



**NEWTON**  
BRILLIANT LEGACY + BRIGHT FUTURE

# PURCHASING POLICY AND PROCEDURES MANUAL

Adopted as Administrative Policy for all City Employees

Resolution 8-2022 Adopted 08/02/2022

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## **I. FORWARD**

This purchasing policy and procedures manual is intended for use as a guide for the City of Newton's purchasing methods and practices. When used properly these policies and procedures established herein will enable the City to obtain the required materials, equipment, supplies and services efficiently and economically.

All employees must understand how this policy functions so that the City can obtain the maximum value for each tax and utility dollar spent. While this manual does not answer all questions related to purchasing, it does provide the foundation for a sound centralized purchasing system.

The basic goals of the City's purchasing program are:

- a) To comply with the legal and ethical requirements of public purchasing and procurement.
- b) To assure vendors that impartial and equal treatment is afforded to all who wish to do business with the City.
- c) To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- d) To provide City departments with the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
- e) To professionally assist all departments with the search for sources of supplies, cultivate the addition of new vendors, provide help with vendor selection, negotiations, follow-up, or communication if required.
- f) To promote positive and effective vendor relations through effective communications, fair purchasing procedures and strict adherence to ethical standards.
- g) To maximum the standardization of products used by all departments in order to minimize stock levels and obtain better prices.

If the procedures and guidelines established in this manual are followed, every department should be able to efficiently manage, control and plan their available resources to meet present and future departmental needs and help the City minimize expenses. Should you have any questions about this manual or the procedures, contact the Purchasing Department.

## II. GENERAL GUIDELINES FOR PURCHASING SUPPLIES AND MATERIALS

### 2.1 Local Buying:

It is the desire of the City to purchase from vendors located within Newton and Catawba County whenever possible. This can be accomplished by ensuring that local vendors who have goods or services available that are needed by the City are included in the competitive purchasing process. The City has a responsibility to its citizens, however, to ensure that maximum value is obtained for each public dollar spent. By NC General Statute **the City is not permitted to make purchasing decisions based solely on the basis of vendor residence. However, every effort will be made to encourage local vendors and suppliers to compete for City Business.**

### 2.2 Planning:

Planning for purchases should be done on both a short-term and long-term basis. This should minimize small orders and last-minute purchases. Proper planning will increase the capability of each department to purchase its goods and services in larger quantities to obtain the maximum discounts possible. Planning will also reduce the number of trips required to obtain materials and minimize clerical or supervisory time spent on documenting purchases.

### 2.3 Buying Proper Quality:

Quality and service are as important as price. It is the responsibility of the requisitioning department and the Purchasing Department to secure the best, most economical, quality that will meet but not exceed the requirements for which the goods or services are intended. In some instances, the primary consideration is durability. With other purchases, it may be a question of immediate availability, ease of installation, frequency or infrequency of repair or efficiency of operation that must be given primary consideration.

### 2.4 City Contracts:

All City Contracts must have a Contract Cover Page Attached (Exhibit G). This will ensure that all parties involved with the contract process have an opportunity to review and approve the contract. Listed below are some key points regarding the processing of City contracts:

- a) All contracts must have a pre-audit statement from the Finance Director before release to the vendors.
- b) Contracts containing extensive legal language must be reviewed and approved by the City Attorney.
- c) Original copies of the contract must be supplied to the vendor and to the City Clerk for retention in the City filing system.

- d) Copies must also be retained in the Purchasing Department and may also be retained by any other parties involved with the contract.
- e) Depending on the nature of the contract, the vendor may be required to supply the City with Insurance and Endorsement Certificates or be required to sign a Hold Harmless Agreement.
- f) Notice to proceed letters will be issued by the Purchasing Agent after verifying that all requirements associated with the performance of the contract have been met. (Insurance, Permits, License, Hold Harmless Agreements, etc.)

## 2.5 Freight Charges:

The City of Newton requires that all deliveries be FOB City of Newton Public Works Loading Dock or FOB City of Newton **“department location”**. By requesting that all deliveries be FOB Newton, we achieve the following advantages for the City.

- a) The seller retains title and control of the goods until the items are received and signed for by City of Newton personnel.
- b) The seller selects the carrier and is responsible for the transportation risks.
- c) The seller is responsible for filing claims with carriers for loss or damage of goods during transit.

All departments are encouraged to obtain materials without the additional expense of freight charges. The addition of freight charges will increase the cost of items purchased by the City. If the ordering department is unable to get the vendor to absorb the costs associated with freight charges, the vendor may prepay the freight costs and bill the City. By utilizing this process, the seller will receive payment for the shipping costs while still leaving the shipping responsibilities with the seller.

### Purchases Below The \$2,000.00 Purchase Order Requirement

Departmental purchases that are below the City’s purchase order threshold are required to list any estimated freight charges on their quote sheet along with the contact person’s name providing those costs. It is extremely important for the ordering department to document this information. If there is an extensive discrepancy between the estimated freight charges and the invoiced freight charges, the ordering department will be required to resolve those discrepancies with the Vendor. When the invoice for that purchase is approved for payment part of the approval process will include verification and approval of any freight charges associated with the purchase.

### Purchases That Require A Purchase Order

Purchase orders that have freight charges must have the estimated prepaid freight costs listed on the purchase order as a separate line item as **“estimated freight charges are (insert cost)”**. The ordering department should include the name of the person providing the estimated freight charges. If there is an extensive

discrepancy between the estimated freight charges and the invoiced freight charges, the ordering department will be required to resolve those discrepancies with the Vendor.

#### Warehouse Purchase Orders

For warehouse purchase orders that have freight costs, the estimated freight costs will be included in the cost of the inventory item on the purchase order. The “special instructions” section will be utilized to note how freight charges impact item costs.

- a) “Estimated freight charges have been allocated to the material costs.”**
- b) “No additional freight charges are applicable for this order.”**

Purchasing will resolve any discrepancies between estimated freight charges and invoiced freight charges.

#### Multiple Shipments

Unnecessary multiple shipments by vendors may also increase freight costs. All departments should discourage multiple shipments unless items are required for critical or emergency repair purposes. All deliveries that will be received by multiple shipments and will have additional freight charges must be preapproved by the Purchasing Agent. The City discourages unnecessary multiple shipments and may refuse to pay freight cost for multiple shipments.

**Every effort should be made to discourage the addition of freight charges.**

### III. City Purchasing Procedures

This section outlines the City's purchasing procedures. This procedure has been developed to take full advantage of a centralized purchasing system. These procedures cover the purchase of apparatus, supplies, materials and/or equipment. Construction contracts are addressed separately.

#### 3.1 Purchases less than \$25.00

Purchases of less than \$25.00 may be handled by petty cash (see section 6.12).

#### 3.2 Purchases between \$25.00 and \$1,999.99:

Purchases in this range do **not** require a Purchase Order. These purchases may be made utilizing the City's Procurement Card or Business Visa process. Please see the City's specific policies for allowable expenses under those policies. Every purchase must include a cost comparison process to ensure that the lowest available price is obtained for the items purchased. Issues that may override the lowest price purchase may be delivery time and material specifications.

**All purchases of \$2,000.00 and above must be processed using a purchase order with the exception of those purchases noted in Exhibit A.**

#### 3.3 Purchases between \$2,000.00 and \$29,999.99:

Purchases in this range may be obtained by the individual Departments through an informal quote process. No minimum number of quotes is required; however, it is highly suggested that every attempt is made to acquire three (3) quotes. The quotes may be received by email, fax or verbal. Verbal quotes must be supplied in hand written form documenting price, date quoted, name of vendor and contact person. All quotes must be supplied to the Purchasing Department. In this range a no bid will be accepted as a bid.

