



**City of Poteet**

Strawberry Capital of Texas



**PURCHASE AND  
PROCUREMENT POLICY AND  
PROCEDURES**

**Table of Contents**

1.0 PURPOSE..... 4

2.0 CODE OF ETHICS..... 4

3.0 DISCLOSURE OF CERTAIN RELATIONSHIPS ..... 5

4.0 PURCHASING AUTHORITY ..... 6

    4.1 Department Head Purchasing Authority ..... 6

    4.2 City Council Approval ..... 7

        TABLE I PURCHASING AUTHORITY ..... 7

5.0 TAX EXEMPT STATUS ..... 8

6.0 HISTORICALLY UNDERUTILIZED BUSINESS ENTERPRISES..... 8

7.0 PURCHASE ORDERS ..... 8

    7.1 Telephone Quotes..... 9

8.0 GENERAL PROCUREMENT GUIDELINES ..... 9

    8.1 Petty Cash (Limit \$100)..... 9

    8.2 Technology Purchases..... 9

    8.3 Online Purchases ..... 10

    8.4 Annual Supply/Service Contracts ..... 10

    8.5 Recurring Expenses..... 10

9.0 EMERGENCY PURCHASES ..... 11

10.0 PURCHASES EXEMPT FROM COMPETITIVE BIDDING..... 12

    10.1 Emergency Purchases ..... 12

    10.2 Sole Source Purchases ..... 12

    10.3 Other Exemptions ..... 12

    10.4 Cooperative Purchases..... 13

11.0 COMPETITIVE BID REQUIREMENTS (\$50,000 or more)..... 13

    11.1 Competitive Bidding on Certain Public Works Projects ..... 14

    11.2 Competitive Sealed Proposals ..... 14

12.0 PROCEDURES..... 15

    12.1 Notice of Competitive Procurement..... 15

    12.2 Pre-Bid/Submittal Conference..... 15

    12.3 Opening of Bids..... 16

    12.4 Awarding of Contract ..... 16

    12.5 Bid Discrepancies and Disqualifications ..... 17

13.0 PROTEST PROCEDURES ..... 17

**City of Poteet - Purchasing Policy & Procedures**

14.0 SUSPENSION AND DISBARMENT..... 18

    14.1 Suspension and Debarment Process ..... 19

    14.2 Procedures ..... 20

    14.3 Investigation ..... 20

    14.4 Decision ..... 20

    14.5 Appeal..... 21

    14.6 Duration of Suspension/Debarment..... 21

    14.7 Suspension ..... 21

    14.8 Debarment ..... 21

15.0 PROFESSIONAL SERVICES ..... 21

    15.1 Request for Proposal (RFP) or Request for Qualifications (RFQ) ..... 22

16.0 ENGINEERING PRACTICES ACT ..... 23

17.0 ARCHITECTS ACT ..... 24

18.0 GRANTS..... 24

19.0 ALTERNATIVE DELIVERY METHODS FOR CONSTRUCTION RELATED PROJECTS ..... 24

20.0 LEASE-PURCHASE AGREEMENTS ..... 25

21.0 RECEIPT OF GOODS ..... 25

22.0 DISPOSAL of SURPLUS CITY PROPERTY ..... 25

23.0 PROMPT PAYMENT ..... 25

24.0 CHANGE ORDERS ..... 26

25.0 INSURANCE REQUIREMENTS..... 26

26.0 BONDING REQUIREMENTS ..... 27

    26.1 Bid Bond..... 27

    26.2 Performance Bond ..... 28

    26.3 Payment Bond..... 28

    26.4 Maintenance Bond ..... 28

    26.5 State Law Regarding Bonding..... 28

    26.6 Insurance Requirements ..... 29

    26.7 Workers Compensation Coverage ..... 29

27.0 PREVAILING WAGE RATE ..... 30

28.0 MATERIAL SAFETY DATA SHEETS ..... 30

29.0 TRENCH EXCAVATION ..... 30

30.0 DEFINITIONS..... 31

31.0 EXHIBITS ..... 32

## **1.0 PURPOSE**

The purpose of this policy is to establish guidelines and accountability for the expenditure of funds used to procure goods and services used by the City. The processes used to procure goods and services should always provide the best value for the City, while providing an open and fair process for vendors.

All personnel of the City responsible for purchases shall use care and judgment when obtaining or purchasing a commodity or service and shall become familiar with and follow the City's policies and procedures as they relate to purchasing. Department heads shall be cognizant of their respective budget limitations and initiate purchases accordingly. It is the responsibility of the individual departments to anticipate requirements and initiate action to purchase goods and services in advance of the time that they are needed, and to allow sufficient time to follow purchasing procedures, including contract preparation.

Additionally, this policy manual and subsequent clarifications serves to improve the City's contracting processes, management and administration. This policy also supports our grant management program. Staff engaged in the conduct of procurement and contract administration will do so in accordance with applicable federal, state and local laws and management directives.

This policy replaces and supersedes all prior policies, directives and resolutions regarding purchasing policy and procedures. This policy shall be reviewed at least every two years by the City Council.

This manual cannot address every situation; and when an unusual situation occurs or a difficult legal or factual problem arises, the exact statutory language must be reviewed and analyzed.

## **2.0 CODE OF ETHICS**

Public employment is a public trust. Employees will avoid any activity that would create a conflict between their personal interests and the interest of the City of Poteet and will avoid the appearance of unethical or compromising practices in relationships, actions and communications. The types of activities that should be avoided include: accepting gratuities of any kind valued at more than \$25 from current or potential vendors; using confidential proprietary information for actual or anticipated personal gain; or disclosing a vendor's confidential proprietary information inappropriately to other vendors during the procurement process.

## **City of Poteet - Purchasing Policy & Procedures**

Public employees, including elected and appointed officials, must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City of Poteet procurement system.

Departments shall not use purchasing strategies designed to avoid formal competitive procurement procedures such as component purchases (purchases in pieces rather than purchasing as a whole), separate purchases (purchasing goods in a series of separate purchases that normally would have been combined) and sequential purchases (purchases made over a period of time that would normally have been made as one purchase) that violates State law.

If a person fails to comply with the competitive bidding or competitive proposal procedures required by Local Government Code Chapter 252, that person may be convicted of a Class B misdemeanor. A Class B misdemeanor may be punishable by a fine up to \$2,000, confinement in jail for up to 180 days, or both. Under Texas law, an individual is automatically removed from his or her position if that person is convicted of failing to comply with the competitive bidding or competitive proposal procedures.

### **3.0 DISCLOSURE OF CERTAIN RELATIONSHIPS**

Please refer to Chapter 176 of the Texas Local Government Code (House Bill 914) for detailed information regarding the requirements for completing and filing with the City Secretary the Local Government Officer Conflict Disclosure Form (Exhibit 1).

