

RESOLUTION ADOPTING THE TOWN OF HUNTINGTON’S PROCUREMENT POLICY AS AMENDED

Resolution for Town Board Meeting Dated: March 12, 2024

The following resolution was offered by: **COUNCILMAN FERRO**

and seconded by: **SUPERVISOR SMYTH**

WHEREAS, Section 104-b of General Municipal Law provides that the governing board of a municipality shall annually review its policies and procedures governing the procurement of goods and services; and

WHEREAS, the policy conforms to the General Accepted Accounting Procedures; and

WHEREAS, it is fiscally beneficial for the Town of Huntington to authorize the use of best value cooperatives in order to find and engage in contracts for apparatus, materials and supplies from political subdivisions outside of New York State as authorized by General Municipal Law § 103 (16); and

WHEREAS, this resolution amends Resolution 2024-17, adopted January 3, 2024; and

WHEREAS, the amendment of the procurement policy is a Type II action pursuant to 6 N.Y.C.R.R. §617.5(c)(26) and (c)(33), and therefore no further SEQRA review is required.

NOW, THEREFORE,

THE TOWN BOARD

HEREBY ADOPTS the Town of Huntington’s Procurement Policy, as amended, attached hereto and made a part hereof this resolution as Schedule A, and which shall be included in the Town’s Policy & Procedure Manual.

VOTE:                    AYES: 4            NOES: 0            ABSTENTIONS: 0

Supervisor Edmund J. Smyth	<b>AYE</b>
Councilman Dr. Dave Bennardo	<b>AYE</b>
Councilman Salvatore Ferro	<b>AYE</b>
Councilwoman Brooke A. Lupinacci	<b>ABSENT</b>
Councilwoman Theresa Mari	<b>AYE</b>

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED

## Procurement

### *I. Purpose*

This Policy establishes guidelines whereby the Town will obtain supplies, equipment and services in a timely manner and at the best value to the residents and taxpayers of the Town. Further this policy will be carried out in such a manner that maintains fairness to competitive vendors and abides by all applicable Federal, State and local laws, rules and regulations governing public purchasing practices.

#### **A. Authority of the Director of Purchasing**

Huntington's Division of Purchasing was established within the Department of Audit and Control on December 15, 1981, by the Huntington Town Board, which delegated responsibility and authority to effect purchasing policy to the Director of Purchasing, summarized as follows:

1. The Director of Purchasing with the assistance of the purchasing staff is responsible for the procurement of materials, supplies, and equipment for the proper and efficient operation of the Town of Huntington government.
2. The Purchasing Division shall consolidate the needs of all Departments whenever possible to leverage the Town's purchasing power in obtaining competitive pricing.
3. The Director of Purchasing is responsible for administering the Town's procurement policy and procedures, inclusive of preparing and reviewing specifications on all bidding procedures for supplies, equipment, services and public works contracts.
4. The Purchasing Division is responsible for administering all purchases.
5. The Director of Purchasing or the Director's designee is authorized to open and record all bids and award purchase contracts.
6. The Director of Purchasing may award purchase contracts for materials, supplies and equipment involving expenditures over the statutory bid limit on a town-wide basis during a fiscal year pursuant to General Municipal Law §103 only upon public advertising for formal bid solicitations.
7. The Director of Purchasing will issue purchase orders to the lowest responsive, responsible bidder only after first determining that unencumbered balances of budgetary appropriations are adequate to cover such obligations.
8. The Director of Purchasing is responsible for evaluating any request for special items, supplies or services when only one vendor is available to supply such items. Department Directors must justify in writing to the Director of Purchasing, the need for a special type of item other than those formally bid, if it is consistent with the

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operational goals, and in the best interest of the Town in terms of efficiency and economy.

9. The Director of Purchasing will be responsible for the disposition of surplus inventory and will dispose of such inventory via auction, sealed bid or disposal for scrap.
10. The Director of Purchasing is responsible for maintaining and revising all Purchasing forms.

**B. Capital Expenditure Oversight Committee (CEOC)**

By direction of the Town Board, a Capital Expenditure Oversight Committee (CEOC) shall be convened consisting of the: Town Supervisor, Town Attorney, Superintendent of Highways, Town Comptroller, Director of Purchasing and Directors of the Departments of Engineering Services, Environmental Waste Management and General Services (or the individually designated representatives of said CEOC members.) The Supervisor shall Chair the CEOC and shall represent the CEOC in all matters for Town Board consideration and shall sign all correspondence on behalf of the CEOC.

The function of the CEOC shall be to review all proposed capital projects. The CEOC shall review all policies regarding contracting procedures and make recommendations for change where appropriate. The CEOC, at the direction of the Chair, will take one or more of the following actions:

1. Review and approve of bid specifications before the bid is issued;
2. Review all bids received and make recommendation of award to the Town Board;
3. Review all payment requests in excess of 110% of the awarded contract price in aggregate of the value of the contract and refer to the Town Board with a recommendation.

The CEOC may at its discretion request the assistance of additional Town personnel or consultants to assist the CEOC in the conduct of its duties.

The CEOC will be responsible for reviewing the Annual Adopted Capital Project Budget versus the capital needs of each Department. The CEOC will plan and coordinate what projects are ready to move forward and recommend to the Town Board the appropriate funding source to finance each project.

**II. POLICY**

The Purchasing Division shall make ALL purchases and issue contracts for supplies, materials, and equipment for the Town and for any Town official, Department, board or agency for which the Town may be liable, and for any special district other than a district having a separate board of commissioners.

The Purchasing Division shall have sole discretionary authority to initiate the formal bidding process, whether or not a state or county bid exists. The purchase of any item or commodity which the Purchasing Division reasonably estimates will, in aggregate, exceed the statutory limit

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on a townwide basis during the fiscal year, must be awarded to the lowest responsive, responsible bidder or the bid based on best value methodology, after publicly advertising for sealed bids as prescribed by section 103 of the General Municipal Law ("GML").

The Purchasing Division shall prepare the notices to bidders, arrange for publication in the official newspaper of the Town, and assure that the affidavit of publication is filed with the Town Clerk's Office.

The purchase of goods and services by the Town may not be "artificially divided" in order to fall beneath the public bid "discretionary buying thresholds" allowable under the General Municipal Law §103. The Purchasing Division will conduct periodic reviews of spending on various classes of goods and services to assure compliance with the GML thresholds. In the case that the Purchasing Division's review indicates that the estimated aggregate amount of all purchases of the same good or service by all Town Departments within a twelve-month will exceed the discretionary threshold, the purchase of such a good or service shall be subject to a formal competitive bid as required by law.

The Town Board will make an award to the lowest, responsible bidder or the bid of best value as recommended by the Director of Purchasing for contracted services and to the lowest responsive, responsible bidder for public work projects. The Town Board will make an award to the proposed contractor recommended by the Director of Purchasing and the applicable Department Director for contracted professional services.

**A. Purchases of Materials, Equipment, Supplies and Certain Services**

Unless subject to an exception set forth elsewhere in this Policy, all purchases of materials, equipment, supplies and services (excluding services necessary for the completion of a public works contract and professional services) involving an expenditure of \$20,000 or more, shall be awarded to the lowest responsive, responsible bidder furnishing any required security after advertisement for sealed bids pursuant to General Municipal Law § 103.

Any such materials, equipment, supplies and services involving an expenditure of less than \$20,000, may be procured pursuant to the following guidelines.

<u>Dollar Range</u>	<u>Solicitations Required</u>	<u>Method</u>
Less than \$500	One (1)	Verbal Quote
\$500 - \$ 2,499	Two (2)	Verbal Quote
\$2,500- \$9,999	Two (2)	Written Quote
\$10,000-\$19,999	Three (3)	Written Quote
\$20,000 or Above	Competitive Bid	Formal Sealed Bid

The number of solicitations required for each tier referenced above under \$20,000 refers to solicitations resulting in actual quotations. Contacting a vendor that does not ultimately furnish a quotation does not count towards the applicable solicitations requirement. However, if, despite having made diligent efforts, the Department has been unable to obtain the required number of additional quotations, the number of solicitations requirement will be

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deemed satisfied, provided the Department furnishes written documentation demonstrating its diligent efforts to the Director of Purchasing.

If the procurement predominantly involves the purchase of goods and only incidentally involves services (such as installation), it should be treated as a purchase subject to the \$20,000 threshold of this subsection A. Conversely, if the services are the predominant element of the transaction, it may be treated as public works (if involving, e.g., construction), professional services (if involving specialized expertise) or services subject to the \$20,000 competitive bidding threshold of this section (if neither public works nor professional services, for example, fuel oil transportation. See NY Labor Law Article 9).

Nothing in this section or this Policy shall prohibit a competitive bidding process for materials, equipment, supplies and services under \$20,000, when it is in the best interest of the Town to do so.