#### 3.4 Purchases between \$30,000.00 and \$89,999.99 (INFORMAL):

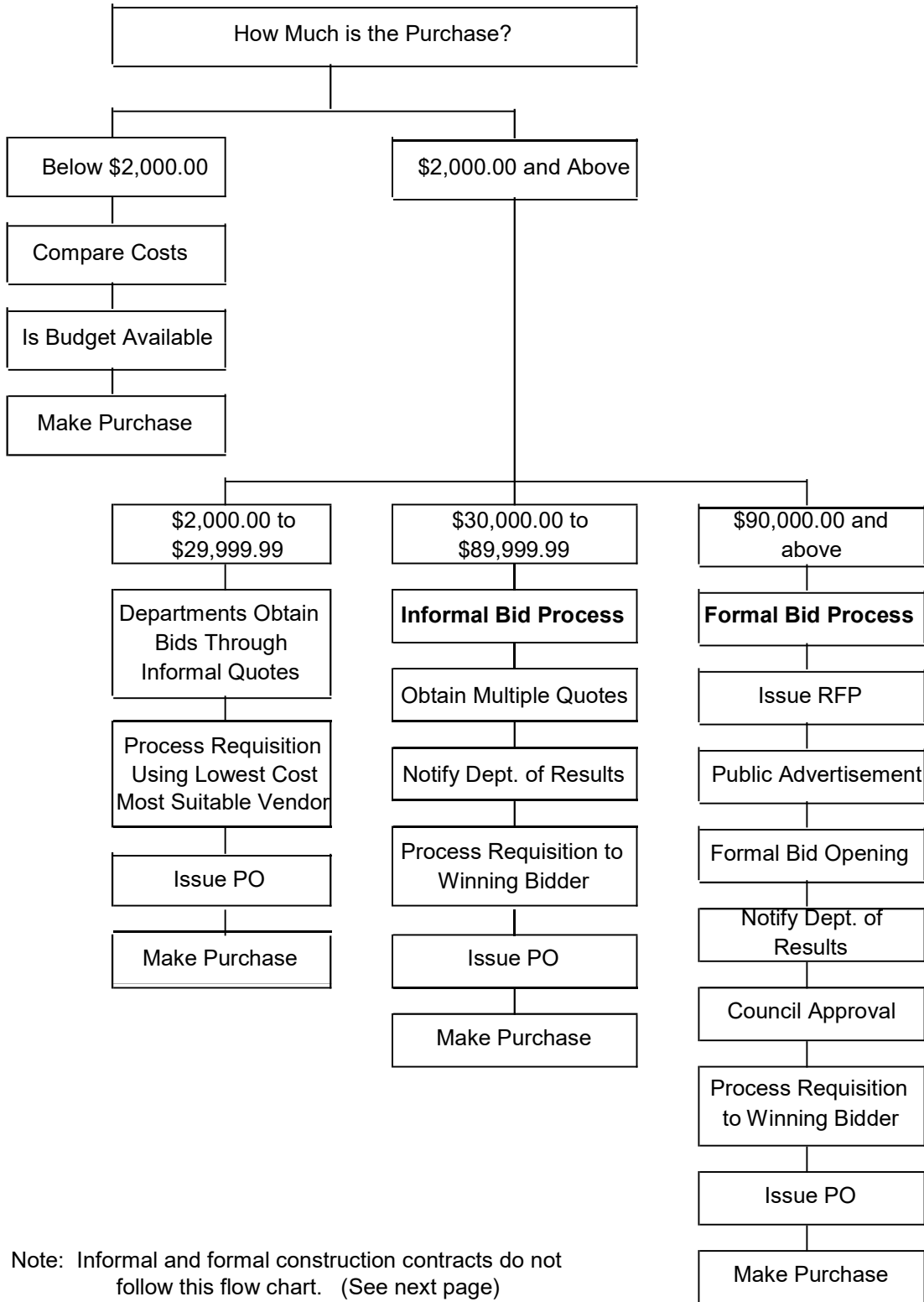
Purchases in this range must be obtained by the Purchasing Department. The requesting Department must provide detailed specifications (see section VIII) along with a list of potential vendors. This request must be submitted to the Purchasing Department allowing a minimum of ten (10) working days to research and send out the request for quote (RFQ). All vendors will be allowed ample time to respond to the request based on the complexity of the RFQ. RFQs in the informal range may or may not be advertised. A minimum of three vendors (if available) will receive the RFQ. Every effort will be made to obtain at least three (3) quotes. Quotes in this range may be submitted by U S Mail, email, fax or hand delivered (no verbal quotes will be accepted). Purchases in the informal range do not require board approval. In this range a no bid will be accepted as a bid.



3.5 Purchases \$90,000.00 and above (FORMAL):

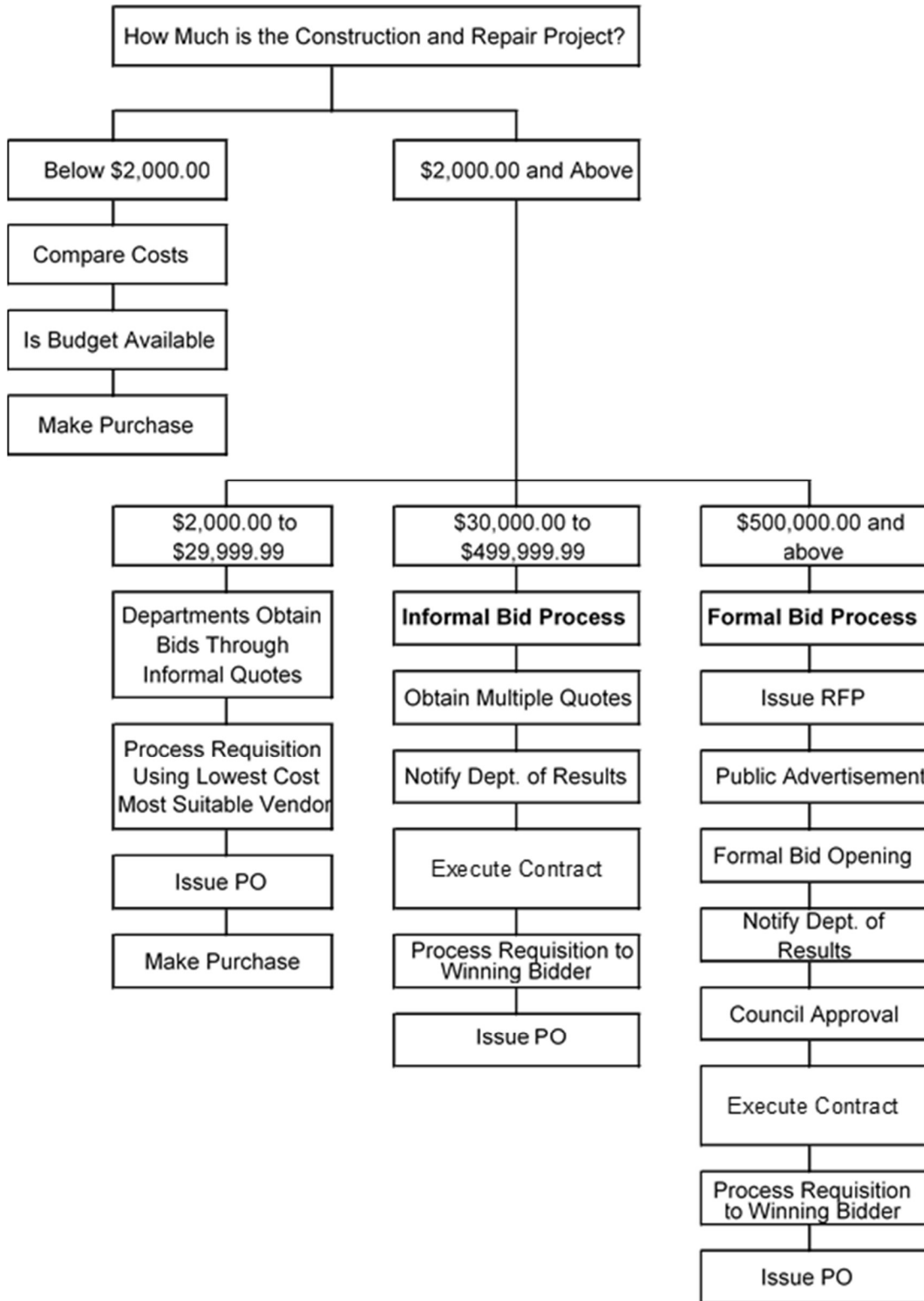
Purchases in this range must be obtained by the Purchasing Department. The requesting Department must provide detailed specifications (see section VIII) along with a list of potential vendors. This request must be submitted to the Purchasing Department allowing a minimum of ten (10) working days to research and send out the RFP. All vendors will be allowed ample time to respond to the request based on the complexity of the RFP. A minimum of three vendors (if available) will receive the RFP. Every effort will be made to obtain at least three (3) quotes. A newspaper ad must run at least 7 days prior to the bid opening. Quotes in this range must be submitted in a sealed envelope and must be opened at a public bid opening. Purchases in the formal range require City Council approval.

