement with the City include:

1. A history of insurance shortfalls, lapses, or other inadequacies;
2. A demonstrated lack of good faith in resolving prior contract disputes short of litigation;
3. Past failure to meet specifications;
4. Delivery of poor service or poor quality merchandise in the past;
5. Failure to make timely delivery of goods or services in past agreements with the City;
or
6. A history of seeking numerous (more than three) change orders or contract amendments from the City when such change orders or contract amendments have been denied in the past.

The City is under no obligation to have notified such businesses of poor past performance prior to receiving their bids, quotes, or proposals. However the Purchasing Agent must document such rationale, based on departmental input, and must include this rationale in the bid, quote, or proposal file.

The Purchasing Agent has the authority to accept or reject any and/or all bids, proposals, and quotes in order to achieve the best interests of the City of Knoxville.

4.12 Bonds

The City of Knoxville often requires bonds as part of the procurement process for the protection of the taxpayers against bad faith or default on the part of bidders and contractors. The City may use any or all of the following bonds:

4.12.1 Bid Bond

Often required on bids for services and always required on construction bids, a bid bond equates to five percent (5%) of the dollar amount of the bid. The bond may be in the form of a cashier's check. The bid bond has three key purposes:

- To ensure the bid or proposal will not be withdrawn for a period of sixty (60) days.
- To ensure the bidder/proposer will execute a written contract.
- To ensure the bidder/proposer will furnish such bonds, insurance certificates, etc., as required by the City of Knoxville in the ITB or RFP.

When an ITB or RFP requires a bid bond, but the bond is not included, the bid may not be considered. The bid bond will be returned to the successful vendor once the contract has been signed. Bid bonds are not normally required for projects estimated to cost less than \$100,000

4.12.2 Performance Bond

A performance bond is an irrevocable line of credit that provides to the City the right to draw

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on the line, is valid for the duration of the contract, and does not have any other qualifications. The line of credit must be with a bank that is federally chartered. The purpose of the bond is to protect the City against a cash loss that might result if the vendor does not deliver as promised. Such bonds help ensure that the successful bidder will properly complete and meet the standards and specifications of the contract. If the vendor fails to meet the conditions of the contract, the performance bond may be forfeited. Pursuant to the City's Procurement Code, performance bonds are set at one hundred percent (100%) of the contract price.

When a performance bond is required, the City will notify the successful bidder/proposer. The bond must be delivered to the Purchasing Division before a PO and/or contract is prepared. A reasonable amount of time will be permitted for vendors to obtain these bonds (usually ten days).

5.0 Fundamental Purchasing Information

5.1 Procurement Mechanisms

5.1.1 Quick Purchase Orders

The City's Purchasing Card remains the *preferred* method of payment when purchasing low dollar products and services. However, the Quick PO (QPO) can be used in situations where rapid delivery of a purchase demands a quicker response than the standard requisition/purchase order typically affords and where a City purchasing card cannot be used. Quick POs are for purchases of less than \$5,000. Purchases of \$5,000 and higher should be processed as a standard Purchase Order and are initiated by submitting a requisition to the Purchasing Division.

Once delivery of the purchase is accepted, the department making the purchase forwards the vendor's invoice with the Payment Form (marked "Y" Quick PO) to Accounting for processing. All Quick POs must be signed by the requisitioner and appropriate approving authority and must contain a description and/or explanation of the purchase.

The Purchasing Agent reviews the Quick PO Payment Form. If there are no questions regarding the purchase or the method of payment, the QPO is initialed as "approved" by the Purchasing Agent, then forwarded to Accounts Payable for payment.

5.1.2 Small Purchases (Micro-Purchases)

If a quoted price is below \$5,000, the purchase may be made on a Quick PO (see section above) or, if limits and approvals allow, a City Purchasing Card. The small/micro-purchase limit for most City-funded purchases is \$5,000 or below. However, when using federal dollars (i.e., HUD, DOJ, or FTA funds), then the micro-purchase limit is \$3,000. For simplicity purposes, this section discusses the small/micro-purchase limit as anything less than \$5,000 but it is understood that the limit is \$3,000 or below when using federal dollars.

However, if a purchase's estimated price is between \$5,000 (\$3,000 when using federal funds) and \$24,999, a minimum of three quotes is required. Solicited quotes may be tendered in writing (signed and dated by the vendor) or may be gathered over the telephone,

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but telephone quotes must be documented in writing, indicating the date, the vendor, and the vendor's quoted price. In both cases, the Purchasing Division retains the written documentation of quotes. Quotes may be gathered either by the Purchasing Division or by the department making the purchase. In cases where the department gathers the quotes, written documentation must be forwarded to the Purchasing Division for review and confirmation prior to issuing a PO; Purchasing will retain the written quotes for its records.

While small/micro-purchases may be made without obtaining competitive quotes, the purchaser is prohibited from splitting up the purchase to avoid competition.

If the estimated price is \$25,000 or more, a competitive sealed bid is required. Departments may not split requisitions into estimated amounts of less than \$25,000 in order to evade competitive bidding procedures.

5.1.3 Standard Purchase Orders

A requisition is submitted by a department using the ORBIT system which confirms that funds are available for the purchase. A standard Purchase Order is issued as a binding agreement after the Purchasing Division has reached agreement with the supplier regarding price and delivery. A standard Purchase Order is also issued for every contract, thereby providing the requisitioning department with a mechanism by which to pay invoices. Departments must plan for required purchases and submit requisitions in time to allow the Purchasing Division to secure competitive bids and to obtain delivery of merchandise at the time needed.

Occasionally, it will be necessary for the Purchasing Division to modify previously issued POs. When changes are made to a PO, the buyer must complete the necessary steps in order to make the required changes in the ORBIT purchasing system.

5.1.4 Blanket Purchase Orders

At times it is appropriate for the Purchasing Division to reach an agreement with a supplier for an undefined quantity of goods which are used routinely. Typically, items purchased using the Blanket Purchase Order are auto parts, office supplies, maintenance items, boots, uniforms, and similar goods. The Purchasing Division will work with the supplier to set up discounts and fixed pricing for a specific period of time. A Blanket PO is issued to the supplier and posted in the ORBIT system for **all** City departments to use when purchasing such items. In order to achieve the best price/value for the City, all City departments are required to purchase such items on the Blanket PO. Payment is initiated with a blanket release requisition in ORBIT.

5.1.5 Purchasing Cards

Purchasing cards are issued at the request of department directors and division chiefs for employees who have responsibilities that require them to make purchases on behalf of their departments.

Purchasing card (p-card) users are encouraged to direct their purchases toward small businesses whenever appropriate, with special consideration given to minority- and woman-owned businesses.

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Bank of America is the issuing bank for the City's p-cards, and some users are authorized to use the Bank's on-line database to download billing information.

Charges for purchasing cards are paid on a monthly basis, by the due date, to avoid late charges.

Purchases are exempt from state and local sales taxes. An exemption authorization card is provided to each cardholder.

Transaction reviews are conducted routinely to ensure standard procurement rules are followed and that inappropriate purchases/split purchases are not made.

Certain types of purchases are prohibited. Prohibited p-card purchases include, but are not limited to, personal care services, ATMs, entertainment providers, financial services, professional services, pawnshops, liquor stores, and all purchases from international companies. Split purchases also are prohibited. Items for which a City pricing agreement (PO or contract) is in place should not be purchased with purchasing cards. This includes routine purchases such as certain clothing/apparel, boots, janitorial supplies, etc.

For more detailed information regarding the City's purchasing card program, persons are referred to the updated *Purchasing Card Program Policies and Procedures*, located on the City's intranet website (<http://insideknoxville.knx/default.aspx>).

5.1.5.1 Standard Purchasing Cards

These cards have a Single Purchase Limit (SPL) as well as a monthly credit limit. They can be used at any store except those categorized as "restricted." Typical SPLs range from \$300 to \$500, with monthly credit limits of \$3,000 to \$5,000. The Purchasing Division may adjust limits at the request of a cardholder's department head.

Some Standard P-cards may be designated as travel cards as a payment mechanism for authorized travel; these cards are embossed with a "Travel" designation. Holders of travel cards use their cards to make flight or hotel reservations for employees in their department. Other travel expenses, such as food or incidentals, are not charged to City p-cards and instead are reimbursed to the traveler upon returning.

5.1.5.2 Uniform Cards

Unlike Standard P-cards, Uniform Cards are declining balance cards which are funded at the beginning of the fiscal year with specific monetary limits for the term of the year; the monetary limit is the total uniform allowance for that year. The allowance is depleted as purchases are made and is not renewed until the beginning of the new fiscal year. Uniform Cards are designated for the use of uniformed police officers and other approved employees. They may use their allowance at a specified list of merchants.

5.1.6 Procurements in Support of Christmas or Other Holiday Parties

The policy of the City is to limit funding for supplies, drinks, and foodstuffs for Christmas and other holiday gatherings to the amount of \$10 per employee. Such items are to be purchased with a direct payment or quick purchase order, but never on the purchasing card. No alcohol or any other items that might bring embarrassment to the City are to be purchased

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for such events. When in doubt as to whether or not a purchase is appropriate, the requisitioning department is to contact the Purchasing Division for guidance.

5.1.7 State Contracts

The State of Tennessee has contracts for many items, and local governments can purchase from these contracts if they so desire. The City is not required to purchase from a state contract. Once a sealed bid is opened, the buyer should consult the state's website to determine if the state contract provides a better value to the City than the responding vendors. If the state contract provides a better value to the City than the lowest bid received, the purchase should be made from the state contract. The PO should be issued to the vendor specified on the state contract and a notation made that the purchase is through a state contract. The vendor's invoice must be carefully examined to ensure that the City is charged at the state contract rate. The buyer also has the option of purchasing items directly from a state contract, without using the bid process.

5.1.8 Contracts with the Public Building Authority

The following policy applies to all City departments, divisions, and sections desiring to enter into an agreement/contract with the Public Building Authority (PBA) for any reason:

1. Departments desiring to enter into a contract with PBA shall submit a memorandum to the Purchasing Agent requesting approval of the contract. The memo shall be signed by the director and shall contain the project name, purpose of the project, scope of work/service to be stated in the contract, approved funding source, estimated cost of the contract, desired term (start and end dates) of the contract, and an explanation as to why the department feels the City should contract with PBA for said project rather than utilizing the standard procurement process.
2. The Purchasing Agent shall review the request packet for completeness and accuracy and send it to the PBA Contract Review Committee (PCRC) for decision. The PCRC shall consist of the Director of Operations and Efficiency, an attorney from the Law Department, the Comptroller, the Director of Public Service, and the Purchasing Agent. The committee shall meet on an "as needed" basis.
3. The PCRC shall review the packet, decide whether PBA is the appropriate provider to accomplish the City's intent, determine whether or not the request is in the City's best interest, review any other information provided by the requesting department, and render a decision based on the information at hand.
4. If approved, the request shall be provided by the Purchasing Agent to the Law Department for contract preparation and subsequent City Council approval (if needed). If the request is denied, the committee shall contact the requesting department and inform it of the decision and the rationale for the disapproval.

The intent of this policy is to ensure the City is utilizing PBA only in contractual roles that meet the core competencies of that organization and to ensure the City's best interests are met.

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Federally-funded contracts with PBA must adhere to federal guidelines with regard to solicitation of bid, proposal, and qualifications/certifications, as well as contract management. These guidelines are set forth in Paragraph 5.1.9.

5.1.9 Third Party Contracts

"Third party contract" refers to a recipient's contract with a vendor or contractor which is financed with Federal assistance. As part of a recipient of a Federal grant's obligation to maintain adequate technical capacity to carry out its project and comply with the Common Grant Rules, the recipient's third party contracting capability must be adequate to undertake its procurements effectively and efficiently in compliance with applicable Federal, State, and local requirements. The Common Grant Rules require the recipient to maintain a contract administration system to ensure that it and its third party contractors comply with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, State and local requirements. Many recipients of Federal grants assign contracting duties to technical, financial, or management personnel. If the recipient lacks qualified personnel within its organization to undertake the various procurement tasks, such as drafting specifications, evaluating contracts, or performing internal audits for the recipient, the recipient is expected to acquire the necessary services from sources outside the recipient's organization. When using outside sources, the recipient should take appropriate steps to prevent or mitigate organizational conflicts of interest that would result in conflicting roles that might bias a contractor's judgment or would result in unfair competitive advantage.

Third party solicitations for FTA-funded procurements must be informed and guided by the Purchasing Division's "FTA-Funded Procurement Checklist" (see 10-APP, Part D), which is intended to ensure compliance to all FTA requirements from inception of the solicitation to retirement of the contract.

a. Written Procurement Procedures. The Common Grant Rule provides that solicitations meet the City of Knoxville's standards for clear and accurate technical descriptions; nonrestrictive specifications; quality requirements, preference for performance specifications (*i.e.*, functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards); and, when it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property or services to be acquired, a "brand name or equal" description used to define the performance or other salient characteristics of the property or services sought.

Solicitations by third party contractors must include applicable federally required contract clauses (see Appendix 10-APP, Part A) and certifications, reports, and forms (see Appendix 10-APP, Part B).

b. Recordkeeping. The Common Grant Rules require the third party contractor to prepare and maintain adequate and readily accessible project performance and financial records, covering procurement transactions as well as other aspects of project implementation. The Common Grant Rules further require the third party contractor to maintain these records for three years after the recipient and subrecipients, if any, have made final payment and all other pending matters are closed. The third party contractor must also prepare, maintain, and distribute the following documents as necessary:

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- (1) Procurement History. The Common Grant Rules require the third party contractor to maintain and make available to FTA written records detailing the history of each procurement, as outlined in and required by the City of Knoxville's Purchasing Policies and Procedures. Adherence to the City's Purchasing Policies and Procedures will ensure compliance with Federal requirements regarding: (a) procurement method; (b) contract type; (c) contractor selection; (d) cost or price; and (e) reasonable documentation.

c. Federal Cost Principles. When using federal funds, the Common Grant rules require project costs to conform to applicable cost principles for allowable costs. In general, costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with federal cost principles for governmental entities, specifically, OMB Guidance for Grants and Agreements, "Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)," 2 CFR Part 225.