### **3.1 DISCLOSURE OF INTERESTED PARTIES**

House Bill 1295 amended the Texas Government Code by adding Section 2252.908, the Disclosure of Interested Parties. This requires new filings with the Ethics Commission for contracts requiring a vote of the governing body or is valued over \$1 million dollars. Under this new Section 2252.908, the City is prohibited from entering into a contract with a business entity until it submits a Disclosure of Interested Parties (Form 1295) to the City at the time business entity submits the signed contract. The Bill affects all applicable contracts entered into after January 1, 2016. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Texas Ethics Commission.

The business entity will file a 1295 form with the Ethics commission electronically. Once filed by the business, the completed form will contain a unique certification number. The business entity will then print the form with the certification number, have an authorized agent of the business entity sign the form, have the form notarized and submit the form with their proposals or contracts to the City. The form must be received before the contract is entered into between business and the City.

Once received, the City must acknowledge the receipt of the filed Form 1295 by logging onto the Ethics Commission website to notify the Texas Ethics Commission of the receipt of the filed Form 1295 no later than the 30th day after the date the contract is signed. After the City acknowledges the Form 1295, the Texas Ethics Commission will post the completed Form 1295 to its website within seven business days.

Below is a link for training videos, FAQ's, directions and logins to the Texas Ethics Commission for your use.

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

#### **4.0 PURCHASING AUTHORITY**

The City Administrator is responsible for ensuring that City departments comply with federal, state and local statutes regulating competitive sealed bids, professional services, high technology purchases, cooperative purchases, and emergency and sole-source purchases.

Purchases by city employees shall be made only as authorized by the City Administrator or his/her designee in accordance with the city budget.

##### **4.1 Department Head Purchasing Authority**

Department head purchasing authority is limited to a total of \$10,000 or less per single purchase. All other purchases exceeding \$10,000 must be processed through the City Administrator on a purchase requisition.

**4.2 City Council Approval**

The City Council, through this policy delegates to the City Administrator the authority to approve purchases as established in Table I. The City Administrator is authorized to sign contracts for goods and services if funds have been appropriated in the budget.

City Council approval is required for the procurement of all contracts where the expenditure is expected to be more than \$30,000. All documents must be signed by the City Administrator.

**TABLE I PURCHASING AUTHORITY**

The following chart illustrates the purchasing authority allowed under City policy:

<b>Amount</b>	<b>Bid or Purchase Procedure</b>	<b>Authorization Level</b>
Less than \$2,500	No bid or quotation required but recommended.	Department Head
\$2,501 to \$2,999	<ul style="list-style-type: none"> <li>• Three (3) quotations required.</li> <li>• PO required.</li> </ul>	Department Head
\$3,000 to \$10,000	<ul style="list-style-type: none"> <li>• Three (3) written or faxed quotations</li> <li>• Minimum of (2) listed HUB’s are issued a bid invitation (LGC §252.0215).</li> <li>• If no HUB vendor is available within Atascosa County, the City is exempt from this provision.</li> <li>• PO required</li> </ul>	Department Head
\$10,001 to \$30,000	<ul style="list-style-type: none"> <li>• Three (3) written quotations</li> <li>• Minimum of (2) listed HUB’s are issued a bid invitation (LGC §252.0215).</li> <li>• If no HUB vendor is available within Atascosa County, the City is exempt from this provision.</li> <li>• PO required</li> </ul>	City Administrator
\$30,001 to \$50,000	<ul style="list-style-type: none"> <li>• Three (3) written quotations</li> <li>• Minimum of (2) HUB’s are issued a bid invitation (LGC §252.0215).</li> <li>• If no HUB vendor is available within Atascosa County, the City is exempt from this provision.</li> <li>• Sealed Bids for Construction Projects.</li> </ul>	City Council
Over \$50,000	Competitive sealed bids or proposals (unless exempted from competitive bidding).	City Council

Note: Written quotes should be kept in Department files for at least one year for Audit review.

## **5.0 TAX EXEMPT STATUS**

The City of Poteet is exempt from payment of federal excise and transportation taxes, and all state and local sales taxes, with the exception of hotel/motel tax. The City claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended.

## **6.0 HISTORICALLY UNDERUTILIZED BUSINESS ENTERPRISES**

Local Government Code 252.0215 requires all Texas governmental entities to contact at least two (2) historically underutilized businesses on a rotating basis when making an expenditure of more than \$3,000 but less than \$50,000 based on information provided by the Texas Comptroller's Office. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this requirement. Departments may obtain information about historically underutilized businesses from the Texas Comptroller's Office website [www.window.state.tx.us/procurement/prog/hub](http://www.window.state.tx.us/procurement/prog/hub).

## **7.0 PURCHASE ORDERS**

A purchase order (PO) represents a binding and enforceable contract with a vendor/supplier to provide the goods and services in accordance with the terms and conditions of the purchase order and associated documents.

Purchase orders should originate at the department level using a purchase requisition signed by the department head.

The cut-off date for submitting purchase requisitions for the fiscal year is August 31. All supplies and equipment for the year should be purchased by this date. Exemptions to this procedure must receive prior approval by the City Administrator.

Once a purchase requisition has been received, approved, checked for funding and processed a purchase order number will be assigned by Accounts Payable.

If quotes have already been obtained they must be attached with the requisition.

### **7.1 Telephone Quotes**

For telephoned price quotations, certain information should be provided to the vendor:

- Description of the item.
- Number of items required.
- Date delivery is required.
- The terms and conditions of purchase.

Whether a written or telephoned request, certain specific information should be obtained from each vendor and recorded in writing, such as:

- Name, address and telephone number of the vendor.
- Total or unit price.
- Date through which quoted price will be effective.
- Product offered if different from the product requested.

All single-item purchases over \$5,000 must be reported in writing to the Finance Office for inclusion on the Fixed Assets list.

## **8.0 GENERAL PROCUREMENT GUIDELINES**

### **8.1 Petty Cash (Limit \$100)**

Petty cash funds are set up with the approval of the City Administrator and funded from an appropriate account.

No quotes are required when purchasing items with petty cash. No item purchased with petty cash funds may exceed \$100. All petty cash purchases must be supported by an original receipt/invoice for the purchase.

Individuals authorized to maintain petty cash accounts may replenish their petty cash by turning in their receipts and vouchers to Accounts Payable.

### **8.2 Technology Purchases**

Prior to any purchase, departments shall coordinate/consult with the City Administrator for all technology procurements. Technology procurement includes: computers; software/hardware; and, telecommunications services and devices.

### **8.3 Online Purchases**

Purchases made via the Internet with a City Credit Card must reference a Purchase Order (if applicable) and must be approved prior to purchase. Only sites that have a “Secured” pay site are allowed. Purchases made from an online auction site are permitted (i.e. GovDeals, LoneStar Auctioneers, Federal Surplus, etc.). No personal expenses shall be purchased using city credit cards. If done so, the City will be refunded immediately.