The Director of Purchasing will award materials, equipment, and supplies to the lowest, responsible bidder (if \$20,000 or more) or vendor (if \$20,000 or less). A purchase order will be initiated for all purchases.

**B. Public Works**

Unless subject to an exception set forth elsewhere in this Policy, all contracts for public work involving an expenditure of \$35,000 and above shall be awarded to the lowest responsive, responsible bidder furnishing any required security after advertisement for sealed bids pursuant to General Municipal Law § 103.

The Purchasing Division shall solicit formal sealed bids for all public works contracts of \$35,000 and above.

For public works contracts below \$35,000, ordering Departments shall solicit quotes based on the following guidelines:

<u>Dollar Range</u>	<u>Solicitations Required</u>	<u>Method</u>
Less than \$2,500	Two (2)	Verbal Quote
\$2,500 - \$9,999	Two (2)	Written Quote
\$10,000 - \$34,999	Three (3)	Written Quote
\$35,000 or Above	Competitive Bid	Formal Sealed Bid

The number of solicitations required for each tier referenced above under \$35,000 refers to solicitations resulting in actual quotations. Contacting a vendor that does not ultimately furnish a quotation does not count towards the applicable solicitations requirement. However, if, despite having made diligent efforts, the Department has been unable to obtain the required number of additional quotations, the number of solicitations requirement will be deemed satisfied, provided the Department furnishes written documentation demonstrating its diligent efforts to the Director of Purchasing.

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Nothing in this section or this Policy shall prohibit a competitive bidding process for public works projects under \$35,000, when it is in the best interest of the Town to do so.

The Town Board will award bids to the lowest responsive, responsible bidder(s) for all contracted public work projects of \$35,000 or above. The Director of Purchasing, in conjunction with the Director(s) of the using Department(s), will provide a recommendation for each award.

**C. Goods and Services Which Are Not Subject To Competitive Bidding**

When the Director of Purchasing determines that goods, services and/or other procurements fall outside the realm of competitive bidding (ex. true leases), the Requests for Proposals ("RFP") process may be used in place of competitive bidding whenever practical. The use of the RFP demonstrates the Town's intent to rely on a competitive process "to assure the prudent and economical use of public moneys in the best interest of the taxpayers" of the Town "to facilitate the acquisition of goods and services of maximum quality at the lowest cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption" as required by GML §104-b.

Unless subject to an exception set forth elsewhere in this Policy, a procurement of \$25,000 or more which is not subject to competitive bidding generally must be accomplished via an RFP. However, where the procurement is less than \$25,000, an RFP may be waived, provided that quotations are obtained in accordance with the Town's Procurement Policy and Procedures. Nothing in this Policy shall prohibit an RFP for such a procurement which is under \$25,000.

The applicable Department Director and the Director of Purchasing will make a recommendation following an RFP, and the Town Board will make a contract award to the vendor whose proposal is determined to be in the best interest of the Town.

A Department Director or the Director of Purchasing can recommend a cooperative contract provided it meets all of the Town's procurement procedures.

**D. Professional Services**

*Definition*

Professional Services are those that require special/technical skills, training and/or expertise, and are not necessarily available from an individual/entity offering the lowest bid, and may not be amenable to an RFP process. Examples of these services include, but are not limited to: accountants and financial advisors; lawyers, and outside consultants hired in connection with other legal work performed by or on behalf of the Town; administrative hearing officers; doctors and medical arts professionals; computer programmers and information technology consultants; computer software or programming services for customized programs, including services involved in substantial modification and customizing or prepackaging software; architectural and engineering services; counseling; underwriting services; surveying; management consulting services; feasibility studies of a scientific or technical nature; urban,

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suburban, and rural design professionals; and other services that require advanced education or professional licensing or certification.

*Competitive Thresholds*

Professional services of \$25,000 and above shall generally be procured by a formal Request for Proposal (RFP).

Any professional services procurement involving an expenditure below \$25,000 may be procured pursuant to the following guidelines, and provided that the price of the selected offeror is reasonable.

<u>Dollar Range</u>	<u>Solicitations Required</u>	<u>Method</u>
Less than \$5,000	One (1)	Verbal Quote
\$5,000 - \$14,999	Two (2)	Written Quotes
\$15,000-\$24,999	One (1)	Town Board approval and signed agreement
\$25,000 and above	Competitive Proposal	Formal Sealed Request for Proposal (RFP) and Town Board approval

The Town Board reserves the right to waive certain requirements when it is deemed to be in the best interest of the Town.

As with the monetary thresholds, the dollar ranges above-refer to anticipated expenditures of the aggregate amount of the total expenditures.

The number of solicitations required for each tier referenced above refers to solicitations resulting in actual quotations. Contacting a contractor that does not ultimately furnish a quotation does not count towards the applicable solicitations requirement. However, if, despite having made diligent efforts, the Department has been unable to obtain the required number of additional quotations, the number of solicitations requirement will be deemed satisfied, provided the Department furnishes written documentation demonstrating its diligent efforts to the Director of Purchasing.

*RFP and Quotations Excused When In Best Interest of the Town*

Notwithstanding anything to the contrary in this Policy, quotations and/or an RFP for professional services shall be excused when it is in the best interest of the Town to do so. Factors to be considered in determining whether it is in the best interest of the Town to waive quotations and/or an RFP for professional services may include one, some, or all the following: (1) there is an urgent exigency falling short of an emergency, such as in the case of threatened or ongoing litigation, requiring the services on a time-frame in which resort to competitive processes may prejudice the Town; (2) a service provider has successfully

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provided services for the Town in the matter, and it would be unduly burdensome, disruptive to governmental operations and/or inordinately expensive to select a different provider and/or (3) a service provider has historical knowledge of the matter and it would be unduly burdensome, disruptive to governmental operations and/or inordinately expensive to select a different provider.

In every instance in which professional services are sought to be procured without quotations and/or an RFP, the applicable Department Director must provide written justification to the Director of Purchasing detailing the reason(s) why it is in the best interest of the Town to do. Final questions as to whether it is in the best interest of the Town to forego quotations and/or an RFP shall be decided by the Town Attorney and the Director of Purchasing. Any available competitors' qualifications still must be evaluated, and the most qualified competitor must be selected, subject to the negotiation of fair and reasonable compensation.

The procurement of professional services without quotations and/or an RFP authorized herein in the best interest of the Town does not change, and is in addition to, the ability of the Town to procure without competitive offerings in the event of an emergency pursuant to Section III(E) of this Policy.

*Requests for Qualifications/ Vendor List*

When the Town Attorney determines that outside professional legal services are required, he or she may issue a Request for Proposal or Request for Qualification to the extent, in his or her judgment, practicable. Notwithstanding the provisions outlined above, the Town Attorney may, in the best interest of the Town, retain professional legal services when such legal provider has the specialized expertise necessary to accomplish a particular matter. Provided, however should the aggregate total expenditure of the legal services retained exceed \$25,000 Town Board approval will be required.

A list of qualifying vendors may be maintained where a particular service is to be performed on a recurring basis (e.g. architects, engineers, surveyors, stenographers, title insurance, appraisers, etc.). Any qualified and responsible service provider may submit a proposal to be placed on a particular list. Such list may be established by a Request for Qualifications process. Town Board approval shall be required for additions to the list of qualified vendors. A resolution establishing and/or amending such a list may provide that expenditures up to the amount specified therein may be made without additional quotations and/or additional Town Board approval.

*Award*

Upon the recommendation by the applicable Department Director and the Director of Purchasing, an award for contracted professional services will be made by Town Board Resolution, if applicable, to the vendor whose proposal is determined to be in the best interest of the Town.



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**E. Piggybacking of Other Authorized Contracts.**

Pursuant to GML section 103(16) it is not necessary for the Purchasing Division to obtain informal quotations or formal bids when purchases are made from certain Federal, State, County and authorized political subdivision and district contracts.

Whenever possible the Town will purchase materials, supplies, or equipment through the New York State Office of General Services when state contracts apply to government agencies and municipalities. Department Directors must explore the use of Federal, State County and authorized political subdivision, district contracts and cooperatives before requesting the initiation of a Town bid for the same or similar commodities or services. Department Directors may request the Purchasing Division to issue a Town bid if a State or County bid is in existence provided there is reason to believe that better pricing can be sought or any reason that may be in the best interest of the Town.

New York State purchasing information containing the names of vendors, as well as price and packaging, are available from the New York State Office of General Services website at <https://online.ogs.ny.gov/purchase/search/default.asp>

Suffolk County purchasing information can be accessed on the county's website at <https://dpw.suffolkcountyny.gov/contractsearch/ContractSearch.aspx>

**F. Preferred Sources**

Commodities produced, manufactured or assembled by the New York State Department of Correctional Services Division of Industries; New York State Preferred Source Program for People Who are Blind, New York State Industries for the Disabled, and approved charitable nonprofit agencies for the severely disabled, qualified special employment programs for mentally ill persons and qualified veterans workshops are considered to be "preferred sources under New York State Finance Law §162 and are exempt from the competitive bidding requirements of General Municipal Law §103. Catalogs for these products are available on their respective websites.