Third party contractors shall be contractually obliged to the Common Grant Rules, 49 U.S.C. Section 5325(g), which provide FTA and DOT officials, the Comptroller General, or any of their representatives, access to and the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

ITBs dealing with federally-funded procurements for Knoxville Area Transit (KAT) must contain appropriate Federal Transportation Administration (FTA) clauses and protest procedures. Proposers/bidders also must meet prequalification criteria, and the City must acquire and record all appropriate certifications (see Appendix 10-APP.)

5.2 Capital Equipment and Capital Improvement Procurements for Management Firms

The City contracts with management firms to operate some specific aspects of City operations, such as bus service, golf courses, convention centers, etc. Any capital equipment or capital improvement purchases required by management firms in order to provide their services for the City shall be requisitioned through the City's Purchasing Division in the same manner as they are for City departments. Under no circumstances shall the management firm execute the purchase and then seek reimbursement from the City. The City reserves the right to refuse to pay for capital equipment or improvements purchased by a management firm without making the procurement through the Purchasing Division.

Capital equipment is defined as "any and all furniture, fixtures, machinery or equipment, either additional or replacement, having a per-item cost of \$5,000 or more or an expected useful life of more than one year." Capital improvements are defined as "any and all building additions, alterations, renovations, repairs or improvements that have an initial dollar cost of not less than \$5,000 per project." A group of items (e.g., ten computers) may be considered as capital even if a single item within the group does not meet the \$5,000 threshold, if the individual items are expected to have a useful life of more than one year. The City requires that standard procurement processes be used, which comply with both State law and local Procurement Codes and City Ordinances. The procedure is as follows:

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- a) The management firm develops and submits the desired improvement/equipment requisition(s) to the City's Purchasing Division at least three to four weeks in advance of the desired procurement date in order to allow time for public notification and open competition.
- b) Once approved by the Department of Finance and Accountability, the requirement is input into the City's Financial and Purchasing Database, so that it can be put out for bids, quotes, or proposals.
- c) The Purchasing Division notifies the appropriate vendors and acquires the quotes/bids in order to achieve the best value for the City.
- d) The management firm and the Purchasing Division review the bids/proposals together to ensure the vendor selected provides the best value and product/service to the City.
- e) A purchase order/contract is awarded to the business or team that offers the City the best value.
- f) Upon delivery, the commodity purchased is physically affixed with an inventory tag clearly identifying it as property of the City, then input (as required) into the City's database for Real Property Assets.
- g) The equipment purchased is then provided to the management firm, and the management firm signs a receipt confirming delivery of the equipment. The receipt is retained with the management firm's records.

5.3 Computer Software and Hardware

All computer software and hardware purchases are requisitioned by the Information Systems Department, as well as other items which may require functional support. The Purchasing Division will not process requisitions for those items from any other department. The intent is to maintain uniformity of quality and functionality, as well as compatibility, throughout the City.

5.4 Acquisition of Real Property

To ensure all real property acquisitions are handled in a uniform manner that adheres to all local, state, and federal laws and guidelines in order to protect and achieve the City's best interests, the following procedure must be followed to acquire real property, easements, leases, or agreements of any type for any purpose regardless of having already been approved in the capital budget or through any other means:

1. Departments desiring to acquire real property shall submit a Land Acquisition Request Form (see Appendix 9-APP) to the Real Estate Manager requesting the acquisition or acceptance of real property, easements, leases, or any interest in regard to real property. The memo shall be signed by the senior director and shall contain the project name, approved funding source, location of the property, map, desired acquisition date, estimated value of the purchase (or donation), and an explanation as to why this acquisition is in the City's best interests.
2. The Real Estate Manager shall review the request for completeness and accuracy, then send it to the Land Acquisition Committee. The Land Acquisition Committee shall consist of the Deputy to the Mayor, Director of Law, Director of Finance and Accountability, and the City's Real Estate Manager. The Committee shall meet monthly on an as-needed basis to review requests.

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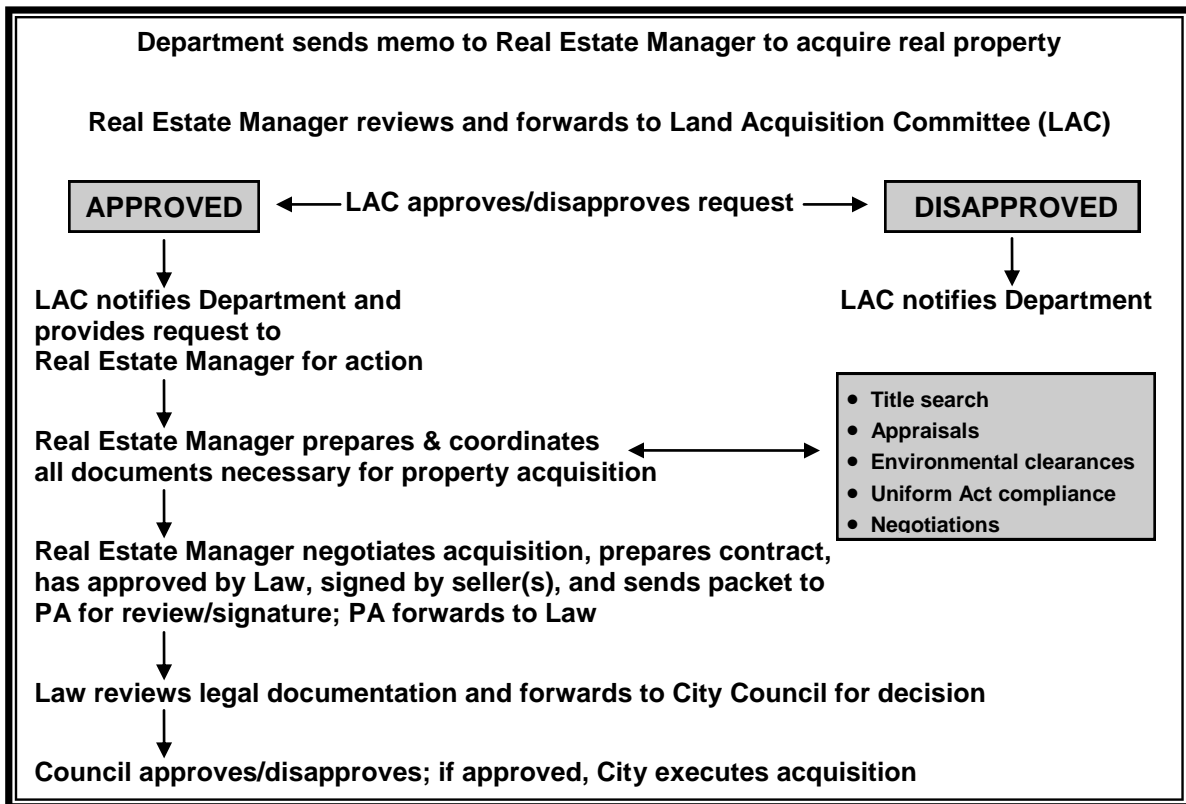
3. The Land Acquisition Committee will review the packet, decide whether to approve or deny the request, and notify the department of its decision. If approved, the request shall be provided to the Real Estate Manager for action.

NOTE: Oftentimes requests are approved pending certain stipulations. The City's Real Estate Manager shall inform the requesting department of such stipulations, and the requesting department must adhere to the stipulations before the property can be acquired. Failure to adhere to the stipulations may result in the disapproval of the action prior to closing on the property.

4. The Real Estate Manager shall take the necessary measures to acquire the property and shall work with both the requesting department and property owner(s) to conduct and coordinate for title searches, appraisals, and environmental clearances; ensure Uniform Act compliance; negotiate a sales or donation agreement; and handle all other actions necessary to complete the transaction.
5. Once complete, the Real Estate Manager will provide the entire acquisition packet to the Purchasing Agent for final review and signature in accordance with City Charter Section 903 (D) and 2-837 of the City's "Code of Ordinances." Once the Purchasing Agent reviews the packet for accuracy and completeness, it shall be sent to the Law Department for action.
6. The Law Department shall then prepare or review the necessary legal documents to ensure they are complete, then forward the packet to City Council for decision.
7. Once the request is approved by City Council, the City's Real Estate Manager shall take the necessary steps to close on the real property on behalf of the City.

A diagram depicting the flow of the process described above is provided as follows:

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Additional requirements regarding the acquisition of property within the Homemaker Program, operated by the Department of Community Development, and property for which the City may, at any time, seek federal or state funds for projects to be conducted on said property are:

- a) Homemaker Program: All Homemaker Program properties will be advertised for sale a minimum of every four months in the *Knoxville News Sentinel* "Real Estate" Section to ensure free and open competition for such property. The Community Development Department will submit the listing of the property to be advertised on the second Tuesday of every October, February, and June. The Purchasing Division will then advertise this property.
- b) All real property acquisitions must follow the Federal Highway Administration Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), which was adopted by the Tennessee Department of Transportation. The City adopted a Property Acquisition Policy on May 16, 2007, that meets both the requirements of the Uniform Act and the Tennessee Department of Transportation Relocation Policy. A Property Acquisition Checklist (see Appendix 3-APP) is required for every project. This form provides a sequential process for the acquisition and defines the responsible party for each step. This checklist must be followed in a step-by-step manner by each department involved in acquiring real property. In addition to the Property Acquisition Checklist, a Negotiator's Report of Call must be completed. Other FHWA and TDOT forms are also required in certain cases.

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5.5 Procurement of Used Equipment and Supplies

The City normally procures all new equipment and supplies. When used equipment or supplies best meet the City's needs, the procurement process may or may not be competed; the decision to compete or not compete for pricing shall be determined by the Purchasing Agent.

Non-Competed: The City may purchase used or secondhand goods, equipment, materials, supplies, or commodities from any federal, state, or local governmental entity without public advertisement and competitive soliciting. Additionally, the City may purchase used or second hand goods, equipment, materials, supplies, or commodities from a private individual or entity without public advertisement and competitive soliciting so long as the value of the purchased items, through a listing in a nationally recognized publication or from an appraisal, is no more than 5% higher than the highest value of the documented range. The City may purchase used equipment and supplies when it is in the City's best interest to do so, as long as the following procedure is followed.

Competed: The City may purchase used items competitively. In this instance, the requesting department (or Purchasing Division) will obtain the value of the equipment or supplies being sought through the appraisal of a professional appraiser, or may determine the value of said items in a nationally recognized cost/pricing document which is considered accurate in the industry for the particular used product (e.g., for sedans, trucks, etc., one might use the Kelly Blue Book, Edmunds, and so forth). Once the market value has been determined, then the City will endeavor to purchase the items at no more than 10% of said market value.

Note that used items purchased from auction (e.g., ebay, govdeals, or live auctions) have market value established by the auction bidding and therefore do not need a standard appraisal.

5.6 Procurement Under the Authority of Another Governmental Entity's Bid Process

Purchase of materials or services, for which any state or other governmental organization has awarded a contract to a vendor through the competitive bidding process may be made without an additional bidding process, provided the vendor meets the desired bid specifications. Note: The competitive bidding process of another entity must have specified that other institutions are permitted to purchase under the bid. Personal, professional, and consultant service contracts may be obtained by non-competitive negotiation when the contractor is a state agency or subdivision of the City of Knoxville or an entity of the federal government.

5.7 Tax Exemption

The City of Knoxville is exempt from federal, state, county, and city sales and excise taxes. Completion of a certificate stating that purchases of property or services are for the exclusive use of the government is necessary to provide vendors to avoid such taxes. The Purchasing Division issues certificates of exemption as required for purchases requisitioned through the Purchasing Division only.

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5.8 Request for Qualifications – Professional Services

Professional Services are considered the services of individuals, teams, or organizations which are licensed and certified (as required) in their particular field of expertise and adhere to an industry accepted set of technical or ethical standards. Examples include, but are not limited to, accountants, appraisers, archaeologists, attorneys, business consultants, architects, engineers, law firms, physicians, researchers, real estate brokers, and similar fields.

Before the decision is made to contract with a professional services firm, team, or individual, the nature of the problem that the professional is to address must be clearly defined. The requesting department will state in writing the technical requirements, extent, and limitation of the project; provide a list of objectives and state what is to be accomplished; the nature of the work and the process; timelines, reports, and final submission requirements; the extent to which periodic payments will be allowed; and how the final payment will be made.

When seeking to award a contract for professional services, the City's primary focus is on the ability of an organization or team to conduct the proposed project to a high standard of quality. The City determines the most qualified entity based on a qualification-based selection process and not on price. Price/cost is only considered when the City contacts the top ranked firm to begin negotiating the terms of a contract that are considered fair and reasonable to the City. Pursuant to the regulations published by the Board of Architectural and Engineering Examiners, architectural and/or engineering firms must be licensed as professionals within the State of Tennessee for the City to be able to accept their qualifications or conduct business with them.

The Purchasing Division shall solicit a Statement of Qualifications and Performance Data from professional service organizations throughout each year and shall maintain files of this information so that it is available to departments. While there is no requirement for the City to publish a formal Request for Qualifications (RFQ) with public notifications, from time to time the City may deem this necessary. In those instances where a formal RFQ is published, the statements of qualifications must arrive on or before the date and time specified in the RFQ. Note that late submissions of qualifications will not be considered. Statements of qualifications that arrive late due to the fault of U. S. Postal Service, United Postal Service, DHL, FEDEX, any delivery/courier service, or any other carrier of any sort are still considered late and shall not be accepted by the City. Such statements of qualifications shall remain unopened and will be returned to the submitting entity upon request.