## PURCHASES FLOW CHART



Note: Informal and formal construction contracts do not follow this flow chart. (See next page)

## CONSTRUCTION AND REPAIR FLOW CHART



## **IV. VENDOR SELECTION**

### **4.1 Selection Policy:**

Vendors will be selected on a competitive basis. All quotes, \$5,000.00 and above, must be solicited by the Purchasing Department. The requesting department may request a particular vendor by providing contact information and why a particular vendor is being requested. The Purchasing Department will work with all departments regarding vendor selection; however, Purchasing reserves the right to accept or reject vendors if a violation of North Carolina General Statutes should be involved. Bid awards, purchase orders, and contracts will be issued to the lowest, responsive, responsible bidder or to the bidder deemed to be in the best interest of the City, depending upon, but not limited to:

Prices quoted, quality, specifications, delivery schedule, past performance, technical support abilities, service warranties, discounts offered, reputation and experience.  
NOTE: This listing is not all inclusive.

#### **a) New Vendors:**

If a vendor is not included in the City's existing vendor data base the following information must be obtained from that vendor.

- 1) City of Newton Vendor Information Form.
- 2) IRS Form W-9.

These forms are available on the City of Newton Web site ([www.newtonnc.gov](http://www.newtonnc.gov)). Purchasing will work with all departments to ensure that these forms are received correctly before they are entered into the City's data base.

Please complete a Request for Vendor Addition Form (available on the intranet). (Exhibit F)

If necessary, vendors will be required to provide the City with Insurance and Endorsement Certificates and/or a Hold Harmless Agreement (Exhibit H).

### **4.2 Selection Procedures:**

The Purchasing Department will be responsible for ensuring that vendor selection follows proper procedures established by the General Statutes of the State of North Carolina and the purchasing procedures of the City.

## V. PURCHASE ORDERS

### 5.1 Purchase Order Process:

A purchase order is a written contract between the City and a vendor and is not binding until accepted by the vendor. Any purchase of \$2,000.00 and above must be processed with a City purchase order. Purchase Orders will be processed by the Purchasing Department utilizing the City's accounting software. Completed Requisitions for Purchase Orders must have the correct account number, description and quantity of items to be ordered along with the itemized cost. Unauthorized purchases will not be recognized by the City and payment of these obligations will not be approved. The only exception to this procedure is in case of an emergency (Section 6.3).

**Unauthorized purchases or obligations are void and could become a personal liability of the employee who made the unauthorized purchase or obligation. Reference {N.C.G.S. 159-28(e)}**

**TRUIST Visa Purchase Orders: All TRUIST Visa purchase orders must include the vendor's name within the body of the purchase order.**

### 5.2 Purchase Order Change Request:

In some instances, a change, modification or cancellation must be made to an existing purchase order. The requesting department must initiate a Change Order Form (Exhibit B) with the Department Head or their designee. All pertinent information required to make the necessary changes should be completed on the form. The change order is to be forwarded to the Purchasing Department for review and approval. Purchasing will be responsible for the distribution of the change order paperwork to the vendor and finance department.

**Change orders will not be allowed under the following circumstances:**

- 1) Changes that would alter the procurement procedures that were used in the original process (from an informal bid to a formal bid).**
  - 2) Changes requiring the addition of items to the purchase order with the exception of repairs to vehicles, equipment and buildings.**
- a) Change orders are not required when the dollar amount of the change does not exceed 10% of the original Purchase Order amount.**

## **VI. SPECIAL PROCUREMENT PROCEDURES**

### **6.1 Blanket Purchase Orders:**

The Purchasing Department will issue blanket purchase orders to selected vendors after competitive pricing has been completed. This method is intended to expedite the procurement of frequently needed and repetitious supplies for a period of ninety (90) days. Examples of blanket purchase orders are landscaping supplies, automotive supplies, office supplies, gravel, asphalt, street repair, etc.

Requisitions for blanket purchase orders must include all required information along with the following additional information:

- a) Time period that the purchase order is good for.
- b) Items covered by the blanket purchase order.
- c) The Not to Exceed (NTE) amount in the cost column.
- d) A listing of all personnel approved to purchase from the blanket PO.

All vendor delivery tickets must be signed by an authorized City employee indicating receipt of the material(s). The Purchase Order number for the expenditure must be listed on the delivery ticket. All delivery tickets from blanket PO's must be forwarded to Accounts Payable for payment.

### **6.2 Service Contracts:**

The Purchasing Department will issue purchase orders to selected vendors after competitive pricing has been completed. The purchase order may be issued annually or quarterly based on the nature of the contract. Service Contracts for software, communication equipment, office equipment, fire extinguisher service, etc. will have annual contracts. Service Contracts for cleaning services, pest control and miscellaneous services will be issued annually.

Requisitions for service contracts must include all required information along with the following additional information:

- a) Time period that the purchase order is good for.
- b) Items covered under the contract, including model numbers, serial numbers, and asset numbers.
- c) The Not to Exceed (NTE) amount in the cost column.
- d) A listing of personnel authorized to request the service.

### 6.3 Emergency Purchases:

In cases of emergencies the following procedures should be followed.

- a. During normal operating hours (7:30 – 4:00).
  - 1) Upon declaring an emergency enter a requisition and list a NOT TO EXCEED (NTE) amount as part of the description. If pricing is unknown, estimate the expected costs.
  - 2) Contact the Purchasing Department to notify them of the need for an emergency purchase order.
- b) After normal operating hours, weekends and holidays.
  - 1) Procedures a1 and a2 must be completed the next scheduled working day within a timely manner (one to two hours).