**G. Recycled Materials**

In accordance with General Municipal Law section 104-a, wherever recycled products meet contract specifications and the price of such products are reasonably competitive, the Director of Purchasing may purchase such products.

Pursuant to the General Municipal Law, 'reasonably competitive' shall mean that the cost of the recycled product does not exceed a cost premium of ten percent above the cost of a comparable product that is not a recycled product or, if at least fifty percent of the secondary materials utilized in the manufacture of that product are generated from the waste stream in New York State, the cost of the recycled product does not exceed a cost premium of fifteen percent above the cost of a comparable product that is not a recycled product.

**H. Surplus and Second Hand Goods**

In accordance with General Municipal Law § 103(6), surplus and second-hand supplies, material or equipment may be purchased without competitive bidding or competitive offering

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from the federal government, the state of New York or from any other political subdivision, district or public benefit corporation.

**I. Sole Source Procurement**

A contract may be awarded without competitive bidding, an RFP, multiple quotations, when the Director of Purchasing determines by written documentation from the end user Department after researching available resources, that there is only one "Sole Source" for the required commodity or service. A sole source procurement is one in which only one vendor can supply the commodity, technology and/or perform the services provided and there is no substantial equivalent.

To qualify as a Sole Source, the end user Department Director shall, at a minimum, demonstrate:

1. The unique nature of the requirement;
2. The basis upon which it was determined that there is only one known vendor able to meet the need (i.e. the steps taken to identify potential providers);
3. The basis upon which the cost was determined to be reasonable (i.e. a fair market price was inferred based upon the sole source providers product catalogs, published price lists and the like).

An existing vendor (such as one supplying current software) and/or a vendor with prior knowledge of the Town's goods or services at issue may qualify as a Sole Source, provided there is a critical reason to stay with that vendor (e.g., switching vendors would void a warranty).

In its written documentation, the end user Department Director seeking a Sole Source procurement shall reference its research relative to the proposed Sole Source, including but not limited to that demonstrating the uniqueness of the vendor and market data as to the reasonableness of the pricing.

Final questions as to whether the vendor qualifies as a Sole Source shall be decided by the Director of Purchasing and/or the Town Attorney. A record of Sole Source procurements shall be maintained by the Purchasing Division as a matter of public record and shall list each supplier's name and the items provided. A vendor classified as a "Sole Source" will be required to provide the Town with written documentation on company letterhead, no less frequently than every two years, to prove that their Sole Source status has not changed.

**J. Inter- Governmental Procurement Opportunities**

In order to facilitate the acquisition of goods and services at the lowest possible costs, or best value and to most effectively deploy the Town of Huntington's resources in its procurement process and obligations, all Departments must continue to stay informed of and evaluate all forms of intergovernmental options in connection with a prospective procurement.

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These mechanisms include but are not limited to: (1) piggybacking an eligible government contract pursuant to General Municipal Law § 103(16) for the same or comparable commodity or service to take advantage of beneficial pricing and other terms which at the time may otherwise be unavailable; (2) taking advantage of the Town's existing intermunicipal cooperation agreements, such as that pertaining to the SuffolkShare program; and (3) consulting with the Director of Purchasing and Town Attorney about the possibility of entering into new cooperative bidding and other intermunicipal cooperation agreements authorized by General Municipal Law Article 5-G, to leverage the greatest purchasing power and otherwise minimize expenses.

**K. Conflict of Interest**

1. The acceptance of gratuities, financial or otherwise, from any supplier of materials or services to the Town is strictly prohibited.
2. In accordance with the Town's Code of Ethics, no government official of the Town or any subdivision thereof shall receive, accept or enter into any agreement, express or implied, to receive or accept compensation for services to be rendered in relation to any matter before any Department, district, administrative body, board or agency of the Town, or engage in any conduct, business transaction or professional activity, or shall have any financial or other private interest, direct or indirect, which is in substantial conflict with the proper discharge of their official duties.

**III. PROCEDURES**

These procedures are intended to comply with all applicable Federal, State and Local laws, rules and regulations. To the extent that a provision in this policy may inadvertently, or by virtue of future amendments, conflict with an applicable Federal, State and Local law, rule or regulation, the applicable law, rule or regulation shall prevail.

**A. Definitions**

Bid item- is an item that has already been advertised for prices and for which a contract is outstanding for delivery during a given period.

Blanket Purchase Order- Written authorization for a vendor to fulfill multiple orders placed on a regular basis for the same commodities or services with a maximum dollar limit.

Claim voucher – A claim for payment by the Town for goods/services that do not require a purchase order.

Goods Receipt- Confirmation of receipt of ordered goods/services by ordering Department.

Invoice- A commercial document which references a purchase order number issued by a vendor to the Town, indicating the products, quantities, and agreed prices for products or services the vendor has provided.

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Open Market Item- An item that is not available for purchase on any existing municipal contracts or an existing Town contract.

Public Works- Public facilities and improvements financed by the government for the public good.

Purchase Contract- Legal agreement between the Town and a vendor for goods and/or services.

Purchase Orders- Written authorization signed by the Director of Purchasing for a supplier to ship products at a specified price, which becomes a legally binding contract once accepted by the supplier.

Purchasing System- The Purchasing Module in the financial software used to electronically process all purchases.

Request for Proposals – A Request for Proposal (RFP) is the Town’s competitive solicitation for proposed services for technical services or services-oriented projects, or which are otherwise not subject to competitive bidding.

Request for Formal Bid– A Request for Bid (RFB) is the Town’s competitive solicitation for supplies, materials, equipment or project based on specifications developed by the Town.

Requisition -An electronic request to the Purchasing Division for one or more items or services necessary to carry on or improve a particular Department’s operation in the Town.

Specifications- Description of minimum product or service requirements as defined by the Town.

## **B. Requisitions**

All purchases are initiated by an electronic requisition in the Town’s Purchasing System for budgeted purchases.

1. An electronic purchase requisition to purchase supplies, materials equipment and/or services required for Town purposes shall be entered into the Purchasing System by authorized Town employees for budgeted items.
2. It is the responsibility of the requisitioning Department to provide an adequate description of the items requisitioned to the Division of Purchasing:
  - a. The requisition shall indicate whether the item to be purchased is a bid item or an open market item. (Any number of items may be included on the same requisition, that is, either a bid item or an open market item for the same vendor, except on blanket purchase orders.).
  - b. The Division of Purchasing shall notify all Departments by distribution of an “Award Sheet” providing the terms of the contract, vendor information, items and cost.

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- c. Where no reference to an existing bid or contract is indicated on a requisition, the Division of Purchasing shall consider this as an open market item to be ordered through quotations.
3. Electronic release of requisitions in the Purchasing System must be executed by the Department Director (or authorized representative) under whose authority the funds are encumbered.
4. The Director of Purchasing (or designee) will make all purchases in accordance with the Town's Procurement Policy.

**C. Request for Quotation**

Written formal quotations are preferred in all cases; however, telephone quotes will be allowed, to expedite the process pursuant to limits set forth in this Policy Section II.A through B.

Informal quotations, both, telephoned or written, may be requested by either the Purchasing Division or the ordering Department from the appropriate number of vendors who can provide the item or service desired.

Quotations from prospective bidders who are unable to supply the required goods or service and offer a "No Quote" response to a request are not to be counted toward compliance with this requirement, unless no other vendors can provide the required goods and services.

If a firm price cannot be obtained at the time a requisition is entered (repair work), an estimate must be obtained and this figure placed on the requisition with the notation that it is an estimate and any amount that exceeds the estimated price must be approved by the Director of Purchasing.

**D. Request for Proposal**

The Request for Proposal provides prospective vendors with information about the Town and promotes competition among vendors to provide the Town with realistic proposals tailored to its needs. It provides the Town with competitive pricing and proposer's qualifications and experience for purposes of evaluation.

All requests for proposal (RFP) must include such Terms and Conditions approved by the Town Attorney.

Public notice of Request for Proposal shall be given in the same manner as for Competitive Sealed Bidding. Request for Proposals will not be opened publicly so as not to impede the negotiation process. The Request for Proposal shall state the importance of price and other evaluation factors. Discussions with responsible offerors and revisions to proposals may be conducted by the Director of Purchasing and the Director of the requisitioning Department(s) for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements, with respondents who are being considered for possible award.

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The Director of Purchasing and the requisitioning Department Director will recommend a vendor and upon award by Town Board Resolution, a contract and /or Purchase Order will be issued to the vendor whose proposal was determined to be in the best interest of the Town. The following non-exhaustive list of criteria shall be considered in making a recommendation to the Town Board: financial viability; training and experience in the field; references and prior work; quality of staffing and ability to complete the project or provide the service; responsibility of proposer; cost; and whether the person or entity currently maintains a place of business, staffing and/or an operational office at an address located within the Town of Huntington.