The Purchasing Agent has the authority to waive technicalities, irregularities, and/or abnormalities concerning qualifications submissions. Additionally, the Purchasing Agent may follow up with individual organizations after the opening of submitted qualifications to obtain documents or clarifications when it is in the best interests of the City.

Departments seeking to procure professional services shall adhere to the following procedure:

- a) Confirm that departmental funding is available to cover the cost of any ensuing contract which may be awarded to procure the services desired from firms responding to the RFQ, based on a reasonably accurate projection of what the contract cost will be.

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- b) Obtain copies from the Purchasing Division of the Statements of Qualifications of organizations that provide the particular professional service being sought. If the requisitioning department chooses, it may also ask the Purchasing Division to send out an RFQ to specific firms with which it is interested in doing business or to those firms which have specifically asked to conduct the project in question.
- c) An Evaluation Committee evaluates the Statement(s) of Qualifications to determine which organizations are best suited to perform the work based on demonstrated competence and qualifications.
- d) The Committee then contacts the top-ranked entities (short list) to discuss the project and the anticipated concepts/scope of work to achieve the desired end state. The Purchasing Division sends a separate notice to those firms not making the short list.
- e) Visits and tours of the project site may be conducted.
- f) Interviews with short-listed firms may be conducted.
- g) Firms are evaluated against the established criteria and ranked accordingly.
- h) Negotiations are initiated with the top-ranked firm.
- i) The selected firm prepares a detailed fee estimate based upon the scope of work.
- j) The fee proposal is reviewed and agreed upon by the Evaluation Committee.
- k) If a fair and reasonable price is agreed upon, the department shall submit a memo to the Purchasing Agent requesting that a contract be prepared. If a reasonable price and other substantive contract terms cannot be negotiated, the department shall negotiate with the next most qualified firm or team.

The City is not required to publicly advertise and solicit sealed bids for professional service projects. However, the requesting department may choose to publicly advertise the RFQ (or "Letters of Interest" for TDOT-funded projects) and request sealed bids in order to solicit more competition.

RFQs dealing with federally-funded procurements for Knoxville Area Transit (KAT) must contain appropriate Federal Transportation Administration (FTA) clauses and protest procedures. Qualifiers/proposers/bidders also must meet prequalification criteria, and the City must acquire and record all appropriate certifications (See Appendix 10-APP).

5.8.1 Procurement of Brokerage Services

The City may, in its discretion, procure the services of brokerage firms when working on requirements which require particularly specialized areas of expertise. Examples include, but are not limited to, insurance, medical and dental services, and financial services. The broker must be properly licensed, as required by state law. Use of a broker may be necessary when supported by a specified need for such a professional service governed by state licensing laws. Any contract with a broker must state that the City is contracting with the broker directly with stipulations that the broker is working for the City, that the broker cannot collect any other fees or compensation connected to the services it places or recommends for City, and that the broker will work in the City's best interest at all times. Brokerage services may be procured (per TCA 12-4-106) without the use of the competitive bid or proposal process due to the professional nature of the services. As with all procurements, broker services are to be procured through the Purchasing Division.

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5.9 Gifts to the City

A gift/donation to the City is defined as a voluntary transfer of goods or services to the City made gratuitously and without consideration. Essential elements of a gift/donation are the capacity of the donor to make a gift/donation, the intention of donor to provide a gift/donation, the completed delivery of the gift/donation, and acceptance of the gift/donation by the City. Nothing in this policy shall be construed to mean that the City must accept any gift. A gift/donation valued over \$10,000 must be approved by City Council. Gifts do not require a procurement process. A gift/donation valued at less than \$10,000 may be accepted, on behalf of the City, by the Purchasing Agent. In these instances, the gifting/donating entity shall submit a letter to the Purchasing Agent stating what they intend to gift/donate, the estimated value of the gift/donation, and language which indicates that the gift/donation is made gratuitously and without consideration. In turn, the Purchasing Agent shall send a letter back to the entity thanking them for their gift/donation and indicating the acceptance of the gift/donation on behalf of the City. Such letters shall remain on file in the Purchasing Division for a period of no fewer than five years.

Gifts to City employees valued at amounts greater than \$25.00 may not be accepted. This includes, but is not limited to, meals and promotional items.

6.0 Contract Management

The City of Knoxville's Contract Manager is a member of the Purchasing Division. The duties and responsibilities of the Contract Manager are intended to speed the contract award process; enhance the timeliness of extensions, amendments, and change orders to meet changing situations; reduce unneeded contracts; reduce costs; and analyze contracts to identify potential challenges before they become actual problems.

To accomplish the above intent, the responsibilities of the Contract Manager are to:

- Analyze and track contracts to ensure renewals, extensions, amendments, and change orders are executed on time and to standard;
- Adjust bonds and insurance to meet change orders, amendments, and extensions;
- Conduct variance analysis to facilitate stewardship of funds and quality control;
- Train departmental contract administrators concerning their responsibilities;
- Identify businesses not performing to standard; and
- Execute contract reconciliation by deobligating funds that are no longer needed
- Assist departments, when applicable and necessary, to track and document all required clauses, qualifications, certifications, and reports/forms for federally-funded contracts.
- Resolve contract and purchase order disputes.
- Ensure that all direct recipients of federal grants, grant amendments and cooperative agreements in excess of \$25,000 are subject to the requirements of the Federal Funding Accountability and Transparency Act of 2006 (FFATA). The Contract Manager shall submit sub-recipients' sub-award information to the FFATA Sub-award Reporting System at the time of award of the sub-grant, in accordance with the

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federal requirement to report at the end of the month following the month in which any sub-award under the grant has been made.

7.0 Records

Procurement records shall be maintained in accordance with the requirements set forth in the City Code.

7.1 Tennessee Open Records Act Requirements

All documents related to procurements are public record once the purchase order or contract is awarded. Upon receiving a request from a vendor (or any other individual or organization) to provide any or all of the procurement documents for a particular purchase, the Purchasing Division is to provide such information within seven (7) working days. If Purchasing is unable to respond in that amount of time, it must notify the requestor of this fact and tell the requestor when it anticipates sending the requested information. Purchasing shall require the requestor to pay 15 cents per page for all black and white copies (50 cents per page for colored copies) measuring standard 8.5" x 11" or 8.5" x 14" and for the time spent compiling and sending the documentation that exceeds one (1) hour. The cost is calculated from the hourly rate of each employee involved, without including benefits or longevity pay. Information shall not be provided until payment is received by the City from the requesting entity.

No information provided by proposers, bidders, or qualifiers to the City of Knoxville in response to an ITB, RFP, or RFQ shall be considered confidential or proprietary after such time as the award of a purchase order or contract to the winning entity is executed, or until such time as an ITB or RFP is canceled. All information submitted as part of a bid, proposal, or statement of qualifications is subject to the Tennessee Open Records Act and is available for review by the public upon execution of the PO or contract regardless of whether the documentation was labeled proprietary and/or confidential.

8.0 Protests

Any proposer, bidder, or qualifier who claims to be aggrieved in connection with a specific solicitation may pursue the following process for resolution:

- Submit a Protest Form (see Appendix 4-APP) in writing to the Purchasing Agent within seven (7) calendar days after the proposer, bidder, or qualifier knows, or should have known, the facts giving rise to the protest. Issues raised by the protesting party after the seven (7) calendar days will not be considered as part of the protest.

NOTE: All protests must be submitted in writing to the Purchasing Division. Verbal complaints and even verbal protests do not constitute a formal protest unless they are received "in writing" within the (7) calendar day period.

- The Purchasing Agent has the authority to resolve the protest. He may request a meeting with the protesting party to clarify protested issues. The final determination of the Purchasing Agent shall be submitted (in writing) to the protesting party and a copy will be placed in the procurement folder.

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If the protesting party is not satisfied with the Purchasing Agent's decision, he may appeal the protest to the Procurement Advisory Board. Such an appeal must be received, in writing, by the Purchasing Advisory Board (PAB) within 18 calendar days from the date that the Purchasing Division mails the Purchasing Agent's decision regarding the initial protest. Appeals received after that time will not be considered by the PAB.

The Board will consider the information provided by the aggrieved vendor via the Protest Appeal Form (see Appendix 5-APP), the written statement of the Purchasing Agent, and the written statement of the requisitioning department before rendering a decision. The Board may or may not choose to contact the aggrieved vendor before voting.

In order to submit a protest appeal to the City, the aggrieved vendor must submit a Protest Appeal Form and a Protest Appeal Bond as described below:

- Submitting the Protest Appeal Form. The signature of a protesting party on an appeal form constitutes a certificate that the signer has read such document, that to the best of the signer's knowledge and belief (formed after reasonable inquiry) the appeal is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of the existing decision, and that it is not interposed for any improper purpose, such as to harass, limit competition, cause unnecessary delay, or needlessly increase the cost of procurement or litigation. If a request for protest is signed in violation of this section, the protest will be dismissed, and the City may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties, including the City, the amount of the reasonable expenses incurred because of the filing of the protest, including reasonable attorneys' fees. The organization represented by the signing authority will also be barred from doing business with the City for 36 months. After that time, the organization can request re-instatement in a letter to the Purchasing Division.
- Posting a Protest Appeal Bond. A Protest Appeal Bond is required at the time the appeal is filed, with such bond payable to the City in the amount of ten percent (10%) of the protestor's bid. The Appeal Bond shall be in the form of a cashier's check payable to the City or a bond, and will be forfeited if it is determined that the appeal is capricious, in bad faith, or without basis.

When a protest appeal has been properly lodged, the Purchasing Division will issue a Stay of Award. The Stay of Award will indicate that the City shall not proceed further with the solicitation process or the award of the contract until the protest is resolved, absent a written determination by the Purchasing Agent that continuation of the solicitation process or the award of the contract without delay is necessary to protect substantial interests of the City.

The Procurement Advisory Board will review an appeal within five (5) business days from the date it is received in the Purchasing Division, and the protesting party will be notified of the Board's decision in writing. A decision by the Procurement Advisory Board is final. At the time of written notification, the Stay of Award will be lifted, and the award will be made to the appropriate company or individual.

The Procurement Advisory Board will return the protest bond to the protesting party within 14 days of the final decision. If there is reason to believe that the protest appeal was not

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made in good faith, the bond can be designated as non-returnable by the Board. If that is the case, the bond amount will be designated as revenue/recovered costs for the City's general fund. The decision of the Board regarding the bond is final.

Note that the protest response with regard to FTA-funded contracts must comply with the City of Knoxville's Procurement Policies and Procedures (as provided by the FTA), as well as federally required procedures as outlined in Appendix 10-APP, Part C.

9.0 Vendor Records

9.1 Vendor Listing

In order for an organization to conduct business with the City of Knoxville, it must be registered with the Purchasing Division prior to bid opening. The vendor must complete a Vendor List Application Form as provided on the City's procurement website at www.knoxvilletn.gov/purchasing.

9.2 Bars to Bidding

The Procurement Advisory Board has the authority to bar organizations from doing business with the City. A recurring pattern (two times) of poor performance may result in suspension from doing business with the City of Knoxville for eighteen (18) months. After the first incident, the Purchasing Division will contact the vendor to tell him or her about the problem and will require that the problem not be repeated in the future. A repeated occurrence of a performance problem may result in a suspension for up to eighteen (18) months. To be reinstated after the suspension period, the vendor must make a written request for reinstatement.

Examples of poor performance include, but are not limited to:

- Late shipments
- Damaged products
- Defective products
- Shipments not in conformance with specifications
- Unauthorized substitutions
- Billing errors
- A history of numerous (more than three) change orders or contract amendment requests that were viewed as "without merit" by the City
- Service deficiencies
- Failure to ship
- Poor quality in general
- Poor service in general

For more serious infractions, the Procurement Advisory Board also has the authority to bar organizations from doing business with the City for up to three (3) years. Examples of events that may cause an organization to be barred include, but are not limited to:

- Capricious appeal to Protest Board
- Default on a PO
- Breach of contract

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- Being found guilty of engaging in criminal activity of any sort
- Writing checks with insufficient funds to the City
- Unethical practices
- Misrepresentation of merchandise
- Title VI violations: Title VI violations are discriminatory practices based on race, gender, or disability. The City of Knoxville will not enter into agreements with persons, teams, or businesses that engage (or have engaged in the past) in such discriminatory practices when such offenses are known to the City.

In addition to any firms that may specifically be barred from doing business with the City of Knoxville, the City considers those businesses which are barred from doing business with the federal government as similarly barred from doing business with the City of Knoxville. An updated list of such firms (barred from doing business with the federal government) can be found on the “Excluded Parties List” website (www.epls.gov). While the GSA believes the information to be reliable, human or mechanical error remains a possibility. Therefore, the federal government and City of Knoxville do not guarantee the accuracy, completeness, timeliness, or correct sequencing of the information. Neither GSA, nor any of the federal sources of the information, nor the City of Knoxville, shall be responsible for any error or omission, or for the use of, or the results obtained from the use of, this information.

When using federal funds (of any type) to make a purchase, the Purchasing Division will review the System for Award Management website (www.sam.gov) to ensure the “apparent winning submitter” is not barred from federal contracting. If the apparent winner is found to be barred on said website, then that particular bid, proposal, etc. shall be rejected and the City shall move on to the next apparent winner. The buyer shall put a copy of a printout of the SAM website research of the apparent winner’s status in the procurement file as a matter of public record.

10.0 Disadvantaged Business Enterprises (DBEs)

A “*Disadvantaged business*” means a minority-owned business, a woman-owned business, a service-disabled veteran-owned business or a small business, as defined herein. The City of Knoxville makes every effort to procure goods and services from DBEs whenever possible. This includes minority-owned businesses, woman-owned businesses, and small businesses. The Small Business Specialist in the Purchasing Division recruits and advises these businesses how to best posture themselves to do business with the City. Buyers also solicit increased involvement of minority-owned, woman-owned, and small businesses with every purchase.