In cases of emergency the Department Head or his/her designee may purchase directly from any vendor of supplies or services whose immediate procurement is essential to protect the life, health, or safety of City of Newton employees or its citizens. For documentation purposes the purchaser will send to the Purchasing Department all necessary information explaining the circumstances surrounding the emergency. The Purchasing Department will assist with any special needs associated with the emergency situation.

The department making emergency purchases must exercise good judgment when making emergency purchases. First, determine if a true emergency does exist. Second, anticipate needs and avoid emergency situations whenever possible. Emergency purchase orders are always costly. Vendors usually charge top prices if supplies or services must be obtained on an emergency basis.

### 6.4 Purchase Order Cut-Off Date:

Purchase requisitions for materials, supplies, services and equipment (not included in blanket purchase orders or service contracts) for the current fiscal year must be in the Purchasing Department before the cutoff date established by the Finance Director.

Exceptions to this requirement must **BE OF AN EMERGENCY NATURE.**

Purchase requisitions of a routine nature that could have been scheduled prior to the cutoff date, and are not critical will be returned to the department without approval. This procedure affords the Purchasing and Accounting Departments the opportunity to complete fiscal year end activities in a timely and proper manner.

#### 6.5 Sole Source Purchases:

In the event there is only one vendor capable of providing particular goods or equipment, the competitive pricing procedures outlined in this policy may be waived. North Carolina General Statute §143-129(f) provides that formal bidding requirements do not apply when:

- a) Performance or price competition for a product is not available.
- b) A required product is available from only one source of supply.
- c) Standardization or compatibility is the overriding consideration.

Purchases made under this exception must be approved by the City of Newton City Council. The authority to award sole source contracts **cannot be delegated**.

The City is also required to keep a record of purchases made under this exception, which should include a written explanation or justification for the use of the exception (sole source justification form required).

#### 6.6 State of North Carolina Purchasing Contracts:

The Purchasing Department may utilize the State of North Carolina Department of Administration, Division of Purchase and Contract, whenever possible. This system expedites the purchase of goods, offers pricing generally lower than quotes by formal and informal bids, and satisfies North Carolina General Statutes. Examples of goods on state contract are: law enforcement vehicles, office furniture, copiers, janitorial supplies, copier paper, and light bulbs, etc.

##### a) E-Procurement:

The Purchasing Department may utilize the State of North Carolina e-procurement system. NC e-procurement provides an innovative, cost-saving, and efficient method of purchasing. NC e-procurement allows government entities to aggregate their purchases to obtain better prices from suppliers or contract savings. NC e-procurement can help realize processing, marketing, and administrative cost savings. Use of this system will provide for the timely request for quotations, issuance of purchase orders and receiving of goods by the City.



## 6.7 Professional Services:

Normal competitive procedures cannot be utilized in securing professional services such as attorneys, planners, and other professional people who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. A qualification-based Request for Qualifications (RFQ) process will be utilized for these type services. When an agreement between a professional service company and the City is established, a blanket purchase order shall be issued to satisfy accounting requirements.

## 6.8 RFP for Technology Goods and Services:

Information technology includes electronic data processing goods and services, telecommunications goods and services, security goods and services, microelectronics, software, and information processing.

G.S. 143-129.8 authorizes local governments to use a request for proposals (RFP) procedure instead of a sealed bid process for information technology goods and services.

- a) Requirements are stated in terms of how the product or service being purchased should accomplish the business objectives, rather than in terms of technical design of the product or service.
- b) RFP solicitations in the formal range (\$90,000.00 and above) still require that an advertisement be placed, as in the formal bid procedures.
- c) Factors that may be considered in awarding contracts are: total cost of ownership, technical merit of the vendor's proposal, vendor's past performance, and the likelihood that the requirements of the solicitation will be performed on time, with high quality, and in a manner that will accomplish the business objectives and maintain industry standards compliance.
- d) Factors to be used in evaluating proposals must be included in the request for proposals.
- e) Negotiations may ensue with any proposer in order to obtain a final contract that best meets the City's needs.
- f) Negotiations shall not alter the contract in such a way that would deprive other proposers a fair opportunity to compete or that would have resulted in the award of the contract to a different vendor had the alterations been included in the original request for proposals.
- g) Proposals cannot be exposed to the public until a contract is awarded.

## 6.9 Piggybacking:

The "piggybacking" exception (G.S. 143-129(g)) authorizes local governments to purchase without bidding from a person or entity that has, within the past twelve months, contracted to furnish an item to any other public agency.

**THE FOLLOWING REQUIREMENTS MUST BE MET:**

- a) Formal procedures, the same or substantially similar to North Carolina requirements, must have been used by the governmental unit whose contract is being piggybacked.
- b) The previous contract must have been awarded by the federal government or any federal agency, any state government or state agency within the United States, and any local government within the United States.
- c) The vendor must be willing to extend the same or a more favorable price.
- d) A notice must be placed in a newspaper of general circulation **at least ten days prior to City Council meeting.**
- e) Following the advertisement period, the City Council must give approval at a regularly scheduled meeting for the waiver of bid procedures to allow the City to piggyback on a contract with a qualified supplier.

Purchases under this exception are made directly from the vendor under a new contract, not as part of the prior contract, and no approval or action by the other government is required.

Piggybacking does **not** apply to informal bids per G.S. 143-129(g).

6.10 Printing Requests:

Printing requests may be made on an as needed basis. Please contact the Purchasing Department to see if the required printing has previously been done and/or if we may have vendors that can help with the requirements.

Requests for business cards must be submitted to the Purchasing Department using the Business Card Order Form located on the Intranet. All requests must be signed by the respective Department Head before an order will be placed with the printer. The cost for unauthorized requests will become the responsibility of the employee.

6.11 Vehicle/Equipment Repair-Outside Service:

Procedures for outside vehicle and equipment repairs, such as body repair, engine rebuilding, or any other service not rendered by Fleet Maintenance must follow all City purchasing procedures.

6.12 Petty Cash Expenditures:

A petty cash fund has been established for the purchase of expendable items costing less than \$25.00. Employees should obtain a petty cash form, provide a receipt for the purchase and return the petty cash form to the petty cash Administrator. Petty cash will not be used for travel or training purposes.

6.13 Other Credit Cards:

Department Heads may request each of the following Credit Cards to maintain in their department.

Office Depot  
Home Depot  
Lowe's  
Sam's Club  
Northern Tool

It will be the responsibility of the Department Head to establish a secure location to store the cards. Each Department Head must designate what personnel may have access to the cards and establish a procedure for logging the cards out and back into their department.

When the credit card is returned to the department the receipt should be given to the Department Head or their appointed representative. The receipt must be initialed by the user and then approved by the Department Head or their appointed representative. Before sending the receipt to Accounts Payable, please ensure that the appropriate initials are on the receipt along with the correct account number to which the purchase should be charged.

**VII. Services** (except for A/E professional services):

NCGS (North Carolina General Statute) states that no method of bidding is required for Services (except for A/E professional services). (GS. § 143.131(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. The use of an RFP (Request for Proposal) is optional.

## **VIII. Construction and Repair Work:**

### **7.1 Construction Contracts (less than \$30,000.00):**

Construction contracts within this range will be the responsibility of the Department Head, contracted engineer (if applicable) and other City officials as deemed necessary. These officials are responsible for specification development. An attempt should be made to include a cost comparison process to ensure that the lowest available price is obtained. Issues that may override the lowest price may be delivery time and material specifications.