**E. Best Value Contracts**

The Town Board in conjunction with the Town Attorney and Director of Purchasing may award purchase contracts, including contracts for services and/or commodities on the basis of "best value" as defined pursuant to New York State Finance Law §163, and any amendments thereto. Such awarded contract shall further be in accordance with the Town's Procurement Policy.

The Town of Huntington may piggyback contracts pursuant to GML § 103(16), and any amendments thereto, let by the United States of America or any agency thereof, any state or any other political subdivision or district therein if such contract was let to the lowest responsive, responsible bidder OR on the basis of best value and made available for use by other governmental entities excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the labor law. Such awarded contract shall further be in accordance with the Town's Procurement Policy and approved by the Director of Purchasing, Town Attorney and Town Board.

**F. Emergency Orders**

Emergency orders may be given in cases where a genuine emergency or necessity for immediate action exists. A procurement emergency is provided for by 103(4) of the General Municipal Law as follows:

"Notwithstanding the provisions of subdivision one of this section, in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action which cannot await competitive bidding, contracts for public work or the purchase of supplies, material or equipment may be let by the appropriate officer, board or agency of a political subdivision or district therein."

Depending upon the circumstances, a structural or other condition causing an unsafe condition at a Town property or facility may constitute an emergency in which competitive bidding may be excused. Furthermore, if satisfying the requirements of GML § 103(4), a procurement of goods or services for use at Town property or facilities which are solely occasioned by a pandemic and which would protect the health and safety of employees and visitors, may be made on an emergency basis.

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An emergency order must be cleared through the Purchasing Division, and a Purchase Order number issued. The Town will not be responsible for orders placed without prior approval of the Purchasing Division.

If an emergency occurs when the Purchasing Division is closed, the Department should utilize one of their pre-assigned emergency purchase order numbers. Pre-assigned emergency purchase order numbers will be issued to Department Directors upon their request for use at their discretion. When an emergency purchase order is used, the Department must notify the Director of Purchasing in writing the next business day the Purchasing Division is open.

Requisitions for emergencies will follow the same procedures as other requisitions but shall have priority so the vendor will receive copies of the order without delay. The requisition will be marked "Emergency PO-Do Not Duplicate" and approved by the Department Director. The Department Director must document the need for the action on the requisition and in a memo submitted to the Director of Purchasing.

#### **G. Submitting a Formal Bid Request**

For purchases that will require a formal bid, Department Directors must submit to the Purchasing Division, an email or memo detailing their request at least six (6) weeks before the bid is to be opened.

Upon the submission of the above, the Purchasing Division will schedule advertising of bids in the legal section of the "Official Town Newspapers". Legal notices will also be posted on the Town's website at <http://huntingtonny.gov> in the "Purchasing" and "Public Notices" sections.

The Purchasing Division will conform the specification into a formal bid proposal and make it available to prospective vendors on-line. After completion of the opening of the bids, the Department submitting the bid request will review the bidder's responses, evaluate them and provide written recommendations to the Director of Purchasing. All bid tabulations will be calculated by the Purchasing Department.

#### **H. Procurement Specifications**

The Purchasing Division will work with the requesting Department to prepare specifications for certain supplies, commodities or services, and advertise for bids based on the specifications prepared. The requesting Department will have final approval of the specifications and send the Director of Purchasing their approval in writing. Specifications will not be written in such a manner as to effectively exclude all but one bidder. Specifications shall be written in a manner to allow any product, article, object or service that is reasonably equivalent to satisfy the bid requirements.

No verbal changes to, or verbal clarifications or verbal communications of any kind relating to any bid specification are binding upon the Town. No employee, agent, consultant or representative purporting to be acting on behalf of the Town is authorized to make such communications. All questions regarding bid specifications must be submitted in writing to the Director of Purchasing and must be received no later than five business days prior to the

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opening date to receive a response. If appropriate, responses will be made in the form of addenda to all parties of interest.

No employee, agent, consultant or representative of the Town is permitted to reveal to any prospective bidder for any bid or RFP, issued for any purpose, the names of any other prospective bidder or party of interest until such time as the bid has been opened and made public, or in the case of an RFP, a Town Board resolution awarding a contract has been adopted.

As defined in GML §103, standardization of a particular type of material or equipment, must be approved by a Town Board resolution setting forth all of the reasons for a need for standardization. The standardized make or model may be stated in the specifications, and anyone who can furnish the item may bid. There is no longer a need for the inclusion of the term "or equivalent" for an approved standardization item.

Specifications provided by Departments must be clearly written and exactly describe the standards of the item to be furnished.

Requests for items requiring specifications must contain the following:

1. Physical, chemical or electrical composition of the item.
2. Dimensions, tolerance and performance expected of the item.
3. Quantity or estimated quantity required, if applicable.
4. If a trade-in is involved, time and locations of where such items may be examined by bidders.
5. Time and place of delivery and type of packaging required.

The Purchasing Division will be responsible for conforming the bid package to include Town standard terms and conditions as approved by the Town Attorney.

**I. Public Works Bid Request**

In addition to the procedures established for submitting formal bids, the procedures for submitting public works bid requires the following:

1. Requests for Public Work bids, which require Town Board approval and a signed contract, should be submitted at least twelve (12) weeks before the project is to begin.
2. A Capital Projects Form authorized by the Supervisor must be submitted to the Purchasing Division with all public works bid requests.
3. Copies of final bid documents must be submitted to the Purchasing Division no later than two weeks prior to the official advertising day.
4. Upon the opening of the bids, all copies of the bid responses will be available to the requesting Department and/or consultant. The individual taking custody of any original bids must sign a receipt for them.
5. If bids are reviewed by a consulting engineer, a letter of recommendation from the Department Director and consulting engineer, and at least four conformed copies of



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- the bid must be returned to the Purchasing Division (the copies must be provided by the consulting engineer if specified in its agreement).
6. The Purchasing Division will prepare a Town Board resolution recommending the vendor to be awarded a contract.
  7. The Director of Purchasing will notify the vendor in writing of award, advising the vendor to obtain the required bonding and insurance, and contact the Town Attorney's Office for an appointment to execute the contract within thirty (30) days. The vendor is obligated to comply with all of these requirements.
  8. All change orders must be in writing and issued by the Director of the Department. Any change orders that are in excess of the contracted amount must be submitted to the Town Board for approval by the applicable Department Director with any additional funding secured. Purchase orders will be amended upon Town Board approval. The Purchasing Division will provide the approved amended purchase order to the vendor as notice to proceed with the changes.
  9. The Town is not obligated to pay for any unauthorized charges or charges that exceed the amount of the amended purchase order if the above procedure has not been followed.

**J. Bid Opening and Award**

The procedure for bid openings and awards are as follows:

1. The opening of bids will occur at a place in Town Hall designated by the Director of Purchasing. All interested parties may attend, subject to applicable law.
2. Bids will be opened at the time specified in the legal notice and no bids will be received or accepted after such time.
3. The sealed bids shall be opened one by one and the information read aloud as follows:
  - a. Name of bidder.
  - b. Amount of bid price on each item in which a separate award is permissible.
  - c. And/or the total amount of the bid or alternate bid.
4. The Purchasing Division shall record each bid result on a bid tabulation sheet and shall certify that it reflects the bids as read.
5. All contracts, which require public advertising and competitive bidding, are to be awarded as provided by law and the rules and regulations of the Town Board.
6. If an item for purchase offered by the lowest responsive, responsible bidder does not exactly meet all of the bid requirements as advertised, the Director of Purchasing shall still award the bid to such lowest responsive, responsible bidder if in his/her opinion and after consultation with the ordering Department, the deviations are so minor in nature that such low bid may be considered in substantial compliance with the

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- specifications, as long as the deviations do not place the bidder in a superior or preferential competitive position to make the low bid.
7. The Purchasing Division reserves the right to reject any and all bids.
  8. While the Director of Purchasing reserves the right to make awards up to forty-five (45) days after the date of the bid opening, a Town Board Resolution for awarding the bid will be prepared. This period may be extended for the benefit of the Town by mutual agreement between the bidders and the Town.
  9. The Purchasing Division will gather all required information from the successful bidder and will submit the information to the Town Attorney's Office. The Town Attorney's office will obtain any required bonds and certificates of insurance from the successful bidder and arrange for the execution of the contract.
  10. The Purchasing Division will return checks submitted as bid security by all bidders in accordance with the bid specifications.
  11. The Purchasing Division reserves the right to reject all bids, but will not reject any bids without a substantial reason, which will be noted in the official records of his/her office. Bids may be awarded either as a group or item by item, whichever is deemed to be in the best interest of the Town.
  12. Purchase contracts shall be entered into for a period of time as set forth in the bid documents. The process for an extension of a contract should begin as soon as practicable - and ideally three-to-five months - in advance of the expiration date to allow for Town Board approval before the term of the contract expires. **GML §103 dictates that an expired contract may not, under any circumstances, be extended.**
  13. No employee, officer, agent, member of the Town Board of the Town of Huntington, or immediate family member<sup>1</sup> of an employee, officer, agent, or member of the Town Board, shall participate in the selection, award, or administration of a contract supported by federal funds from the Federal Transit Administration if a conflict of interest, real or apparent would be involved. The Town's Code of Ethics, Chapter 29 of the Code of the Town of Huntington, sets forth the standards of conduct, which shall govern the performance of employees engaged in the award and administration of contracts of the Town of Huntington.