The City actively solicits bids from DBEs to obtain a fair proportion of goods and services from such businesses. On an annual basis, information regarding small, minority-, and woman-owned business purchases will be prepared for and distributed to the Finance Director, Community Relations Office, and City Council.

10.1 DBE Definitions

10.1.1 Minority-Owned Business

A minority-owned business is a continuing, independent, for-profit business that performs a

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commercially useful function, and is at least 51% owned and controlled by one or more minority individuals who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background.

A citizen or lawful permanent resident of the United States who is:

- African American, a person having origins in any of the black racial groups of Africa;
- Hispanic American, a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or
- Native American, a person having origins in any of the original peoples of North America.

10.1.2 Small Business

A small business is one which is independently owned and operated and is not dominant in its field of operation. The criteria used to determine whether a business is considered a small business includes, but is not limited to, the number of employees, sales volume, size relative to other similar Tennessee businesses, and total income or annual sales of any business or its affiliates and subsidiaries. Note that the maximum number of employees and the sales volume of a small business under such rules and regulations may vary from industry to industry to reflect the differing characteristics of each particular industry. The City of Knoxville defines a small business as being half the size of the United States Small Business Association (U.S. SBA)'s definition for a small business. To illustrate this, the SBA's definition is provided in the left hand side of the chart below (for some example industries), whereas the City of Knoxville's definition is provided on the right hand side of the chart:

INDUSTRY DESCRIPTION	SBA SMALL BUSINESS DEFINITIONS		COK SMALL BUSINESS DEFINITIONS	
	MAXIMUM ANNUAL GROSS INCOME (MILLIONS)	MAXIMUM # OF FULL TIME EMPLOYEES	MAXIMUM ANNUAL GROSS INCOME (MILLIONS)	MAXIMUM # OF FULL TIME EMPLOYEES
Highway, Street, and Bridge Construction	\$33.5		\$16.75	
Other Heavy and Civil Engineering Construction	\$33.5		\$16.75	
Roofing Contractors	\$14.0		\$7.0	
Plumbing, Heating, and Air-Conditioning Contractors	\$14.0		\$7.0	
Commercial Printing (except Screen and Books)		500		250
Furniture Stores	\$19.0		\$9.5	
Architectural Services	\$7.0		\$3.5	
Landscape Architectural Services	\$7.0		\$3.5	
Engineering Services	\$14.0		\$7.0	

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Environmental Consulting Services	\$14.0		\$7.0	
Janitorial Services	\$16.5		\$8.25	
Landscaping Services	\$7.0		\$3.5	
Caterers	\$7.0		\$3.5	
General Automotive Repair	\$7.0		\$3.5	
Automotive Body, Paint and Interior Repair and Maintenance	\$7.0		\$3.5	
Information Systems/Technology		100		50
Marketing/Communications/Public Relations	\$14.0		\$7.0	
Wholesale Trade		100		50

10.1.3 Woman-Owned Business

The category describes a business that is continuing, independent, and for profit which performs a commercially useful function, and is at least 51% owned and controlled by one or more women; or, in the case of any publicly-owned business, at least 51% of the stock of which is owned and controlled by one or more women and whose management and daily business operations are under the control of one or more women.

10.1.4 Service Disabled Veteran-Owned Business

“*Disabled veteran*” means a veteran who served in the U.S Armed Forces (a) with a minimum compensable service-related disability of 30 percent or (b) who was discharged for a service-related disability. A “*Disabled veteran-owned small business*” means a small business that is at least 51 percent owned by a disabled veteran who also controls and operates the business.

11.0 Criteria and Standards of Eligibility

The City may adopt rules and regulations establishing criteria and standards to define businesses as minority-owned, woman-owned, and small businesses. Such criteria include, but are not limited to, the number of employees, sales volume, size relative to other similar Tennessee businesses, and total income or annual sales of any business or its affiliates and subsidiaries. Note that the maximum number of employees and the sales volume of a small business under such rules and regulations may vary from industry to industry to reflect the differing characteristics of each particular industry.

11.1 Certification

The City of Knoxville’s Community Relations Office shall certify businesses as being minority-owned, woman-owned, and small businesses. Additionally, this office shall post a listing of certified DBEs on the City’s website, listed by commodity and service provided.

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11.2 Goal

The goal of the City of Knoxville is to conduct ten percent (10%) of its business with minority-owned businesses and woman-owned businesses. As stated in the City of Knoxville's Equal Business Opportunities Program (EBOP) pamphlet, the ten percent goal is defined as follows: "10% in construction, 10% in goods and services, and 10% in professional services."

11.3 Implementation

All City departments shall cooperate with the Purchasing Division in the implementation of procedures for the identification of DBEs and the monitoring of procurements from them.

All Purchasing Division Buyers and departmental Purchasing Cardholders are required to actively solicit bids and proposals for equipment, supplies, personal services, professional services, consulting services, and construction contracts from minority-owned, woman-owned, and small businesses in order to obtain a fair proportion of procurements from DBEs. The amount of fair proportion shall be recommended annually by the Community Relations Office. Nothing in this part shall be construed as establishing any mandatory quota or "set aside program" with respect to minority-owned or woman-owned businesses.

Actively soliciting bids and proposals means reviewing compiled directories of DBEs; placing procurement notices in newspapers of general circulation or through electronic media; and inviting DBEs to submit bids or to obtain information pertaining to the submission of bids.

In the event that a procurement agreement is made with an entity that would otherwise qualify as a DBE but is owned by or is under the controlling interest of another business that is not a minority-owned, woman-owned, or small business, the City shall not designate the entity as a minority-owned, woman-owned, or small business.

11.4 DBE Reports

The following reports shall be submitted by the Purchasing Agent to the Finance Director:

11.4.1 Disadvantaged Business Semi-Annual Report

The Disadvantaged Business Semi-Annual Report consists of transactions with DBEs on a semi-annual basis (July-December and January-June). The report is due to the Finance Director 30 calendar days after the end of each period. The intent of the report is to provide information on whether the City is achieving its ten percent goal. This report shall contain the following:

- Total amount of business done with minority-owned businesses for the period.
- Total amount of business done with woman-owned businesses for the period.
- Total amount of business done with small businesses for the period.
- Total amount of business done with minority-owned businesses and woman-owned businesses during the same period of the preceding fiscal year.
- The figures shall be given in both percentages and in dollar amounts.
- EBOP report from the small business administrator to Purchasing Agent summarizing how much money was provided by prime contractors to minority-owned businesses and woman-owned businesses subcontractors. This information shall be gathered

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directly from Forms I, II, and III. This information will be included in the semi-annual DBE reports.

11.4.2 Annual Disadvantaged Business Report

The Purchasing Agent shall annually report, on or before each August 1, to the Finance Director, Community Relations Office, the EBOP Committee, and City Council concerning the awarding of purchases to DBEs and the total value of awards made during the preceding fiscal year. For purposes of evaluation, the report shall also indicate the same information for the previous fiscal year.

11.5 Responsibilities of the Purchasing Division with regard to DBEs

- Compile and maintain a comprehensive list of minority-owned, woman-owned, and small businesses by cooperating with both governmental and private sector entities in locating potential sources for various products and services.
- Assist DBEs in complying with City procurement and contracting procedures and requirements so they are better able to conduct business with the City of Knoxville.
- Examine RFPs, ITBs, and RFQs from various departments for the purchase of materials, supplies, equipment, or services to determine which documents offer opportunities for DBEs and to contact them about upcoming opportunities.
- Make recommendations to department requisitioners and Purchasing Division buyers for the simplification of procurement and contract specifications and terms in order to increase opportunities for participation by DBEs (i.e., potentially lowering insurance requirements, reducing the amount of bid bonds, and so forth).
- Engage in outreach programs and educational opportunities with the regional business community to educate DBEs on how to conduct business with the City of Knoxville.
- Provide DBEs with information concerning opportunities to bid on products and services with the City.

12.0 Purchase of Environmentally Preferable Products (Green Purchasing)

12.1 Purpose

The City of Knoxville purchases a large amount of goods and services each year, and the procurement decisions made by City staff can have a positive or negative impact on the environment. In an effort to include environmental considerations in our purchasing decisions alongside our traditional purchasing criteria of price, availability, and performance, the City promotes procurement practices that reduce pollution, conserve natural resources, and improve public health and safety. It is therefore the City of Knoxville's goal to encourage the purchase and use of materials, products, and services that best align with the City's fiscal, performance, community, and environmental goals.

12.2 Policy

The City of Knoxville shall acquire its goods and services in such a manner as complies with federal, state, and local laws, and shall purchase and use materials, products, and services which are fiscally responsible, promote business opportunities for disadvantaged businesses in our community, perform in a manner which meets or exceeds expectations, reduces

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resource consumption and waste, and promotes human health and well-being as it advances the operational needs of the City.

12.3 Purchasing Objectives

The City shall continue to consider price/best value, performance, and need and availability when making procurements, but our purchasing objectives shall be expanded to consider, wherever reasonable to apply, environmental factors as well. The factors to be considered shall include, at minimum:

- Conservation of natural resources;
- Use of bio-based content;
- Reduction of greenhouse gas emissions;
- Reduction of materials that are put into landfills;
- Recycled content;
- Durability, reusability, and useful life;
- Use of wood from sustainable harvested forests;
- Use of unbleached or chlorine-free manufacturing processes;
- Reduction of water and energy consumption; and
- Reduction of pollutant releases, particularly persistent bioaccumulative toxins (PBTs).

All City departments and divisions shall use, where feasible and fiscally prudent, products that have the least damaging/most beneficial impact on the environment. These products shall include (see definitions below) new environmentally-preferable products, reusable products, products with recycled content, and recycled products.

Additionally, the City, by virtue of its role as a major purchaser of goods and services, shall seek to encourage and influence markets for "green purchasing" through employee education; adopting specifications and standards that enhance opportunities for green purchasing in Invitations to Bid and Requests for Proposal; and leveraging City buying expertise and buying power through cooperative ventures with other jurisdictions when practical.

12.4 Definitions

Environmentally Preferable Product: A product that has a reduced negative effect or increased positive effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, fabrication, manufacturing, packaging, distribution, reuse, operation, maintenance, and disposal of the product. This term includes, but is not limited to, recyclable products, recycled products, and reusable products.

Recyclable Product: A product or package made from a material for which curbside or drop-off collection systems are in place for a majority of City residents or businesses, to divert from City solid waste for use as a raw material in the manufacture of another product or the reuse of the same product.

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Recycled Content Product: A product containing a minimum of twenty-five percent (25%) recycled materials except in those cases where the U.S. Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation Recovery Act of 1976. In those cases, the minimum content of recycled material shall not be less than specified in the most current adopted issue of those guidelines.

Reusable Product: A product that can be used several times for an intended end use before being discarded, such as a washable food or beverage container or a refillable ballpoint pen .

Sustainable Product: A product that achieves performance objectives while respecting the City's values and balancing environmental stewardship, social equity, fiscal responsibility, and community enhancement.

Sustainable Purchasing: Purchasing materials, products, and labor in a manner that reflects fiscal responsibility, social equity, community and environmental stewardship.

13.0 Emergency Procurement

It is the responsibility of the Department or Office Head to acquire the approval of the Purchasing Division or Finance Director to make an emergency procurement. Any order, agreement, or obligation entered into without this approval is null and void, and no person shall have any claim or demand whatsoever against the City.

Emergency conditions requiring the use of emergency procurements are those situations which create a threat to public health, welfare, or safety. The existence of such conditions create an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of the City government, the preservation or protection of property, or the health or safety of citizens. Examples of emergencies include, but are not limited to:

- Natural disasters such as rains, flooding, lightning, fire, earthquakes, blizzards, ice storms, etc.
- Functional problems such as major plumbing breakage or electrical malfunction.
- Terrorist or conventional attacks or other acts of war.
- Significant civil unrest.
- Other occurrences that interrupt necessary functions of the City, or threaten the safety or welfare of its citizens as determined by appropriate City officials.

Emergency procurements are exempt from competitive bidding. The Purchasing Division has authority to approve emergency purchases when the time required for the bidding process is not practical to meet an urgent need. This approval may be initially given orally with an authorization code, but the request must then be submitted in writing to the Purchasing Division within three (3) calendar days.

Emergency purchases (not requiring a contract) may be made directly by the using department, without competitive bids, as long as funding is available to cover the cost and

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necessary approvals have been acquired. The signature of the department head provides authorization for an emergency expenditure.

13.1 Emergency Procurement Procedures

After determining a true emergency exists, the Purchasing Agent shall seek approval of the Director of Finance to initiate emergency purchase procedures. Once the Finance Director has given his or her approval, either of the following two procedures may be used.

a) Procedure 1

1. Notify the Purchasing Division of the procurement requirement, estimated cost of the requirement, and nature of the emergency. The Purchasing Division will provide a verbal concurrence to proceed.
2. The department then obtains the equipment/services required.
3. Once the procurement is complete, the department sends the Quick Purchase Order Payment Form (see Appendix 1-APP) along with the invoice and brief written note explaining the nature of the emergency to Purchasing. All three documents must be submitted to Purchasing before the vendor is paid. Unscrupulous firms sometimes engage in price gouging during emergencies so departments shall take special care to obtain reasonable prices. When possible, orders should be placed with vendors who have provided the City satisfactory service in the past.

b) Procedure 2

1. Purchasing will expedite the procurement through non-competitive negotiations. This can mean taking telephone bids instead of sealed bids or it can mean shortening the time required for sealed bids to less than two weeks.
2. Suppliers shall furnish sales tickets, delivery slips, invoices, etc. for the services and supplies rendered along with terms of the transactions, indicating price and other necessary data for clarity.
3. While there is no dollar ceiling placed on what the Purchasing Agent can procure under emergency conditions, he or she must document each purchase and keep the Finance Director abreast of what is being bought on a daily basis, in an appropriate manner for the circumstance, to facilitate accountability and proper stewardship of funds. Purchases of specific materials, supplies, equipment, or services may be made in the open market via spot market purchasing for immediate delivery to meet emergency needs of the City.
4. All emergency purchases must be approved by the Finance Director (often, after the actual purchase has taken place).

