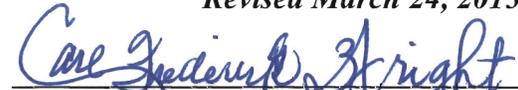




PROCUREMENT & PROPERTY MANAGEMENT POLICIES AND PROCEDURES

Revised March 24, 2015

Recommended by:

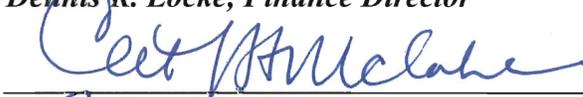


Carl F. Wright, Procurement & Property Manager



Dennis R. Locke, Finance Director

Reviewed by:



Cathy Hoefer McCabe, City Attorney

Approved by:



Ed Memmott, City Manager

Table of Contents

Article 14

GENERAL INFORMATION4

 I. PURPOSE.....4

 II. SCOPE.....4

 III. DEFINITIONS.....5

Article 27

ORGANIZATION OVERVIEW.....7

 I. Who We Are7

 II. Where We Are Located7

 III. Responsibilities and Objectives.....7

Article 39

ETHICS IN CITY CONTRACTING9

 I. Ethical Conduct9

 II. Equal Opportunity10

 III. Fair and Open Competition.....10

 IV. Confidential Information.....10

Article 411

CITY OF SPARTANBURG PROCUREMENT POLICY11

 I. City Policy.....11

 II. Good Faith11

 III. Procurement involving State or Federal Funds.....11

 IV. Federal Transit Administration Clauses and Federal Aviation Administration Clauses.....11

 V. South Carolina Freedom of Information Act11

 VI. Material Safety Data Sheets.....11

 VII. Records Retention and Access to Records.....12

 VIII. City Manager Authority.....12

 IX. Administrative Services.....12

 X. Purchase Orders12

 XI. Cooperative Procurement (Piggybacking)13

 XII. Certificate of Insurance.....13

 XIII. City Business License14

 XIV. Disadvantage Business Enterprise Program14

 XV. Title VI Reports15

 XVI. Disadvantaged Business Enterprise (DBE)15

 XVII. Recycled Products15

 XVIII. Specifications16

 XIX. Levels of Authority.....17

 XX. Purchases of Tangible Assets (materials, supplies, equipment, and construction).....20

 XXI. Methods of Procurement (including Procurement Card program)25

 XXII. Rejection of Bids28

 XXIII. Competitive Proposals (Request for Proposals)28

 XXIV. Architectural & Engineering (A&E) and Other Services30

 XXV. Construction Management at Risk (CM@R)/ Guaranteed Maximum Price.....32

 XXVI. Construction and Repair Work34

 XXVII. Term Contracts.....35

 XXVIII. Liquidated Damages Provisions.....38

 XXIX. Contract Term Limitation39

 XXX. Disposal of Surplus Property40

 XXXI. Bid Protest Procedures.....41

 XXXII. Authority to Resolve Protested Awards – Actual Bidders-Contractors44

APPENDIX A	45
APPENDIX B	47
APPENDIX C	48
APPENDIX D	49
APPENDIX E	51
APPENDIX F	52
APPENDIX G	53
APPENDIX H	58

Article 1
GENERAL INFORMATION

I. PURPOSE

This procurement policy is to ensure that good internal control over purchases and inventory exists, that the legal and ethical standards of the City of Spartanburg are met, and that good relationships with suppliers are maintained. Procurement will not always select items with the lowest price, but items selected should give the organization the best possible value within the bounds of the law and the procurement procedures of the state and federal governments.

The policies provided in this manual were established to ensure the fair and equitable treatment of all persons involved in public purchasing, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Any work to be performed by a contractor on a project assisted under a program providing direct Federal financing assistance from the Department of Housing and Urban Development is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 17010. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

The City of Spartanburg agrees to include all applicable FTA Requirements and Mandatory Clauses in procedures and contracts relating to the competitive procurement process when purchasing goods and services with FTA dollars. The City may use its own procurement procedures, provided that its procurements conform to applicable Federal law and regulations.” [FTA C 4220.1F, III, 3.a.] This policy is also written to be in compliance with FTA circular #4220.1F and 49 CFR Section 18.36 (b) (1) and the SC Consolidated Procurement Code. The policies provided in this manual were established to ensure procurement procedure that reflects applicable State and Local and Federal laws.

Purchases of individual items costing \$ 5,000.00 or more with a useful life of more than (36) thirty-six months will be capitalized and depreciated over its useful life. Repair parts, such as batteries, tires, water pumps, generators, etc., which do not significantly extend the life of a vehicle, will not be capitalized.

II. SCOPE

This policy applies to the procurement of any materials and supplies, equipment, professional and contractual services, or construction contracts (goods and services) entered into by the City as of the effective date of this policy and shall amend, as applicable, all prior Procurement policies of the City.

III. DEFINITIONS

Addenda/Addendum: Additional requirements, specifications, or instructions to the originally Request For Bids and Proposals or Request for Quotations. All contents of the addendum are incorporated into the original document.

Appropriation: An authorization granted by the City Council to make expenditures and to incur obligations for specific purposes.

Architectural, Surveying and Engineering Services: Contracts performed by private consulting firms as agents of the City of Spartanburg including feasibility studies, planning, design, testing, and construction administration or management services.

Bidder: Any person, firm, partnership, corporation, association, or joint venture seeking award of a public contract or subcontract with the City of Spartanburg.

Blanket purchase orders: Encourage consolidation of annual requirements for certain commodities and services. Blanket Purchase Orders are issued so that supplies or services can be requested by authorized personnel on an as-needed basis. Such orders achieve economies of scale, cut expenditures, and reduce administrative handling costs.

Business: Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Commodity: Tangible goods, wares, and merchandise which are moveable in trade.

Contract: A legally binding document, which specifies and defines the performance requirements and expectations for a purchase or project administered by the City.

Contractor: The person, firm, partnership, joint venture, corporation, or association, who performs a trade or service agreement at any level with the City.

Discrimination: An action or series of activities which sets apart or causes separate and unequal treatment of a person or group of persons solely on the basis of their age, gender, ethnic background, national origin, veteran's status, and/or disability. Acts of discrimination are illegal in the performance of projects for the City.

Encumbrance: Expenditure commitments created by purchase orders that have been issued, but for which no goods or services have been received.

Formal Bid: Procedure required for awarding contracts for apparatus, supplies, materials and equipment by the sealed competitive bid. (Valued \$ 5,000 or more) They must be advertised, opened in public, and recorded. Award is made to the lowest responsible bidder(s) taking into consideration quality, performance, and the time specified for the performance of the contract.

Quote: Procedure used for expenditures less than \$5,000. Pricing can be obtained by written quotation, facsimile, or sealed competitive bids.

Proposer: Refers to each firm that submits a proposal for consideration by the City in compliance with the requirements stated in the Request for Bids and Proposals or Request for Quotation.

Purchase Order (PO): A legal contract document issued by the Procurement Division to a vendor to order goods and some services.

Purchasing Cards: The City has elected to participate in a Purchasing Credit Card program designed to achieve cost savings and improve processing time for low dollar value supplies and some off-site services. Some restrictions apply.

Request for Bids and Proposals: Formal procedure for obtaining bids and proposals for apparatus, supplies, materials and equipment with the formal bid range.

Request for Quotation (RFQ): Informal procedure for expenditures under \$5,000. Vendors may quote on items in writing, by fax, email or informal written quotations.

Requisition: A written or electronic request from a City department to the Procurement Division to obtain specific goods or services.

Revenue Contract A contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with a public transportation related activity, or creating business opportunities involving the use of FTA assisted property.

Specifications: The parameters, requirements, and instructions that define the exact item or service that is desired and provides the basis for comparing bids. Specifications are generally incorporated into a contract, by reference, to become the successful bidder's legal obligations under the contract.

Subcontractor: Any persons named by a general contractor, and approved by the City to perform work or provide services for a public contract.

Tag-on is defined as the adding on to the contracted quantities (base and option) as originally advertised, competed, and awarded, whether for the use of the buyer or for others, and then treating the add-on portion as though it met the requirements of competition.

Term Contract: A formal agreement between the City and a designated vendor(s) to provide an identified commodity upon request at an established price, and for a specified term.

[Intentionally left blank]

Article 2
ORGANIZATION OVERVIEW

I. Who We Are

The Procurement Division is the central buying office responsible for the acquisition of supplies, equipment, materials, apparatus and some of the services required by all departments within the City of Spartanburg.

The Procurement Division provides services to all City Departments by planning, organizing, and directing purchasing activities in accordance with federal, state, and local laws governing purchasing.

II. Where We Are Located

The Procurement Division is located at:

145 West Broad Street
Spartanburg, SC 29304
Telephone: (864) 596-2049

III. Responsibilities and Objectives

Responsibilities: It is the Procurement Division's responsibility to ensure that all purchases are made in accordance with the established Procedures and Policies of the City of Spartanburg and with South Carolina law.

In addition to purchasing responsibilities, Procurement also handles the disposal of surplus property.

Objectives:

- To conduct business with integrity, fairness and dignity so as to maintain public trust and reduce the government's exposure to criticism and legal action.
- To secure the right materials, equipment, and services at the right quality and quantity, on a timely basis, as efficiently as possible, and at the lowest overall cost;
- To conserve public funds by obtaining the best products and services for the dollars spent;
- To provide all customers with quality service in a manner that is courteous, responsive, accessible, and seamless;
- To maintain continuity of supply to support on-going service, operations, and schedules;

- To furnish timely information to management and appropriate departments covering market conditions and trends, and the probable effect on supply and price;
- To assure vendors that impartial and equal treatment is afforded to all who wish to do business with the City;
- To secure, whenever possible, competitive prices on purchases;
- To establish specifications which will encourage competition and accurately describe the equipment, materials and services needed;
- To be receptive to changes in material and requirements and new products and procedures.

[Intentionally left blank]

Article 3
ETHICS IN CITY CONTRACTING

I. Ethical Conduct

Ethics Statement

"The staff of the Procurement Division is governed by the highest ideals of honor and integrity in all public and professional relationships in order to merit the respect and inspire the confidence of the City of Spartanburg and the public we serve."