**K. Purchase Orders/Blanket Purchase Orders**

The Purchasing Division is solely responsible for issuing all Town purchase orders based on requisitions entered into the purchasing module by Departments. Funding must be available in the budget to create the purchase order. Only purchase order forms prepared by the Director of Purchasing are to be issued to a vendor.

The Director of Purchasing, at his/her discretion, may increase a purchase order up to 10% of its original amount to cover the cost of incidental charges such as freight.

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<sup>1</sup> For the purposes of this policy, the phrase "immediate family member" shall have the same meaning as the term "relative" in Section 29-2(b) of the Town Code of the Town of Huntington.

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The Director of Purchasing will release and approve all purchase orders. In his/her absence, the Director of Purchasing will designate a responsible staff member to release and approve purchase orders.

Blanket purchase orders are to be used for orders placed with the same vendor on a regular weekly, monthly or quarterly basis for the same commodities and/or services.

The Director of Purchasing will approve the amount of a blanket purchase order.

Blanket Purchase Orders may be issued for, but are not limited to, the following types of expenses:

- Utilities: Light and power, telephone, water and fuel oil;
- Rentals: Contract or Bid digital copying equipment, communication radios, security alarms;
- Supplies, Materials or Services such as paving materials, industrial parts and automotive parts.

Purchase Order procedures are as follows:

1. The Department enters an electronic requisition in the Town's Purchasing System containing the same information as a regular purchase order requisition. If a Town Board Resolution is referenced, then a copy of the resolution and signed contract pages authorizing the acceptance of a contract or bid must be forwarded to the Purchasing Division referencing the requisition.
2. Upon release of the purchase order, a unique number will be generated and assigned to each purchase order. This number will be documented in the Purchasing System and become the "Purchase Order Number" for all identification purposes.
3. Purchase orders are prepared in two (2) copies. Copies of purchase orders that have been approved and signed by the Director of Purchasing will be distributed as follows:
  - The purchase order, (both the Department copy and vendor copy) will be emailed to the requisitioning Department for distribution to the vendor.
  - The signed Department copy will be sent to accounts payable by the ordering Department to be used to process invoice payments to the vendor.
4. The Town will not be responsible or make payments for purchases made without a purchase order. Verbal purchase orders will be issued by the Purchasing Division in accordance with all terms of this policy where Town operations would be adversely affected if purchase was made through the normal course of action. Deliveries made or services rendered without a purchase order are non-binding and will not be paid by the Town. Vendors deviating from this purchase procedure will be notified immediately and informed of the possible consequences.
5. The total set forth in the purchase order may never exceed the amount required for the contract period or the amount stated in the resolution authorizing the contract. It is very important to know the expiration date of a contract or bid when submitting a

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blanket purchase order. If the amount on a blanket purchase order will be depleted before expiration of the contract period, an adjustment to the purchase order must be requested by the Department Director prior to the blanket amount being exhausted.

6. An adjustment to a Purchase Order (increase or decrease) requires the submission to the Purchasing Division of an original signed and dated "Purchase Order Adjustment Form" by the director of the requesting Department. A written purchase order adjustment request must contain the following information:
  - Contract number
  - Purchase Order number
  - Contract Expiration Date
  - Vendor name and number
  - Department name
  - Budget code
  - Amount of original purchase order
  - Amount of Adjustment
  - Justification for the Adjustment
  - Director's signature
7. Project modifications in the form of a Change Order (an amount in excess of any contingency previously approved by the Town Board) must be authorized by the Town Board in the form of a new resolution. It is the responsibility of the administering Department working with the Comptroller and the Town Attorney to prepare such a resolution. Change Orders are not subject to competitive bidding if, the proposed modification is consistent with the essential identity and purpose of the contract without material alteration.

The Purchasing Division is responsible for approving and processing requisitions for approved Change Orders. Departments are cautioned that a requisition for a Change Order that fails to adhere to the criteria described above can be rejected by the Purchasing Division. The additional work is then considered a new project, subject to public bid as required by the General Municipal Law.

#### **L. Cancellation of a Purchase Order**

A Department wishing to cancel a purchase order must notify the vendor in writing. The Department will forward a copy of the correspondence to the Purchasing Division with a copy of the purchase order. The Purchasing Division will cancel purchase orders in the system.

#### **M. Goods Receipts**

Packing slips must be signed and dated by the employee accepting the delivery for the Department.

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Failure by vendors to make promised deliveries must be documented in writing and reported immediately to the Purchasing Division. The Purchasing Division will notify the vendor in writing of the consequences of his/her actions and their performance will be monitored. The Purchasing Division cannot take appropriate action without written documentation of non-compliance by the vendor.

**N. Claim vouchers**

Purchases of supplies, materials, equipment and/or services will be initiated only through the electronic submission of requisitions in the Town's purchasing system.

However, there are certain expenditures for which the processing of a purchase order is unnecessary. A claim voucher will be permitted in the following circumstances:

1. Employee expenses, such as: Conferences, Dues, Mileage for use of personal car and other reimbursable expenses, other than supplies or equipment necessary in the performance of day to day activities.
2. Books, Subscriptions, Dues and Postage expenses.
3. Refund of deposits.
4. Debt service and annual insurance fees.

Internal Claim Vouchers are to be used for:

1. Inter-Departmental charges for gasoline, administrative fees, etc.;
2. Petty Cash reimbursement on a limited basis;

All other payments for ANY goods or services must be made through the requisition and purchase order process.

Pre-numbered claim vouchers are issued by the Department of Purchasing.

A claim voucher to process any transactions other than those listed above, will not be permitted without prior authorization from the Comptroller. Claim vouchers submitted for any charges other than those listed above or not approved in advance by the Comptroller or Director of Purchasing will be returned to the originating Department.

Claim vouchers are issued in three (3) parts as follows:

- One copy - to Comptroller's office for payment
- One copy - for Department originating claim
- One copy - for claimant's file

The claim voucher must indicate the vendor number if available and any other relevant information. The claim voucher must be signed by the Department Director upon completion of the service provided and submitted to the Purchasing Division for approval and then forwarded to the Comptroller for final approval and payment processing.

In the event a budget balance is insufficient, the claim voucher will be marked to note the amount available by the Comptroller's office that a budget transfer is needed and will be

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returned to the ordering Department. The ordering Department should resubmit the claim voucher when sufficient funds are available.

**O. Payment of Invoices and Claims**

In order to process a vendor payment, the Comptroller's Office must receive the following documents from the ordering Department:

- Purchase Orders- Original invoices must reference the associated purchase order number. The ordering Department must mark "Final" on the last invoice to be paid on a purchase order.
- Blanket Purchase Orders – A copy of the blanket Purchase Order with a total of associated invoices with an original Department Director or designee signature must be attached to all original invoices. Invoices must be submitted at least monthly for blanket orders.
- Shipping/packing slips- signed and dated by Department designee confirming receipt of goods as ordered.

If an original invoice cannot be obtained, the Department Director must sign a copy of the invoice authorizing payment.

**P. Transit Vehicle Procurement Procedures**

As a recipient of Federal Transit Administration (FTA) funds, it is required to report transit vehicle procurements to the FTA Office of Civil Rights within 30 days of making an award. The Transportation and Traffic Safety Department has implemented a procedure to ensure the process is completed (Appendix A).