### **7.2 Informal Construction Contracts (\$30,000 to \$500,000.00):**

Construction contracts within this range will be the responsibility of the Department Head, contracted engineer (if applicable) and other City officials as deemed necessary. These officials are responsible for specification development. The Purchasing Department will work with the specific Department Head to compile the necessary bid documents for release to potential bidders. All North Carolina General Statutes as well as City of Newton bidding requirements will be followed. After the bid process has been completed, the requesting Department Head will recommend to the City of Newton City Council the winning bidder. The Purchasing Agent will be available at the Council meeting to answer any specific questions. Upon approval by the City Council, the Purchasing Agent will work with the Department Head to notify the winning bidder, assist with any special requirements and issue a contract between the winning bidder and the City.

#### **Additional guidelines:**

- a) Bids may be written, faxed, e-mailed or verbal.
- b) Public bid opening not required.
- c) Bid bonds not required by NCGS (North Carolina General Statute).
- d) Payment and performance bonds not required by NCGS (North Carolina General Statutes) under \$30,000 with special provisions starting at \$30,000.

### **7.3 Formal Construction Contracts (\$500,000.00 and above):**

Construction contracts within this range will be the responsibility of the Department Head, contracted engineer (if applicable) and other City officials as deemed necessary. These officials are responsible for specification development. The Purchasing Department will work with the specific Department Head to compile the necessary bid documents for release to potential bidders. All North Carolina General Statutes as well as City of Newton bidding requirements will be followed. After the bid process has been completed, the requesting Department Head will recommend to the City of Newton City Council the winning bidder. The Purchasing Agent will be

available at the Council Meeting to answer any specific questions. Upon approval by the City Council, the Purchasing Agent will work with the Department Head to notify the winning bidder, assist with any special requirements and issue a contract between the winning bidder and the City.

**Additional guidelines:**

- a) Must advertise at least 7 days before bid opening.
- b) Bids must be sealed.
- c) Public bid opening required.
- d) Bid bonds required by NCGS (North Carolina General Statutes).
- e) Payment and performance bonds required by NCGS (North Carolina General Statutes).

Contract Change Orders:

A change order is an amendment to the original contract and is handled through the same process as contracts.

Any change that alters the original contract requires either a change order or an addendum to the contract.

7.4 Force Account Work (G.S. 143-135):

Competitive bidding requirements are waived when the City chooses to use its workforce to accomplish construction or repair work.

- a) The City is authorized by statute to perform its own construction and repair work provided the work is performed by its own employees, **and**
- b) When either the total cost of the project, including all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed \$500,000, **or** the total cost of labor on the project does not exceed \$200,000.

**IX. SPECIFICATIONS**

When goods or services are purchased under the formal or informal bidding process, specifications must be prepared. All specifications should do at least four things:

- a) Identify minimum requirements.
- b) Encourage competitive bids.
- c) Be capable of objective review.
- d) Provide for an equitable award at the lowest possible cost.

Specifications must be as simple as possible while maintaining the degree of exactness required so that the vendor will supply the proper quantity and required level of quality.

Any specifications utilizing a brand name must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process.

Different methods of structuring specifications include:

- a) Qualified products on acceptable vendor list
- b) Specification by blueprint or dimension sheet
- c) Specification by chemical analysis or physical properties
- d) Specification by performance, purpose or use
- e) Specification by identification with industry standards
- f) Specification by samples

## **X. CONFLICTS OF INTEREST**

Public officials and employees of the City are prohibited from obtaining a direct benefit from any contract in which they are involved on behalf of the City. Even if public officials and employees are not involved in making a contract in which they have a direct benefit, they are prohibited from influencing or attempting to influence anyone in the City who is involved in making the contract. All public officials and employees are prohibited from soliciting or receiving any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the City.

If there is any doubt or question concerning a specific area that may present a conflict of interest, the City Attorney should be consulted.

## **XI. GIFTS AND FAVORS**

According to G.S. 133-32, it is unlawful for any contractor, subcontractor, or supplier who:

- a) Has a contract with a governmental agency,
- b) Has performed under such a contract within the past year, or
- c) Anticipates bidding on such a contract in the future, to make gifts or to give favors to any officer or employee of a governmental agency who is charged with:
  - 1) Preparing plans, specifications, or estimates for public contracts,
  - 2) Awarding or administering contracts, or
  - 3) Inspecting or supervising construction.

It is also unlawful for such officer or employee to accept any gift or favor.

G.S. 133-32(d) provides that this statute is not intended to "...prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees who are members of professional organizations from participating in all scheduled meeting functions available to all members of the professional organization attending the meeting."

Certain items such as "...honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets," are exempt from the prohibition, as well as "customary gifts or favors between employees or officers and their friends and relatives ...where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor." However, gifts and favors from friends and relatives who are covered contractors, subcontractors, or suppliers should be reported to department heads.

## **XII. INSURANCE REQUIREMENTS**

The City requires that certain vendors carry insurance depending on the type of work being performed, location of the work, and the level of risk to the public, City employees, and the contractor. The project may require that the contractor carry only one type of insurance or a combination of insurances. The Purchasing Department will require the appropriate insurance. The necessary insurance coverage, whether required by law or in the City's best interest, must be decided in the planning phases of the project and communicated to potential bidders. The Finance Department and City Attorney may be consulted in determining insurance requirements.

### **XIII. MINORITY BUSINESS PARTICIPATION**

G.S. 143-128.2(g) provides that a minority business is a business that is at least 51% owned (stock or otherwise) by one or more minority persons or socially and economically disadvantaged individuals. The term “socially and economically disadvantaged individual” is a reference to federal statute 15 U.S.C. 637, which defines socially disadvantaged as “those individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.” Economically disadvantaged are defined as “socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who are not socially disadvantaged.” The term “minority person” means a person who is a citizen or lawful permanent resident of the United States and who is black, Hispanic, Asian American, American Indian or female.

Pursuant to G.S. 143-128.2(a), the State has a 10% (of total project value) minority participation goal for each state building project, including building projects done by a private entity on a facility to be leased or purchased by the State. If a unit, public or private, receives appropriations from the State or grant funds from the State for a construction project, then all building projects of that unit costing \$100,000 and above must have a verifiable 10% minority participation goal. The unit must also have a percentage goal for locally funded projects as well. More information, including a Model Ordinance and Resolution Outreach Plan and various links, can be found on the following UNC School of Government website of: [www.sog.unc.edu/programs/purchase/mwbe.htm](http://www.sog.unc.edu/programs/purchase/mwbe.htm).

Effective July 1, 2009, all businesses that seek to qualify as minority-owned, women-owned, socially disadvantaged, or economically disadvantaged must be certified through the new Statewide Uniform Certification Program. Only those businesses that are certified through this program will count towards a local government’s percentage goal. More information on this program is available at the website for the State Office of Historically Underutilized Businesses, [www.doa.state.nc.us/hub/](http://www.doa.state.nc.us/hub/).

#### **Revision Issued: March 2011**

The City of Newton’s current goal for minority participation for public building construction is five percent (5%). The overall goal will be reviewed annually or as soon as relevant data is available.

#### **Intent**

The intent of these guidelines is to ensure that the City of Newton, as awarding authority for construction projects, and the contractors and subcontractors performing the construction contracts awarded, shall cooperate and in good faith do all things, legal, proper and reasonable to achieve the statutory goal of five percent (5%) for participation by minority businesses in each construction project as mandated by GS



143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible responsive bid or bids.

#### **XIV. BID PROTEST PROCEDURE**

Any party which is a prospective bidder, offeror, or contractor that may be aggrieved by the solicitation must submit a written protest within five (5) calendar days prior to the opening of the Request for Bid, or Request for Proposal.