### **8.4 Annual Supply/Service Contracts**

Annual supply/service contracts are agreements established to provide for recurring purchases from the same supplier for a specified period of time. Annual service contracts are established so that departments are permitted to order contract items from the applicable contractor(s). Only those items specifically defined in the contract can be purchased as a part of the contract. Placing orders with other contractors that were not awarded any portion of an Annual Service Contract will be considered an unauthorized purchase.

Departments are encouraged to utilize annual supply/service agreements whenever possible in order to maximize the advantages and economics of quantity buying.

### **8.5 Recurring Expenses**

Certain recurring monthly expenses detailed below do not require a purchase order. Invoices for these expenses should be sent directly to Accounts Payable, with appropriate account coding and signature of the department head. The following items do not require a purchase order:

1. Water
2. Sewer
3. Gas
4. Electricity
5. Telephone
6. Cellular phones
7. Fleet gasoline card
8. Insurance payments
9. Monthly, quarterly or annual payment for contracted services for water rights, wholesale power or solid waste.
10. Disbursement of occupancy tax funds according to the City Budget
11. Reimbursement/payments to other agencies
12. Payments made for employee payroll deductions
13. Automatic renewal of State and local certifications and licenses
14. Debt service payments
15. Invoices for professional services i.e. Attorney and Engineering fees
16. Progress payments for construction contracts
17. Office/equipment lease agreements

## 9.0 EMERGENCY PURCHASES

The purchase of any goods or services needed because of an emergency condition shall comply with the provisions of the Texas Local Government Code §252.022. Emergency purchases must meet one of these criteria:

1. a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
2. a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
3. a procurement necessary because of unforeseen damage to public machinery, equipment, or other property; and
4. which, due to circumstances beyond the City's control, must be procured immediately and without following established procurement procedures.

Examples of emergency procurements include repair of a water or sewer line break, storm damage to city infrastructure requiring immediate repair, structural repairs to city buildings that would otherwise cause the building to be closed to the public, etc.

Department heads will obtain City Administrator approval prior to any procurement action when emergency procurement of materials or services is required. The department head shall be responsible for determining the validity of an emergency purchase request and shall be held fully accountable for any actions requested or subsequently taken to procure emergency goods or services.

If the City Administrator is not available, the department head will obtain only those materials or services absolutely critical to restore or re-establish essential city services. The department head shall advise the City Administrator of these actions as soon as possible.

All emergency purchases costing more than \$30,000 must be ratified by the City Council. All ratifications shall occur at the first possible scheduled City Council meeting after the emergency procurement has occurred. **City Council should be informed in a timely manner of emergency purchases above \$30,000.**

## **10.0 PURCHASES EXEMPT FROM COMPETITIVE BIDDING**

Section 252.022 of the Local Government Code provides for exemptions from the competitive bidding process. The items exempted are:

### **10.1 Emergency Purchases**

- items purchased in case of public calamity to relieve the needs of the citizens or to preserve city property;
- items to preserve or protect the public health or safety of the city's residents;
- items necessary because of unforeseen damage to public property, machinery, or equipment;

### **10.2 Sole Source Purchases**

- items that are available only from one source because of patents, copyrights, secret processes or natural monopolies;
- films, manuscripts or books;
- electricity, gas, water or other utility services;
- captive replacement parts or components of equipment;
- books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the material;
- management services provided by a non-profit organization to a municipal museum, park, zoo or other facility which the organization has financially or otherwise supported;
- rare books, papers, and other library material for a public library;

### **10.3 Other Exemptions**

- paving, drainage, street widening and other public improvements where at least one-third of the cost are paid by special assessments levied on property that will benefit from the improvements;
- a public improvement project which has been authorized by the voters of the city, for which there is a deficiency of funds to complete the project in accordance with the plans and purposes as authorized;
- a payment under a contract by which a developer participates in the construction of a public improvement under Subchapter C, Chapter 212;
- personal property sold at public auction by a state licensed auctioneer, or sold at a going out of business sale, or sold by another political subdivision of the state, a state agency or the federal government;
- services performed by blind or severely disabled persons;
- personal, professional or planning services;
- work paid for on a daily basis (day labor);
- purchase of land or a right-of-way;

- interlocal contracts for cooperative purchasing; or
- goods purchased by a municipality for subsequent retail sale by the municipality.

#### **10.4 Cooperative Purchases**

Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking and joint purchases. The City shall take advantage of the following types of cooperative purchases when deemed to be in the City's best interest:

- Interlocal agreement purchases
- State contract purchases
- Piggyback purchases
- Joint purchases

Bids are not required for the use of approved Co-ops however; a purchase order approved by the City Administrator is required before any purchase is finalized.

#### **11.0 COMPETITIVE BID REQUIREMENTS (\$50,000 or more)**

The procurement procedures for goods and service for the City of Poteet are set forth in the Texas Government Code 252, Purchasing and Contracting Authority for Municipalities.

The Texas Local Government Code provides that, before a city may enter into a contract that requires an expenditure of more than \$50,000, the city must:

- comply with certain statutory procedures for competitive sealed bidding or competitive sealed proposals when purchasing goods and services;
- use the reverse auction procedures for purchasing (Section 2155.062, Government Code); or
- comply with certain statutorily prescribed methods of construction procurement (Subchapter H or J, Chapter 271).

For general procurement of goods and services a contract must be awarded to: (a) the lowest responsible bidder, or (b) the bidder who provides goods and services at the "best value". In determining the "best value" for the city, the city may consider factors other than the purchase price of the goods and services, including among other things:

- (1) the reputation of the bidder and of the bidder's goods or services;
- (2) the quality of the bidder's goods or services;
- (3) the extent to which the goods or services meets the city's needs;
- (4) the bidder's past relationship with the city;

- (5) the impact on the city to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- (6) the total long term cost to the city;
- (7) any relevant criteria listed in the request for bid or proposals; and /or any other lawful criteria. Local Government Code §252.043.

The city must indicate in the bid specifications and requirements that the contract will either be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the “best value” for the city. Local government Code § 252.043(c).

There are two exceptions to the above rules concerning the award of a contract.

The best value method may not be used for the construction of:

1. highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or
2. buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

The contract must be awarded to the lowest responsible bidder. Local Government Code 252.043 (d).

For contracts for certain professional services, Texas law prohibits cities from awarding a contract by competitive bidding. The Professional Services Procurement Act describes procedures to be followed for contracting for these services.

### **11.1 Competitive Bidding on Certain Public Works Projects**

In awarding a contract bid under Chapter 271, Subchapter B, the City must comply with specific legal requirements.

### **11.2 Competitive Sealed Proposals**

The City may use the competitive sealed proposal procedure for the purchase of goods and services, including high technology items and insurance.

Competitive sealed proposals may be used for civil engineering projects permitted under Local Government Code, Chapter 271, §271.115.