The City Employee Code of Ethics protects against any conflict of interest and establishes standards for the conduct of City of Spartanburg employees in situations where conflicts may exist. Because the confidence of the citizenry is the very foundation for effective Government, and even an unfounded appearance of unethical conduct by a public employee can significantly impair the capability of Government, all affected employees must acknowledge his/her compliance with, and understanding of, the City of Spartanburg's Employee Code of Ethics and the implementing policies.

Each year, each employee involved in the procurement processes of the City of Spartanburg will sign the certification contained in Appendix A to this Procurement Policy.

A conflict statement acknowledgment is completed annually and maintained in the secured procurement files. No employee, officer or agent of the City of Spartanburg shall participate in solicitation, award or administration of a contract if a conflict of interest would be involved, whether real or apparent.

The City Manager may assign a responsible party for the investigation of any complaints and requests made pertaining to the Employee Code of Ethics. Violations are subject to disciplinary action, up to and including termination

In accordance with the Employee Code of Ethics, a City employee must not, in any way, participate in or seek to influence any procurement or other City-related matter or decision when:

- An immediate family member is engaged, or is seeking to be engaged, in business with the City;
- An entity, which is owned in whole or in part (except ownership of a non-controlling interest in a publicly-traded entity) by an immediate family member, is engaged, or is seeking to be engaged, in business with the City; or
- An entity, which is represented by an immediate family member (as an attorney, lobbyist, officer, or director) is engaged, or is seeking to be engaged, in business with the City.

City Contracts shall include an organizational conflict of interest clause requiring that all potential vendors disclose when they believe there may be a conflict. This allows the City the opportunity to make the determination and take the necessary action to avoid the conflict. Organizational conflicts of interest may be avoided by carefully reviewing all vendor disclosure documents, including but not limited to the Non-Collusion Statement, as well as independently

researching potential vendors, employees and contractors. Any connections to the procurement should be investigated so as to prevent potential conflicts. FTA C4220.1F, Ch. VI, 2.a (4)(h)

II. Equal Opportunity

The policies of the City of Spartanburg prohibit discrimination against any person or business in pursuit of business opportunities on the basis of race, color, sex, religion, or national origin and to conduct its contracting and procurement programs so as to prevent such discrimination.

III. Fair and Open Competition

The City Procurement Division promotes the precept of a fair and open competitive solicitation process, wherever practicable. Restrictive or proprietary specifications are kept to minimal use; and only applied where absolutely necessary to meet technical demands for operational compatibility with existing City equipment; or for truly unique and cost effective performance applications.

The City may contract with persons other than City personnel for the preparation of specifications. However, no person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

IV. Confidential Information

It is unethical and unlawful for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

[Intentionally left blank]

Article 4
CITY OF SPARTANBURG PROCUREMENT POLICY

I. City Policy

It is the policy of the City to:

- Provide comprehensive governing of the City’s procurement activities, which instill public confidence.
- Maximize the value of goods and services acquired with public funds.
- Foster competition and ensure equitable and fair access to all potential vendors.

II. Good Faith

Every activity covered by this policy imposes an obligation of good faith in its negotiation, performance, and enforcement. “Good Faith” means all activities are conducted honestly and ethically and with the observance of reasonable commercial standards of fair dealing.

III. Procurement involving State or Federal Funds

All goods and services obtained through the use of State or Federal funds shall be in compliance with applicable state and federal laws and regulations. Whenever, this policy is more restrictive than the state or federal laws or regulations, the provisions of this City policy shall be followed.

IV. Federal Transit Administration Clauses and Federal Aviation Administration Clauses

When procurement involves the expenditure of federal funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws, or regulations, the terms and conditions of the Federal Transit Administration (FTA) should be included in the Request for Bids and subsequent contracts. Applicable Federal Transit Administration (FTA) Clauses shall be included in any bid solicitations and shall become a part of any subsequent contract agreement. It will be the responsibility of the Procurement Manager & responsible Department Head to verify that the clauses are included in the signed contract.

V. South Carolina Freedom of Information Act

Procurement information shall be public record to the extent required by the South Carolina Freedom of Information Act (FOIA). Commercial or financial information obtained which is determined to be privileged and confidential shall not be disclosed.

VI. Material Safety Data Sheets

Whenever procurement involves chemicals requiring Material Safety Data Sheets (MSDS), all procedures within the City’s Safety Manual shall be followed.

VII. Records Retention and Access to Records

All original documents pertinent to procurement activities shall be retained in official files of the Procurement and Property Management Division and maintained under provision of the City's records retention policy.

Retention Periods: Unless otherwise specified, the City shall retain all applicable records for a period of three (3) years.

If any litigation, claim, audit or other action involving the City records is started before the expiration of the 3-year period, the City records shall be retained for 3 years after the completion of the action and resolution of all associated issues.

Retention Period Start Dates: For Fixed Assets purchased with Federal or State funds the City will maintain disposal records for three years from the date of sale.

Records Access: The City fully understands that the FTA, USDOT Office of the Inspector General and the Comptroller General of the US, or any of their authorized representatives shall have the right of access to any books, document, papers, or other records of the City and its sub-grantees, that are pertinent to the grant, for the performance of audits or to make examinations, transcripts or excerpts.

Substitution of Photocopies: The City understands that copies of documents may be substituted for original documents.

VIII. City Manager Authority

The City Manager, pursuant to law, has the authority to issue policies governing the procurement and disposal of all goods and services. The City Manager has the authority to approve procurements outside of the Procurement policy when the City Manager determines such actions serve a proper public purpose, provided that the procurement selected assures the efficient use of public funds.

IX. Administrative Services

The Procurement and Property Management Division is a part of the Administrative Services Department. The Procurement and Property Manager is charged with the centralized management of all City procurement activities in accordance with this procurement policy, and other state and federal laws and regulations where applicable.

X. Purchase Orders

The Procurement and Property Manager directs the procurement of all goods and services and directs the trade, sale, or disposal of surplus supplies and equipment. The Procurement and Property Management Division under the direction of the Procurement and Property Manager, issues all purchase orders and contract awards for bids/proposals.

XI. Cooperative Procurement (Piggybacking)

For Non FTA/FAA Cooperative Procurement. When the City enters into a Piggyback agreement for a project with a federal or a state government, or with another governmental entity including, but not limited to a county, regional council, special purpose district, special tax district, state authority, joint district, or public university, the city may utilize those procurements and all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, within the previous 12 months.

It is understood that “piggybacking” would not be permissible when the action would call for an increase in quantities that were not originally bid on and not originally evaluated as part of the contract award. Such an order for additional quantities – sometimes referred to as “tag-ons” – would constitute a non-competitive procurement.

For FTA/FAA Cooperative Procurement. Although FTA does not encourage the practice, a recipient may assign its contractual rights to purchase property and services to other recipients if the original contract contains an appropriate assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, competed, evaluated, and awarded, or other appropriate assignment provisions. Some refer to this process as “piggybacking.”

The City may proceed with this process using federal funds if:

- (a) “If the supplies or services were solicited, competed and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and maximum quantity that represent the reasonably foreseeable needs of the party(ies) to the solicitation and contract.”
- (b) “An FTA recipient that obtains these contractual rights through assignment may exercise them after first determining the contract price remains fair and reasonable, and all Federal requirements have been addressed in the contract’s clauses. The recipient is not required to perform a second price analysis if a price analysis was originally performed. However, the recipient must determine the contract price or prices originally established are still fair and reasonable.”
- (c) “The recipient is responsible for Buy America compliance with the transaction and assuring that they execute all of the required pre-award and post-delivery Buy America audit certifications.” [FTA C 4220.1F, V, 7.a. (2); BPPM Appendix B.16]

Vehicles and or items added to the base or option amounts originally specified are called “tag-ons.” Tag-ons are not permitted when federal funds are utilized.

XII. Certificate of Insurance

Contractors and professional service providers contracted by the City shall be required to provide a Certificate of Insurance with limits acceptable to and approved by the Risk Manager prior to

commencing work. Certificates containing wording that release the insurance company from liability for non-notification of cancellation of the insurance policy shall be acceptable. Policies shall be endorsed to include a waiver of subrogation against the City, its officers, officials, agents, and employees. Insurance is to be placed with an insurer with a current A.M. best rating not less than: VII, unless otherwise allowed by the Risk Manager. Separate endorsements shall be required, naming the City as additional insured, for liability insurance and providing a waiver of subrogation for Worker's Compensation Insurance. At any time, if insurance as required by the City is canceled, then all work shall cease until insurance acceptable to the City is once again provided. The Risk Manager may for good causes waive the Certificate of Insurance for professional services, but only when the lack of such coverage will have no significant impact upon the City.

XIII. City Business License

Any company or person conducting business with, or on behalf of the City of Spartanburg shall obtain a City business license in compliance with the City of Spartanburg's Code of Ordinances.

XIV. Disadvantage Business Enterprise Program

It is the policy of the City of Spartanburg to provide minorities and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts.

City of Spartanburg's Disadvantage Business Enterprise (DBE) goals will be set in accordance with 49 CFR §26.45.

The City of Spartanburg Disadvantage Business Enterprise (DBE) applies a voluntary goals program to construction, purchasing, and professional and personal services based on "good-faith efforts".

The goals of the City for utilization of Disadvantage Business Enterprise (DBE) are:

- Minority & Women business participation in Construction services- 15%
- Minority & Woman business participation in supplies & materials purchase- 10%
- Minority & Women business participation in professional & personal services- 10%

In 1992 the City of Spartanburg adopted a resolution that the City of Spartanburg Disadvantage Business Enterprise (DBE) shall be 10%

Minimum Compliance Requirements: All written statements, affidavits or intentions made by the Bidder shall become a part of the agreement between the Contractor and the city for performance of contracts. Failure to comply with any of these statements, affidavits or intentions or with the Disadvantage Business Enterprise (DBE) guidelines shall constitute a breach of the contract. A finding by the city that any information submitted (either prior to award of the

contract or during the performance of the contract) is inaccurate, false or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the city whether to terminate the contract for breach or not.

In determining whether a contractor has made Good Faith Efforts, the city will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts.

For a full description of the DBE's Plan and the Minority Business Forms, or for any other questions regarding the DBE requirements, you may contact the Minority Business Development Coordinator at extension 3449.