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**Town of Huntington Object Codes**

<u>OBJECT</u>	<u>ACCOUNT NAME</u>	<u>DESCRIPTION</u>
2000	C.H.I.P.S.	Road Rehabilitation- over \$500
2100	Furniture and Furnishings	Desk, File Cabinet, Desk Chair-over \$500
2101	Buildings	New Buildings -Capital Projects
2102	Building Improvements	Buildings improvements -Capital Project-over \$500
2103	Land Improvements	Land improvements -Capital Project
2104	Parking Lots	New Parking Lots or improvements -Capital Project
2108	Purchase of Land	Land purchase -Capital Project
2109	Purchase of Open Space Land	Land purchase with Open Space Funds -Capital Project
2200	Office Equipment	Fax, Time Stamp- over \$500
2210	Software	Software over \$5,000 and installation
2220	Computer Hardware	Computer equipment; printers; routers over \$500
2312	Cars	Car purchases
2314	Trucks	Truck purchases
2315	Buses	Bus purchases
2316	Leased Equipment	Long term capital leases- copiers, postage meters
2317	Truck Bodies	Truck body purchases
2400	Communication Equipment	Telecomm equipment; two-way radios purchases -over \$500
2500	Boats & Marine Equipment	Boat/marine equipment purchases over \$500
2600	Equipment & Machinery	General equipment over \$500
2602	Equip Replacement Components	Replacement parts with a life of over 1 year- over \$500
2775	Traffic Signalization	Traffic signal purchases and/or installation
2776	Roads & Drainage	Reconstruction of Roads & Paving
2777	Signage	Road signs or signage supplies over \$500
2778	Water Mains	Water main replacements or improvements
2779	Fire Hydrants	Fire hydrant purchases
2780	Sewer Systems	Sewer system replacements or improvements
2781	Drainage	Reconstruction of Drainage, Recharge Basins
2782	Parking Meters	Purchase of parking meters
2783	Curbs & Sidewalks	Curb and sidewalk repairs and improvements
2784	Trees	Purchase of trees/shrubbery
2785	Streetlights	Street lite purchases and/or installation
4000	Credit Card Fees	Merchant credit card fees for revenue
4001	Contractual Agreement	Funding support to agencies based on an approved contract
4003	Cold Spring Whaling Museum	Program Funding per contractual agreement
4004	Huntington Historical Property	Program Funding per contractual agreement
4005	Northport Historical Property	Program Funding per contractual agreement
4006	Greenlawn/Centerport Hist Prop	Program Funding per contractual agreement
4007	Walt Whitman Historical	Program Funding per contractual agreement
4008	Landfill Contractual Expend	Cell 6 debt and interest payments
4009	Huntington Lighthouse	Program Funding per contractual agreement

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**Town of Huntington Object Codes (Continued)**

<u>OBJECT</u>	<u>ACCOUNT NAME</u>	<u>DESCRIPTION</u>
4010	Contingency	Controllers account
4011	Huntington Housing Initiative	Program Funding per contractual agreement
4012	Public Art Initiative	Program Funding per contractual agreement
4013	Foster Grandparents Program	Program Funding per contractual agreement
4014	Parents Initiative	Program Funding per contractual agreement
4016	Work Plus - Family Service Lea	Work Plus - Family Service League funding
4017	Plan & Manage RTE 110 Corridor	Route 110 funding
4018	Huntington Station-Revitalization	Program Funding per contractual agreement
4019	Huntington Heritage Trust Fund	Program Funding per contractual agreement
4020	Provide For Salary/Fringe Benefits	Program Funding per contractual agreement
4021	Child Care Enhancement Fund	Program Funding per contractual agreement
4022	Working Families Asst -Chamber	Program Funding per contractual agreement
4023	Elder Care Satellite - Chamber	Program Funding per contractual agreement
4024	Community Beautification	Program Funding per contractual agreement
4025	Emergency Housing Relocation-FSL	Program Funding per contractual agreement
4026	Tulip Festival	Program Funding per contractual agreement
4027	Veterans Honor Guard	Program Funding per contractual agreement
4028	Chamber-All American Cities	Program Funding per contractual agreement
4029	Senior Day Care by the Sound	Program Funding per contractual agreement
4030	Grocery Bus Program	Program Funding per contractual agreement
4031	Violence Against Women	Program Funding per contractual agreement
4032	Cultural Arts Internship Program	Program Funding per contractual agreement
4033	Harborfields Foster Grandparents	Program Funding per contractual agreement
4034	Huntington Village BID	Program Funding per contractual agreement
4035	Cold Spring Harbor BID	Program Funding per contractual agreement
4036	Smart Growth	Program Funding per contractual agreement
4037	Community Visioning	Program Funding per contractual agreement
4038	People on the Block-Health Inf	Program Funding per contractual agreement
4039	ElderLink - FSL	Program Funding per contractual agreement
4040	Provide For Restored Positions	Program Funding per contractual agreement
4041	CS Harbor Main St. Association	Program Funding per contractual agreement
4042	Chamber-Pal-O-Mine Trolley Services	Program Funding per contractual agreement
4043	Economic Development	Program Funding per contractual agreement
4044	Inter-Media Art Center	Program Funding per contractual agreement
4045	Huntington Station BID	Program Funding per contractual agreement
4048	Health Information Capsule	Program Funding per contractual agreement
4049	LI View-Hunting Chamber of Com	Program Funding per contractual agreement
4050	CYA Vitagrant	Program Funding per contractual agreement
4051	F.I.R.E. Association Expenses	Program Funding per contractual agreement
4053	HBCAC - Hunt Breast Cancer	Program Funding per contractual agreement
4054	Huntington Freedom Center	Program Funding per contractual agreement
4055	SeniorNet@FSL Huntington	Program Funding per contractual agreement
4100	Depreciation Expense	Depreciation-Controllers
4110	Office Supplies	Consumables-supplies, Paper, manual staplers; drafting supplies
4115	Small Furniture & Office Equip	Office furniture, small office equipment- under \$500



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**Town of Huntington Object Codes (Continued)**

<u>OBJECT</u>	<u>ACCOUNT NAME</u>	<u>DESCRIPTION</u>
4120	Fuel for Vehicles & Equipment	Fuel for vehicles/equipment-NOT HEATING FUEL
4122	Computer Supp, Software	Printers, Toner, Software under \$5,000.
4130	Postage	Stamps, Bulk Mailings
4150	Insurance	Insurance policy premiums
4160	Judgments & Claims	Legal settlements
4170	Taxes & Assmts on Muni Prop	Property taxes for TOH properties
4180	Employee Assistance Program	
4190	Celebrations	Town events
4210	Telecommunications	Telephone; internet; cell service; pager service in town facilities
4220	Electric (LIPA)	Electric for town facilities
4230	Water	Water for town facilities
4270	Motor Vehicle Rentals	Car rentals and snow vendors
4280	Protections Systems Rentals	Alarm monitoring
4290	Other Equipment Rental	Lifts and various equipment rentals, Short term rentals
4350	Snow Removal Materials	Salt, sand
4352	Leaf Bags	Plastic leaf bags distributed to residents
4390	Auto Mileage	Reimbursement of personal auto mileage
4400	Travel Expenses	Travel expenses for travel including hotel, meals and tolls for conferences and meetings
4410	Bus Service	Bus service for programs
4420	Subcontract Cost	Services- landscaping, mason, tree removal etc
4460	Outside Stenographic	Town Stenography services
4470	Uniforms	Uniform purchases for staff
4480	Photography	Camera, Camera Batteries
4481	Camp Youth Supplements	Crafts, Photos, Shirts, Tickets, Snacks
4500	Printing	Brochures, Envelopes, Forms, Stickers printed by vendors
4510	Equip Supplies, Repairs & Main	Parts & Supplies needed to repair equipment; pumpout repairs Auto Parts, Fluids, Bottled Gasses ex: cars, light trucks; vans; buses
4520	Vehicle Repairs, Supplies	Repairs & Equipment of heavy equipment. Ex: Crane, payloaders, sweepers, backhoes
4521	Heavy Equipment Repairs Maint, Supplies	Skilled professional services-Physician, Welder, Appraisal, auditors, surveyors
4550	Outside Professional	Attorneys
4551	Outside Professional - Legal	Attorneys
4552	Property Clean up	Landscaping, demolition, garbage pickup
4554	Kemper Management Fee	Kemper management fee- CM golf course
4555	Instructional Services	Skating Pros, Sport Officials
4556	Kemper - Cost of Goods Sold	Kemper COGS at CM golf course
4557	Kemper Payroll	Kemper Payroll at CM golf course
4558	Kemper General Costs	Kemper at CM golf course
4559	Kemper Incentive Fee	Kemper incentive fee at CM golf course
4560	Maintenance of Equip-Traffic	Traffic Maintenance Contract Office / Computer Equipment; Copier Maint; HVAC; maintenance contracts
4570	Service Contracts	
4585	Oil Spillage	Remediation
4600	Bond & Note Issue & Serv Exp	Bond Sale Expenses; Administration Fee

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**Town of Huntington Object Codes (Continued)**

<u>OBJECT</u>	<u>ACCOUNT NAME</u>	<u>DESCRIPTION</u>
4610	Supplies	Chemicals, program supplies; lab supplies; pet foods
4620	Medical & Safety Supplies	Bandages, Vests, Gloves, Hardhats
4630	Playground & Rec Supplies	Athletic Equipment, Trophies, Crafts
4640	Lighting & Electric Supplies	Fluorescents, Light Fixtures
4650	Building Repair, Maint & Supplies	Supplies to maintain buildings
4660	Heating Oil	Heating fuel and Bio Diesel
4665	Natural Gas	National Grid natural gas
4670	Signs, Road Paint & Markings	Sign Paint, Sign Decals
4680	Surfacing Materials	Sand, Grit, Gravel, Patches
4690	Fertilizer, Seed & Sod	Topsoil, gravel, seed and sod; landscaping chemicals
4691	Chemical Supplies	Dix Hills Water Chemical Supplies-Chlorine, etc.
4700	Advertising	Observer, Long Islander, Newsday
4710	Rent	Senior Club Meetings and Veterans meetings
4720	Conferences & Dues	Memberships, Seminars, Training
4762	Natural Marine Resources	Shellfish Enhancement
4770	Small Tools & Equipment	Small tools/equipment - less than \$500
4775	Drainage Maintenance	Drainage services and heavy equipment rentals
4850	Tuition	Notary, Driver Safety Classes; seminars
4990	Refuse Disposal Charges	Cell 6 expenses; Garbage Disposal; Medical Waste

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**Federal Addenda/FTA-Funded Procurement Supplemental Guidelines (Title 49 CFR)**

In addition to the Town's Purchasing Policies and Procedures, the following guidelines shall apply to all procurements utilizing funds from the Federal Transit Administration in conformance with applicable federal law including Title 49 CFR Part 18, Section 18.36 and Circular 4220.1F.