NOTE: In all cases, documentation shall be sufficient and adequately detailed to provide FEMA and TEMA with an understanding of the purchase and to allow for their respective audit reviews and potential subsequent reimbursements.

13.2 Emergency Contract Requests

During emergency conditions it may be necessary to purchase some goods and services with a contract. In such instances, the following procedure will be used:

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- a) The department needing a contract for a product or service due to an emergency sends a request (this can be verbal in extreme cases) to the Purchasing Agent requesting that the City enter into a contract on a non-competitive basis due to an emergency situation. The request must state what service or product is requested, the estimated cost, the time period (not to exceed five months), the type of emergency situation, and why the City does not have the time to go through the competitive bid procurement process.
- b) Once the Purchasing Agent approves the request, he sends a request to the Law Department asking for a contract to be prepared. If the contract is \$25,000 or more, the requesting department must send an Agenda Information Sheet (AIS) with the request because it will have to go to Council for approval at the earliest opportunity.
- c) Between the onset of the emergency and Council's approval of the contract, the Purchasing Agent may direct the requisitioning department to enter into the requested agreement with the company and request invoicing as the work is completed. Disbursement is done by Quick PO.

14.0 Contracts

14.1 Contracts, Change Orders, and Amendments

Only specifically authorized employees may contractually bind the City in an agreement.

Individuals who execute agreements, contracts, or subcontracts containing clauses that violate federal, state, or local laws may be subject to personal liability and such erroneous contracts are deemed null and void by the City.

All contracts will include a standard indemnification clause, holding the City harmless for liabilities, defenses, and judgments.

All agreements, contracts, and subcontracts shall contain all necessary affirmative action and nondiscrimination requirements provided by federal, state, or local laws and regulations.

No contract for purchase of materials, supplies, equipment or services shall be awarded unless funds are available for the purchase.

Each contract is subject to the availability of funds. If a contract extends beyond the fiscal year, the contract must specifically include the right to terminate if funds are not appropriated.

A revenue contract shall be used to formalize an agreement between the City and any individual, team, business, non-profit agency or other agency which grants money to the City.

The City Procurement Code permits only certain contracts to exceed three (3) years. When option years are included in a contract, the Purchasing Division will do its best to remind departments regarding when they need to request a contract renewal but the final

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responsibility of this rests with the departments. Unless specifically provided for in the City Ordinance, a contract cannot exceed three (3) years unless a longer term is recommended by the Purchasing Agent and approved by Council as pursuant to § 2-894 of the City's Procurement Code.

The Purchase Agent or designee is authorized to negotiate the terms of a contract with the most responsive bidder or proposer. Negotiations may include, but are not limited to, price, scope of work or services, delivery, schedule, quality, and similar matters, so long as such negotiations do not materially alter the terms of the original RFP or ITB as determined by the City's Purchasing Agent.

Performance bonds are amended as part of contract modifications or for change orders to insure that the performance bond is always properly defined. The Purchasing Division shall review each contract modification or amendment for compliance with performance bond requirements.

Liquidated Damages Provisions. Liquidated damages may be used in contracts where the City may reasonably expect to suffer damages, where the City would encounter difficulty at finding another firm to remedy the loss, and where the extent or amount of such damages would be difficult or impossible to determine. The damages shall be at a specific per day rate for each day of the overrun in contract commensurate with the anticipated harm caused by the contract breach and the damages shall be structured to function as damages and not as a penalty.

ITBs, RFPs, RFQs, and contracts dealing with federally-funded procurements for Knoxville Area Transit (KAT) must contain appropriate Federal Transportation Administration (FTA) clauses and protest procedures. Proposers/bidders also must meet prequalification criteria. (See Appendix APP-10.)

A contract may not be amended or extended if the termination date has passed. Once the contract has expired, there is no legal document to either amend or extend, and the requirement must be re-bid.

Cardinal Changes. A significant change in contract work (products or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of the contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is considered a cardinal change and is prohibited.

No service or construction contracts exceeding \$25,000 are valid until approved by the City Council and executed by the Mayor.

14.2 Agenda Information Sheet (AIS)

An Agenda Information Sheet (AIS) is required to place certain procurement resolutions on the agenda for a City Council meeting. The process is initiated from an individual department and routed to the Purchasing Agent for appropriate coordination. The Purchasing Agent then submits the information to the Law Department for processing and for placement on the next City Council's meeting Agenda. Procurement-related AISs are required to:

City of Knoxville Procurement Policies and Procedures

- Obtain approval from the City Council for any service or construction contract over \$25,000.
- Execute contract change orders or amendments that cost \$10,000 or more.
- Obtain approval from City Council for any and all grants.

14.3 Items Requiring City Council Approval

Approval of the City Council is required in the following instances:

- All proposed service or construction contracts costing an amount equal to or greater than \$25,000
- Modifications, change orders, or amendments to existing contracts resulting in an increased contract expenditure of \$10,000 or more. Note that a single change order does not have to meet or exceed \$10,000 to require said change order to have to be approved by Council. Rather, when the aggregate of the change orders causes the base contract price to meet or exceed \$10,000 in additional costs, then that change order (and any future subsequent change orders) pertaining to that specific contract must be approved by Council.
- Acceptance of grants from the federal and/or state governments
- Proposed contracts or agreements wherein funds have not been appropriated or which require new or additional appropriations for their funding
- All proposed contracts for the sale or lease of real property of the City regardless of the dollar value
- Gifts/Donations to the City in excess of \$10,000 (see City Code Section 4.10 – Gifts To The City)
- Sales of surplus property, equipment, or supplies to other government entities (see Section 14.7.1 of this document)

15.0 Surplus Property

The Purchasing Division is responsible for the disposition of surplus City property. Once property is declared surplus, it is normally stored in the City's warehouse or impound lot. If it is not re-used by City departments, the property is sold at auction, sold over the internet, sold via the sealed bid process (real property only), or donated to another government agency with appropriate approval. The Purchasing Division processes the proceeds of the sale(s).

15.1 Donations of Surplus Assets

The City can donate surplus property, including equipment, furniture, and even real estate to another governmental entity. This must be approved by the Mayor if the surplus property is valued at \$25,000 or less. If the value is more than \$25,000, approval by the City Council is required.

15.1.A. The City may donate surplus property, equipment, or supplies only to other governmental entities. Donations to any entity (other than another governmental organization) are prohibited.

15.1.B. Lease/Loan of Surplus Property. Pursuant to State Law, the City may loan surplus property of historical or archival significance to a museum operated by a nonprofit corporation and dedicated in whole or in part to the history of the city or any of its

City of Knoxville Procurement Policies and Procedures

department. The property shall be leased or loaned for the purpose of display or exhibition of such property to the public within the city. The nonprofit shall be responsible for the safekeeping of the property and may be required to provide acceptable insurance coverage on the property (as approved by the City).

15.1.C. Lease or Sale of Surplus Real Property Located in a Redevelopment or Urban Renewal Zone. Upon recommendation of the Finance Director, the City may lease or sell, by noncompetitive negotiation, surplus real property located within the geographic boundary of a redevelopment or urban renewal project zone, designated as such by Council. Such lease or sale must be approved by Council, and at least fifteen (15) days' notice of the time and place for council's consideration of such proposed lease or sale shall first have been published once in a daily newspaper of general circulation in the city. An appraisal of the property shall also be obtained prior to Council's consideration of any such lease or sale.

15.2 Warehouse

The majority of surplus property is stored in the City's warehouse located at the Central Services Building at Lakeshore Park and is available for re-use by City departments, except for computers which may not be re-issued to City departments. No items are sold for at least three (3) months after being designated as surplus in order afford City departments the opportunity to acquire the property. Departments in need of office furniture or office supplies may telephone the Purchasing Division to schedule an appointment to view warehoused City surplus.

After three (3) months, the property may be sold at a public auction, through an internet auction site, or another means that provides the City with a fair price. With the authorization of the Purchasing Agent, surplus property may also be sold for scrap or deposited in a landfill when the value of said property, equipment, or supplies is deemed nominal (less than \$50) by the Purchasing Agent.

All items received into the Warehouse will be recorded into the Warehouse Inventory, which will be maintained by the Purchasing Division, and which will indicate an accurate record of what is in the warehouse at any given time. The Warehouse Inventory will be used to track all incoming surplus (with appropriate descriptions and asset tag numbers) and all outgoing surplus (including disposition method and any revenue generated by a sale).

The Purchasing Division will collect the proceeds from the sale of such property, record the amount on a Cash Report Form, and submit both the revenue and the Cash Report to the Revenue Division of the Department of Finance where it will be deposited.

15.2.1 Surplus Equipment (Non-Computer Related)

Departments shall be required to follow the procedure below to move surplus property off their asset lists and have the surplus property accepted in the surplus warehouse:

1. The department determines the items it wants declared surplus and initiates a "Surplus Property Retirement Ticket" (SPRT; see Appendix 11-APP), listing an

City of Knoxville Procurement Policies and Procedures

- inventory of the items on the form and requesting that they be declared surplus. The SPRT must have a signature from the department director or chief.
2. The Purchasing Agent signs the SPRT to declare the items surplus.
 3. The Warehouse Manager telephones the department, if necessary, to determine the disposition method of the items listed on the SPRT and their appropriate destination (warehouse, impound, etc.).
 - The destination(s) is indicated on the form to instruct Facilities Services where to deliver the items.
 - A retirement ticket number is assigned to the SPRT, and labels showing this number will be sent to the department to affix to each of the surplussed items.
 - Purchasing arranges for pick up and transport of the items to their destination, and notifies the department of the scheduled pick up date(s).
 - A master copy of the SPRT is retained in the Purchasing Division, and a copy is sent to Facilities, along with a manifest.
 4. The SPRT is routed through the Fixed Assets Section of Finance & Accountability for review; Fixed Assets will indicate on the SPRT if it needs to be returned to Fixed Assets after item disposition for final reconciliation.
 5. The Warehouse Manager transfers items listed on the SPRT to a Surplus Property Manifest (see Appendix 12-APP), which accompanies all transferred items to their destinations, and upon which receiving units will sign to indicate receipt of an accurate shipment. Copies of the manifest are sent to Facilities Services.
 6. The department removes all City inventory tags and affixes the labels showing the retirement ticket number to each item to be surplussed. Items not properly labeled will not be picked up for transport.
 7. Facilities Services picks up the items on the pre-arranged date and confirms by signature that the manifest accompanying the shipment is accurate. **Facilities will not pick up items incorrectly described, not listed on the manifest, or not labeled with the retirement ticket number.** When the item(s) are delivered at their destination(s), Facilities has the Receiving Unit(s) sign for the delivery on the Surplus Property Manifest, then returns the signed form to Purchasing.
 8. If requested, Purchasing will route the SPRT back through Fixed Assets for final reconciliation.

15.2.2 Surplus computers

Information Systems (IS) works with the Warehouse Manager to safely transport surplus computers and computer-related equipment to the warehouse. The following procedures apply:

1. Purchasing provides a number of empty pallets to IS, each spray-painted a bright color, and each permanently marked with its own pallet number.
2. IS creates a manifest for each pallet ("Computer-Related Retirement Ticket") of surplus equipment (see Appendix 13-APP), noting serial number, asset number, description, and assigned pallet number for each item palletized. Like items are palletized together whenever possible; non-working items are palletized together. Equipment is stacked in such a manner that all items on a pallet can be visually confirmed, even if this requires a greater number of pallets to be used. (The exception to this rule is laptops, which are easily stacked together and counted.)

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3. When pallets are ready for pick up, IS sends a copy of the manifests to Purchasing's Warehouse Manager, who schedules pick up of the equipment for transport to the warehouse. IS is notified of the pick-up arrangements.
4. Facilities signs for the pallets only after counting/visually confirming that the items listed on the manifest are on the designated pallets. **If any items listed for a pallet are missing, that pallet may not be picked up for transport.** Facilities shrink-wraps items where appropriate. NOTE: Before moving palletized items from IS, Facilities must confirm that the items listed for each pallet are actually on the pallet. By signing for the pallet and removing it from IS, Facilities accepts the shipment as complete as listed on the manifest. Items cannot be changed, substituted, or moved to a different pallet.
5. At the warehouse, the designated Purchasing Division employee signs for the pallets only after counting/visually confirming that the items on the manifest are on the designated pallets. Any shortages are immediately reported to the Purchasing Agent and the Director of Public Service. Note: The Purchasing Division employee is not expected to break open the pallet at the time of delivery to confirm serial numbers, asset tag numbers, etc. That person shall simply confirm a count of items to ensure that they
6. Facilities delivers empty pallets to IS to replace the ones now in the warehouse.
7. The Warehouse Manager assigns a shipment number to the manifest and provides a copy of the manifest to Accounting for Fixed Assets reconciliation.

15.3 Vehicles

The Purchasing Division is responsible for the disposition of all surplus City vehicles as well as vehicles impounded by the Knoxville Police Department. Impounded vehicles are released for sale after proper notification has been made to their owners. These vehicles are stored in the Fleet Services impound lot until released by Fleet Services for sale at public auction.

Every other month, the Purchasing Division, in conjunction with Fleet Services, conducts a public auction of all surplus City vehicles and impounded vehicles. Auctions are advertised in the local newspaper at least three weeks in advance of the auction date. Purchasing coordinates with a local auction company to conduct the auction. During the auction, the Purchasing Division keeps a record of all vehicles sold, the price for which they were sold, and the person to whom they were sold. At the conclusion of the auction, Purchasing collects the money from the sale and deposits it via a cash report with the Revenue Division within the Department of Finance.

Failure of a buyer to render payment at time of the sale makes the sale null and void, and the vehicle is sold at the next auction. The non-paying buyer may then be barred from buying at auctions for one year.

