

AN ORDINANCE ESTABLISHING A PURCHASING POLICY FOR THE CITY OF UHLAND IN ACORDANCE WITH THE TEXAS GOVERNMENT CODE AND TEXAS LOCAL GOVERNMENT CODE

After investigation, public hearings, discussions and deliberations, The City Council of the City of Uhland, Texas, FINDS:

- 1. That establish an orderly policy for the purchasing of goods and services required by the city and to insure that the city is following current state law **NOW THEREFORE:**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF UHLAND, TEXAS:

PURCHASING POLICY

I. GENERAL

It is the policy of the City that all purchasing activities will be accountable, competitive, transparent, fair, and carried out with integrity and in the best interests of the City

A. Definitions – In this Policy:

- 1. City means the City of Uhland.
- 2. Board means the Board of Aldermen, of the City; sometimes also known as the City Council.
- 3. City Administrator means the person responsible for managing day-to-day administrative services for the City. The City Administrator may be an employee of the City or a person performing management services under contract.
- 4. Construction includes reconstruction, repairs and remodeling.
- 5. Facilities include the Uhland Community Center, storage facilities, roads, and permanent improvements to real property, such as buildings.
- 6. Goods means all types of personal property, including commodities, materials, supplies, and equipment.
- 7. Professional services means services provided by licensed professionals such as accounting, architecture, land surveying, professional engineering, legal services, and land appraisal services.
- 8. Purchaser means a person who makes purchases on behalf of the City.
- 9. RFP means request for proposals.

B. Purposes – The purposes of this Policy are:

- 1. To ensure that sound business judgment is used in all purchasing transactions;
- 2. To acquire needed goods and services, and the construction and repair of facilities, efficiently, economically, and in compliance with applicable laws; and
- 3. To ensure that purchasing transactions are conducted in a manner that provides for competition to the extent allowed by law.

C. Authority to Make Purchases – The persons holding the following positions are the only persons authorized to make purchases under this Policy:

1. The City Administrator;
2. The City Mayor;
3. Any other persons who are specifically authorized by the Board to make purchases under this Policy;

D. Records – The purchaser will maintain the following information for a period of three years after a purchase is completed, unless a longer period of time is required under the City’s records retention schedule:

1. The documents comprising the purchase contract between the City and the vendor.
2. Information indicating the rationale for the method of purchase.
3. Information indicating the basis for the purchase price.
4. Where quotes, bids or proposals are required for a purchase, the basis for the selection of the vendor from which the purchase is made.

II. PURCHASE METHODS

Purchase Approval Requirements Summary Table – All City purchases of goods or services will be made in accordance with the City’s current Purchasing Policy and within State law. City purchases shall be made through a small purchase, informal bid, sealed bid, or sole source/emergency purchase process. The following table illustrates the application of these methods:

PURCHASE APPROVAL REQUIREMENTS

Purchase Method	Applies to	\$ Amount	Approval Authority
Small Purchase	Goods and services, including construction and professional services	<\$750	City Mayor
Informal Bid Process	Goods and services, including construction and professional services	>\$750 and ≤\$5,000	Board of Aldermen
Sealed Bid Process	Goods and services, including construction services; not professional services	>\$5,000	Board of Aldermen
Sole Source and Emergency Purchase Process	Goods and services, including construction and professional services	<\$2,000	City Mayor
Sole Source and Emergency Purchase Process	Goods and services, including construction and professional services	>\$2,000	Board of Aldermen