**A. Written Record of Procurement History**

1. The Purchasing Department shall maintain records detailing the history of each FTA associated procurement.
2. These records are placed in a procurement master file and include:
  - a. Purchase request with:
    - i. Independent cost estimate for Federal Simplified Acquisition Threshold and up
    - ii. Project justification
    - iii. Description of work/scope of services
    - iv. Acquisition planning information
    - v. Other pre-solicitation documents
    - vi. Purchase Requisition indicating availability of funding
  - b. The rationale for the method of procurement:
    - i. Full and open competition under IFB (one or two step)
    - ii. RFP
    - iii. Small or micro purchases
    - iv. Sole negotiations
  - c. List of sources solicited
  - d. Copies of published notices of proposed contract action
  - e. Copy of the solicitation, all addenda, and all amendments
  - f. Selection of contract type.
    - i. Firm fixed price
    - ii. Cost reimbursement
    - iii. Incentive
    - iv. Multi-Year
    - v. Time and Materials
    - vi. Labor Hour
    - vii. Task Order
    - viii. Basic Ordering agreement
  - g. Reasons for contractor selection or rejection:
    - i. An abstract of each offer or quote
    - ii. Source selection documentation if applicable
    - iii. Contracting Officer's determination of contractor responsiveness and responsibility
  - h. The basis for the contract price.

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- i. Cost or pricing data
- ii. Determination that price is fair and reasonable including a tabulation and evaluation of the cost and price data
- iii. Extent of competition
- i. Required internal approvals for award
- j. Liquidated damages:
  - i. The assessment for damages shall be at a specific rate per day for each day of overrun in contract time
  - ii. The rate must be specified in the solicitation and contract documents.
  - iii. Any liquidated damages recovered shall be credited to the project account involved unless FTA permits otherwise.
- k. Contractor's certifications and representations if applicable
- l. Notice of award
- m. Record of any protest
- n. Piggybacking Checklist (Procurement Manual-Appendix B.16) and all related documents, if applicable
- p. Third party FTA Requirements Checklist and all related documents- including Buy America and Disadvantaged Business Enterprises
- q. Bond and Insurance documents
- r. Executed contract, all signed amendments and notice of award
- s. Options included in contract- An option may not be exercised unless the town has determined that the option price is better than prices available in the market or that an option is the more advantageous offer at the time the options is exercised.
- t. Post-award correspondence with contractor
- u. Notice to proceed
- v. Approvals or disapprovals of contract deliveries
- w. Requests for waivers or deviations and the associated responses
- x. Documentation of settlement of claims and disputes
- y. Documentation regarding stop work or suspension of work orders
- z. Approvals or disapprovals of waivers and deviations
- aa. Contract closeout documentation

**B. Debarment**

The Purchasing Department shall document to the best of its knowledge and belief that none of its FTA assisted purchases involve contractors debarred, suspended, ineligible, or voluntarily excluded from participation in federally assisted transactions or procurements as indicated on the [www.sam.gov](http://www.sam.gov) website.

### **C. Geographic Preferences**

The Purchasing Department shall conduct procurements in a manner that prohibits the use of statutory or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services, provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

### **D. Procurement.**

All purchases of goods and services shall be made in accordance with the requirements of FTA Circular 4220.1F and in accordance with General Municipal Law and the Town's Procurement Policy.

### **E. Protest Procedures**

Filing of Protests: All Protests must be filed and resolved in a manner consistent with the requirements of FTA Circular 4220.1F Third Party Contracting Guidelines must be clearly stated in the bid documents.

### **F. Profit**

FTA expects the recipient to negotiate profit as a separate element of the cost for each contract in which there has been no price competition, and in all acquisitions in which the recipient performs or acquires a cost analysis. To establish a fair and reasonable profit, the recipient needs to consider the complexity of the work to be performed, the risk undertaken by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.

### **G. Eligible Costs**

Property and services must be eligible for Federal participation under the standards of the Federal cost principles applicable to the recipient before the recipient may use FTA assistance to support its costs (2 CFR Part 220, 2 CFR Part 225, 2 CFR Part 230, or FAR Part 31). A recipient may use its own cost principles that comply with applicable Federal cost principles. FTA assistance may support contract costs or prices based on estimated costs only if the costs incurred or cost estimates included in negotiated prices comply with applicable Federal cost principles, and the property or services are eligible for Federal assistance under the terms of the underlying grant or cooperative agreement.

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**H. Prohibitions**

- Cost Plus a Percentage of Cost —The Common Grant Rules expressly prohibits the use of the cost plus a percentage of cost method of contracting.
- Percentage of Construction Cost—The Common Grant Rules expressly prohibits the use of the percentage of construction cost method of contracting.

**I. Buy America**

FTA's "Buy America" law and regulations apply to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in the FTA assisted project. If FTA funds are used for the project, Buy America requirements apply to all procurement contracts under the project irrespective of whether a recipient decides to fund a discrete part of the project without FTA funds. Only if an activity is outside the FTA project and is financed entirely without funds to which FTA's Buy America regulations would apply may the recipient disregard FTA's Buy America requirements. Property that the contractor acquires to fabricate a deliverable for the recipient, such as tools, machinery, and other equipment or facilities, is not subject to FTA's Buy America requirements unless the recipient intends to take possession of that property upon completion of the project. Thus, if a third-party contractor is acquiring property for its general inventory of equipment or facilities to conduct its overall business affairs, the recipient may enter the cost of that acquisition into its calculations of overhead amounts applicable to the FTA assisted project irrespective of whether the property acquired would comply with FTA's Buy America regulations. FTA's Buy America statute does not pre-empt State laws with stricter requirements on the use of foreign articles, materials, and supplies.

Attachments:

Link to FTA Circular 4220.1F:

<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Third%20Party%20Contracting%20Guidance%20%28Circular%204220.1F%29.pdf>

ADDENDUM

FEDERAL REGULATIONS – FEDERALLY FUNDED PROJECTS

PROCUREMENT STANDARDS 2 CFR 200.216 & 200.318-326

1. **Prohibition on certain telecommunications and video surveillance services or equipment [2 CFR 200.216]**
  - (a) Recipients and subrecipients are prohibited from obligated or expending loan or grant funds to:
    - (1) Procure or obtain;
    - (2) Extend or renew a contract to procure or obtain; or
    - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
      - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
      - ii. Telecommunications or video surveillance services provided by such entities or using such equipment
      - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
  - (b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications

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equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

**2. General Procurement Standards [2 CFR 200.318]**

- (a) The Town does not have a centralized grants Department; therefore, it is the responsibility of each Department obtaining a grant to administer, and be familiar with, all grant documents and requirements. If it is a Federal Grant, the Department should immediately notify the Town's Comptroller's Office and forward a copy of the grant documents. For purposes of this policy Department Head applies to the individual within a given Department who will be responsible for the grant.
- (b) The Town may use its procurement procedures as long as the Town's procedures are as strict as the Federal requirements. If the Federal procedures are stricter, the Town must use the Federal procedures.  
The Town must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. The standards of conduct must provide for disciplinary actions.
- (c) Conflict – a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract and will further comply with Chapter 29 of the Huntington Town Code Article II Code of Conduct. Violations will subject the employee to disciplinary action up to and including termination.
- (d) Gratuities – Officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
- (e) The Town must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made



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of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.

- (f) The Town is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
- (g) The Town must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The Town will be required to check the Vendors' status in the System for Award Management for all procurements over \$25,000.
- (h) The Town must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Time and materials (T&M) contracts can only be used after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at his own risk. Organizations are solely responsible for good administrative practices and sound business judgment, and for the settlement of all contractual and administrative issues arising out of procurements.