Any party which is an actual bidder, offeror, or contractor that may be aggrieved by the award of a contract, must submit a written protest within five (5) days of the City transmitting via fax or email the announcement of intent to award.

The protest must be addressed to the Purchasing Agent, City of Newton, PO Box 550, 401 N. Main Ave., Newton, NC 28658 and must include all the following information:

1. Name, address, telephone number, facsimile number and e-mail of the protester.
2. Signature of the protester or authorized agent.
3. The bid name and number.
4. A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
5. Any supporting exhibits, evidence, or documents to substantiate any claims.
6. All information establishing that the protester is an interested party for the purpose of filing a protest.
7. The form of relief requested.

The protester must also provide evidence that they are authorized to do business in North Carolina and are in possession of all licenses necessary to complete the work required within the specified project.

After careful consideration of all relevant information and consultation with the City Attorney, the Purchasing Agent shall make a written decision.

A decision of the Purchasing Agent may be appealed to the City Manager or City Council, depending on the type of bid. An appeal must be in writing and be delivered to the City Manager, PO Box 550, 401 N. Main Ave., Newton, NC 28658, within seven (7) calendar days of the date of the Purchasing Agent faxed or emailed decision.

Any and all costs incurred by a protesting party in connection with a protest shall be the sole responsibility of the protesting party.

## **XV. DELIVERY AND PERFORMANCE**

A completed and accepted purchase order by the parties concerned must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements of the services, supplies or equipment.

The importance of the delivery schedule will be emphasized to the vendor. Delivery requirements will be clearly written and fully understood by all vendors. If several items are required by the purchase order, there may be a different delivery schedule for each item. It is necessary to clearly indicate on the purchase requisition the delivery location.

### **14.1 Partial Deliveries:**

Some purchase orders may list several items. It is possible the vendor may complete timely delivery on some items, which is referred to as "partial deliveries". Upon receipt of a partial delivery a photocopy of the purchase order is attached to the signed delivery receipt and sent to Accounts Payable.

### **14.2 Non-Performance:**

If a vendor fails to meet any requirements of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation. Conditions relating to non-performance will include failure to meet specifications as discussed in Section VIII.

## **XVI. INSPECTION AND TESTING**

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets the design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods or material complies with the specifications. If goods or materials are damaged or fail to comply with the specifications, the item(s) shall be rejected as outlined below.

### 15.1 Rejection:

In order to protect the City's rights in the event of rejection, for whatever reason, the vendor shall be informed immediately. Reasons for the rejection must be documented in memo form, attached to a copy of the purchase order and forwarded to the Purchasing Department in a timely manner. Purchasing will notify the vendor of the reason for the rejection.

### 15.2 Damaged Goods:

One of the major reasons for immediately inspecting the goods or materials upon receipt is to detect any visible damage. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted. It is necessary that all damage including evidence of concealed damage shall be documented by memo, attached to a copy of the purchase order and forwarded to the Purchasing Department so that Purchasing can inform the vendor of the damaged goods.

### 15.3 Latent Defects:

Latent defects may be the result of damage in transit or failure of the manufacturer to conform to specifications. Consequently, it is often difficult to fix responsibility for the defective material. If specific liability for the defect cannot be determined between the carrier, the vendor, or the manufacturer, the City may file a claim against all parties. A memo attached to a photocopy of the purchase order must be forwarded to the Purchasing Department so all parties involved can be properly informed.

## **XVII. AFTER THE ORDER**

The procurement function is not accomplished by simply placing an order with a supplier. Satisfactory delivery must also be made. To ensure delivery will be made when required, follow-up is necessary.

Follow-up or expediting delivery of an order is part of the purchasing process and can be more efficiently handled by the Purchasing Department.

The Purchasing Department will, on a regular basis, review outstanding purchase orders to determine if vendors are delinquent in shipping the items requested. The Purchasing Department will contact these vendors concerning the delinquent delivery.

## **XVIII. WAREHOUSING**

A warehouse is maintained by the Purchasing Department. An effort is made to keep in stock those items most commonly used by all departments. Computer printouts listing those commodities are available upon request and can be obtained by contacting the Warehouse Assistant. Should a department require items from the warehouse it is required that a listing of all items removed be accounted for. An Inventory Checkout Sheet, located on the service counter in the warehouse, is provided. If no one is available in the warehouse to assist with the required items, please list all items on the checkout sheet. This will help the warehouse maintain the required materials in the warehouse and ensure that inventory audits are correct.

Purchasing will work with all departments to ensure that required products are maintained in the warehouse. Purchasing will also endeavor to standardize as many items as possible to reduce inventory dollars while still maintaining the level of quality required for all departments to function efficiently.

## **XIX. VENDOR RELATIONS**

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business relationships between buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the method of contract between buyer and seller.

The Purchasing Department maintains a file for recording the performance of City vendors. Should a department experience difficulty with or have a complaint with a particular vendor, document your concerns on a Vendor Performance Evaluation form provided in EXHIBIT E. A memo to the Purchasing Department with your concerns will also suffice. Be as specific as possible, detailing the circumstances, dates, personnel involved (including titles) and phone numbers. This information will be helpful in determining if the vendor shall remain on the vendor list.

If it is felt a certain vendor should be commended for its efforts, document the circumstances on the Vendor Evaluation Form and forward to the Purchasing Department.

**Departments do not have the authorization to commit in writing or verbally the intent of the City to do business with vendors. If a department wishes to add a specific vendor or contractor to the bid list the Purchasing Department shall be contacted. Vendors will not be deleted unless the department head or his/her designee concurs with the decision.**

## XX. SURPLUS PROPERTY

Goods become obsolete, damaged, worn out and overstocked. Changing technology, accumulation of waste and exhaustion of the useful life of goods make the activity of handling surplus items inevitable. The City expects full realization of the value of goods purchased. The City policy for surplus property is designed to ensure that the City receives the greatest value possible for surplus goods. This is achieved by utilizing Gov Deals online bidding site. Through the use of this site the items are purchased by the highest bidder. The disposal of goods requires the approval of the Newton City Council and/or the City Manager. Under authority of GS 160A, Article 12 the City Manager is hereby authorized to dispose of personal property consisting of a single item or group of items valued at \$30,000 or less. Valuation of items to be declared as surplus will be determined by the item(s) net book value as it appears in the City of Newton Fixed Asset List.

General Statute §143-129.7 allows for surplus property to be used as a trade-in during the competitive bidding process. The trade-in value of surplus property may be considered in awarding the contract to the lowest responsible bidder.

Departments must dispose of surplus property through the Purchasing Department. A surplus property declaration request should accompany the surplus property to the warehouse. (The form may be found in the documents section of the Intranet under the Finance heading.) When listing surplus items, always include: the year and make of equipment, model number, asset number, estimated salvage value, current condition of item and location of item. All surplus items are to remain in the listing department's possession until notified by the Purchasing Department to bring them to the Public Works Complex. Once the surplus items have been relocated to the Public Works Complex the Purchasing Department and Finance Department will have the authority to dispose of the items as required by North Carolina General Statutes and City of Newton regulations.

- a) A listing of all surplus property will be prepared as necessary by the Purchasing Department and supplied to all Department Heads for review. They will have a week to determine if their department has a need of any of the items. Surplus property will be disposed of in accordance with General Statutes §160A Article 12.

### Salvaged Items:

**All salvaged/scrapped items require the approval of the Purchasing Department. The Purchasing Department will determine if the item(s) have value in other areas of the City before any form of disposal is authorized.**

## **XXI. FUEL KEYS**

Fuel keys will be issued by the Warehouse for the purpose of obtaining fuel for City Vehicles.