When publicly opening sealed proposals, only the names of the firms submitting proposals shall be announced. After the analysis of proposals is completed, a recommendation by City staff to the City Council for award to the lowest and most responsive bidder which best

meets all the evaluation criteria will be made. If there are vendor negotiations, care should be made to avoid disclosing proposal contents to other bidders. All proposals that were submitted will be open to public inspection after contract award addressed in Section 552.104 of the Texas Public Information Act.

However, any proprietary information designated as such by the vendor will not be made available for public inspection per Section 552.110 of the Texas Public Information Act.

## **12.0 PROCEDURES**

### **12.1 Notice of Competitive Procurement**

All contracts requiring competitive bids or proposals must be advertised and must contain notice of the date and time at which the bids will be publicly opened and read aloud. The advertisement must be in a newspaper published in the City, and must be published at least once a week for two consecutive weeks before the bid opening. The first publication must be on or before the fourteenth (14) day before the date the bids are publicly opened and read aloud. If the contract pertains to a public works project, the second publication must be on the 10th day before the bids may be submitted. Local Government Code §271.025.

If the contract is for purchase of machinery for road or street construction or maintenance, the notice for bids and the order for purchase must include a general specification of the machinery. Local Government Code §252.041(c).

The City Secretary shall be responsible for placing the bid notification ads.

### **12.2 Pre-Bid/Submittal Conference**

If a pre-bid/submittal meeting is planned, the solicitation should identify when and where it will be held. Pre-bid meetings should be conducted a minimum of 5 to 10 calendar days after the solicitation is advertised and/or distributed and a minimum of 7 calendar days prior to the proposal due date. If attendance is mandatory, this should be clearly stated.

The purpose of the pre-bid/submittal conference is only to clarify the solicitation and not to facilitate arguments from contractors regarding the City's requirements. If valid suggestions or objections are received, they should be seriously considered following the pre-bid meeting and, if modification of the solicitation is necessary, an addendum should be issued promptly.

### **12.3 Opening of Bids**

Bids must be publicly opened by the City on the specified date, time and place. Bids must be read aloud and then kept on file and available for public inspection. For bids or proposals that contain trade secrets or confidential information, the portion with the trade secrets or confidential information will not be available, but the remainder of the bid or proposal must be available for public inspection.

Public opening of sealed bids or proposals will be attended by the Department Head/Project Manager, or designated representatives. If the bid is to be awarded to the lowest responsible bidder, the bids will be opened and read aloud with the apparent low bidder announced. If the bid is to be awarded based upon best value, the bids will be opened and read aloud; the City Council will then determine which bidder provides the City with the best value.

However, an announcement will be made to those present at the bid opening that a recommendation will be presented to the City Council for the award to the lowest responsible bidder or to the bidder who provides the best value to the City, after an analysis of the bids is made by staff. The City reserves the right to reject any and all bids.

The requesting department is responsible for reviewing the specifications offered in each bid to insure the specifications meet the bid requirements. If the bids offered meet the specifications requested, the recommendations may then be made based on the procedure set out in Texas Local Government Code Chapter 252, Sub Chapter C, 252.043.

### **12.4 Awarding of Contract**

For general procurement of goods and services a contract must be awarded to: (a) the lowest responsible bidder, or (b) the bidder who provides goods and services at the "best value" for the City.

If the competitive sealed proposals requirement applies to the contract the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the City considering the relative importance of price and the evaluation factors included in the request for proposal.

If competitive bids or proposals are required and the City receives no bids in response to a request, the City must either re-advertise or decide not to undertake the contract.

If the City receives only one bid or proposal in response to a request, the City may accept the bid or proposal received, reject the bid or proposal and re-advertise, or reject the bid or proposal. City Council may reject any and all bids.

In most cases, a city may not provide a preference for local businesses when awarding bids. State law allows such a preference only in specifically authorized situations.

The City may award a contract to a bidder whose principal place of business is in the City and whose bid is within 5% of the lowest bidder whose principle business is not located in the City per the Texas Local Government Code §271.905. In order to award a purchase to the local bidder in such circumstances, the City Council must determine in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities created by the contract award, including the employment of residents of the City and increased tax revenues to the City, pursuant to Local Government Code §271.905. This section does not prohibit the City from rejecting all bids.

In the event there are two or more responsible bidders with the identical lowest bid that fully meet the specifications and needs of the City, the bidder who is a resident of the City shall be awarded the bid. If there is not a local resident bidder or there is more than one local resident bidder, the award of the contract will be determined by the casting of lots. The casting of lots must be in the manner prescribed by the Mayor in the presence of the City Council. All qualified bidders may have a representative present. "Casting of lots" means the use of some object to determine an outcome by chance.

### **12.5 Bid Discrepancies and Disqualifications**

Under some circumstances certain discrepancies in bids that have been submitted may be waived by the City Council. However, there are several reasons that require a bid to be disqualified. These reasons are as follows:

1. Any bid received that is not signed by an authorized company representative.
2. Any bid received that did not return required information such as addendums, bonding and/or insurance requirements. This requirement may be waived as a technicality but must be approved by the City Attorney.

### **13.0 PROTEST PROCEDURES**

The City Administrator has the authority to settle or resolve any claim of an alleged protest of a recommended award. This includes but is not limited to protests of award or non-selection for award or other matters of a contractual or procurement nature.

A statement of protest, if any, shall be submitted to the City Secretary for transmittal to and consideration by the City of Poteet. A protest must be submitted in writing and must be supported by sufficient information to enable the protest to be considered. A protest will not be considered if it is insufficiently supported or it is not received within the time limits set forth below. A protest may be submitted upon the following reasons:

- A protest relating to errors in computing tabulation or evaluation of bid,
- A protest relating to violation of rules or statutes,
- A protest regarding discrepancies with material differences or quality of item,
- A protest relating to restrictive procedures, alleged impropriety, or other similar situations arising prior to bid opening, or
- A protest of the award of contract or alleged impropriety arising after bid opening as set forth below,
- A protest based upon restrictive procedures or alleged impropriety or other similar situation arising prior to bid opening must be received by the City of Poteet's City Secretary no later than seven (7) working days prior to the specified bid opening date and may only be protested once.
- A protest of the award of contract or alleged impropriety arising after the bid opening must be received by the City of Poteet's City Secretary within seven (7) working days following the earlier of the date on which the bidder knew or which a diligent bidder would have known of the award or alleged impropriety.

When a protest is filed, the City usually will not make an award until a decision is made. However, the City will delay an award if the City urgently requires the supplies or services to be purchased, or failure to make the award promptly will unduly delay delivery or performance. In those instances, the City will notify the protestor and make every effort to resolve the protest before the award.

The City Administrator will review the appeal and render a decision. Such decision will be considered final with no further appeal process. The final decision of the City Administrator regarding the bid protest will be incorporated in the Agenda Item Staff Report form as part of the recommendation for award of contract.