XV. Title VI Reports

Every three (3) years, the City of Spartanburg is required to report on compliance with the objectives of Title VI of the Civil Right Act of 1964. Detailed guidance for meeting the FTA Title VI requirements is contained in FTA Circular C 4702.1A. The City's Title VI programs and reporting shall address five (5) primary areas: 1) Non-Discrimination in Federally Assisted Programs; 2) Environmental Impact of Federally Assisted Projects; 3) Planning Assistance and Standards; 4) Environmental Justice in Minority and Low Income Populations; and, 5) Responsibilities to Limited English Proficient Persons

XVI. Disadvantaged Business Enterprise (DBE)

On an annual basis, the SPARTA is required to report to the FTA on the levels of DBE participation in City of Spartanburg contracting opportunities funded with federal dollars. In addition, on a one-time basis, the City of Spartanburg was required to develop and submit a DBE program plan. Updates to the plan are only required if significant changes are implemented.

In addition to the reporting and initial plan, the City of Spartanburg is required to annually develop projected goals for DBE participation in federally-assisted contracting opportunities. The City of Spartanburg DBE Coordinator is responsible for all aspects of the DBE Program. Additional detailed guidance on DBE can be found in 49 CFR Part 26.

XVII. Recycled Products

In an effort to address environmental issues concerning the preservation of our natural resources, the Procurement and Property Management Division will incorporate the procurement of recycled products where practicable. User departments are also encouraged to buy recycled products when developing specifications and when purchases are made on a non-competitive basis.

Construction or repair contracts estimated to cost more than \$5,000 and the purchase of apparatus, supplies, materials, or equipment for expenditures of \$5,000 or more are secured through the competitive sealed bid process.

XVIII. Specifications

All specifications shall be drafted so as to assure cost effective procurement for the purposes intended. They shall also encourage competition and shall not be unduly restrictive.

The user department shall prepare, revise, and maintain the specifications for supplies, services, and construction required by their departments with advice, recommendation, and approval of the Procurement and Property Management Division.

After specifications are completed they are forwarded to the Procurement Manger to be advertised and distributed to potential offers. The Procurement Manager shall schedule pre-bid conferences and bid opening dates.

Brand name or equal specifications may be used when the user department makes a written determination that no other design or performance specification or qualified products list is available. The solicitation shall contain explanatory language that the use of a brand name is for the sole purpose of describing the standard of quality, performance, and a characteristic desired and is not intended to limit or restrict competition.

Brand name or "equal" specification: *A clause that uses one or more manufacturers' brand names or catalog numbers to describe the "best value" needed to win a bid.*

Solicitation requirements will not contain features that unduly restrict competition. This includes, but is not limited to, imposing unreasonable business requirements for bidders or offerors and imposing unnecessary experience requirements for bidders and offerors. The solicitation will address description of the Property or Services; (1) What to Include (2) Quantities Limited to Needs (3) Acceptable Salient Characteristics and Standards or Technical Minimum Functional Requirements with Brand Name or Equal process, if applicable.

(4) Prohibitions Requirements that contain features that unduly restrict competition or are exclusionary or discriminatory, including:

- a. Excessive Qualifications
- b. Unnecessary Experience
- c. Improper Prequalification
- d. Retainer Contracts
- e. Excessive Bonding
- f. Brand Name Only
- g. In-State or Local Geographic Preferences
- h. Organizational Conflicts of Interest
- i. Restraint of Trade
- j. Arbitrary Action

Note: The City will not take any arbitrary action in the procurement process.

Solicitation requirements also may state the evaluation factors, contract type will be specified, other Federal Requirements Affecting the Property or Services to be acquired, Other Federal Requirements Affecting the Bidder or Offeror and the Contractor, Award to Other Than the Low Bidder and the Rejection of All Bids or Offers. [FTA C4220.1F CH. VI, 2.a (4) (j); BPPM 2.4.2.1]

The City will insure open and free competition to maximize competitive opportunities, to avoid arbitrary conduct in the procurement process, and to encourage a competitive environment for contractors and vendors competing for all contracts. The city will ensure all procurements are awarded in a fair and equitable manner, all solicitations shall:

- a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and acceptable standards to which it must conform or perform if it is to satisfy its intended use;
- b) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals;
- c) Identify the evaluation criteria.
- d) Identify the award of contract shall be to the lowest, responsive, and responsible bidder or most advantageous proposer who provides the best value.

Evaluators and reviewers must follow the established criteria when evaluating bids or rating proposals. Award of applicable federal contracts shall be made pursuant to the specified selection procedures, evaluation criteria, and legal authority. FTA C4220.1F Ch. III, 3.a. , FTA C4220.1F Ch. VI, 3.c. (2) , FTA C4220.1F Ch. VI, 3.d. (2)

XIX. Levels of Authority

A system of authorization and approval is an important element of internal control. This approval authority is required on all purchases prior to issuing a firm order or contract.

The following levels of authority are based on the dollar amount of purchase:

\$5,000 or Less	Division Heads and Fleet Maintenance Manager or designee as approved by City Manager
\$5,001 - \$10,000	Department Heads or designee as approved by City Manager
\$10,001 - \$24,999	City Manager/ Assistant City Manager or designee as approved by City Manager
\$25,000 or more	City Council

The Airport Director and the Fleet Maintenance Manager have the authority to purchase parts necessary to repair aircraft and vehicles when the cost will be absorbed by the aircraft owner or department, respectively.

All change orders and contract amendments shall follow the above levels of authority.

Exemptions: The following goods and services are exempt from the standard procurement process:

- Works of art and one-of-a-kind items, including paintings, antiques, and sculptures;
- Published books, maps, periodicals, subscriptions, and technical pamphlets, training/professional development programs;
- Membership fees;
- Postage stamps and other delivery fees;
- Tuition reimbursement;
- Conference registration;
- Public advertising;
- Safety shoes and safety glasses;
- Existing bid or contract for like supplies, services, construction;
- State of S.C. contracts;
- **U. S. Communities contact** - Purchases of apparatus, supplies, materials, or equipment from contracts established by the United States of America or any federal Agency or State if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal and or state contract.
- **Other State Contracts** - Purchases of apparatus, supplies, materials, or equipment from contracts established by the United States of America or any federal Agency or State if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal and or state contract.
- **GSA Contacts** - Purchases of apparatus, supplies, materials, or equipment from contracts established by the United States of America or any federal Agency or State if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal and or state contract.
- Supplies/services from other governmental agencies; including public colleges/universities;
- Medicine/drugs;
- State/Federal Surplus;
- Used Equipment/Supplies
- Equipment maintenance or service agreement with the manufacturer or authorized service agent
- General, automotive, and workers compensation insurance.

Interest in Real Estate may be acquired or transferred without a bidding process, provided the amount paid or received can be substantiated and documented with reliable data or a reliable professional opinion, or both, on the fair market value of the interest which is subject of the

transaction. The City Attorney prior to the execution of documents must review all such transactions.

Safety equipment: will be procured using Procurement policies and procedures upon the approval and direction of the Risk Manager.

Emergency Procurements: The City Manager may authorize the Procurement and Property Manager, Department and/ or Division Heads to make emergency procurements when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions, without following this procurement policy. A written determination of the basis for the emergency and for the selection of the particular contractor or vendor shall be forwarded to the Procurement and Property Manager within 24 hours for review and retention. Under these circumstances, the Procurement and Property Manager may make any necessary procurements outside of the normal Procurement policies and procedures in order to facilitate timely acquisition of critical goods and services.

Sole Source (Noncompetitive) Proposals

Procurement of noncompetitive proposals will only be used when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

- The item is available only from a single source.
- The public exigency or emergency for the requirements will not permit a delay resulting from competitive solicitations.
- When a Federal or State agencies authorizes noncompetitive negotiations.
- After solicitation of a number of sources, competition is determined inadequate; or
- The item is an associated capital maintenance item as defined by the FTA that is procured directly from the original manufacturer or supplier of the item to be replaced. City of Spartanburg will first certify in writing to FTA: (i) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is no higher than the price paid for such item by like customers.

City of Spartanburg will develop a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs, options and profit.

Sole Source if Other Award is Infeasible

The City may limit the number of sources from which bids or proposals are solicited when there exists an unusual and urgent need for the property or services and the City would be seriously injured unless permitted to limit the solicitation. When it is determined that there is only one responsible source for the required supply, service, or construction (sole source procurement), contracts may be awarded by noncompetitive negotiation.

Federal -funded contracts may be awarded for a supply, service, or construction by noncompetitive negotiation when it is determined that there is only one responsible source. Sole source procurement shall be allowed only on an exception basis and must be documented and approved in writing by the approval authority.

City shall ensure there is sufficient justification for and federal compliance with other than full and open competition (non-competitive procurement). Each noncompetitive procurement must be supported by documentation that justifies the selection of the specified vendor, including a statement of the relevant circumstances and detailed information to support that statement, cost and price analysis, and, if applicable, a summary of negotiations with contractors, and the basis for determining that the price is fair and reasonable. Sole source procurement shall be allowed only on an exception basis and must be documented and approved in writing by the approval authority. City of Spartanburg will develop a *cost analysis* verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit. FTA C 4220.1F CH VI, 3.i.(1)(b) FTA C 4220.1F CH VI, 3.i.(1)(c)

XX. Purchases of Tangible Assets (materials, supplies, equipment, and construction)

Blanket contracts: The Purchasing Manager will issue blanket purchase orders to selected vendors for the procurement of large volume items such as landscaping supplies, auto parts, oil.

Requests for blanket purchase orders must, in addition to the required information, indicate the following: items covered by the blanket purchase order, a Not to Exceed (NTE) 1,000. The issued purchase order will instruct the vendor that unauthorized purchases will not be allowed. It is the responsibility of the individual authorized to purchase under a blanket purchase order to insure that an unspent balance remains to cover the purchase to be made. Any purchase that exceeds the funds available under a blanket purchase order will be classified as an unauthorized purchase.

Any purchases made by personnel not authorized by the blanket purchase order request will be classified as a personal expense and will be paid by the employee.

The vendor's invoice must be signed by an authorized City employee and the purchase order number must be indicated. The information will be entered into the H.T.E. system and invoice forwarded to finance for processing

Requisitions: Prior to any purchase being done, a Quote Sheet (See Appendix B) must be completed, regardless of the amount, of the purchase. A completed Quote Sheet must be signed and kept on file in the requesting individual's office for audit purposes. An electronic requisition is entered into the Financial/ Purchasing system here after referred to as the "H.T.E." accounting system. The requesting individual shall enter the required information into the requisition module. The lowest most responsive quote shall be used unless otherwise justified. The Division Manager and Department Manager or their designate shall approve requisitions. The receipt of the request with the required information and appropriate approvals gives the Purchasing Division the authority to proceed with any additional competitive pricing review of DEB participation and to issue a purchase order to the most suitable vendor.