The Purchasing Division may choose to sell surplus vehicles on an internet auction website. Recordkeeping and cash reporting is done in the same manner as an on-site auction.

Fully equipped police cars may not be sold to any entity (whether by public or internet auction) other than a governmental organization and said organization must show proof that they are indeed a government entity. Police cars that are sold to all other entities must be

City of Knoxville Procurement Policies and Procedures

stripped of their lights, cages, and any lettering, decals, etc., that might indicate the vehicle is being used by a policeman.

With the authorization of the Purchasing Agent, vehicles of nominal value may be sold for scrap.

15.4 Real Property

The Purchasing Division and City Real Estate Manager are responsible for selling surplus City real estate by means of the following procedure:

- a) A citizen or organization submits (in writing) its desire to buy a parcel of land or property to the City Real Estate Manager.
- b) In order to sell a City-owned parcel of land, the Mayor and all senior staff are asked for approval. They are provided with a map of the land parcel and have 15 days to respond to the City Real Estate Manager.
- c) The Purchasing Agent and Real Estate Manager have the property in question appraised for value if it is believed to be worth more than \$1,000. The appraisal must be done by a qualified real estate appraiser. The purchaser of the property bears the cost of the appraisal and cost of the sale (closing costs). The Purchasing Agent may waive the appraisal requirement if he believes the property to be only of nominal value (less than \$1,000). The determination shall be in writing, provided to the City's Real Estate Manager, and maintained on file in the Purchasing Division for at least five (5) years. In such cases, the Purchasing Agent shall report to Council the offers received to purchase the property if the price is considered fair and reasonable. Council may approve the sale to the highest bidder. Additionally, the Purchasing Agent may negotiate the sale to interested parties subject to the approval of the Finance Director.
- d) If the sale is approved, the Real Estate Manager and Purchasing Agent work together to sell the property via the sealed bid process. This includes posting an advertisement in the local newspaper. Additionally, the advertisement is posted on the City's website by the Purchasing Agent, and the Real Estate Manager posts a "For Sale" sign on the property.
- e) On the date and time published for the bid opening, the sealed bids are publicly opened in the Purchasing Division and the name of each bidder and bid price are announced publicly. The highest and best bid, in the interest of the City, is then submitted to City Council for approval. The Purchasing Agent may reject any and all bids below the appraised value.
- f) The Law Department prepares and sends a resolution to Council requesting approval for the property sale.
- g) If Council approves the sale, the Real Estate Manager prepares the deed and closing statement, which describes all of the costs involved in the sale such as the appraisal, recording costs, and so forth.
- h) The Real Estate Manager makes arrangements for transferring the property to the buyer and sends the buyer a letter asking him to provide the City with cash, a cashier's check, or a certified check to complete the purchase.
- i) The Buyer, Real Estate Agent, and Purchasing Agent (or his/her designee) then sign the closing statement. The Real Estate Agent signs as accepting the money; the Purchasing Agent signs as approving the sale as the buyer signs to complete the sale;

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the buyer makes payment with cash, a cashier's check, or a certified check; and the deed for the property is transferred to the buyer.

- j) The Real Estate Manager provides the information to the registrar's office to record the deed transfer. The Real Estate Manager makes a copy of the check for filing and takes the actual check to the City Treasury Department to deposit.
- k) The Real Estate Manager removes the property from the City's fixed assets and mails the buyer the closing statement and deed.
- l) If no bids for the property sale are received, the Purchasing Agent may offer the sale through non-competitive negotiations or through a real estate company.

15.5 Trade-Ins

As stated in section 2-723 of the City's Code, the Purchasing Agent may trade in surplus property for the purchase of new property.

15.6 Police Property

Impounded and confiscated cars are sold at a City auction after being released for sale by the Police Department.

Confiscated items, which can include a variety of types of goods (i.e., jewelry, clothing, etc.), are sold at auction after being released for sale by the Police Department. This can be done either in dedicated police auctions or as consigned items at regular auctions. Confiscated firearms shall not be sold at auction.

Confiscated or retired firearms may be sold or traded by the City only through the Purchasing Agent in order to ensure they are sold exclusively to qualified buyers after a court order has been rendered permitting such a sale or trade.

15.7 Internet Auctions

Appropriate internet websites may be used to sell any surplus items. The Purchasing Agent or a designee has the authority to conduct any transactions that would normally be done by another accepted form of sale. The City considers sales over internet auction websites as having met the requirements of a public auction.

15.7.1 Sales of Surplus Property to Other Governmental Entities

The Purchasing Agent may donate or sell surplus property to other governmental entities as per Tennessee State Law 12-3-1005 without going out for competitive bids if he/she determines that the buying entity is procuring the surplus property at a fair and reasonable value. The Purchasing Agent shall exercise due diligence to determine whether or not the price is fair and reasonable.

However, if the value of the donated property is under \$25,000, the donation must be approved by the Mayor of the City of Knoxville. If the value is \$25,000 or higher, City Council approval also must be obtained.

15.8 Ethics Relating to Surplus Property

Because the possibility exists for City employees to have knowledge that would put them at an advantage over other bidders, employees who are in any way involved in the decision to

City of Knoxville Procurement Policies and Procedures

declare property as surplus are not permitted to buy surplus property while currently employed and for six (6) months after leaving the employment of the City. Employees who had no part in deciding to declare the property as surplus, but who desire to procure surplus City property, must sign an affidavit (see Appendix 7-APP) stating that they had no part in the decision-making process which declared the property they desire to buy as surplus.

Additionally, (when known to the City) immediate family members of employees who desire to procure surplus City property must acquire a sworn affidavit from said employee stating that he/she had no part in declaring the property as surplus. This applies to all surplus items, including fleet vehicles, real estate, and all warehoused surplus materials, as well as any surplus property that is sold by internet auction.

Impounded cars sold at auction can be purchased by employees who wish to bid at auction. However, no employee can purchase or bid on DUI or drug-seized vehicles, in that it is the policy of the City that criminal forfeiture auctions inure solely to the benefit of the public and may not benefit any City employee.

16.0 Reports

All reports described in the Disadvantaged Business Enterprises section are initiated by the Small Business Specialist and provided to the Purchasing Agent. The Purchasing Agent provides the semi-annual DBE reports to the Director of Finance.

Annual Surplus Property Reports shall be submitted by the Purchasing Division to the Finance Director. These reports shall state:

- Vehicle auction summary including total sales and number of vehicles sold.
- Warehouse results including number and type of items received, number and type of items sold, and total inventory remaining on hand in storage.
- List of all items sold on government internet auction sites, the price, and the buyer.

The Purchasing Division annually will submit to the Finance Director a list of all non-competitive procurements (sole sources) that were awarded. The report is due by August 1st of each year. These reports must be retained for five years in the Purchasing Division.

17.0 Ethics in Procurement and Contracting

The code of ethics in procurement and contracting applies to all City of Knoxville employees who interact with the public and represent the City in any way.

17.1 Statement of Policy

All employees must discharge their duties fairly and impartially. They must also maintain a standard of conduct that inspires public confidence in the integrity of City's procurement process.

17.2 General Standards of Ethical Conduct

- a) Any attempt to realize personal gain through public employment inconsistent with the responsible discharge of that public employment is a breach of public trust.

City of Knoxville Procurement Policies and Procedures

- b) Employees shall base all purchases on the principle of competitive bidding/quotes consistent with policies of the City.
- c) Employees shall grant all competitive quotes or bids equal consideration, regard each transaction on its own merits, and promote fair, ethical, and legal trade practices.
- d) Employees shall avoid misrepresentation and deception of any type. They must also demand honesty in sales representations, whether offered through the medium of a verbal or written statement, an advertisement, or a sample of a product.
- e) Employees shall accord prompt and courteous reception, insofar as conditions permit, to all who call on legitimate business missions.
- f) Employees shall not use the original designs developed by a vendor for competitive purposes without written consent.
- g) Employees may not give out information about bids or bidders prior to bid opening. Any information provided must be provided in a controlled manner to ensure that all potential bidders receive the same information. This is done through bid addenda and originates from the Purchasing Division.

17.3 Conflict of Interest

- a) No City employee responsible for initiating or approving requisitions shall accept or receive, directly or indirectly, from any person, firm, or corporation to whom any contract or purchase order may be awarded, by rebate, gift or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future awards or compensation. If the violation was intentional, the employee responsible for the purchase shall be liable for any City funds paid contrary to these policies and procedures and shall be subject to discipline.
- b) It is a breach of ethical standards for any employee, in the performance of his/her official duties, to participate directly or indirectly in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal thereof, in which to the employee's knowledge:
 - 1) He/she or any member of his/her immediate family has a substantial financial interest.
 - 2) A business or organization in which he/she or any member of his/her immediate family has a substantial financial interest as an officer, director, trustee, partner or employee, is a party.
 - 3) Any other person, business, or organization with whom he/she or a member of his/her immediate family is negotiating or has an agreement concerning prospective employment is a party.
- c) Direct or indirect participation shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- d) No City employee or member of a City employee's immediate family may enter into an agreement (contract or purchase order) with the City of Knoxville, and the City shall reject all bids, proposals, or statements of qualifications that are submitted by a City employee or an employee's immediate family (see definition of "immediate family" in Section 2.0 of this document).
- e) No person who is a former employee of the City of Knoxville, shall enter into an agreement (contract or purchase order) with the City of Knoxville until twelve months have elapsed from the time the person terminated or was terminated from

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City employment. When known to the City, the City shall reject any and all bids, proposals, or statements of qualifications from former City employees or immediate family members of City employees until said former employee has terminated, or been terminated from, his or her employment with the City of Knoxville for a period of at least twelve months.

- f) It is a breach of ethical standards for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal thereof.

17.4 Contemporaneous Employment Prohibited

It is a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the particular governmental body by which the employee is employed.

City of Knoxville Procurement Policies and Procedures

18.0 APPENDIX

1-APP	Quick PO Payment Form (<i>Form deleted 09/06/2011</i>)
2-APP	ITB/Contract Matrix
3-APP	Property Acquisition Checklist
4-APP	Procurement Protest Form
5-APP	Protest Appeal Form
6-APP	Vendor List Application Form
7-APP	Waiver for Purchase of Surplus Property Form
8-APP	Disclosure Statement
9-APP	Land Acquisition Request Form
10-APP	Part A. FTA-Funded Procurement Checklist
10-APP	Part B. Federally-Funded Contract Requirements
10-APP	Part C. Protest Procedures for FTA-Funded Contracts
11-APP	Surplus Property Retirement Ticket (Non-Computer Related)
12-APP	Surplus Property Manifest
13-APP	Computer-Related Retirement Ticket

Invitation to Bid/Contract Requirements Matrix

Document Requirements	Ins.	Bid Bond	Perf bond	Paym't bond	EBOP Form I or II	Bus. Lic.	License info	Non-Coll.	Counc. app.	Drug Free Aff.	Law Cont.
Goods, under \$5,000	No	No	No	No	No	Yes	No	Yes	No	No	No
Goods, \$5,000 to \$24,999	No	No	No	No	No	Yes	No	Yes	No	No	No
Goods, \$25,000 and above	No	No	No	No	No	Yes	No	Yes	No	No	Perhaps
Services, under \$5,000	Perhaps	Perhaps	Perhaps	No	No	Yes	Perhaps	Yes	No	No	Perhaps
Services, \$5,000 to \$24,999	Perhaps	Perhaps	Perhaps	Perhaps	Yes	Yes	Perhaps	Yes	No	No	Perhaps
Services, \$25,000 and above	Yes	Perhaps	Perhaps	Perhaps	Yes	Yes	Yes	Yes	Yes	No	Yes
Construction	Yes	Perhaps	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

1. POs under \$25,000 do not require bids or law contracts in general; law contracts may be needed in some cases for services, depending on the item(s) involved, on a case-by-case basis.
2. POs over \$25,000 must be bid out unless they meet the criteria established for non-competitive bidding.
3. Professional Services do not have to be bid, but normally require a contract.
4. POs between \$5,000 and \$25,000 will be bid out, and may or may not require a contract, depending on the item(s) involved and defined on a case-by-case basis. If a contract is not required, the PO will serve as the contract document.
5. If a PO is a combination of goods and services, it is classified as a service PO.
6. The term "Perhaps" in the matrix implies a decision to be made on a case-by-case basis by the Purchasing Agent.
7. A list of contracts requiring Council approval is provided in section 13.3 of this document.
8. Vendors must be licensed in their particular industry unless they have a court approved document stating they are exempt from such licensure requirements. Additionally, vendors do not have to necessarily be licensed to conduct business in the State of Tennessee except in the case of professional services and construction services where such licensure within the state is required by law.