**2. Competition [2 CFR 200.319]**

- (a) The Town must promote full and open competition and shall avoid the following which unfairly restrict competition:
  - (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
  - (2) Requiring unnecessary experience and excessive bonding;
  - (3) Noncompetitive pricing practices between firms or between affiliated companies;
  - (4) Noncompetitive contracts to consultants that are on retainer contracts;
  - (5) Organizational conflicts of interest;
  - (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement;
  - (7) Any arbitrary action in the procurement process.
- (b) The Town must conduct procurements in a manner that prohibit the use of statutorily or administratively imposed state or local geographical preferences in

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the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.

- (c) The non- Federal entity must have written procedures for procurement transactions that ensure all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured and do not include provisions that unfairly restrict competition (see (a)(1)-(7) above). Identify all of the requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (d) Town must:
  - (1) Ensure that all prequalified lists of person, firms, or products that are used are current and include enough qualified sources to ensure maximum open and free competition.
  - (2) Not preclude potential bidder from qualifying during the solicitation period.

**3. Procurement Procedures [2 CFR 200.320]**

The Town must use one of the procurement procedures: (a) micro-purchases - \$10,000 or less; (b) small purchases (\$250,000 or less); (c) sealed bid; (d) competitive proposal; or (f) noncompetitive proposal - sole source.

**4. Procurement Methods [200.320 (b-f)]**

Procurements requiring competition or cost-price analysis:

- (a) Micro-purchase, not to exceed micro purchase threshold, \$10,000.
- (b) Small purchase, \$10,000-\$250,000, price and rate quotes must be obtained from an adequate number of qualified sources. No cost/price analysis required.
- (c) Sealed bids using firm fixed price contract require formal advertising, two or more bidders are willing and able to respond and there is public opening of the bids.
- (d) Competitive proposals used when sealed bids are not appropriate, requires advertising, includes a written method for conducting the technical evaluation, responses must be solicited from an adequate number of qualified sources, normally has more than one source submitting an offer and the award is either fixed price or cost reimbursable.

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- (e) Procurement by noncompetitive proposal is used when the items are only available from a single source. One or more of the following must apply:
- (1) Available only through a single source.
  - (2) Publicly exigency or emergency will not permit delay required for competition.
  - (3) Awarding agency has expressly authorized a non-competitive process or after solicitation of a number of sources.
  - (4) After solicitation of a number of sources, competition is deemed inadequate.

**5. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms [2 CFR 200.321]**

Necessary affirmative steps shall be taken to assure minority suppliers, women's business enterprises and labor surplus suppliers are used when possible. Affirmative steps shall include:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- (b) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources.
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises.
- (e) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- (f) Requiring the prime supplier, if subcontracts are to be let to take affirmative steps listed in this section.

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**6. Procurement of Recovered Materials 200.322**

Organizations must comply with §6002 of the Solid Waste Disposal Act for procuring items designated in the EPA guidelines of 40 CFR 247 requiring

- (a) Procurements must contain the highest percentage of recovered materials practical, consistent with maintaining satisfactory levels of competition, when the purchase price exceed \$10,000 or the value of the quantity procured in preceding fiscal year exceeded \$10,000;
- (b) Procuring solid waste services in a manner that maximizes energy and resource recovery; and
- (c) Establishing an affirmative procurement program for recovered materials.

**7. Contract Cost and Price [2 CFR 200.323]**

- (a) The Town must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$250,000) and at minimum the Town makes independent estimates before receiving bids or proposals.
- (b) The Town must negotiate profit as a separate element of the price for each contract in which there is no price competition (sole source) and in all cases where cost analysis is performed pursuant to subpart (a) above. Determining profit is based on the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical arear for similar work.

**8. Procurement Review by Federal or State Agencies [2 CFR 200.324]**

The Town must comply with federal or state agency review of the Town's procurement procedures and procurements.

**9. Bonding Requirements [2 CFR 200.325]**

If a construction or improvement contract exceeds the Simplified Acquisition Threshold (\$250,000), the Town must require a bid guarantee of 5% of the bid price, a performance bond of 100% of the contract price, and a payment bond of 100% of the contract price.

**10. Contract Provisions [2 CFR 200.326]**

All contracts must include the federal contract provisions in 2 CFR 200 Appendix II or 45 CFR 75 Appendix II. It is the policy of the Town to ensure that the most current federal contract provisions will be used in all federally-funded contracts.

**Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" ( 30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended ( 40 U.S.C. 3141- 3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ( 40 U.S.C. 3141- 3144) as supplemented by Department of Labor regulations ( 29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act ( 40 U.S.C. 3145), as supplemented by Department of Labor regulations ( 29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise

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entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701- 3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations ( 29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401- 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of

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Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.322 - A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines

## CONFLICT OF INTEREST POLICY

### Section 1. General.

a. The provisions of this article supplement, but do not supersede, other provisions of Federal, State and Town law including but not limited to Article 18 of the New York General Municipal Law and the Code of Ethics.

### Section 2. Use of Town Position for Personal or Private Gain.

No Town officer or employee shall use his or her Town position or official powers and duties to secure a material benefit, whether financial or otherwise, for (i) himself or herself, (ii) a relative<sup>2</sup>, or member of his or her household, (iii) any private organization in which he or she has an interest, (iv) a client or customer from which the officer or employee knows that he or she, his or her outside employer, firm, limited liability company, partnership or association, or corporation in which he or she is the owner of more than five percent of the outstanding corporate stock, directly or indirectly derived income in excess of five thousand dollars (\$5,000) during the previous twenty four months, or (v) a person from whom the officer or employee has received a private loan(s), or a gift(s), having an aggregate value of seventy five dollars or more during the previous twelve months.

### Section 3. Future Employment.

No Town officer or employee shall ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Town officer or employee, either individually or as a member of a board or commission, while the matter is pending or within the 30 days following final disposition of the matter.

### Section 4. Kickbacks.

1. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.

2. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

3. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a Town contract.

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<sup>2</sup> "Relative" means a spouse, child, stepchild, parent, stepparent, grandparent, grandchild, sibling or stepsibling.



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4. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

5. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the Town shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the Town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the Town determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interest of the Town.

Section 5. Certification of Compliance.

The Town may require Town employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.

Section 6. Misrepresentations.

No Town employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

Section 7. Disciplinary Action

Violations of the Town's Conflict of Interest Policy shall subject the employee to disciplinary action including but not limited to termination.

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**PROTEST POLICY**

It is understood that a party who has responded to a bid, request for proposal, or request for statement of qualification issued by the Town of Huntington shall be considered an interested party to the award or failure to award said contract. Such an interested party shall, within five (5) business days following the award of a contract, be permitted to file a written protest to said action (a "Protesting Party", and "Written Protest"), as set forth below.

Upon the Protesting Party's (i) filing a Written Protest and (ii) payment of a Two Hundred & XX/100 (\$200) Dollar protest fee by certified check or money order made payable to the "Town of Huntington", with each delivered to the Director of Purchasing of the Town of Huntington (and a copy of said Written Protest delivered to the Town Attorney), the Town of Huntington's Director of Purchasing shall notify the Town Attorney in writing of the foregoing.

Not later than twenty (20) business days following his or her receipt of said written notice from the Director of Purchasing, the Town Attorney shall convene a board of responsibility, which shall be comprised of the following persons, (i) the Town Attorney (or Deputy Town Attorney, as directed by the Town Attorney), (ii) the Director of Purchasing, and (iii) the Department Head involved in the procurement of the contract at issue (or his/her Deputy or designee, as directed by the Department Head) (hereinafter, the "Board of Responsibility"). By written notice delivered pursuant to the contact information provided within the Written Protest, the Town Attorney shall notify the Protesting Party of the date, time and location the Board of Responsibility shall meet to consider the Written Protest (the "Protest Hearing"), which may be adjourned at the Town Attorney's sole discretion.

The Town Attorney (or the Deputy Town Attorney, as applicable) shall act as Chair of the Board of Responsibility. He/she shall conduct the Protest Hearing in an informal manner, as the Town Attorney or Deputy Town Attorney sees fit. In its deliberations, the Board of Responsibility shall investigate the Written Protest by, among other things, taking evidence relevant to it. The Protesting Party may appear at the time and place designated by the Town Attorney for Protest Hearing, with or without counsel, and he/she/it may testify and/or submit evidence to the Board of Responsibility in support of his/her/its protest. Additionally, the Protesting Party may invite other persons who may have knowledge of the facts and circumstances surrounding the Written Protest, to attend and give evidence. The Town Attorney may call additional parties who shall have knowledge or expertise with respect to the matters at issue, to attend the Protest Hearing.

The Board of Responsibility shall render a decision on the merits of the Written Protest, with a copy thereof delivered to the Protesting Party not more than twenty (20) business days following the date (and closing) of the Protest Hearing. The Protesting Party may request a copy of any transcript made of the Protest Hearing, which if provided shall be furnished at the Protesting Party's sole cost and expense.