#### **14.0 SUSPENSION AND DISBARMENT**

Debarment is an action to exclude individuals or companies from contracting with an organization; the purpose is to protect the government from awarding contracts to individuals, companies, or principals of companies that have an inability or unwillingness to fulfill contract requirements. It protects the City's interest by preventing improper conduct from participation in the City's business. Debarment is particularly applied when using federal funds. City staff assumes responsibility for identifying whether parties are debarred or suspended from doing business with the City.

The City may not contract with parties that are suspended or debarred as listed on the State of Texas Vendor Debarment or Federal Excluded Parties Lists (FEPL) websites, nor with the principles of any suspended or debarred entity, either individually or as part of any other entity.

Prior to awarding a contract, departments are required to verify the vendor/contractor is not suspended or debarred by accessing the United States General Services Administration's Excluded Parties List System (EPLS) at [www.epls.gov](http://www.epls.gov). The State of Texas debarred list is located at [www.window.state.tx.us/procurement/prog/vendor\\_performance/debarred](http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred). A print screen of the EPLS and state debarred vendor list indicating that the prime consultant or contractor is not found on the list must be included in the project file.

#### **14.1 Suspension and Debarment Process**

The City of Poteet may suspend or debar a vendor from participation in City purchasing opportunities and practices upon showing a just cause, and during the period of suspension or debarment, the City shall reject any bid, proposal or other offer by the vendor and shall return any submission to the suspended/debarred vendor. This section applies to both contractors and subcontractors.

Just Cause for Suspension. Just cause for suspension shall include any of the following:

1. Failure to comply. Failure to comply with the conditions, specifications or term of a bid or proposal or contract with the City including recent record of unsatisfactory performance with the terms of one or more contracts.
2. Misrepresentation. Commission of any misrepresentation with a bid or proposal.
3. Criminal offense. Charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract. If charges are dropped or the vendor found not guilty, the suspension shall be lifted automatically upon notification and proof of final court disposition provided to the City by the vendor.
4. Conviction.
  - a. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or honesty which currently, directly and seriously affects that vendor's responsibility as a City supplier. If charges are dismissed or the vendor found not guilty, the suspension shall be lifted automatically upon notification and proof of final court disposition provided to the City by the vendor.
  - b. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

5. Insolvency. Vendor becomes insolvent, has proceedings in bankruptcy instituted against it or consolidates its debts or assigns over its estate or affects for payment thereof or has a receiver appointed over its property.
6. Other. Any other cause the City Administrator determines to be so serious or compelling in nature, that it materially and adversely affects the responsibility of the business as a government contractor, including but not limited to suspension by another government entity for substantial cause.

Just Cause for Debarment. Just cause for debarment shall include any of the following:

1. Failure to Comply. Failure to comply with conditions, specifications, drawings, schedules or terms of a bid, proposal or contract with the City.
2. A history of unsatisfactory performance of a contract.
3. Conviction.
  - a. Conviction by or judgment obtained in a court of competent jurisdiction for commission of offenses in connection with the vendor's commercial enterprise. If the conviction is reversed through the appellate process, the debarment shall be immediately lifted upon written notification and proof of final court disposition to the City from the vendor.
  - b. Conviction for the commission of anti-fraud or act of collusion in connection with a bid, quotation, proposal or other act incident to doing business with the City.
4. Federal Debarment List. Inclusion on any Federal debarred vendor list.
5. Notice of debarment activities from other governmental entities.

## **14.2 Procedures**

### **14.3 Investigation**

The City Secretary shall promptly investigate and prepare a written report concerning a proposed suspension or debarment. The report shall be forwarded to the City Administrator stating with specificity the facts supporting the request suspension or debarment.

### **14.4 Decision**

Within five (5) business days of receipt of the report, the City Administrator may issue a notice of suspension or debarment. The vendor shall be immediately advised by certified mail with return receipt requested.

#### **14.5 Appeal**

The vendor may within five (5) business days of receipt of notice, present a written request for reconsideration including additional information relating to the reason given for suspension or debarment. The City Administrator in consultation with the City Attorney shall consider such additional information in deciding whether the decision to suspend or debar should be delayed or revised. If the original decision to suspend or debar is determined to be proper and justified, the vendor shall be suspended or debarred.

#### **14.6 Duration of Suspension/Debarment**

#### **14.7 Suspension**

A vendor may be suspended for a maximum period of 6 months.

#### **14.8 Debarment**

A vendor may be debarred for a period not to exceed five (5) years if after investigation it is found to be engaged in any of the activities listed above.

### **15.0 PROFESSIONAL SERVICES**

Personal and professional services are exempt from the competitive bidding process and are procured through the use of Request for Qualification.

Professional Services are services which involve mental or intellectual skills, usually accompanied by formal certification or licensing by a state agency, such as accounting, architecture, engineering, medicine, planning, economics, law, financial advisory services and scientific or laboratory consulting services.

Chapter 2254 of the Texas Government Code prohibits a city from selecting a professional on the basis of competitive bids. Professional services are defined as accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising; or professional nursing. Section 2254.003 provides that awards for professional services be on the basis of demonstrated competence and qualifications and for a fair and reasonable price.

In addition to those services specifically covered by the Professional Services Procurement Act, there are other services that may be considered either professional or personal and therefore exempt from competitive bidding.

The City may utilize the City Engineer for preliminary design and design services for City projects. If the City desires to initiate a competitive process for choosing a professional services provider the City will utilize a two-step selection process. First, select the most highly qualified individual or firm capable of performing the services on the basis of demonstrated competence and qualifications. Then the contract negotiation process begins. The city first negotiates with the selected provider. If the parties cannot reach an agreement, the City must formally, and in writing, inform the provider that it is ending negotiations. The City may then negotiate with the next provider in the order of the selection ranking process. The same negotiation process will continue until an agreement is reached that culminated in an executed contract.

If the City is unable to negotiate a satisfactory contract with the most highly qualified provider, the City shall:

- formally end negotiations with that provider;
- select the next most highly qualified provider; and
- attempt to negotiate a contract with the provider at a fair and reasonable price.

### **15.1 Request for Proposal (RFP) or Request for Qualifications (RFQ)**

The department requesting professional services will prepare, issue, and receive responses to a Request for Qualifications (RFQ)/Request for Proposals (RFP) and conduct the evaluation process.

Either the RFP or the RFQ process (or a combination) may be used. The primary difference between the two processes is the RFP process is received and evaluated and then computed. The proposal includes a scope of work and a cost proposal. In the RFQ process, Statements of Qualifications (SOQs) are received and a selection is made based upon those qualifications. In this process, a mutually acceptable scope of work and contract amount is negotiated with the successful bidder.

