

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF DENTON AMENDING POLICY NO. 407.01 “CENTRALIZED PURCHASING” AS A FINANCE POLICY FOR THE ORGANIZATION AND INCLUDING IT IN THE CITY OF DENTON POLICIES AND PROCEDURES; DELEGATING AUTHORITY FOR SOLICITATION CRITERIA, BINDING THE CITY TO CONTRACTS, NEGOTIATING CONTRACTS, AWARDED CONTRACTS, AND TO ADMINISTRATIVELY UPDATE THE PROCUREMENT MANUAL; PROVIDING FOR A REPEALER; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Denton is committed to transparency and fiscal responsibility; and

WHEREAS, on December 13, 2022, the City Council approved the amended Procurement Manual by Ordinance 22-2522; and

WHEREAS, the City Manager recommends adoption of a revised policy and the City Council desires to adopt such policy; and

WHEREAS, the City of Denton Procurement Department has reviewed the Procurement Policy for compliance with applicable law and has recommended updates to reflect such applicable law and City policies; and

WHEREAS, the City Council deems this policy to be in the best interest of the City of Denton, and be an official policy of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitals and findings contained in the preamble of this ordinance are incorporated into the body of this ordinance.

SECTION 2. The Policy Statement in Policy No. 407.01 “Centralized Purchasing,” which is incorporated in this section, is hereby adopted as an official policy of the City of Denton:

**POLICY STATEMENT:**

The Procurement Department (“Procurement”) serves as the centralized authority for acquiring goods, services, and public works for the City of Denton (“City”). Procurement is committed to delivering efficient, ethical, and transparent services that support all City departments. By ensuring legal compliance, promotion of fair competition, and acting as responsible stewards of public funds. Procurement fosters trust and integrity in all purchasing activities. Collaboration between Procurement and City Departments is essential to ensure effective planning, timely execution, and high standards of service.

SECTION 3. The policy numbered 407.01 entitled Centralized Purchasing, as amended, attached hereto and incorporated herein in its entirety is hereby approved and adopted and shall be included as an official policy of the City of Denton.

SECTION 4. This amended Centralized Purchasing Policy shall be filed in the official records with the City Secretary.

SECTION 5. City Council provides that the policy supersedes the previously adopted Centralized Purchasing Policy and the Procurement Manual passed by Ordinance 22-2522. Future amendments to the Centralized Purchasing Policy shall be by resolution as set forth by City of Denton Code of Ordinances Section 2-28. Future amendments to the Procurement Manual, Purchase Card Manual, and Fuel Card Manual will be administratively approved in accordance with the Centralized Purchasing Policy.

SECTION 6. Unless specifically delegated by the City Council in this ordinance or otherwise, and further authorized in writing by the City Manager, no City of Denton employee is authorized to contractually bind the City. Unauthorized staff who attempt to bind the City of Denton financially or violate the Centralized Purchasing Policy or the Procurement Manual may be subjected to disciplinary action.

SECTION 7. In accordance with the City of Denton Code of Ordinances Section 10-26, the City Council has delegated procurement authority to the Procurement Agent and the City Manager. Except as otherwise limited by state and local law, the Procurement Agent shall serve as the central procurement and contracting authority of the City. The Procurement Agent shall have full authority to:

- a. adopt operational procedures, consistent with the Centralized Purchasing Policy, governing the procurement and management of all goods, services, professional services, and public works;
- b. procure or supervise the procurement of all goods, services, construction, professional services, and public works utilizing any procurement method or procedure as authorized by law;
- c. determine which method of procurement provides the best value to the City;
- d. establish guidelines for the management of all inventories of materials belonging to the City;
- e. manage the disposal of materials belonging to the City, including the sale, trade, or other method of disposal of surplus materials belonging to the City;
- f. prepare, issue, revise, maintain, and monitor the use of specifications and scopes of work for goods, services, professional services, and public works required by the City; and
- g. delegate procurement authority to designees or to any department or official of the City.

The Procurement Agent has the authority to determine when there can be exceptions to the procurement process in consultation with the City Manager. When exceptions are made, the Procurement Agent will provide written justification of corrections, waiving minor informalities

or irregularities consistent with the Centralized Purchasing Policy. The above delegated operations shall be further set forth in the Procurement Manual.

SECTION 8. The City Council hereby directs that the Purchasing Agent may utilize any purchasing or procurement method or procedure authorized by law to purchase or contract for goods, services, or public works. Pursuant to the authority of the City Council to delegate its authority under Government Code 2269.053, and as authorized by Government Code 2269.056, the Procurement Agent is authorized to determine which of the Alternative Project Delivery Methods (“APDM”) provides the best value for the City. This Ordinance shall constitute notice of the delegation, limits of delegations, and person designated with the authority to determine which method provides the best value to the City pursuant to Government Code 2269.053 and 2269.056. A determination by the Procurement Agent that an APDM method (other than competitive sealed bidding) provides the best value for the City is required prior to advertising of an APDM.