- A. Split Purchases Prohibited – Where a dollar limit applies to a purchasing method, the purchaser is prohibited from splitting a purchase that normally would constitute a single purchase into two or more purchases to avoid the use of the applicable purchasing method.
- B. City Approval Prior to Work Start – An agreement shall be established with each vendor such that estimates for projects and efforts are obtained and approval by the City given prior to the purchase being made or the work started.
- C. Small Purchases –
1. Description – The small purchase process is a simple, informal method of fulfilling routine goods and services needs of the City.
 2. Procedure – Purchasers may make small purchases using purchase orders or procurement cards (pre-paid credit cards, debit cards, non pre-paid credit cards). Although price quotes are not required, the purchaser should pay attention to local market conditions and make purchases at the lowest available cost.
- D. Informal Bid Process –
1. Description – The informal bid process is a method for purchasing goods and services in which competition is ensured by securing informal price quotes from vendors.
 2. Procedure – The Purchaser will:
 - a. Secure at least two but preferably three price quotes (written or telephone) from vendors;
 - b. Keep a record of the quotes on a City informal bid form, or the like;
 - c. Secure approval from the Mayor or Board of Aldermen before making the purchase depending on the cost of the item; and
 - d. Make the purchase from the vendor offering the lowest quote, unless the purchaser notes a significant difference in grades of quality justifying an award to a different vendor. Any applicable delivery/shipping and installation costs should be included in determining the amounts of quotes.
- E. Sealed Bid Process –
1. Description – The sealed bid process is a method for purchasing goods and services in which competition is ensured by allowing all qualified vendors to submit bids.
 2. Procedure – The Purchaser will:
 - a. Prepare a bid packet including specifications, bid terms, and a bid calendar;
 - b. Advertise for bids;
 - c. Make bid packet information available to potential bidders. The bid packet should contain at least:
 - Requirements and specification for the product or service, including schedule and quality requirements.
 - Schedule for bid responses, questions, award, and performance.
 - Sole City contact for receiving proposals and responding to supplier questions.
 - Opportunity for bidders to ask questions and answering of all questions to all bidders.
 - Disclosure that cost is a major factor, but the award may consider other offsetting factors that could cause the lowest bidder to not receive the award. Accordingly, bidders are encouraged to include in their proposal, any features (whether requested or not) that could add value to their product or service;
 - d. Receive bids and prepare a tabulation of the bids;
 - e. Prepare a recommendation to the Board of Aldermen for approval of the purchase from the responsible bidder who submits the lowest bid;

- f. Secure approval from the Board of Aldermen before making the purchase. Any applicable delivery/shipping and installation costs should be included in determining the amounts of bids.

F. Sole Source Purchases and Emergency Purchases –

1. Description – A purchase of goods that are available from only one source, such as items that subject to patents, copyrights, secret processes, or natural monopolies, or gas, water, or other utility services, or captive replacement parts or components for equipment, can be made using a sole source purchase process instead of an informal bid, sealed bid, or competitive proposal process. A purchase of goods or services that are needed in connection with a bona fide, unforeseen emergency can be made using an emergency purchase process instead of an informal bid, sealed bid, or competitive proposal process.
2. Procedure – The purchaser will prepare a written justification for the use of a sole source purchase or emergency purchase. The purchaser will secure the applicable approval for a sole source purchase before making the purchase. The purchaser will secure the applicable approval for an emergency purchase before making the purchase, if possible; otherwise, the purchaser will secure the applicable ratification of an emergency purchase after it is made. The purchaser will use City contracting forms (i.e., purchase order terms and conditions, service contract terms and conditions, or construction contract terms and conditions) to the maximum extent possible in making sole source and emergency purchases.

III. OTHER CONSIDERATIONS

- A. Purchases on Behalf of the Mayor – When the approval for a purchase is given by the City Mayor to make a purchase on behalf of the City Mayor (to the City Administrator, for example), that approval should be given in written form (email or fax are acceptable).
- B. Methods of Advertising – When advertising for bids or proposals is required, the purchaser should arrange for a notice of the City's intent to receive bids or proposals to be published once a week for two consecutive weeks in the official newspaper of the city. The date of the first publication must be at least 15 days before the deadline for the submission of bids or proposals.
- C. Construction Contracts – Contracts for the construction of facilities (including reconstruction, repairs and remodeling) in an amount more than \$20,000 involve a variety of legal requirements under State law, including the following:
 1. Design Professional – The City must provide for a licensed architect or engineer, as appropriate to the type of work, to design and oversee construction of the project.
 2. Worker's Compensation Insurance – The City must require the contractor and subcontractors to provide workers compensation insurance coverage for persons working on the project.
 3. Bonds – The City must require the contractor to provide payment and performance bonds for the project.
 4. Real Property Acquisitions – The City must complete acquisitions of real property, easements and rights-of-way in a timely manner to allow the project to proceed on schedule.
 5. Change Orders – Change orders may not result in a cumulative increase of more than 25% in the contract amount, and may not result in a cumulative decrease of more than 25% in the contract amount without the consent of the contractor.
- D. Invoices; Payments
 1. Checking Invoices – The City Administrator will ensure that each invoice received by the City is checked for compliance with applicable provisions of this Policy, and to determine whether payment is due, before the invoice is approved for payment.
 2. Prompt Payment Act – State law requires the City to make payments to vendors no later than the 30th calendar day on which the City received supplies, materials, or equipment, or