The City Administrator may authorize exceptions to these procedures if special circumstances exist. These circumstances may include time restrictions, unusual nature of a specific project or service, or if an existing agreement warrants variation from the policy.

The RFP/RFQ must be approved by the City Administrator, must be in writing and must be posted on the City's web site and publicly advertised at least twice within fourteen (14) days prior to the date set for opening. Proposals or SOQs must be submitted to the City Secretary in a sealed envelope marked according to specific instructions.

Proposals shall be opened at a date, time and place designated in the Request for Proposal (RFP) or Request for Qualifications (RFQ). All proposals shall be opened by the issuing department head or their designee, and the name of the Respondent will be read aloud.

The proposals shall be analyzed, (based on the “best overall value” to the City), and documented including staff recommendations. Award shall be made by the City Council for all proposals over \$20,000.

The department requesting the service is responsible for contract drafting, preparing the agenda item staff report and obtaining City Council approval to award the contract to the selected provider. After obtaining the required approval, the department requesting the service is responsible for proper execution and delivery of a contract. The department requesting the service is also responsible for contract amendments whenever there is a change in any terms and conditions of the contract (i.e. contract amount, due dates, performance requirements). The department is also responsible for contract extensions to exercise any renewal provisions of the original contract or to allow additional time for performance of the contract. Contract extensions shall be completed prior to the expiration of the original contract.

## **16.0 ENGINEERING PRACTICES ACT**

The Texas Engineering Practices Act provides that a city may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless: (1) the engineering plans, specifications, and estimates have been prepared by a licensed professional engineer; and (2) the engineering for construction is to be performed under the direct supervision of a licensed professional engineer. Texas Occ. Code § 1001.407.

There are two circumstances in which the above requirements do not apply to the construction of a public work by the city. First, they do not apply to a public work that involves a total expenditure of \$8,000 or less, even if the work involves structural, electrical or mechanical engineering. If the expenditure for such a public work will amount to or exceed \$8,000, the use of an engineer is required. Second, if the work done does not involve structural, electrical or mechanical engineering, then the use of an engineer is not required as long as the total contemplated expenditure on the project will not exceed \$20,000.

## **17.0 ARCHITECTS ACT**

The Texas Architects Act provides that a registered architect must prepare the architectural plans and specifications for:

1. A new building that is to be constructed and owned by the City if the building will be used for education, assembly, or office occupancy and the construction costs exceed \$100,000; or
2. Any alteration or addition to an existing building that is owned by the City if the building is used or will be used for education, assembly or office occupancy, the construction costs of the alterations or additions exceed \$50,000 and the alterations or additions requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

## **18.0 GRANTS**

All grants have specific contract provisions, laws, regulations, or rules that must be adhered to. Most federal grants must follow certain compliance requirements. These requirements relate to Activities Allowed or Unallowed; Allowable Costs; Cash Management; Davis-Bacon Act; Eligibility; Equipment and Real Property Management; Matching, Level of Effort, and Earmarking; Period of Availability; Procurement and Suspension and Debarment; Program Income; Real Property Acquisition; Reporting; Subrecipient Monitoring; and Specific Tests and Provisions. These requirements are described in further detail in OMB Circular A-133.

All departments who receive federal funds shall obtain a copy of the current Office of Management Budget (OMB) Circular A-133 to review. This Supplement is revised annually and includes general and specific requirements for federal grants. Grantees are responsible for adhering to their specific grant requirements, from federal, state, and private sources.

## **19.0 ALTERNATIVE DELIVERY METHODS FOR CONSTRUCTION RELATED PROJECTS**

Alternative project delivery methods as defined in the Local Government Code, Chapter 271, Subchapter H, may be used as applicable. The alternative project delivery method includes: design-build projects, construction manager-agents, construction manager at-risk, job order contracts, and best value bids.

## **20.0 LEASE-PURCHASE AGREEMENTS**

The City may obtain the use of equipment or other personal property through a lease purchase agreement or sale lease-back agreement. Local Government Code §271.005(a). In these arrangements, an equipment vendor leases a piece of equipment to the City with an option to purchase. Alternately, an equipment vendor sells the equipment to a financing institution, who then leases the equipment to the City. The lease may contain an option to purchase. The contract may not be more than 25 years. Local Government Code §271.009.

Competitive bidding requirements apply to lease purchase arrangements.

## **21.0 RECEIPT OF GOODS**

When any materials, equipment or supplies are received, the department that placed the order is responsible for inspecting the shipment and initiating the payment process.

## **22.0 DISPOSAL of SURPLUS CITY PROPERTY**

Disposal of Surplus City Property will be conducted in accordance with City policy and any State or Federal Laws governing disposal of public assets.

## **23.0 PROMPT PAYMENT**

In order to comply with state statutes, Texas Local Government Code (Subtitle F. State and Local Contracts and Fund Management, Chapter 2251, Payment for Goods and Services) and avoid the interest penalty, invoices must be paid within thirty (30) days of the delivery or invoice date whichever is later, or interest at the rate of 1% per month is automatically imposed. Vendor payments will be due and payable to the vendor within the applicable payment terms in compliance with the Prompt Payment Act.

If an error on an invoice is received from a vendor, the City has until the 21<sup>st</sup> day after receipt to notify the vendor of the dispute. Then if the dispute is resolved and found in favor of the City, the vendor must submit a new invoice and the City has 30 days from receipt of the new invoice in which to pay. If the dispute is found in favor of the vendor, interest is due from the original date the invoice became overdue.

However, this policy does not apply to payments made by the City in the event:

1. There is a bona fide dispute between the City and the vendor concerning the supplies, materials, services or equipment delivered or the services performed that causes the payment to be late; or
2. The terms of a federal agreement, grant, regulation, or statute prevent the City from making a timely payment with Federal funds; or
3. There is a bona fide dispute between the vendor and a subcontractor or between a subcontractor and its suppliers concerning supplies, material, or equipment delivered or the services performed which caused the payment to be late; or
4. When the invoice is not mailed to the proper office, if an office address is specified in the instructions on the purchase order.

In order to comply with the prompt payment act and avoid the interest penalty, all invoices must be sent to Accounts Payable within twenty (20) days to allow for processing time.

#### **24.0 CHANGE ORDERS**

After awarding a bid contract, the City may make changes to plans, specifications or quantities if necessary. Such changes may not increase or decrease the original contract price by more than 25%.

If a change order involves a decrease or an increase of \$30,000 or less, the City Administrator is authorized by the City Council to approve the change. The original contract price may not be increased by more than \$20,000 without formal approval by the City Council and the original contract price may not be increased by more than 25%. The original contract price may not be decreased by more than 25% without the consent of the contractor. Local Government Code §252.048.

#### **25.0 INSURANCE REQUIREMENTS**

Contractors, vendors and consultants require insurance coverage when doing business with the City. In general, if a service is being provided on City property, proof of insurance is required. Specific insurance requirements are incorporated into bid documents and specifications for each bid and proposal. Insurance Certificates are reviewed and updated annually and must list the "City of Poteet" as additional insured. Insurance certificates are maintained and filed in the Office of the City Secretary.