Property Acquisition Checklist

Project Name: _____

Council Approval Date: _____ **Resolution No.** _____

Funding Source: _____

PROPERTY ACQUISITION CHECKLIST

	<input type="checkbox"/>	Date _____
(1) Design Plans Completed & Approved by TDOT (Engineering)	<input type="checkbox"/>	_____
(2) Environmental Clearance Signed (Engineering)	<input type="checkbox"/>	_____
(3) Notice of Intent To Acquire (Include Right-of-Way Process & Property Owner Rights)	<input type="checkbox"/>	_____
(4) Title Information (Finance)	<input type="checkbox"/>	_____
(5) Initial Contact Form (Finance)	<input type="checkbox"/>	_____
(6) Appraisal (Finance)	<input type="checkbox"/>	_____
(7) Appraisal Review (Finance)	<input type="checkbox"/>	_____
(8) Negotiator's Report of Calls (Finance)	<input type="checkbox"/>	_____
(9) Offer To Acquire Real Property (Finance)	<input type="checkbox"/>	_____
(10) Legal Description (Law & Engineering)	<input type="checkbox"/>	_____
(11) Tract Map (Engineering)	<input type="checkbox"/>	_____
(12) Agreement Of Sale (Finance)	<input type="checkbox"/>	_____
(13) City Council Approval of Agreement (Finance)	<input type="checkbox"/>	_____
(14) IF Administrative Settlement (Finance) (Must Include Written Statement Approving Purchase Amount)	<input type="checkbox"/>	_____
(15) Preparation Of Conveyance Document (Law) (Warranty Deed or Easement)	<input type="checkbox"/>	_____

Form continued next page

Property Acquisition Checklist, Page 2

(16) **Closing Statement** (Finance)

(17) **Negotiator's Log** (Finance)

(18) **IF Relocation Is Required** (Finance)

(Determination of Eligibility)

(Offer of Relocation Assistance, Including List of Available Properties)

(Determination of Benefits)

(Copies of All Claims and Receipts to Verify Payments)

(19) **IF Condemnation Is Required** (Law & Finance)

(Petition For Condemnation)

(Order Of Possession)

(Consent Judgment OR Final Decree)

(20) **Local Public Agency Certification** (City Administration)

Procurement Protest Form

Send this form to:

Purchasing Agent, City of Knoxville
400 Main Street, Room 667
Knoxville, TN 37902
Telephone: (865) 215-2070
Fax: (865) 215-2277

Date _____

Protested Item (Give description, ITB number, or title of RFP/RFQ)

Reason for Protest and Solution Sought

Date that you learned the facts which caused the protest _____

Company Name _____

Contact Name _____

Phone No _____

Original Signature _____

3-APP Procurement Protest Form

Procurement Protest Appeal Form

Send this form to:

Procurement Advisory Board (ATTN: Purchasing Agent)
City of Knoxville
400 Main Street, Room 667
Knoxville, TN 37902
Telephone: (865) 215-2070
Fax: (865) 215-2277

Date_____

Protested Item (Give description, ITB number, or title of RFP/RFQ)

Reason for Appealing the Resolution

A Protest Bond for 10% of the value of your bid is required for processing this appeal. It is non-returnable if the Procurement Advisory Board deems that this appeal is capricious, made in bad faith, or without basis. Call the Purchasing Division (865-215-2070) to receive a copy of the City of Knoxville's appeal process.

Company Name_____

Contact Name_____

Phone Number_____

Original Signature_____

4-APP **Protest Appeal Form**

**CITY OF KNOXVILLE PURCHASING DIVISION
VENDOR APPLICATION**

400 Main Street, Room 667
Knoxville, TN 37902

email: purchasing@knoxvilletn.gov

Telephone: (865) 215-2070
Fax: (865) 215-2277

The City of Knoxville is pleased to have your firm submit the following information in anticipation of doing business with the City. The name of your firm will be included on a commodity list reflecting your primary products or services. In addition to this form, vendors must complete the accompanying "Class List" by checking all items/services they are able to provide AND an IRS Form W-9.

New Application Information Change

Knoxville Business Tax No. (if applicable) _____
Federal Tax ID or Social Security No. _____

Name of Business _____

1. Mailing address for bidding forms
and purchase orders

2. Mailing address for payments
(if different from Item 1)

3. Representative to contact on bids or quotes:

Name _____

Title _____

Telephone _____

Fax _____

Email _____

4. List products or services your firm provides by placing a checkmark next to the items you are interested in supplying (see the following pages).

5. Classification (please check): Government Non-Profit Incorporated Publicly Traded
 Disadvantaged Medical/Surgical Services Provider Legal Services Provider
 Small Business (Only businesses with the maximum income and number of full-time employees shown in the following table qualify as small business. Do not check Small Business unless your business falls under the limits shown below:

Type of Business	Maximum Gross Annual Income	Maximum # of Full-Time Employees
Construction	\$3,000,000	19
Manufacturing	\$500,000	10
Wholesale	\$500,000	10
Retail	\$500,000	5
Transportation	\$500,000	9
Services	\$500,000	9

6. Diversity Code:

Select one category only. Business must be at least 51% owned by selected category.		
<input type="checkbox"/> Asian Female	<input type="checkbox"/> American Indian or Alaska Native Female	<input type="checkbox"/> Black or African Female
<input type="checkbox"/> Asian Male	<input type="checkbox"/> American Indian or Alaska Native Male	<input type="checkbox"/> Black or African Male
<input type="checkbox"/> Caucasian Female	<input type="checkbox"/> Hispanic or Latina Female	<input type="checkbox"/> Native Hawaiian or other Pacific Islander Female
<input type="checkbox"/> Caucasian Male	<input type="checkbox"/> Hispanic or Latino Male	<input type="checkbox"/> Native Hawaiian or other Pacific Islander Male

7. Standard Payment Terms: _____

I hereby certify that the information supplied herein is correct to the best of my knowledge.

Signature and Title

6-APP

Vendor List Application Form

Date

For Official Use Only

Vendor ID# _____



CITY OF KNOXVILLE



WAIVER FOR PURCHASES OF SURPLUS PROPERTY

This form shall be filled out and signed by all City of Knoxville employees and their immediate family members who desire to purchase surplus City property of any type. Immediate family is defined as “spouse, children (including natural, step, and adoptive), parents (including natural, step and adoptive), siblings, grandparents, and grandchildren, and any other individual residing within the employees household who is a legal dependent of the employee for income tax purposes.”

Part I is to be filled out and signed by City Employees, and Part II is to be filled out and signed by immediate family members of City Employees.

PART I

City Employee Section

I, _____, hereby declare that I have no knowledge, connection, (City Employee) or involvement in any way in the surplus of the following vehicle/equipment/property owned by the City of Knoxville and being sold as surplus:

I further attest that I have had no influence in or contribution to the decision by the City of Knoxville to declare this property as surplus. In addition, I have no prior information that is not available to the public upon request regarding the condition of the above-listed property and have no knowledge of or participation in any deceptive actions or adjustments made to this property in preparation of its sale to the public.

I am currently employed by the City of Knoxville _____ Department, located at _____. Employee ID # _____.

Signature _____ Date _____

PART II

Immediate Family Members of City Employee Section

I, _____, hereby declare that neither I nor my immediate (Immediate Family Member of City Employee)

family member who is a City of Knoxville employee have no knowledge, connection, or involvement in any way in the surplus of the following surplus property owned by the City of Knoxville and being sold at public auction:

I further attest that neither I, nor my immediate family member who is an employee of the City of Knoxville, have had any influence in or contribution to the decision by the City to declare this property as surplus to be sold at public auction. In addition, neither I nor my immediate family member who is an employee of the City of Knoxville have prior information that is not available to the public upon request regarding the condition of the above-listed property and have no knowledge of or participation in any deceptive actions or adjustments made to this property in preparation of its sale to the public.

The name of my immediate family member who is an employee of the City of Knoxville and the department for which (s)he works are printed below:

Name of the City employee: _____

Department where the employee works: _____

Buyer's Signature _____ Date _____

DISCLOSURE STATEMENT

I, (PRINTED NAME) _____, affirm that neither I nor any of my immediate family members have any affiliation (financial or otherwise) with the individuals, teams, or firms being evaluated as part of the RFP for the _____ project or initiative, and therefore have no conflict of interest in evaluating their proposals for said project or initiative.

Signature: _____ Date: _____

Title: _____

Land Acquisition Request Form – Page 2

Sr. Director's Signature: _____

Date: _____

DO NOT WRITE BELOW THIS LINE

Review Date: _____

Committee
Recommendation: _____

10-APP PART A. FTA-FUNDED PROCUREMENT CHECKLIST

Note – This checklist is a guide in fulfilling regulatory requirements for FTA-funded formal procurements and FTA funded contract amendments. To ensure a thorough knowledge of related FTA requirements, however, or for clarification of requirements, refer to FTA Circular 4220.1F, available at http://www.fta.dot.gov/documents/FTA_Circular_4220.1F.pdf.

Section I – Base Bid Document Development (RFP, ITB, RFQ)

- A. Procurement Type: Materials & Supplies Construction
 Rolling Stock Professional Service/A&E Operations/Management

Project/Product Description: _____

- B. Competition Method: Open Market Open Market Joint Procurement
 Intergovernmental Agreement (no cardinal changes)
 Sole Source (refer to FTA Cir 4220.1F, Para 3i(b))

C. Solicitation Document:

- Statement of work/technical specifications designed for open and fair competition.
- Quantities limited to actual need.
- Solicitation document contains no undue restrictions that would limit competition, (*i.e.*, excessive qualifications, unnecessary experience, improper prequalification, excessive bonding, brand name only without allowing for “an equal”), in-State or geographic restrictions (except those stated in FTA Cir 4220.1F), conflict of interest.
- Identifies all bid evaluation factors.
- Specifies the contract type (Firm Fixed Price, Cost Reimbursement).
- Is not a prohibited or restricted contract type such as a Cost Plus a Percentage of Cost or Time and Materials contract. (See FTA Cir 4220.1F for Time and Materials contracts.)
- FTA required contract clauses and certifications (FTA Cir 4220.1F, Appendix D; FTA BPPM, Appendix A1). Also, see Part II below.

Section II - FTA Required Contract Clauses

CLAUSE	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials / Supplies	REFERENCE
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All	FTA Master Agreement § 2.f
False or Fraudulent Statements or Claims, Civil and Criminal Fraud	All	All	All	All	All	FTA Master Agreement § 3.f; 49 CFR Part 31
Access to Third Party Contract Records	All	All	All	All	All	FTA Master Agreement § 15.t; 18 CFR Part 18.36 (i) 49 CFR Part 633.17
Changes to Federal Requirements	All	All	All	All	All	FTA Master Agreement § 2c(1) 49 CFR Part 18
Termination	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	FTA Master Agreement § 11; FTA Cir 4220.1F, Chapt IV, 2b(6)(b)4
Civil Rights (Title VI, EEO, ADA)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000	FTA Master Agreement § 12; 29 CFR Part 1630 41 CFR Parts 60
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All	FTA Master Agreement § 12.d 49 CFR Part 26
Incorporation of FTA Terms	All	All	All	All	All	FTA Master Agreement § 15.a FTA Cir 4220.1F
Suspension and Debarment	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000	FTA Master Agreement § 11 2 CFR Part 1200 49 CFR Part 29
Buy America			>\$100,000	>\$100,000	>\$100,000	FTA Master Agreement §14.a 49 CFR Part 661
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	FTA Master Agreement § 52 49 CFR Part 18
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	FTA Master Agreement § 3.d 49 CFR Part 19 & 20 FTA Cir 4220.1F, Chapt IV, 2a(4)
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	FTA Master Agreement § 25.b 40 CFR Part 15.61 49 CFR Part 18
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000	FTA Master Agreement § 25.c FTA Cir 4220.1F, Chap IV, 2c(3)(e)

Section II - FTA Required Contract Clauses (Continued)

CLAUSE	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials / Supplies	REFERENCE
Cargo Preference			For property transported by ocean vessel.	For property transported by ocean vessel.	For property transported by ocean vessel.	FTA Master Agreement § 14.b 46 CFR Part 381 FTA Cir 4220.1F, Chapt IV, 2c(6)(a)
Fly America	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	FTA Master Agreement § 14.c 41 CFR Part 301-10 FTA Cir 4220.1F, Chapt IV, 2c(6)(b)
Davis-Bacon Act				>\$2,000 (including ferry vessels)		FTA Master Agreement § 24.a 29 CFR Part 5 FTA Cir 4220.1F, Chapt IV, 2h(5)
Contract Work Hours and Safety Standards Act		>\$100,000 (except transportation services)	>\$100,000	>\$100,000 (including ferry vessels)		FTA Master Agreement § 24.b 29 CFR Part 1926 FTA Cir 4220.1F, Chapt IV, 2h(7)
Copeland Anti-Kickback Act				>\$2,000 (including ferry vessels)		FTA Master Agreement § 24.a FTA Cir 4220.1F, Chapt IV, 2h(6)
Bonding				>\$100,000		FTA Master Agreement § 15.o(1) FTA Cir 4220.1F, Chapt IV, 2h(1)
Seismic Safety	A&E for New Buildings & Additions			New buildings & additions to existing buildings		FTA Master Agreement § 23.e 49 CFR Part 41 FTA Cir 4220.1F, Chapt IV, 2h(2)
Transit Employee Protective Arrangements		Transit Operations				FTA Master Agreement § 24.d FTA Cir 4220.1F, Chapt IV, 2f(1) 29 CFR Part 215
Charter Service Operations		All				FTA Master Agreement § 28 49 CFR Part 604
School Bus Operations		All				FTA Master Agreement § 29 49 CFR Part 605
Drug Use and Testing / Alcohol Misuse and Testing		Transit Operations				FTA Master Agreement § 32.b FTA Cir 4220.1F, Chapt IV, 2f(2) 49 CFR Parts 653 & 654
Patent and Rights in Data and Copyright Requirements	Research & Development					FTA Master Agreement § 17 FTA Cir 4220.1F, Chapt IV, 2i 37 CFR Part 401 49 CFR Parts 18 and 19
Energy Conservation	All	All	All	All	All	FTA Master Agreement § 26 FTA Cir 4220.1F, Chapt IV, 2,(4) 49 CFR Part 18
Prohibition of Cardinal Changes	All	All	All	All	All	FTA Cir 4220.1F, Chapter V, 7b (2)

Section II - FTA Required Contract Clauses (Continued)

CLAUSE	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials / Supplies	REFERENCE
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year	FTA Master Agreement § 15.k FTA Cir 4220.1F, Chapt IV, 2c(3)(f) 40 CFR Part 247
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects	FTA Master Agreement § 15.m FTA Cir 4220.1F, Chapt IV, 2d(1)
ADA Access	A&E	All	All	All	All	FTA Master Agreement § 12.g FTA Cir 4220.1F, Chapt IV, 2.c(3)(e) <u>2</u>
Protest Procedures	All	All	All	All	All	FTA Cir 4220.1F, Chapt VII, 1
Assignability Clause			Bus Procurements			FTA Master Agreement § 15.a
Prohibition of Arbitrary Actions	ALL	ALL	ALL	ALL	ALL	FTA Cir 4220.1F, Chapter VI, 2a(4), prohibitions

Section III – Required Certifications

The following documents must be submitted by responding bidders in response to a solicitation or as an awarded contract requirement.