The procedure for using the fuel keys is as follows:

1. Enter vehicle key first.
2. After acceptance of the vehicle key, follow all prompts indicated on the screen.
3. When the fuel system asks for the odometer reading, enter the reading from vehicle odometer.
4. Re-enter the vehicle key, the system will ask which Pump will be used. (Pumps 1 and 2 are for diesel fuel and pumps 3 and 4 are for gasoline).
5. Pump Fuel.

## XXII. Procurement Procedures with Federal Funds (Uniform Guidance (UG))

### I. Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

### II. Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any sub-recipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Guidance (UG) Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.318 through § 200.327 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The City of Newton will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the City of Newton have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award. When bids are required by law, or otherwise solicited by the City,** all contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.327 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work,

invitation for bids or requests for proposals shall be excluded from competing for such requirements.

- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

### III. General Procurement Standards and Procedures:

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items (no stock-piling). The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies that have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** The Purchasing Department will ensure that all solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.



- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach. NOTE: This comparison is necessary for most FEMA financial assistance programs following an emergency of major disaster declaration.
- H. Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$150,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section XXI.II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder’s list. Prior to preparing the contract, the Purchasing Department must verify that the contractor is not on the federally debarred bidder’s list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

#### **IV. Specific Procurement Procedures**

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Purchases costing less than \$30,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
3. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
  4. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Purchases costing \$30,000 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
  2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
  3. Cost or price analysis is not required prior to soliciting bids.
  4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
  5. Award the contract to the lowest responsive, responsible bidder.
- C. Purchases costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:
1. Cost or price analysis is required prior to soliciting bids.
  2. Complete specifications or purchase description must be made available to all bidders.
  3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid

opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”

4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

**NOTE REGARDING SERVICE CONTRACTS COSTING \$90,000 UP TO \$250,000:**

Local government service contracts are not subject to state competitive bidding requirements. If a local government does not require competitive proposals (RFPs) for service contracts under its local policy, it may choose to follow the UG small purchase procedure for service contracts costing \$30,000 up to \$250,000, and then follow the UG sealed bid or competitive proposal method of service contracts costing \$250,000 or more. If the local policy regarding service contracts is more restrictive, the local policy should be followed.

- D. Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:
1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
  2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
  3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
  4. Consider all responses to the publicized RFP to the maximum extent practical.
  5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
  6. Award the contract to the responsible firm with most advantageous proposal considering price and other factors identified in the RFP. Governing board approval is not required.
  7. Award the contract on a fixed-price or cost-reimbursement basis.

**E. Construction and repair contracts costing less than \$30,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

**F. Construction and repair contracts costing \$30,000 up to \$250,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

**G. Construction and repair contracts costing \$250,000 up to \$500,000** shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publically advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price are required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

**H. Construction and repair contracts costing \$500,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price are required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”

**I. Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

**J. Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state “Mini-Brooks Act” requirements (G.S. 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.

2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

**K. Contracts for Architectural and Engineering Services costing \$250,000 or more** shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

## V. Exceptions

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.
- F. Mini-Brooks.** A contract may be awarded without competitive bidding when it is estimated that a project's Architectural and Engineering Services will cost less than \$50,000.00

## **XXIII. Conflict of Interest: Use of Federal Funds**

### **I. Purpose**

The purpose of this policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

### **II. Policy**

This policy applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any sub-recipient of the funds.

The employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including sub-recipients, of the requirements of this policy and any additional prohibitions or requirements.

**A. Conflicts of Interest.** In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the City of Newton may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family;
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

**B. Gifts.** In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of the City of Newton are prohibited from accepting or soliciting gifts, gratuities,



favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor.

### **III. Violation**

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract awards.

### **XXIV. EXHIBITS**

- Exhibit A. Examples of Purchases Not Requiring a Purchase Order
- Exhibit B. Purchase Order Change Request Form
- Exhibit C. Budget Transfer Request Form
- Exhibit D. Request to Stock Form
- Exhibit E. Vendor Performance Evaluation Form
- Exhibit F. Request for Vendor Addition Form
- Exhibit G. Contract Cover Page Form
- Exhibit H. Hold Harmless Agreement
- Exhibit I. Consultant Insurance Requirements

## **EXHIBIT A**

### **EXAMPLES OF PURCHASES NOT REQUIRING A PURCHASE ORDER**

Advertising (legal ads, radio announcements, etc.)  
Annual dues  
Meals  
Claim payments (Citizens filing claim for damages/reimbursement)  
Insurance premiums  
Medical examinations  
Memberships  
Land purchases, including easements  
Professional services (i.e. accounting, insurance and legal)  
Petty cash - replenishment of funds  
Postage permits and expenses  
Refunds  
Rental of buildings  
Service contracts utilizing special needs individuals  
Subscriptions  
Sundry expense (Police Dept. ONLY)  
Tuition fees for educational purposes  
Utilities  
Lease purchase payments

**EXHIBIT B**

**CITY OF NEWTON  
PURCHASE ORDER  
CHANGE REQUEST**

Purchase Order Number
Date of Purchase Order
<input type="checkbox"/> Please Cancel This Purchase Order
<input type="checkbox"/> Please Reissue with Changes as Shown

Line No	Initial Qty	New Qty	Description	Initial Account #	New Acct #	Initial Price	New Price	Comments

Department Head's Signature \_\_\_\_\_ Date

Finance Directors Signature \_\_\_\_\_ Date

**Note: Print on Green Paper**

**EXHIBIT C**

**Budget Transfer #** \_\_\_\_\_

**Date Approved** \_\_\_\_\_

**City of Newton, North Carolina**

**Budget Transfer Request**

**Appropriations**

**Distribution by Finance Office**

<b>FUND</b>	<b>DEPARTMENT</b>	<b>DEPARTMENT</b>	<b>DATE SUBMITTED</b>
The following Appropriation Transfer(s) is required:			
Transfer from:		Transfer to:	
Account # and Title	Amount	Account # and Title	Amount
Total:		Total:	
Reason and Justification for Transfer Request:			
Dept. Head Approval:		Finance Office Approval	Date:
City Manager Approval:		Date Processed:	

**Note: Print on Blue Paper**

**EXHIBIT D**

**CITY OF NEWTON**

**REQUEST TO STOCK**

DEPARTMENT: \_\_\_\_\_ DATE: \_\_\_/\_\_\_/\_\_\_

DESCRIPTION: \_\_\_\_\_

ESTIMATED ANNUAL USAGE: \_\_\_\_\_

RECOMMENDED INITIAL ORDER QUANTITY: \_\_\_\_\_

RECOMMENDED MINIMUM STOCKING QUANTITY: \_\_\_\_\_

APPLICATION: \_\_\_\_\_

REASON FOR STOCKING: \_\_\_\_\_

REPLACES CURRENT STOCK ITEM NO. \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_

ELIMINATE CURRENT STOCK ITEM NO. \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_

ADJUSTED MIN/MAX NUMBERS FOR CURRENT ITEM: \_\_\_\_\_ MIN \_\_\_\_\_ MAX

SUGGESTED VENDOR(S): \_\_\_\_\_ CONTACT PERSON(S): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

DEPARTMENT HEAD OR DESIGNEE

DO NOT WRITE BELOW THIS LINE

ACTION TAKEN: \_\_\_\_\_

BY: \_\_\_\_\_ DATE: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED \_\_\_\_\_