Whenever the City contracts with an outside party (contractor, consultant, vendor or concessionaire) for goods and services whose work, or employees, may expose the City and the public at risk of any kind are required to sign an indemnity clause (hold harmless clause) along with a contractual agreement that will transfer the risk of the project from the City to the Contractor. They must also provide a current insurance certificate to the City that shows their liability meets the City's requirement. Insurance requirements may vary from project to project depending on the type of work or service being provided.

## **26.0 BONDING REQUIREMENTS**

Ensure that the successful bidder will enter into a contract with the City and complete the project as defined by the bid specifications, bidders may be required to provide the City with surety bond guaranteeing successful completion of the contract. There are three types of surety bonds commonly used with City contracts; the bid bond, performance (and maintenance) bond, and the payment bond. A surety is a firm (usually an insurance company) that will guarantee that the bidder will perform as defined by the specifications. The City will only accept corporate sureties as bonding entities. Personal sureties are unacceptable.

The following provisions shall apply when a solicitation requires specific bond requirements based on the complexity of the project and risk to the City as determined by the City Administrator and in accordance with State law.

### **26.1 Bid Bond**

It is the City's option whether to require bidders to provide the City with a bid bond along with their bid submissions.

Bid bonds are issued by a surety financially guaranteeing that the successful bidder will enter into an agreement with the City to perform the project or provide the service as defined in the specifications. The City requires that the bid bond be accompanied with an appropriate completed "Power of Attorney" executing the bid bond for the bidder.

As an alternative, the City may accept a cashier's check, with the City named as payee, to be held in escrow until the successful bidder signs the City's project contract.

**BID BOND AMOUNT:** The bid bond minimum limit (or cashier's check) is five percent (5%) of the total amount bid.

## **26.2 Performance Bond**

Performance bonds financially guarantee that once the successful bidder enters into a contract with the City to perform work, the contractor will complete the project. Should the contractor fail, then the surety will, generally, hire an alternate contractor to complete the work, allow the City to select another contractor and pay the difference between the first contractor's price and the new contractor's price, or pay the original contractor whatever it takes to complete the project.

## **26.3 Payment Bond**

A payment bond will pay any outstanding bills for labor, materials, and supplies used in the City's project from the contractor's subcontractors and suppliers should the prime contractor default on their payment. Payment bonds must be written for one hundred percent (100%) of the total bid price.

## **26.4 Maintenance Bond**

Maintenance bonds financial guarantee that the contractor will maintain and keep in good repair the work contracted to be done and performed from the date of acceptance of the work by the City for a predetermined period of time. For public works projects, the bond would also include any necessary back filling that may arise because of sunken conditions.

The bond is designed to provide financial protection to the City for all defective conditions arising by reason of defective material, work or labor performed by the contractor. In the event the contractor does not fulfill its maintenance obligation. The bonding company will pay to maintain the project as defined in the contract specifications.

## **26.5 State Law Regarding Bonding**

Chapter 2253 of the Government Code requires bonds for payment and performance of contracts on certain public works projects and sets the standards when the bonds are required.

Public works projects in excess of \$25,000 will require the contractor to execute a payment bond solely for the protection of beneficiaries who supply materials or labor to the public works project and have a direct contractual relationship with the contractor.

Public works projects in excess of \$100,000 will require the contractors to execute a performance bond solely for the protection of the municipality. The City reserves the right to require a performance bond on contracts less than \$100,000.

Performance bonds must be written for the total contract amount and executed by a corporate surety in accordance with the Insurance Code prior to commencement of the work.

Any performance bond must be by a surety authorized to do business in Texas in accordance with Government Code §2253. The bond must be payable to the City and approved by City Attorney as to form.

## **26.6 Insurance Requirements**

Most solicitations issued by the City of Poteet contain insurance and bonding requirements. The bonding and insurance requirements cannot be waived. The awarded bidder will be required to furnish the City with an insurance certificate satisfying all requirements stated in the solicitation document. It is advisable that potential respondents consult their insurance agent prior to submitting a bid to determine whether or not they will be able to secure the necessary insurance if awarded the contract.

The City reserves the right to review the insurance requirements and modify insurance coverage and their limits when deemed necessary. The City will not accept a Memorandum of Insurance or Binder as proof of insurance.

The following standard insurance policies shall be required:

- General Liability Insurance
- Business Automobile Liability Insurance
- Worker's Compensation Insurance
- Employers Liability Insurance

## **26.7 Workers Compensation Coverage**

Texas Labor Code § 406.096(a) & (b) requires that each contractor and subcontractor involved in a building or construction contract with a governmental entity in Texas provide proof that it covers its employees through workers' compensation insurance.

The phrase "building or construction" is defined to include any of the following:

- erecting or preparing to erect a structure, including a building, bridge, road, public utility facility, or related structure;
- remodeling, extending, repairing or demolishing a structure; or
- otherwise improving real property or a structure related to real property through similar activities.

## **27.0 PREVAILING WAGE RATE**

For all City of Poteet funded public works construction projects, the City of Poteet, in accordance with Texas Government Code §2258, requires that not less than the general prevailing daily wage rate for work of similar character be paid to contractor and subcontractor employees. These wage rates are derived from the most current applicable federal prevailing wage rates as published by the United States Department of Labor, Dallas, Texas. The prevailing wage requirement does not apply to maintenance work.

Any deviation from Wage and Labor Standard Provision compliance shall be cause for City's withholding either periodic interim or final payment to the contractor until such deviations are properly corrected.

## **28.0 MATERIAL SAFETY DATA SHEETS**

Under the Hazardous Communication Act, commonly known as the Texas Right to Know Act, a vendor must provide to the City with each delivery, material safety data sheets, which are applicable to hazardous substances, defined in the Act.

## **29.0 TRENCH EXCAVATION**

If a contract will require that a trench be dug to a depth of greater than 5 feet, the bid documents must include certain requirements as detailed in the Health & Safety Code §756.023.