SECTION 9. City Council delegates authority to the Purchasing Agent, or designee, to select evaluation criteria and their weighted value for all solicitation types pursuant to Local Government Code Chapter 252 and Government Code Chapters 2254, and 2269. The Procurement Agent may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation.

SECTION 10. Pursuant to Local Government Code 252.0435, the City Council adopts the following criteria for determining the safety record of a bidder to determine whether a bidder is responsible. The City may consider the safety record of the bidders in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the residents of the City, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider:

- a. Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the bidder for violations of OSHA regulations within the past three (3) years.
- b. Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years. Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, ending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.

c. Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.

d. Any other safety related matter deemed by the City Council to be material in determining the responsibility of the bidder and the ability of the bidder to perform the services or goods required by the bid documents in a safe environment, both for the workers and other employees of bidder and the residents of the City, and such determination should not be arbitrary or capricious.

SECTION 11. Negotiations, or discussions, may be conducted with offerors in accordance with the terms of the Solicitation, this Ordinance, the Centralized Purchasing Policy, and the Procurement Manual, which constitutes regulations adopted by the City Council under Local Government Code 252.042(b). Offerors shall be accorded fair and equal treatment in conducting discussions and revision of proposals, and there shall be no disclosure of any information derived from proposals submitted by competing offerors.

- a. Negotiations may be conducted concurrently with offerors for the purpose of determining source selection and/or contract award.
- b. Exclusive negotiations may be conducted with the offeror whose proposal is determined in the source selection process to be most advantageous to the City considering the evaluation factors included in the Solicitation which may include a weighted price score. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the City may enter into exclusive negotiations with the next highest ranked offeror or concurrent negotiations without the need to repeat the formal solicitation process.
- c. After opening but prior to award, a solicitation must be formally rejected by City Council.

SECTION 12. All contracts entered into under this ordinance shall be executed in the name of the City by the City Council and/or City Manager and approved as to form by the City Attorney. Where delegated authority has been provided, contracts may also be entered into by the Procurement Agent.

- a. The rights and duties of a City contract are not transferable or otherwise assignable without the written consent of the City Council and/or City Manager.
- b. An interlocal contract between governmental agencies for cooperative purchasing requires approval by City Council.
- c. All City contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Procurement Agent shall have the authority to establish and modify any such terms and conditions.
- d. Contract modifications and/or individual change orders for a cumulative total increase or decrease over \$50,000 require approval by the City Council, unless exempt under requirements of Local Government Code 252.022. If a change order involves a decrease or an increase of \$50,000 or less, City Council delegates authority to Purchasing Agent.

SECTION 13. The City Council hereby directs that the City may elect to utilize e-signatures for certain contracts or transactions, when allowed by law. The use of electronic signatures, in accordance with this ordinance, are legally binding and equivalent to handwritten signatures. The City may accept electronic bids and proposals for formal solicitations. The City has adopted a policy to ensure the identification, security, and confidentiality of electronic bids and proposals, and to ensure that all electronic bids or proposals remain effectively unopened until the proper time. This ordinance doesn't prohibit the submission of hard copy (paper) bids and proposals.

SECTION 14. All demonstrations or product testings shall include a written contract detailing the arrangement if (i) the City is receiving a physical item as part of the demonstration or product testing or (ii) the demonstration uses City-owned equipment and is not part of a solicitation or evaluation process otherwise authorized by this ordinance or Purchasing Manual. All agreements for demonstrations of products must be approved by the City Attorney, Risk Management, and the City Manager. These agreements can be executed by the City Manager without further City Council approval.

SECTION 15. The City Council delegates authority to the Purchasing Agent to determine whether a contract is let on a lump-sum or unit price basis pursuant to Local Government Code 252.047 if the contract is for the construction of public works or for the purchase of materials, equipment, and supplies.

SECTION 16. Wages for workers on construction projects shall not be paid less than the schedule of general prevailing rates of per diem wages as determined by the City Council, which shall be the lesser of wages defined by the United States Department of Labor Davis and Bacon Wage Determination, as amended, or as determined by the City by conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the City. The prevailing wage rate does not apply to work done directly by a public utility company or for maintenance work.

SECTION 17. All provisions of the ordinances of the City of Denton in conflict with the provision of this ordinance are hereby repealed. The repeal of any ordinance or any portion thereof by the preceding text shall not affect or impair any act done or right vested or accrued or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect and such shall remain in force for all intents and purposes as if such ordinance or part thereof so repealed shall remain in force.

SECTION 18. This ordinance shall be effective upon its passage and approval.

The motion to approve this ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_; the ordinance was passed and approved by the following vote [\_\_\_ - \_\_\_]:

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:  
INGRID REX, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

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