NEW STOCK NUMBER: \_\_\_\_\_

**EXHIBIT E**

**VENDOR PERFORMANCE EVALUATION FORM**

Please Take a Moment to Complete this Vendor Performance Evaluation  
Return to the Purchasing Department

Vendor Name: \_\_\_\_\_ Purchase Order #: \_\_\_\_\_

Date Promised: \_\_\_\_\_ Actual Delivery Date: \_\_\_\_\_

Date Ordered: \_\_\_\_\_ Dept Responding: \_\_\_\_\_

Detail or Remarks: \_\_\_\_\_

Continually Suggest Cost-Saving Possibilities: \_\_\_\_\_ Has Competitive Pricing: \_\_\_\_\_

Holds Back Orders to a Minimum: \_\_\_\_\_ Anticipates Our Needs: \_\_\_\_\_

Supplies Current Catalogs: \_\_\_\_\_ Has Knowledge of Products & Industry: \_\_\_\_\_

Prompt & Accurate on Technical Assistance: \_\_\_\_\_

Advises of any Potential Trouble: \_\_\_\_\_ Promptly Replaces Rejected Items: \_\_\_\_\_

Is Courteous and Helpful: \_\_\_\_\_ Has a Sincere Desire to Serve: \_\_\_\_\_

Delivers without Constant Follow-Up: \_\_\_\_\_ Handles Complaints Promptly: \_\_\_\_\_

Expedites and Handles All Orders Courteously: \_\_\_\_\_

Keeps Abreast of New Product Developments: \_\_\_\_\_

Provides Specified Quality Products: \_\_\_\_\_ Delivers on or Before Specified Time: \_\_\_\_\_

Produces Adequate Packaging: \_\_\_\_\_ Makes Courteous Deliveries: \_\_\_\_\_

Identifies or Marks Packages Correctly: \_\_\_\_\_ Provides Accurate Delivery Tickets: \_\_\_\_\_

Quality of Item: \_\_\_\_\_ Delivery: \_\_\_\_\_

Service: \_\_\_\_\_ Comments: \_\_\_\_\_

PURCHASE ORDER QUANTITIES ARE OVER OR SHORT: \_\_\_\_\_

OVERALL RATING: RATE THIS VENDOR FOR THIS PURCHASE ON A SCALE OF 1-10  
WITH (1) INDICATING UNACCEPTABLE PERFORMANCE:

UNACCEPTABLE

1

SATISFIED

5

EXTREMELY SATISFIED

10



# CITY OF NEWTON

Purchasing Department

P.O. Box 550 · Newton, N.C. 28658 · phone 828.695.4328 · fax 828.465.7464

## **REQUEST FOR VENDOR ADDITION**

**Please use this form to add vendors to the City accounting system.**

Date of request: \_\_\_\_\_

Requested date vendor should be added: \_\_\_\_\_

Employee requesting addition:

\_\_\_\_\_

Department requesting addition:

\_\_\_\_\_

Name and address of vendor to be added:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Material or Services vendor will provide:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reason vendor should be added: (sole source, cost savings, new item required for city operations, etc.):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This form should be printed; all of the requested information filled in and send with the vendor package to the Purchasing Department. After review, verification and approval, the Purchasing Department will input the vendor information into the City data base. After adding the vendor to the system, the Purchasing Department will email the requesting employee the new vendor's ID number. *Incomplete request forms and vendor packages received without this form will not be entered into our system!*

**THIS FORM IS REQUIRED TO ENSURE THAT INCOMING VENDOR PACKS ARE NECESSARY FOR CITY BUSINESS. WE ROUTINELY RECEIVE PACKAGES FROM VENDORS WITH THE HOPES OF GETTING ON OUR BIDDERS LIST.**



**CONTRACT COVER SHEET**

**Please attach this cover sheet to all Contract Documents to ensure that all required Parties have reviewed and approved the contract.**

CONTRACT NAME \_\_\_\_\_

ACCOUNT NUMBER \_\_\_\_\_

CONTRACT NUMBER  
(IF APPLICABLE) \_\_\_\_\_

DEPARTMENT HEAD  
\_\_\_\_\_  
Signature Date

PURCHASING DEPT  
\_\_\_\_\_  
Signature Date

CITY ATTORNEY  
(IF OPINION REQUIRED) \_\_\_\_\_  
Signature Date

CITY FINANCE DIRECTOR  
\_\_\_\_\_  
Signature Date

CITY MANAGER  
\_\_\_\_\_  
Signature Date

**PROCEDURES:**

All contracts must have this cover page attached. Department Head, Purchasing Agent, City Attorney (if applicable), Finance Director and City Manager must sign before contract is released to vendor for signatures. This is to verify that all parties have had an opportunity to review and approve. *Contracts must be completed before sending to Finance Director and City Manager for their signatures.*

**Finance Director and City Manager will sign contracts prior to sending to vendor for signatures.**





**HOLD HARMLESS AGREEMENT**

Except for expenses or liabilities arising from the negligence of the City, the Contractor hereby expressly agrees to indemnify and hold the City Of Newton harmless against any and all expenses and liabilities arising out of the performance or default of his work as outlined in the Contract that this agreement is attached to as follows:

The Contractor expressly agrees to the extent that there is a causal relationship between its negligent, reckless or intentionally wrongful action or inaction, or the negligent, reckless or intentionally wrongful action or inaction of any of its employees or any person, firm, or corporation directly or indirectly employed by the Contractor, and any damage, liability, injury, loss or expense (whether in connection with bodily injury or death or property damage or loss) that is suffered by the City and its employees or by any member of the public, to indemnify and save the City and its employees harmless against any and all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs, and expenses arising out of the performance or default of this Contract. Such costs are to include defense, settlement and reasonable attorneys' fees incurred by the City and its employees. This promise to indemnify shall include bodily injuries or death occurring to Contractor's employees and any person directly or indirectly employed by Contractor (including without limitation any employee of any subcontractor), the City's employees, the employees of any other independent contractors, or occurring to any member of the public. When the City submits notice, Contractor shall promptly defend any aforementioned action. This obligation shall survive the suspension or termination of any Contract that this Agreement is a part of. The limits of insurance coverage required herein shall not serve to limit this indemnity obligation. The recovery of costs and fees shall extend to those incurred in the enforcement of this indemnity.

NAME OF CONTRACTOR OR VENDOR:

\_\_\_\_\_

AUTHORIZED REPRESENTATIVE:

\_\_\_\_\_

NAME OF CONTRACT:

\_\_\_\_\_

DATE:

\_\_\_\_\_



August 1, 2011

## CONSULTANT INSURANCE REQUIREMENTS

All consultants must provide the City with the insurance as listed below before they can begin working within the City of Newton.

- 1- Minimum Auto coverage (\$100,000 each person, \$300,000 each accident for bodily injury, \$100,000 property damage).
- 2- City of Newton must be listed as an additional insured on the Certificate of General Liability Insurance.
- 3- An original copy of the Insurance Certificate must be submitted to the City.
  - a. *Do not list an individual's name in the additional insured section of the Insurance Certificate. **(City of Newton only.)***
- 4- An original copy of the additional insured Endorsement must be included with the Certificate of Insurance.
- 5- It is recommended that the consultant carry workers compensation insurance.
  - a. For one man operations that might not carry this insurance they **must** provide evidence of medical insurance.

In addition to these requirements the consultant must sign a hold harmless agreement.

For certain consultant positions the City reserves the right to require Errors and Omission coverage.

Faxed or emailed Certificates and Endorsements will be accepted, however the original copies of both must be sent to the City within one (1) week of the fax or email date.