**30.0 DEFINITIONS**

Bid Bond	A bond required of a contractor which ensures that the contractor will enter into a contract for which ha has submitted a formal written bid.
Component Purchases	Purchases of a component part of an item that in normal purchasing practices would be purchased in one purchase.
High Technology Procurement	The purchase of insurance or equipment, goods, or services of a highly technical nature, including data processing equipment and software and firmware used in conjunction with data processing equipment; telecommunications equipment, radio and microwave systems; electronic distributed control systems, including building energy management systems; and technical services related to those items.
Payment Bond	A bond required that ensures that all suppliers and subcontractors of the contractor will be paid for work and/or materials supplied in the course of the contract.
Performance Bond	A bond required that guarantees vendor performance during the execution of the contract.
Professional Services	Services that involve labor and skill that is predominantly mental and intellectual, rather than physical or manual; disciplines requiring special knowledge or attainment and a high order of learning, skill and intelligence. Professional services include, but are not limited to: accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing.
Public Works Contracts	Contracts for the construction, alteration, repair, or renovation of a building, structure, road, highway or other improvements or additions to real property.
Request for Proposals (RFP)	A competitive procurement process allowing the City to consider a variety of factors when selecting a party for award of a contract. RFP’s may be used for the procurement of consulting and other professional services, except for architects, landscape architects, engineers, and land surveyors. The process includes soliciting proposals from respondents, then evaluating and ranking the proposals based upon predetermined criteria, which may include a cost component. Negotiations are then conducted to finalize a contract.
Request for Qualifications (RFQ)	The selection process for architectural, including landscape architectural, engineering, and land surveying services as defined by the Professional Services Procurement Act set forth in the Texas Government Code Chapter 2254. Qualification statement are solicited, then evaluated and ranked based upon demonstrated competence and qualifications. There is no request for a price proposal until the top ranked firm is selected. Negotiations are then conducted to finalize a contract.
Separate Purchases	Purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
Sequential Purchases	Purchases made over a period of time that, in normal purchasing practices, would be in one purchase.

**31.0 EXHIBITS**

Exhibit 1 – Conflict of Interest Form (Government Official) in accordance with Chapter 176 Local Government Code

Exhibit 2 –Certificate of Interest Parties

Exhibit 3 – W-9 Request for Taxpayer Identification Number and Certification

Exhibit 4 – Texas Sales and Use Tax Exemption Certification

Exhibit 1 – Local Government Officer Conflict Disclosure Statement

<b>LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT</b>		<b>FORM CIS</b>
(Instructions for completing and filing this form are provided on the next page.)		
This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.  This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.	<b>OFFICE USE ONLY</b>	
<b>1</b> Name of Local Government Officer	Date Received	
<b>2</b> Office Held		
<b>3</b> Name of person described by Sections 176.002(a) and 176.003(a), Local Government Code		
<b>4</b> Description of the nature and extent of employment or other business relationship with person named in item 3		
<b>5</b> List gifts accepted by the local government officer and any family member, excluding gifts described by Section 176.003(a-1), if aggregate value of the gifts accepted from person named in item 3 exceed \$250 during the 12-month period described by Section 176.003(a)(2)(B)		
Date Gift Accepted _____ Description of Gift _____  Date Gift Accepted _____ Description of Gift _____  Date Gift Accepted _____ Description of Gift _____  (attach additional forms as necessary)		
<b>6</b> <b>AFFIDAVIT</b>		
I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to a family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a), Local Government Code.		
_____ Signature of Local Government Officer		
AFFIX NOTARY STAMP / SEAL ABOVE		
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.		
_____ Signature of officer administering oath	_____ Printed name of officer administering oath	_____ Title of officer administering oath

Adopted 06/29/2007

## LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with Section 176.005, extended the requirements of Sections 176.003 and 176.004. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a Class C misdemeanor.

Please refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

### INSTRUCTIONS FOR COMPLETING THIS FORM

*The following numbers correspond to the numbered boxes on the other side.*

- 1. Name of Local Government Officer.** Enter the name of the local government officer filing this statement.
- 2. Office Held.** Enter the name of the office held by the local government officer filing this statement.
- 3. Name of person described by Sections 176.002(a) and 176.003(a), Local Government Code.** Enter the name of the person described by Section 176.002, Local Government Code with whom the officer has an employment or other business relationship as described by Section 176.003(a), Local Government Code.
- 4. Description of the nature and extent of employment or business relationship with person named in item 3.** Describe the nature and extent of the employment or other business relationship with the person in item 3 as described by Section 176.003(a), Local Government Code.
- 5. List gifts accepted, excluding gifts described by Section 176.003(a-1), if aggregate value of the gifts accepted from person named in item 3 exceed \$250.** List gifts accepted during the 12-month period (described by Section 176.003(a), Local Government Code) by the local government officer or family member of the officer, excluding gifts described by Section 176.003(a-1), from the person named in item 3 that in the aggregate exceed \$250 in value.
- 6. Affidavit.** Signature of local government officer.

Adopted 06/29/2007

Exhibit 2 – Certificate of Interest Parties

<b>CERTIFICATE OF INTERESTED PARTIES</b>		<b>FORM 1295</b>	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		<b>OFFICE USE ONLY</b>	
<b>1 Name of business entity filing form, and the city, state and country of the business entity's place of business.</b>			
<b>2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.</b>			
<b>3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.</b>			
4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary
<b>5 Check only if there is NO interested Party.</b> <input type="checkbox"/>			
<b>6 AFFIDAVIT</b> <span style="float: right;">I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.</span>			
_____ Signature of authorized agent of contracting business entity			
AFFIX NOTARY STAMP / SEAL ABOVE			
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.			
_____ Signature of officer administering oath		_____ Printed name of officer administering oath	_____ Title of officer administering oath
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>			



Exhibit 3 – W-9 Request for Taxpayer Identification Number and Certification

Form <b>W-9</b> (Rev. January 2011) Department of the Treasury Internal Revenue Service	<h2 style="margin:0;">Request for Taxpayer Identification Number and Certification</h2>	<b>Give Form to the requester. Do not send to the IRS.</b>
Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification (required): <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate	
	<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____	
	<input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.)		Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

### Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

### Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

### Specific Instructions

#### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Partnership, C Corporation, or S Corporation.** Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Disregarded entity.** Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

**Note.** Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

**Limited Liability Company (LLC).** If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

**Exempt Payee**

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

**Signature requirements.** Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Exhibit 4 - Texas Sales and Use Tax Exemption Certification



### Texas Sales and Use Tax Exemption Certification

*This certificate does not require a number to be valid.*

Name of purchaser, firm or agency <b>City of Poteet</b>	
Address (Street & number, P.O. Box or Route number) <b>491 Avenue H</b>	Phone (Area code and number) <b>8307423574</b>
City, State, ZIP code <b>Poteet, Texas 78065</b>	

I, the purchaser named above, claim an exemption from payment of sales and use taxes (for the purchase of taxable items described below or on the attached order or invoice) from:

Seller: \_\_\_\_\_

Street address: \_\_\_\_\_ City, State, ZIP code: \_\_\_\_\_

Description of items to be purchased or on the attached order or invoice:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Purchaser claims this exemption for the following reason:  
**Municipality Tax ID 74-6001935**

I understand that I will be liable for payment of all state and local sales or use taxes which may become due for failure to comply with the provisions of the Tax Code and/or all applicable law.

*I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.*

 Purchaser	Title	Date
---	-------	------

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.  
**THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.**  
Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier. Do **not** send the completed certificate to the Comptroller of Public Accounts.