The following information is recorded in the requisition module:

- Reason for the purchase
- The requester's Name
- Date requested
- Vendor information
- Ship to information
- The names of vendors and their applicable quotes
- The expense account number that will be encumbered

The H.T.E. systematically encumbers the budgeted funds during the requisition entry process. At each approval level the system will show the requesting individual the annual budgeted amount, the requisitions encumbered amount and account balance. After divisional approval and departmental approval levels have been initiated; the requisition has meet several thresholds. The request has been recorded; the required quotes have been entered and the H.T.E system has encumbered the funds against the general ledger.

The requesting individual shall immediately be notified, by the H.T.E. system, of approval/disapprovals. After the approvals have been completed; the requesting individual can track the status of the requesting requisition. After all of the approvals have been achieved the requisition is now ready to be processed into a purchase order.

In the absent of the Department head or the Division head a designate person will be assigned to process the requisition.

Purchase Order Processing: The Procurement & Risk Manager checks to see if the required quotes have been obtained and if any DBE opportunities have been identified and presented an opportunity to compete. After the review, the requisition is processed into a purchase order. All purchases costing over \$1,000 will be processed into a Purchase Order (PO).

The PO is printed. A copy is issued to the Vendor. A copy is sent to the requesting individual where it is attached to the quotes. Upon receipt of the invoice; it is signed and sent to the Procurement office for receiving and payment processing.

Invoice processing: The invoice is sent to the procurement office for receiving via in the H.T.E. system. The system will only receive invoices that are properly invoiced with the appropriate initials and PO number on the invoice.

If the invoice does not have the proper initials and/or the invoice can not be reconciled back to a requisition; the invoice will not be processed for payment. Failure to follow these procedures may result in disciplinary action, and/or the employee responsible for obligating City of Spartanburg funds without proper approval having to pay for the fund obligation.

Petty Cash Expenditures: A petty cash fund has been established in some Departments for the purchase of expendable items up to \$50. When expenditures are made, receipts are submitted to the petty cash custodian who prepares vouchers for reimbursement.

Purchase Cards (see micro purchases): The use of procurement cards has been proven to be a cost effective method of obtaining low cost supply and service items for the City.

Change Orders: In order to change, modify, or cancel an existing purchase order, or contract; the user department must email the requested change to the Purchasing Staff. Any changes must be entered in as a requisition and the appropriate approval levels must be met.

Improper Contract Expansion

Generally, additions and/or increases in the scope of work a new procurement and, as such, should be processed in the same manner. All such additional requirements while utilizing FTA or State funds should be formalized by contract amendments.

Out of Scope Change

For federally -funded procurements, City is prohibited from an improper contract expansion. This includes an attempt to expand the scope, increase the specified quantities or options beyond the original reasonably anticipated needs. This includes added increased capacity to provide for an assignment of contract rights.

FTA C4220.1F CH. V, 7.b.(1)

Cardinal Change

A cardinal change is defined as a major deviation from the original purpose of the work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, requires the Contractor to perform very different work than the original contract specified. For federally -funded procurements, the City is prohibited from effecting a cardinal change to an existing contract or a contract being evaluated for piggybacking. For guidance in determining whether a change would be treated as a cardinal change the City will refer to FTA Best Practices Procurement Manual. FTA C4220.1F CH. V, 7.b. (2)

Documentation of Procurement History: The City of Spartanburg shall maintain records detailing the history of all procurement activities. The records will include, but may not be limited to the following:

- the rationale for the method of procurement;
- selection of contract type;
- reasons for contractor selection or rejection; and
- the basis for the contract price.

Contract Administration System: The City shall maintain a contract administration system that ensures that the contractor for the transit system performs in accordance with the terms, conditions, and specification of their contracts or purchase order.

Contract Cost and Price Analysis: The City of Spartanburg will perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis will be dependent on the facts surrounding the particular procurement situation. However, as a minimum, The City will make an independent estimate before receiving bids or proposals.

The following criteria will be used when determining the method and degree of analysis needed:

- A cost analysis will be performed when the offeror is required to submit the elements (i.e. Labor Hours, Overhead, Materials, etc.) of the estimated cost, e.g., under professional consulting and architectural and engineering services contracts.
- A cost analysis will be developed when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.
- A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
- The City will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to 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 area for similar work.
- Costs or prices based on estimated costs for contracts under grants will only be allowed to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles when applicable and City of Spartanburg cost principles that comply with applicable Federal cost principles.
- Cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used.

Recording of Fixed Assets: Purchases of individual items costing \$ 5,000.00 or more with a useful life of more than (36) thirty six months will be capitalized and depreciated over its useful life. Repair parts, such as batteries, tires, water pumps, generators, etc., which do not significantly extend the life of a vehicle, will not be capitalized.

Purchase Order Cut-Off Date: Purchase requests for materials, supplies, services and equipment (not included in blanket purchase orders or service contracts) for the ending current fiscal year must be presented to the Purchasing Division at a predetermined date provided to departments by the Director of Financial Services. Purchase request of a routine nature that could have been scheduled prior to the cutoff date, and are not critical, will not be processed until new fiscal year (July 6th). All purchases submitted after the cut-off date will be processed on or after the new fiscal year (July 6th). This procedure affords the Finance Department the opportunity to complete fiscal year end activities in a timely manner.

Ensuring Most Efficient and Economic Purchase: City of Spartanburg procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative

items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase.

Where appropriate, an analysis will be made of lease versus purchase alternative and any other appropriate analysis to determine the most economical approach.

Prequalification of vendors: The City shall ensure that all lists of pre-qualified persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. The City shall not preclude potential bidders from qualifying during the solicitation period, which is from the issuance of the solicitation to its closing date.

Unreasonable Qualification Requirements

City shall prevent unreasonable requirements being placed on contractors and vendors in order for them to qualify to do business with City. Unreasonable qualification requirements restrict fair and open competition. Such unreasonable requirements may include, but are not limited to, requiring unnecessary past experience, excessive bonding, or brand name preferences that do not comply with applicable law and these guidelines.

FTA C4220.1F, Ch. VI, 2.a.(4)(a)

Unnecessary Experience

City solicitations shall not include excessive qualifications or impose unnecessary experience requirements for bidders or offerors. FTA C4220.1F, Ch. VI, 2.a.(4)(b)

Excessive Bonding Requirements

City bonding requirements shall be reasonable, shall not be unduly restrictive, and shall not violate the Common Grant Rules as restrictive of competition. Unnecessary bonding is discouraged because it increases the cost of the contract and restricts competition. Unnecessary performance bonding requirements reduce a prospective bidder's or offeror's capability to bid or offer a proposal on bonded work.

49 CFR § 18.36(h)

Competitive Bid Selection: All employees of the City of Spartanburg who engage in the procurement of any goods or services for the City will provide a clear and accurate description of the requirements for the item or service needed. The description will not contain features that restrict free and open competition. Qualitative statements may be used if they set forth the minimum essential characteristics and standards of the required good or service in order to satisfy what is needed. Detailed product specifications should be avoided if at all possible.

However, a brand name or equal may be used if it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means of define the performance or other salient characteristics of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

XXI. Methods of Procurement (including Procurement Card program)

The City should use competitive procedure(s) appropriate for the acquisition undertaken. The procedures will comply with state and local laws as well as with Federal requirements. The requesting individual may not divide or reduce the size of its any procurement merely to come within the limits micro or small purchase limits.

FAIR AND REASONABLE PRICE DETERMINATION

Micro-Purchases: All Micro Purchase are defined by expenditures falling in the dollar range of \$1,000.01 and \$3,000. Micro Purchases will require two written quotes. Fair and reasonable price determination is achieved by the utilization of (APPENDIX B) the Request for Quote Sheet FTA C4220.1F CH. VI, 3.a.

These purchases are exempt from FTA's Buy America requirements. Davis-Bacon prevailing wage requirements, will apply to construction contracts exceeding \$2,000, even though the recipient uses micro-purchase procurement procedures.

The City will monitor procurements so that requirements are not being split to avoid another procurement method.

Davis-Bacon

For FTA-funded procurements exceeding \$2,000 for construction, alteration, or repair projects, the Davis-Bacon Act is applicable. Davis-Bacon Act prevailing wage protections apply to laborers and mechanics employed on Federal assisted construction, alteration, or repair projects. The City requiring third party contracts for construction, alteration, or repair at any contract tier exceeding \$2,000 will include provisions requiring compliance with the Davis-Bacon Act. The Davis-Bacon Act requires that contractors pay wages to laborers and mechanics at a rate not less than the minimum wages specified in the wage determination made by the Department of Labor (DOL). All City Federal funded procurements shall include a copy of the current prevailing wage determination issued by DOL. Further, the award of each contract shall be conditioned upon the acceptance of that wage determination. FTA C 4220.1F CH. IV, 2.h.(5)

Under \$1,000

Small purchase procedures should generally be utilized for simple purchases of goods or services under \$1,000 (in a single transaction) requires one quote. The Procurement card may be used to obtain the good and services.

Procurement Card Program

Purpose: The purpose of the Procurement Card Program is to be an alternative to the traditional process of purchasing items. The program is used to reduce multiple transactions to a single vendor and reduce the volume of purchase orders, invoices, and checks processed. The cards can be used for any vendor that accepts credit cards or in place of processing a purchase order, check request, or petty cash.

Procedures: Procurement Cards are issued to Manager Level or higher Employees only unless authorized by the City Manager. Procurement Card holders are limited to a MAXIMUM of \$7,000 per month, four transactions per day, and/or \$1,000 per transaction unless limits are overridden by Procurement Manager at the Department Head's request and approval. Monthly card holders are required to reconcile their purchases on the monthly transaction log with the invoice from the Credit Card Company. Department Heads are required to review and approve the card holder's monthly transaction. Unauthorized purchases can lead to disciplinary action including termination. We have attached the copy of Procurement Card Agreement and the monthly Credit Card Transaction log that each user is required to complete.