DOCUMENT	Submitted With Bid	Awarded Contractor Submission	COMMENTS	REFERENCE
Bus Testing Certification	X		Procurements of buses and modified mass produced vans	FTA Master Agreement § 15.n(4) FTA Cir 4220.1F, Chapt IV, 2e(7) 49 CFR Part 665
Buy America Certification	X		Iron, steel, manufactured products, rolling stock	FTA Master Agreement § 14.a FTA Cir 4220.1F, Chapt IV, 2c(5) & 2h(9) 49 CFR Part 661
Preaward Certifications 1. Buy America components list 2. Federal Motor Vehicle Safety Standards Certification 3. Final assembly location and activities description		X	Rolling stock procurements exceeding \$100,000	FTA Master Agreement § 15.n(3) FTA Cir 4220.1F, Chapt IV, 2e(6) 49 CFR Part 663
Post Delivery Certifications 1. Buy America components list 2. Federal Motor Vehicle Safety Standards Certification 3. Final assembly location and activities description		X	Rolling stock procurements exceeding \$100,000. These certifications specify the transit vehicles manufactured and delivered.	FTA Master Agreement § 15.n(3) FTA Cir 4220.1F, Chapt IV, 2e(6) 49 CFR Part 663

Section III – Required Certifications (Continued)

DOCUMENT	Submitted With Bid	Awarded Contractor Submission	COMMENTS	REFERENCE
On-Site Inspector's Report		X	Rolling Stock procurements for more than 10 vehicles. This report provides an accurate record of vehicle construction activities and addresses how construction fulfills the contract specifications.	FTA Master Agreement § 15.n(3) 49 CFR Part 663.37
Lobbying Certification	X		Contracts greater than \$100,000	FTA Master Agreement § 3.d(1) FTA Cir 4220.1F, Chapt IV, 2a(4) 49 CFR Part 19 & 20
Standard Form LLL and Quarterly Updates (when required)	X	X	Relates to lobbying certifications	FTA Master Agreement § 3.d(1) FTA Cir 4220.1F, Chapt IV, 2a(4) 49 CFR Part 19 & 20
U.S. Dept of Labor Form WH-347		X	Relates to Davis-Bacon Act. This <u>optional</u> form helps to validate a contractor is paying employees prevailing wages	FTA Best Practices Procurement Manual, Appendix A1 40 CFR Part 247

Section IV – Other Required Documents

The following actions must be completed, documented and permanently filed within the procurement file.

- Price Analysis or Cost Analysis (performed to insure a reasonable price is offered prior to awarding a contract).
- Bid/Proposal/Qualifications Evaluation (utilizing the bid evaluation factors established within the solicitation document). Documentation should include justification(s) for selection.
- Independent Cost Estimates (ICE). When using FTA funds to make a purchase, an ICE shall be performed prior to receiving bids, proposals, or statements of qualifications. The ICE is to be performed by staff or subject matter experts who have first-hand knowledge of what is to be procured. The ICE shall be based on such things as market conditions, specifications, drawings, etcetera in to determine the general reasonableness of price and cost before bids and proposals are received. The ICE will be included in the procurement packet and provide a baseline for the subsequent price or cost analysis that occurs after bids or proposals have been received.

10-APP PART B. FEDERALLY-FUNDED CONTRACT REQUIREMENTS

REQUIRED CERTIFICATIONS, REPORTS, AND FORMS

This matrix indicates under what circumstances the listed requirement(s), report(s), and/or form(s) should be obtained.

REQUIREMENT	COMMENTS	REFERENCE
Bus Testing Certification	Procurements of buses and modified mass produced vans	§ 15.n(4)
TVM Certifications	All rolling stock procurements	§ 12.d(1)
Buy America Certification	Procurements of steel, iron or manufactured products exceeding \$100,000	§ 14.a
Preaward Review	Rolling stock procurements exceeding procurements exceeding \$100,000	§ 15.n(3)
Preaward Buy America Certification	Rolling stock procurements exceeding procurements exceeding \$100,000	§ 15.n(3)
Preaward Purchaser's Requirement	Rolling stock procurements exceeding procurements exceeding \$100,000	§ 15.n(3)
Post Delivery Review	Rolling stock procurements exceeding procurements exceeding \$100,000	§ 15.n(3)
Post Delivery Buy America Certification	Rolling stock procurements exceeding procurements exceeding \$100,000	§ 15.n(3)
Post Delivery Purchaser's Requirement	Rolling stock procurements exceeding procurements exceeding \$100,000	§ 15.n(3)
On-Site Inspector's Report	Rolling Stock procurements for more than 10 vehicles	§ 15.n(3)
Federal Motor Vehicles Safety Standards (Preaward and Post Delivery)	Motor vehicle procurements (49 CFR 571)	§ 15n(3)
Lobbying	Procurements exceeding \$100,000	§ 3.d(1)
Standard Form LLL and Quarterly Updates (when required)	Procurements exceeding \$100,000 where contractor engages in lobbying activities	§ 3.d(1)

10-APP PART C. PROTEST PROCEDURES FOR FTA-FUNDED CONTRACTS

The following procedures apply to all FTA-funded contracts and third party contracts. All references below to "recipient" should be interpreted as City of Knoxville or Third Party Contractor.

The Common Grant Rules assign responsibility to the recipient for resolving all contractual and administrative issues arising out of their third party procurements, including source evaluation and selection, including protests of awards, disputes, and claims using good administrative practices and sound business judgment. The Federal Transit Administration (FTA) also encourages the recipient to use appropriate alternative dispute resolution procedures. Neither FTA nor the Common Grant Rules relieve the recipient of any responsibility under its contracts to resolve disagreements that may arise in the course of contract formation or contract administration.

In general, FTA will not substitute its judgment for that of the recipient or subrecipient unless the matter is primarily a Federal concern. Examples of "Federal concerns" include, but are not limited to, situations "where a special Federal interest is declared because of program management concerns, possible mismanagement, impropriety, waste, or fraud." Nevertheless, FTA can become involved in the recipient's administrative decisions when a recipient's protest decision is appealed to FTA, or when the recipient seeks to use FTA assistance to support the costs of settlements or other resolutions of protests, disputes, claims, or litigation.

I. City of Knoxville (or Third Party Contractor) Roles and Responsibilities

(A) Written Policies and Procedures

The Common Grant Rules charge the recipient (CoK or contractor) with the initial responsibility to resolve protests of contract awards. The City is required to have written protest procedures (see Section 8.0), to which a third party contractor shall refer when a protest has been received.

(B) Timely Notification

The Common Grant Rule for governmental recipients requires a governmental recipient to notify FTA when it receives a third party contract protest to which this circular applies, and to keep FTA informed about the status of the protest. A non-governmental recipient involved in a protest is similarly expected to notify FTA when it receives a third party contract protest to which the circular applies, and to similarly keep FTA informed about the status of the protest. The recipient is expected to provide the following information:

Subjects

A list of protests involving third party contracts and potential third party contracts that:

1. Have a value exceeding \$100,000, or
2. Involve a controversial matter, irrespective of amount, or
3. Involve a highly publicized matter, irrespective of amount.

Details

The following information about each protest:

1. A brief description of the protest,
2. The basis of disagreement, and
3. If open, how far the protest has proceeded, or
4. If resolved, the agreement or decision reached, and
5. Whether an appeal has been taken or is likely to be taken.

When and Where

The recipient should provide this information:

1. In its next quarterly Milestone Progress Report, and
2. At its next Project Management Oversight review, if any.

Small recipients may report less frequently if no protests are outstanding.

(C) FTA Officials to Notify

When a recipient denies a bid protest, and especially if an appeal to FTA is likely to occur, FTA expects the recipient to inform the FTA Regional Administrator for the region administering a regional project, or the FTA Associate Administrator for the program office administering a headquarters project directly. FTA also encourages the recipient to keep its FTA project manager informed about protests with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.

(D) Access to Information

FTA expects the recipient to disclose information about any third party procurement protest to FTA upon request. FTA reserves the right to require the recipient to provide copies of a particular protest or all protests, and any or all related supporting documents as FTA may determine necessary.

II. FTA's Role and Responsibilities

FTA has developed an appeals process for reviewing protests of a recipient's procurement decisions.

(A) Requirements for the Protester

The protester must:

1. Qualify as an "Interested Party." Only an "interested party" qualifies for FTA review of its appeal. An "interested party" is a party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the third party contract at issue.
 - a. Subcontractors. A subcontractor does not qualify as an "interested party" because it does not have a direct economic interest in the results of the procurement.
 - b. Consortia/Joint Ventures/Partnerships/Teams. An established consortium, joint venture, partnership, or team that is an actual bidder or offeror and is acting in its entirety, would qualify as an "interested party" because it has a direct economic interest in the results of the procurement. An individual member of a

consortium, joint venture, partnership, or team, acting solely in its individual capacity, does not qualify as an “interested party” because it does not have a direct economic interest in the results of the procurement.

c. Associations or Organizations. An association or organization that does not perform contracts does not qualify as an “interested party,” because it does not have a direct economic interest in the results of the procurement.

2. Exhaust Administrative Remedies. The protester must exhaust its administrative remedies by pursuing the recipient’s protest procedures to completion before appealing the recipient’s decision to FTA.

3. Appeal Within Five Days. The protester must deliver its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has received actual or constructive notice of the recipient’s final decision. Likewise, the protester must provide its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the recipient’s failure to have or failure to comply with its protest procedures or failure to review the protest.

(B) Extent of FTA Review

As provided in the Common Grant Rule for governmental recipients, FTA will limit its review of third party contract protests as follows:

1. The Recipient’s Procedural Failures. FTA will consider a protest if the recipient:

- a. Does not have protest procedures, or
- b. Has not complied with its protest procedures, or
- c. Has not reviewed the protest when presented an opportunity to do so.

2. Violations of Federal Law or Regulations. FTA will not consider every appeal filed by a protestor of an FTA recipient’s protest decision merely because a Federal law or regulation may be involved. Instead, FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA’s overall public transportation program. FTA will refer violations of Federal law for which it does not have primary jurisdiction to the Federal authority having proper jurisdiction.

3. Violations of State or Local Law or Regulations. FTA will refer violations of State or local law to the State or local authority having proper jurisdiction.

C. FTA Determinations to Decline Protest Reviews

FTA’s determination to decline jurisdiction over a protest does not mean that FTA approves of or agrees with the recipient’s decision or that FTA has determined the contract is eligible for Federal participation. FTA’s determination means only that FTA does not consider the issues presented to be sufficiently important to FTA’s overall program that FTA considers a review to be required.

CITY OF KNOXVILLE - PURCHASING DIVISION
SURPLUS PROPERTY RETIREMENT TICKET (NON-COMPUTER RELATED)

Instructions: List and thoroughly describe all items to be surplussed. Asset Tag Number is required where applicable. Use the codes shown in Columns 6 and 7. Lost or stolen items must be reported in Column 7. Attach separate page if additional space is needed. Send signed form to Purchasing for processing. Purchasing will send you labels/tags to affix to each item listed; items not properly labeled or items not listed below will not be picked up for transport. Purchasing will arrange for pick up by Facilities Maintenance.

COL. 1 Item No.	COL. 2 Asset Number	COL. 3 Asset Tag Number	COL. 4 Description	COL. 5 Quantity	COL. 6 Condition Code (G) Good (F) Fair (B) Broken/ Unusable (P) Parts Only (U) Condition Unknown	COL. 7 Retirement Type Code (L) Lost (S) Stolen (W) Worn Out (O) Obsolete (\$) Sale (D) Destroyed/ Damaged	For Purchasing Use Only:		
							Destination Code	Cost of Removal	Lot #
1									
2									
3									
4									
5									

Ticket Number Assigned by Purchasing

Date	Dept/Div	Contact & Contact Phone #	Retirement Ticket #
------	----------	---------------------------	---------------------

Please declare the above-listed items surplus.

(Department Head Signature) _____ (Date) _____

I declare the listed items as surplus and authorize their disposed in the manner indicated above.

(Purchasing Agent Signature) _____ (Date) _____

I have checked the above-listed items against the Fixed Assets inventory and (DO) ____ (DO NOT) ____ need to

(Fixed Assets) _____

(Date) _____

I have confirmed that the above-listed items are properly labeled and have been received as described above by Facilities Maintenance for transport as directed.

(Facilities Maintenance Staff) _____

(Date) _____

11-APP Surplus Property Retirement Ticket (Non-Computer Related)

CITY OF KNOXVILLE - PURCHASING DIVISION

SURPLUS PROPERTY MANIFEST – FORM *MUST* ACCOMPANY ITEMS TO DESTINATION

Retirement Ticket #

INSTRUCTIONS TO FACILITIES MAINTENANCE: When picking up items from the Department, verify that the items listed/described; sign at the bottom of the page to confirm receipt of an accurate shipment.

1. Do not transport items not labeled with the Retirement Ticket # shown above.
2. Items should be transferred to the locations indicated below and signed for by the person receiving the item.
3. Give the appropriate color-coded form to the Receiving Unit and return the blue form to Purchasing.

INSTRUCTIONS TO RECEIVING UNIT (Warehouse, Scrap Metal, Impound, Transfer Station): When receiving items, fill in the date received and sign in the "Received By" column below to confirm receipt of an accurate shipment.

	Item Number from List <i>Numbers Entered by Purchasing</i>	Date Received	Received by: <i>(signature)</i>	If Sold, Manner and Date Sold <i>(ex: govdeals, auction)</i>	Amount of Sale Proceeds	Cash Report Number
CODE W: Warehouse						
CODE I: Impound						
CODE TS: Transfer Stn.						

Fixed Assets Reconciliation Complete:

(Fixed Assets) _____

(Date) _____

12-APP Surplus Property Manifest