the day on which performance of services was completed, or the day on which the City received an invoice, whichever is later. This deadline does not apply if there is a bona fide dispute over an invoice; however, the purchaser should ensure the basis for the dispute is documented before withholding payment. The purchaser must promptly handle an invoice once it has been received. Vendors may charge interest on outstanding payments that exceed the 30 day period.

- E. Exemption from Taxes – City purchases are exempt from sales and use taxes. The purchaser will take all steps necessary to ensure that sales taxes are not charged on purchases made for the City.
- F. Prompt Payment – All invoices approved for payment by the proper City authorities shall be paid within thirty (30) calendar days of receipt of goods or services or invoice date, whichever is later in accordance with State law. The City **will** take advantage of all purchase discounts, when possible.
- G. Equal Opportunity – It is the policy of the City to provide equal opportunity to all parties without regard to race, religion, color, natural origin, age, sex, handicapped or veteran status, and to comply with all relevant federal and state equal opportunity statutes, executive orders, rules and regulations.
- H. Supplier Preferences – The City will give preference to local vendors. The City may choose a local vendor if the bid is within 5% of the lowest bid price received from a bidder which is not located within the City limits.

IV. ETHICS CONSIDERATIONS

State law prohibits City employees, representatives, or agents from involvement in purchasing decisions where a City employee, representative, or agent has a conflicting personal interest in the decision. Any transaction of business between the City and City employees, representatives, or agents is prohibited without full disclosure to the Board of the relationship and a determination that the transaction is in the best interests of the City. In addition, City employees, representatives, or agents are prohibited from:

- Doing any act in violation of a binding obligation of the City;
- Doing any act that would make it impossible or unnecessarily difficult to carry on the intended or ordinary business of the City;
- Receiving an improper personal benefit from the operation of the City;
- Using the assets of the City, directly or indirectly, for any purpose other than carrying on the business of the City; or
- Wrongfully transferring or disposing of City property.

V. DISCLOSURE OF INFORMATION BY VENDORS

State law (Local Government Code Chapter 176) requires certain persons and firms to file a conflict of interest questionnaire with the City. All persons and firms that meet the criteria listed by the State Ethics Commission must submit a completed questionnaire no later than the 7th business day after the date the person or firm:

- A. Begins contract discussions or negotiations to enter into a contract with the City, or
- B. Submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the City, or
- C. Becomes aware of a reportable employment or other business relationship with an officer or family member of an officer of the City, or

D. Becomes aware that the person has given one or more reportable gifts to a person connected with the City.

The criteria and questionnaire forms are available on the State Ethics Commission website, which at the time of the creation of this policy, is found at <http://www.ethics.state.tx.us/form>

VI. Severability.

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion be inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

VII. Effective date.

This Ordinance shall, upon final passage, be published in the official newspaper of the City, as required by law and shall become effective upon the date of last publication.

VIII. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict herewith shall be and are hereby repealed as of the effective date of this ordinance; save and except that any such repealed ordinance or provision shall remain in full force and effect with respect of any notice given, complaint filed or charge levied prior to the effective date of this ordinance.

IX. Compliance With Open Meetings Act.

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

PASSED AND APPROVED on this the 13 day of July, 2011.

CITY OF UHLAND, TEXAS

David R. Heideeman
Mayor

[Signature]