Price or rate quotations shall be obtained from an adequate number of qualified sources" [FTA C 4220.1F, VI, 3.b.; BPPM § 4.2]

\$1,000.01—\$2,999.99

Purchases from \$1,000.01—\$2,999.99 require a written minimum of two (2) qualified price or rate quotations. A completed Quote Sheet must be signed and kept on file in the requesting individual's office for audit purposes. The requesting individual shall enter the required information into the requisition module and approved. The division and department heads shall approve the requisition at their appropriate levels (**APPENDIX B**). The lowest most responsive quote shall be used unless otherwise justified. All quotes are to be entered into the H.T.E accounting system and a PO will be generated.

Documentation - Each Department/ Division shall be responsible for maintaining the records of each quote. Each quote shall have the requisition number attached to it for audit purposes

\$3,000.00—\$4,999.00

Purchases from \$ 3,000.00—\$ 4,999.00 require written price or rate quotations from a minimum of three (3) qualified sources of supply. A completed Quote Sheet must be signed and kept on file in the requesting individual's office for audit purposes. The requesting individual shall enter the required information into the requisition module and approved. The division and department heads shall approve the requisition at their appropriate levels. ((**APPENDIX B**)) The lowest most responsive quote shall be used unless otherwise justified. All quotes are to be entered into the H.T.E accounting system and a PO will be generated.

Documentation - Each Department/ Division shall be responsible for maintaining the records of each quote. Each quote shall have the requisition number attached to it for audit purposes.

5,000 and over

Advertised/ Publicized: All competitive procurements above \$5,000 must be formally advertised at least once in the Spartanburg Harold Journal Newspaper, South Carolina Business Opportunities (SCBO) publication and through a means of an electronic advertising. Public notice of the Invitation for bids shall be given not less than fourteen (14) calendar days prior to the bid opening date.

Sealed competitive bids procurements above \$5,000 (Formal Advertising): The requesting division or department heads acknowledges sealed bidding to be a generally accepted procurement method in which bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price. The City will seek known suppliers and will provide sealed bidders sufficient time to prepare bids before the date set for bid opening. The advertisement notice shall be posted for a period not less than 14 calendar days prior to the date set for receipt of bids/bid opening. FTA C4220.1F, Ch. VI, 3.c(2)(d)

Public Opening: Bids shall be opened publicly in the presence of one or more witnesses at the time and the place designated in the Invitation of Bids. The amount of each bid, the name of each bidder, and other relevant information shall be announced and recorded by the Procurement and Property Manager or his/her designee. The record and bid tabulation shall be opened for public inspection in accordance with the FOIA after award of contract.

The requesting division or department heads acknowledges states a preference for the sealed bids procurement method for acquiring property, construction, and other services. Procurement using sealed bids is appropriate if:

Precise Specifications: A complete, adequate, precise, and realistic specification or purchase description is available. When goods or services are procured under the formal or informal bidding process, specifications must be prepared. All specifications should do at least four things:

- 1) Identify minimum requirements
- 2) Encourage competitive bids
- 3) Be capable of objective review
- 4) Provide for an equitable award at the lowest possible cost.

Specifications shall be as simple as possible while maintaining the degree of exactness required to prevent bidders from avoiding supplying the goods or services required or otherwise taking advantage of their competitors.

All specifications utilizing a name brand must include the term "or approved equal"

to avoid being restrictive and eliminating fair competition from the bidding process. A photocopy of the item(s) to be purchased will assist the Purchasing Division in procuring the desired item(s).

Different methods of structuring specifications include:

- Qualified products on acceptable vendor list
- Specification by blueprint or dimension sheet
- Specification by chemical analysis or physical properties
- Specification by performance, purpose or use
- Specification by identification with industry standards
- Specification by samples

XXII. Rejection of Bids

Any or all bids may be rejected if there is a sound, documented business reason.

XXIII. Competitive Proposals (Request for Proposals)

The requesting division or department heads acknowledges competitive sealed proposals to be a generally accepted procurement method when the nature of the procurement does not lend itself to sealed bidding and the recipient expects that more than one source will be willing and able to submit an offer or proposal.

When Appropriate: Competitive proposals should be used when any of the following circumstances are present:

Type of Specifications: The property or services to be acquired are described in a performance or functional specification; or if described in detailed technical specifications, other circumstances such as the need for discussions or the importance of basing contract award on factors other than price alone are present.

Uncertain Number of Sources: Uncertainty about whether more than one bid will be submitted in response to an invitation for bids and the recipient lacks the authority or flexibility under State or local law to negotiate the contract price if it receives only a single bid.

Price Alone Not Determinative: Due to the nature of the procurement, contract award need not be based exclusively on price or price-related factors. In different types of negotiated acquisitions, the relative importance of cost or price may vary. When the recipient's material requirements are clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirements, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection and supersede low price.

Discussions Expected: Separate discussions with individual offeror(s) are expected to be necessary after they have submitted their proposals. This contrasts with Formal Advertising procedures in which discussions with individual bidders are not likely to be necessary, as award of the contract will be made based on price and price-related factors alone.

Procurement Procedures: The following procedures apply to procurements by competitive proposals:

Public Opening: All bids are publicly opened at the time and place prescribed in the invitation for bids. Bids shall be opened publicly in the presence of one or more witnesses at the time and the place designated in the Invitation of Bids. The amount of each bid, the name of each bidder, and other relevant information shall be announced and recorded by the Procurement and Property Manager or his/her designee. The record and bid tabulation shall be opened for public inspection in accordance with the FOIA after award of contract.

Evaluation Factors: All evaluation factors and their relative importance are specified in the solicitation; but numerical or percentage ratings or weights need not be disclosed.

Adequate Sources: Applies to FTA procurements. Two or more responsible bidders are willing and able to compete effectively for the business.

Fixed Price Contract: The procurement generally lends itself to a firm fixed price contract.

Price Determinative: The successful bidder can be selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken. Apart from responsibility determinations discussed, contractor selection may not be determined on the basis of other factors whose costs cannot be measured at the time of award.

Discussions Unnecessary: Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as award of the contract will be made based on price and price-related factors alone. This contrasts with Competitive Proposal procedures in which discussions with individual offerors are expected to be necessary and may take place at any time after receipt of proposals. The requesting department or division head has included a pre-bid conference with prospective bidders before bids have been received.

Evaluation Method: A specific method is established and used to conduct technical evaluations of the proposals received and to determine the most qualified offeror.

Price and Other Factors: An award is made to the responsible offeror whose proposal is most advantageous to the recipient's program with price and other factors considered.

Best Value: If permitted under its State or local law, the recipient may award the contract to the offeror whose proposal provides the greatest value to the recipient. To do so, the recipient's solicitation must inform potential offerors that the award will be made on a "best value" basis and identify what factors will form the basis for award. The evaluation factors for a specific.

Federal Funding Contract Consideration

Evaluation and/or Exercise of Options

The prices for option quantities or periods that are offered in response to a federally funded bid or proposals must be evaluated prior to contract award and prior to exercise of option in order to justify the need and determine fair and reasonableness of pricing. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement. When considering to exercise an option clause for an increased quantity or additional time to the contract term, City shall ensure the options adhere to the terms and conditions of the option (quantities or periods) as stated in the contract and determine that the option price was better than prices available in the market or that the option was a more advantageous offer at the time the option is exercised. FTA C4220.1F Ch. IV, 1.d FTA C4220.1F Ch. V, 7.a.(1) FTA C4220.1F Ch. VI, 7.b

XXIV. Architectural & Engineering (A&E) and Other Services

The City shall use the qualifications-based procurement procedures contained in the “Brooks Act,” 40 to acquire A&E services, but also for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and related services. The nature of the work to be performed and its relationship to construction, not the nature of the prospective contractor, determine whether qualifications-based procurement procedures may be used as described below.

Architectural and Engineering Geographic Preferences

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.

Geographic Preferences FTA :

The City shall conduct procurements in a manner that prohibits the use of in-state or local geographical preferences in the solicitation and evaluation of bids or proposals associated with Federal Transit Administration funding. This does not preempt state or local licensing laws. FTA C4220.1F Ch. VI, 2.a. (4)(g)

Qualifications-Based Procurement Procedures: The following procedures apply to qualifications-based procurements:

Qualifications: Such request shall contain, as a minimum, a description of goods or services to be solicited by the RFQ, the general scope of the work, the deadline for submission of information, and how prospective offerors may apply for consideration.

Price: Price is excluded as an evaluation factor.

Evaluation Factors: All evaluation factors and their relative importance are specified in the solicitation; but numerical or percentage ratings or weights need not be disclosed. The evaluation committee shall forward their recommendations for award to the Purchasing Manager, and the City Manager.

It is the policy of the City to solicit professional qualifications for services from any and all interested parties.

Procedure:

1. The City Manager will appoint a Project Committee, which may include employees or citizens, at the City Manager's discretion.
2. The Project Committee will develop a Preliminary Project Description and a Request for Professional Qualifications. The Preliminary Project Description shall include: (a) Scope of professional services; (b) Project design objectives; (c) Time of performance; (d) Preliminary site information; (e) Special conditions or unique factors affecting project design.
3. The Request for Professional Qualifications will include the request that interested professional firms submit information on (a) Interest in providing the requested services, (b) Resume of principals and qualifications, (c) Summary of experience on similar projects and (d) List of clients served.

A Notice of Request for Professional Qualifications must be advertised at least once in the Spartanburg Herald Journal Newspaper, South Carolina Business Opportunities (SCBO) publication and through a means of electronic advertising. Public notice of the Request for Qualifications shall be given not less than fourteen (14) calendar days prior to the bid opening date.

4. The Project Committee will review the written qualifications submitted by all firms. In its review, the Committee will consider all elements of the Request for Professional Qualifications. Following completion of its review, the Project Design Committee will generally select no more than five of the most qualified responding firms. The Committee will interview each of the selected firms and select the most qualified by vote of the Committee. This meeting will be publicly advertised. The department/division head will present the Committee's recommendation to council for approval to negotiate a fee for the professional services based upon the scope of services. With City Council's approval, the applicable staff member and/or City Manager will proceed with the negotiation of fees. The firm's proposal shall include a task-man-hour breakdown showing hours per task, hourly rates, overhead, profit and expenses. In the event that the selected firm and the Committee cannot agree upon the fee and basis for compensation, the Committee shall negotiate with the second rated firm to do the work.

Most Qualified: Negotiations are first conducted with only the most qualified offeror. After receipt of the responses to the RFQ from the prospective offerors, the prospective offerors shall be ranked from the most qualified to least qualified on the basis of the information provided. Proposals in the form of RFP shall be solicited from normally the top three by under no circumstances less than the top two prospective offerors to be selected to receive the RFP. The RFP shall not be viewed by the City as grounds for protest from the prospective offerors.

Next Most Qualified: Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.

XXV. Construction Management at Risk (CM@R)/ Guaranteed Maximum Price

The City shall utilize a CM@R contract whenever it deems it to be advantageous to the City. In this instance, the construction manager becomes the general contractor through the at-risk agreement.

In construction management at risk (CM@R), the construction manager and architect are hired under separate contracts. The architect provides expertise on aesthetic and functional design, taking into consideration the construction manager's advice on time and cost consequences. After providing preconstruction advice and services during the design phase, the construction manager provides a guaranteed maximum price (GMP) and takes on the financial obligation for construction under a specified cost agreement. The construction manager oversees project management and provides advice on the time and cost consequences of design and construction decisions, scheduling, cost control, coordination of construction contract negotiations and awards, timely purchasing of critical materials and long-lead-time items, and coordination of construction activities.

Request for Qualifications (RFQ): The City of Spartanburg will seek qualifications from general contractors with experience in preconstruction project development and construction of proposed facilities and amenities. The City intends to develop plans and specifications with the input of a general contractor in the early stages of the project design, so that the general contractor's expertise may be used in partnership with the City representative's and the Project Architect's expertise.

Phase I Preconstruction Project Development Services: The City intends to contract with the selected general contractor to provide preconstruction services. The selected general contractor initially will serve as a construction consultant and will be an integral part of the City's project team to provide expertise during the Pre-Construction Project Development Phase. For Phase I Services, the City will seek a general contractor with considerable knowledge of construction means and methods, knowledge of materials and placement methods, and skilled trade considerations. Phase I services will include (but are not limited to) evaluation of the site, recommendations on options for locating a new center to minimize grading and site preparation costs, constructability review, cost estimating and phasing, permitting, process planning, vendor solicitation and pre-qualification, projection of construction cost, and value engineering. The general contractor selected will participate and assist the City, the City's representative, and the project architect in design and constructability decisions regarding systems, materials and pricing alternatives. Final decisions regarding design and scope of work will be made by the City.

Potential Phase II Construction Services Opportunity: At the City’s sole discretion, the City may negotiate a Guaranteed Maximum Price contract for the construction of the facility with the general contractor selected for Phase I Services.

Statements of Qualifications: Statements of Qualifications should be self-explanatory and presented in a manner to provide a straightforward presentation of the firm’s capabilities and qualifications. Elaborate brochures and other promotional type materials are not desirable. The format shall address and respond to each requirement of the RFQ as outlined below:

1. History of the Contractor, including ownership and key management.
2. A summary of any organizational or ownership changes that are anticipated to occur during the Project.
3. Location of corporate headquarters and other divisional offices.
4. Location of offices(s) that will be involved in this Project during pre-construction and potential construction phase services.
5. Description of contractor’s project team to include the name, responsibilities, and resumes of key personnel that will be assigned to this project.
6. Description of how contractor’s team will be organized and assigned responsibility for this project.
7. Description of recent project experience, to include projects of similar size and client references with contact information.
8. Evidence of capabilities for construction scheduling, material procurement, and assurance that plans, specifications, and schedules are met.
9. A statement of experience summarizing projects constructed under a similar development process and a summary of what the general contractor can “bring to the table” for the benefit of the City.
10. A statement addressing the general contractor’s present and projected workload and how this project will be scheduled within that workload.
11. Third party evidence of required licenses, insurance, and financial and bonding capabilities necessary to fulfill his responsibilities for this project. This response should be directed to the Potential Phase II Construction Services Opportunity. The City may require supplementary evidence of financial stability prior to signing a contract for Phase I or II services. Note the City is a public body subject to the State of South Carolina Freedom of Information Act. Information submitted as part of this RFQ may be subject to public release.
12. A statement of the general contractor’s past performance in contracting with Minority and Women Owned Business Enterprises (DBEs) in projects completed in the last 12 months. This statement should provide the number of DBE vendors, suppliers, or subcontractors and the percentage of DBE participation in each of general contractor’s projects completed within the previous two years.
13. A statement of the experience in projects involving HUD Section 3 requirements.
14. A statement of experience in construction of LEED certified buildings.
15. Lump Sum Fee Proposal for Preconstruction Phase Services – In addition to the Statement of Qualifications, each firm submitting a Statement of Qualifications, must provide a lump sum fee proposal for Phase I Preconstruction Services. The Fee Proposal should be included with the Statement of Qualifications but provided in a separate sealed

envelope, identified as Fee Proposal – Phase I Preconstruction Project Development Phase Services. The City will consider fee proposals only after making its selection for interviews, conducting interviews, and ranking the firms based on its evaluation of qualifications.

16. Statements of Qualifications shall be mailed or hand delivered in sealed envelopes.

Selection, Award Process, and Schedule: The City may select the general contractor the City determines to be the most qualified and responsive firm based on its evaluation of the Statement of Qualifications and interviews if conducted. The City will act, at its sole discretion, in what it considers to be in the best interest of the City. The City will evaluate the comparable experience, capability, project management, workload, financial strength, history of engaging DBEs, and other factors the City deems pertinent and will select the firm that it deems to be most qualified. The City will be the sole judge in determining the most qualified firm.

Responsiveness Determination

Bids are evaluated with no initial discussion held with the bidders. The procurement manager determines whether all information required by the invitation for bids is included in the bid.

This information includes, but not limited to: a completed bid form, inability to meet insurance requirements, a certificate of no collusion, and a bid security or cashier's check, SC immigration Act form and failure to comply with delivery schedule.

XXVI. Construction and Repair Work

Formal Construction or Repair Contracts: Construction contracts shall be the responsibility of the City Project Manager, Engineering Department and other City officials as deemed necessary. These officials are responsible for specification development. Good faith efforts will be a required component of the bid specification in an effort to afford DBEs subcontracting opportunities. When applicable, requirement such as Davis Bacon Act, Clean Air Act, and Buy American clauses will be a component of the bid specifications.

After specifications are completed they are forwarded to the Procurement Manger to be advertised and distributed to potential offers. The Purchasing Manager shall be schedule pre-bid conference and bid opening dates.

After the formal bidding process is completed, the evaluation committee shall forward their recommendations for award to the Purchasing Manager, and the City Manager. This recommendation should be based on the results of the bid process, indicating the lowest responsible bidder who is in the best interest of the city. Upon receipt of this recommendation, the award will be made by the appropriate party. Upon award and execution of the contract, the Department Head shall initiate a requisition so that a purchase order can be generated to encumber the expenditure account.

Bid and Performance Bonds: Bid and performance bonds or other securities may be requested for supply contracts or service contracts as the Procurement and Property Manager and/or Division/Department head deems advisable to protect the City's interest. Any such bonding requirements shall be set forth in the solicitation.

Bid security: in an amount equal to at least five percent (5%) of the amount of the bid shall be required for all competitive bidding for construction contracts exceeding \$100,000. Bid security shall be a legitimate bid bond provided by a surety company authorized to do business in South Carolina, or the equivalent in cash, certified check, cashiers' check, or money order. The City, at its option, may require bid bonds on construction contracts under \$100,000 when the circumstances warrant. Noncompliance with this provision mandates that the City reject the bid. Bid security will be returned to the unsuccessful bidders upon contract award by the Procurement and Property Manager.

When a construction contract is awarded in excess of \$100,000 the following bonds or security shall be delivered by the successful bidder to the City and shall become binding on the parties upon the execution of the contract.

Bid or performance bonds shall not be used in substitution for the determination of bidder's responsibility.

- A performance bond shall be in an amount equal to one hundred percent (100 %) of the contract amount; and
- A payment bond for the protection of all persons supplying labor and material to the contract or its subcontractors for the performance of the work shall be in an amount equal to one hundred percent (100 %) of the contract amount.

The Procurement and Property Manager is authorized to reduce the amount of performance and payment bonds to fifty percent (50 %) of the contract amount when such action is in the City's best interest. For contacts less than 100,000 payment security shall comply with FTAC 4220.1 Ch. IV, 2.h(1) (c).

- Assures payment of all persons supplying labor and material
- Required amounts
- Fifty percent of the contract price if the contact price is not more than \$1 million
- Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- Two and a half million dollars if the contract price is more that \$5 million.

XXVII. Term Contracts

The Purchasing Manager, when it is felt to be in the best interest of the City, negotiates for term contract purchases which are covered by a formal contract. The Purchasing Manager makes a continuous study of materials or services to be purchased under a term contract, the period of the

contract, and the terms and conditions of the contract. Whenever necessary, the Procurement Manager solicits the assistance of the City Attorney in preparing the contracts.

Sound and Complete Agreement

Procurement contracts shall include provisions to define a sound and complete agreement, appropriate to the type and complexity of the project. At a minimum these include a well-defined statement of work or specification, delivery schedule, a defined contract term, a clear statement of the price and payment terms, and all applicable clauses required by federal, state or local laws, rules and regulations as well as all applicable policies and requirements of City.

Federally funded contracts exceeding \$100,000 must include administrative, contractual, or legal remedies for violations or breach of the contract by the third party contractor.” [FTA C 4220.1F, IV, 2.b. (6) 2]

Contract exceeding \$10,000, will be termination for cause and termination for convenience provisions.” [FTA C 4220.1F , IV, 2.b. (6) 4]

Evaluation of Options (Federal Funding Contract Considerations or FFCC)

The City will include options in contracts to assure the future availability of property or services. The City may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. [FTA C 4220.1F, IV, 1.d.]

(a) “In awarding the basic contract ... the City shall evaluate offers for any option quantities or periods contained in a solicitation when it has been determined prior to soliciting offers that the recipient is likely to exercise the options.” [FTA C 4220.1F, VI, 7.b.]

(b) “When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.” [FTA C 4220.1F, V, 7.a. (1) (c) 1] In which case “A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders...” [FTA C 4220.1F, VI, 6.a.] a sole source justification must be approved prior to proceeding with such an acquisition.

Exercise of Options “FFCC”

An option is a unilateral right in a contract by which, for a specified time, a recipient may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract.” [FTA C 4220.1F, IV, 1. d.]

(a) “Consistency with the Contract. A recipient must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.” [FTA C 4220.1F, V, 7. a. (1) (a)]

(b) “Price. An option may not be exercised unless the recipient has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.” [FTA C 4220.1F, V, 7. a. (1) (b)] Therefore the City will conduct a price analysis to determine which approach is most advantageous to the City. Or the city may

(c) “Negotiating a Lower Option Price. Exercising an option after a lower price has been negotiated constitutes a sole source procurement.” [FTA C 4220.1F, V, 7. a. (1) (c) 2]

Time and Materials Contracts “FFCC”

The City may engage in the use of time and material type contracts only:

- (1) Restricted Use. After a determination that no other type of contract is suitable; and
- (2) Firm Ceiling Price. If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.” [FTA C 4220.1F, VI, 2.c.(2)(b)]

Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a CONTRACTOR and a Subcontractor as provided in 29 CFR 5.12.

Yearly or term purchase contracts “FFCC”

The following procedures will apply to all yearly or term purchase contracts:

- Following the award of a contract to a vendor, a purchase order may be prepared to cover the cost of the service or materials to be utilized during the period of time covered by the contract.
- Terms shall be for a period of thirty-six (36) months with an option to renew of two (2) additional terms of one (1) year each. All terms and conditions shall apply during the renewal term(s). The option shall be exercised in writing by both parties not less than thirty (30) days prior to the expiration of the existing term. Terms shall not exceed (5) years inclusive of options. An extension of the contract term length that amounts to an out of scope change will require a sole source justification.

Payments “FFCC”

The payment provisions of a City contract must be carefully structured to comply with the conditions of FTA contract assistance or reimbursement.

Advance Payment Provisions “FFCC”

An advance payment is a payment made to a contractor before the contractor has incurred the contract cost for the attributable payment. The use of FTA funds for payments in advance of the incurrence of costs by the contractor is generally prohibited, without prior written approval from the FTA. The FTA does permit advance payments from FTA funds for those purchases where advance payment is customary in the commercial marketplace such as public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations. FTA approval of such advance payments is required when the amount exceeds \$100,000. The City will not make advance payments using other funds, including local match funds, unless it is customary in the industry, or there are sound business reasons. FTA recognizes that advance payments may be needed for certain costs supported by sound business judgment. However, upon the determination of sound business reasons to justify the advance

payment, City is required to obtain adequate security for the advance payment. The contract file shall contain sufficient justification of the advance payment. FTA C 4220.1F CH. IV, 2.b.(5)(b)

Progress Payment Provisions - “FFCC”

A progress payment is a payment made to a contractor for contract work that has not been completed. When progress payments are used, City must obtain title to property or other adequate security for the amount of the progress payment. Progress payments for construction contracts may be made on a percentage of completion basis; however, this method may not be used for non-construction contracts. The contract file shall contain sufficient written documentation to substantiate the work for which payment has been authorized. FTA C 4220.1F CH. IV, 2.b.(5)(c)

Application for Payment – “Department Of Transportation Payment Consideration”

On or before the tenth day of each month, Contractor shall submit to City Project Manager an itemized application for payment for work performed for prior calendar month, supported by each data substantiating Contractor right to payment as project manager may require.

The City may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

XXVIII. Liquidated Damages Provisions

The City will use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult to impossible to determine. The assessment for damage shall be at a specific rate per day for each day of overrun in contact times; and the rate must be specific in the third party contract. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

Liquidated Damages Provisions: The City will use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult to impossible to determine.

1. If a purchase order is written to cover the entire contract period, it will indicate that payment is to be made as items are received following the written approval from the Department Head receiving the service or materials.
2. Vendor invoices will be processed in the normal manner.
3. Individual purchase orders written against a contract will be treated the same as any other purchase orders.
4. Prior to the end of the contract period, the department should review specifications and make any changes necessary and forward to Purchasing for bid preparation for a new contract.

XXIX. Contract Term Limitation

The City of Spartanburg will shall not enter into any contact for goods or services with a period of performance exceeding five (5) years. The suggested standard language is a three (3) year agreement with two (2) one year options.

When applicable to FTA contacts, the general contractual conditions will include all applicable provision of Federal, State and local laws and regulations. The Best Practices Procurement Manual is the source document for clauses in the contact to be signed with the contacting company. The following clauses from the BPPM, Appendix 4 will be included in the contract with the successful proposer: Buy America Requirements, Charter Bus and School Bus Requirements, Energy Conservation Requirements, Clean Water Requirements, Lobbying , Access to Records and Reports , Federal Changes , Clean Air , Recycled Products , Contract Work Hours and Safety Standards Act , No Government Obligation to Third Parties , Program Fraud and False or Fraudulent Statements and Related Acts, Termination , Government-Wide Debarment and Suspension (Nonprocurement) , Privacy Act , Civil Rights Requirements , Breaches and Dispute Resolution , Transit Employee Protective Agreements , Disadvantaged Business Enterprises (DBE), *State* and Local Law Disclaimer , Incorporation of Federal Transit Administration (FTA) Terms , Drug and Alcohol Testing , Debarment, Suspension and Other Responsibility Matters —Any person who is debarred, suspended or voluntarily excluded may not take part in a Federally-covered transaction, either as a participant or a principal during the period of debarment, suspension or voluntary exclusion. Accordingly, neither FTA nor its recipients may enter into any transaction with such debarred, suspended or voluntarily excluded persons during such period. A certification process has been established by 49 CFR, Part 29 *as* a means to ensure that debarred, suspended or voluntarily excluded persons do not participate in a Federally-assisted project. Each proposer must provide to the City as part of the proposal a signed certificate, found in *Attachment B*, Required Proms, in compliance *with* 49 CFR, Part 29.

Debarment and Suspension: (Nonprocurement) Regulations (2 CFR part 1200) is to ensure that Federal assistance funds are not provided to anyone who has been debarred, suspended, determined ineligible, or voluntarily excluded from participation in federally assisted transactions. The city will validate a GOVERNMENT-WIDE DEBARMENT AND SUSPENSION if a procurement/ contract is valued at \$25,000 or more by verifying that none of the CONTRACTORS, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The city will utilize this web address to check the status of the contractor.

www.sam.gov - USContractorRegistration.com

Contract termination: Debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a CONTRACTOR and a Subcontractor as provided in 29 CFR 5.12.

Termination for Convenience or Default — With 14 calendar days' notice, the City may terminate the proposed contract in whole or in part, for the City's convenience or because of the failure of the Contractor to fulfill the contract obligations. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent and effective days' notice the termination. If the termination is for the convenience of the City, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on performed services. The City shall advise their contractors that any decisions reached through arbitration must be reviewed and approved by the FTA.

XXX. Disposal of Surplus Property

Each Department Head is required to notify the Purchasing Manager of any surplus, worn out, or obsolete materials and equipment in the possession of their department. This may be done by completing the Surplus Form. The Purchasing Manager shall decide in the best interest of the City, with the aid of the Department Head, if these items shall be sold, traded in, or transferred to another office/department. All disposal of surplus shall be posted and sold on www.Govdeals.com or sold at auction.

FTA CERTIFICATIONS

BUY AMERICA. If a federal funded Contract exceeds \$100,000, the City will have the CONTRACTOR to comply with 49 USC §5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j) (2) (C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A Bidder or offeror must submit to City the appropriate Buy America certification with all bids or proposals on FTA-funded Contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America Certification must be rejected as nonresponsive.

PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS. If this Contract pertains to the acquisition of rolling stock, the CONTRACTOR agrees to comply with 49 USC §5323(m) and FTA's implementing regulation at 49 CFR Part 663 and to submit the following certifications:

- a. Buy America Requirements. The CONTRACTOR shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists: 1) component and subcomponent parts of the rolling stock to be purchased, identified by manufacturer of the parts, their country of origin and costs; and 2) the

location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

b. Solicitation Specification Requirements. CONTRACTOR shall submit evidence that it will be capable of meeting the bid specifications.

c. Federal Motor Vehicle Safety Standards (FMVSS). CONTRACTOR shall submit: 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS; or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

Revenue Contracts

A revenue contract is any contract whose primary purpose is to either generate revenues in connection with a transit-related activity or to create business opportunities utilizing an FTA-funded asset. To ensure fair and equal access to the FTA-assisted property of a potential revenue contract and to maximize the revenue derived from such property, the city shall make efforts to conduct revenue contracting as follows:

(a) Limited Contract Opportunities. If there are several potential competitors for a limited opportunity (such as advertising space on a bus stop/shelter or side of a bus), a competitive process should be used to permit interested parties an equal chance to obtain that limited opportunity.

(b) Open Contract Opportunities. If there is a lack of or a limited number of competitors for a public transportation asset (such as a utility), and Broward County is willing and able to provide contracts or licenses to other parties, then competition would not be necessary because the opportunity to obtain contracts or licenses is open to all similar parties.

The City Purchasing Division shall be consulted for guidance in determining the necessity as well as feasibility of utilizing a competitive process suitable to the type and scope of the activity involved for a revenue contract. City will ensure procedures are used to satisfy local, state and Federal statutory and regulatory requirements for competition while preserving the benefits of joint development to the maximum extent possible.

FTA C4220.1F Ch. II, 2.b.(4)

FTA C4220.1F Ch. II, 2.b.(5)(b)

XXXI. Bid Protest Procedures

Policy: The purpose of the Bid Protest Procedure is to establish a procedure for processing any pre-bid opening, or post-bid opening complaints of an interested party on the award of a contract, a bid specification and requirements, or a purchase.

Procedure: The protest must be submitted in writing and shall include the following information:

- The name and address of the protestor;
- The name and telephone number of the protestor contact person;
- A complete statement of the grounds of the protest with documentation of the protest claim(s). This information must be submitted to the City of Spartanburg Attorney who will act as the contact point for all bid protests.

Upon receipt of a protest, the City of Spartanburg Manager will notify the protest committee and establish a time for a committee meeting. This committee shall evaluate the material provided by the protestor and shall prepare a written recommendation for the City Manager concerning the validity of the protest and, if appropriate, any corrective action to be taken.

Time for Filing: Any potential bidder believing that bid documents or drawings contain restrictive specifications or any other improprieties regarding the solicitation for bids may file a protest with City of Spartanburg, which shall be received by City of Spartanburg not later than ten (10) working days prior to, or after the bid opening, and shall contain all reasons for the protest. The committee will then respond to the protest within five (5) working days of the receipt of the protest, and the protestor will have five (5) working days to appeal City of Spartanburg's initial response. Once an appeal has been received, the committee will render its final decision in writing within ten (10) working days to the protestor.

In all cases, if protest deadlines are not met, City of Spartanburg will proceed with the normal bid and contract award procedure.

Review of Protest: City of Spartanburg shall establish a committee to review bid protest(s). This committee shall be appointed by the City Manager and shall include, but not be limited to the following:

- City of Spartanburg Manager
- City of Spartanburg Attorney
- Procurement Manager

The City Manager, at his/her discretion, may appoint other City of Spartanburg personnel or persons outside of the City of Spartanburg to this committee based on technical expertise, or special knowledge of the particular procurement activity.

City shall in all instances disclose information regarding protests to all applicable State and Federal agencies. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the City before pursuing a protest with the all applicable State and Federal agencies. Then only a "interested party," that is, "a party that is an actual or prospective bidder whose direct economic interest would be effected and protest.

City shall maintain written procedures that are consistent with all applicable City policies to consider and resolve protests relating to solicitations and shall comply with all applicable State and Federal agencies requirements regarding notice of protests and notification of a protestor's right to appeal to the all applicable State and Federal agencies.

All City solicitations, funded with FTA money, shall include the procedures for filing a protest. The procedures detail the various phases of procurement (Pre-Submittal protest of solicitation specifications or requirements, or Pre-Award protest of proposed award) and include the submittal requirements including timeframe for timely delivery of protest.

Upon receipt of a protest for any FTA-funded procurement, the Purchasing Division shall immediately notify the Transit Division. The Transit Division shall notify the designated FTA Regional Administrator. The information to be provided to the FTA shall include a brief description of the protest, the basis of disagreement, and if open, how far the protest has proceeded or if resolved, the agreement or decision reached. The designated grant manager for the Transit Division shall provide all required protest information to the FTA in the City's quarterly Milestone Progress Reports and at Project Management Oversight review meetings.

Applicable federal funded procurement regulations provide that a protestor may appeal the City's decision with the FTA only after exhausting its administrative remedies with the City, and that the protestor must file its appeal in writing with the FTA Regional Administrator within five working days of receipt of the City's decision. Applicable FTA regulations also provide that the FTA will only consider a protest if the City does not have protest procedures or has not complied with its protest procedures or if the issue involves violations of Federal law or regulations.

FTA will limit its review of third party contract protests as follows:

1. The recipient does not have protest procedures, or
2. Has not complied with its protest procedures, or
3. Has not reviewed the protest when presented an opportunity to do so.
4. When a Federal law or regulation is involved..."FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA's overall public transportation program.

The protestor must deliver its appeal to the FTA Regional Administrator...within five (5) working days of the date when the protestor has received actual or constructive notice of the recipient's final decision," or ..."when the protestor has identified other grounds for appeal to FTA," such as "the recipient's failure to have or failure to comply with its protest procedures or failure to review the protest." [FTA C 4220.1F, VII, 1.a. b.] FTA C 4220.1F Ch. VI, 3.i.(1)(e)2.d FTA C 4220.1F Ch. VII, 1

XXXII. Authority to Resolve Protested Awards – Actual Bidders-Contractors

1. Any actual bidder or contractor who is aggrieved in connection with the intended award or award of a contract shall protest to the City Manager in the manner stated under Subsection “2” of this section within ten (10) calendar days of the date of notification of award posted in accordance with this policy.
2. Protest Procedure: A protest shall be in writing, submitted to the City Manager, as stated above, and shall set forth the grounds of protest and relief requested with enough particularity to give notice of the issues to be decided.
3. Authority to Resolve Protest: The City Manager in coordination with, and under the advisement of the City Attorney, shall have authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest by an actual aggrieved bidder, offeror, or a contractor concerning the award of a contract.
4. Decision: If the protest is not resolved by mutual agreement, the City Manager in coordination with the City Attorney shall issue a decision in writing within ten (10) days after receipt of the protest. The decision shall state the reasons for the action taken.
5. Notice of Decision: A copy of the decision under Subsection “4” of this section shall be mailed or otherwise furnished immediately to the protestant and any other intervening party.
6. Failure to Render Timely Decision: If the City Manager does not issue the written decision required under Subsection “3” of this Section within a reasonable time after written request for a final decision or within such longer period as may be agreed upon by the parties, then the contractor shall proceed as if an adverse decision has been received.

APPENDIX A

CITY OF SPARTANBURG CERTIFICATION OF CONFLICT OF INTEREST IN PROCUREMENT PROCEDURES

CONFLICTS OF INTEREST

1) No employee, officer, Council Board Member or agent of the City shall participate in the selection, or in the award or administration of a contract, if a conflict of interest, real or apparent, would be involved. No employee, officer or agent of the City or members of their families shall benefit directly or indirectly from the sale, disposition, leasing or acquisition of the City property. A conflict of interest would arise when:

employee, officer, Board Member or agent of the City,

any member of their immediate family, (parent, spouse, child, or sibling, or any other natural person having the same legal residence as the employee, officer, City Board Member or agent),

his or her partner, an organization that employs or is about to employ any of the above, or

any other person, business or organization with whom the employee, officer, Board Member or agent or any member of an their immediate family is negotiating or has an arrangement concerning prospective employment is involved in the sale, disposition, lease or acquisition, or has a financial or other interest pertaining to an award, or the sale or leasing of, or acquisition or disposition of the City property.

an employee, officer, Board Member, or agent of an organization that employs, or is about to employ any of the above has a financial or other interest in the firm selected for award.

2) An exception to the foregoing is when an employee, members of his family, an officer, Board Member or agent of the City can bid on used office equipment or vehicles past life-span when submitting bids according to competitive bid process, provided he adheres to the following underlying principles or guidelines:

a) preventing the existence of conflicting roles that might bias the City's judgment;

b) preventing unfair competitive advantage; and

c) not knowingly using confidential information for actual or anticipated gain.

3) It is expressly prohibited that any employee, officer, Board Member, or agent of the City receive any personal benefit or profit from any contract or purchase made by the City.

Gifts or Gratuities.

All employees, officers, Board Members or agents involved with financial or procurement recommendations and/or decisions of the City are expected to impartially deal with vendors and the public in the best interest of the City; therefore, all employees, officers, Board Members or agents of the City involved with financial or procurement recommendations and/or decisions of the City shall not solicit and are prohibited from accepting gifts, gratuities, favors, or anything of monetary value from visitors, organizations, vendors, contractors, potential contractors, or parties to subcontracts. Records of vendors, contractors, potential contractors or parties to subcontracts are available in the City's Procurement Department.

The City's employees, officers, Board Members or agents are also bound South Carolina Statutes, Code of Ethics for Public Officer and Employees, and FTA Circular C 4220.1F.

I CERTIFY BY MY SIGNATURE HEREON THAT I WILL AVOID CONFLICTS OF INTEREST IN ALL MATTERS I AM A PARTY TO WHILE ENGAGING IN THE PROCUREMENT PROCESSES OF THE CITY OF SPARTANBURG. SPECIFICALLY, BUT NOT LIMITED TO:

1. WHERE TO BE BEST OF MY KNOWLEDGE AND BELIEF, I OR MY SPOUSE, MINOR CHILD, OR PARTNER DOES NOT HAVE A FINANCIAL INTEREST.
2. WHERE I AM AN OFFICER, DIRECTOR, TRUSTEE, PARTNER, CONSULTANT, OR EMPLOYEE OR OTHERWISE ASSOCIATED.
3. WHERE THERE EXISTS ANY ARRANGEMENT CONCERNING MY PROSPECTIVE EMPLOYMENT, FINANCIAL INTEREST, OR OTHER SIMILAR ASSOCIATION.
4. WHERE I HAVE PROVIDED TECHNICAL ASSISTANCE TO THE OFFEROR IN THE PREPARATION OF THEIR PROPOSAL, BID, OR QUOTE.

Ed Memmott	_____	June 19, 2015
Chris Story	_____	June 19, 2015
Angela Grant	_____	June 19, 2015
Luis Gonzales	_____	June 19, 2015
Dennis R. Locke	_____	June 19, 2015
Donnita H. Smith	_____	June 19, 2015
James Kennedy	_____	June 19, 2015
Carman Mays	_____	June 19, 2015
Carl F. Wright	_____	June 19, 2015
Cortillia Benson	_____	June 19, 2015
Miguel Fernandez	_____	June 19, 2015
David Cook	_____	June 19, 2015
Tim Carter	_____	June 19, 2015
Jay Squires	_____	June 19, 2015
Josh Henderson	_____	June 19, 2015

APPENDIX B

Request for Quote Sheet
 145 West Broad Street
 Spartanburg SC, 29304

Sparta	Airport	City of Spartanburg
--------	---------	---------------------

Date: _____

Requisition #/Project _____



Bidder's Name Bidder's Address Email address Federal ID No.	Bidder's Name Bidder's Address Email address Federal ID No.	Bidder's Name Bidder's Address Email address Federal ID No.
--	--	--

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
TOTAL							

If less than 3 bids received, explain showing F.O.B.: _____

Quotes Received By: _____

Department Head or Division Head

Point on each Bid and Term Discount when allowed

APPENDIX C



**Justification for
Sole Source Procurement**

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

Check one:

The item is available only from a single source (sole source justification is attached).

The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).

FTA authorizes noncompetitive negotiations (letter of authorization is attached).

After solicitation of a number of sources, competition is determined inadequate (record of source contacts is attached).

The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached).

Comments:

Cost Analysis is attached.

Authorized Signature

Date

APPENDIX D



Procurement Card Agreement

This agreement is made and entered into as of the ____ day ____ month of 200__ year by and

Between the City of Spartanburg and _____
Print Name

I, _____, hereby acknowledge receipt of my Bank of America Procurement Card. I have verified that the
Initials information contained on the card and attest to its accuracy I agree to use this procurement card only for actual and necessary City business expenses incurred in accordance with the procurement card parameters noted stated below.

I _____ also acknowledge receiving the appropriate training for the proper use and reconciliation of
Initials monthly transaction log to the monthly spending statement. I understand if while reviewing the monthly statement and find an inaccurate charge, I shall make best efforts to resolve the issue with the merchant first and then contact of American to resolve the dispute. In most cases, if there is an error then I will still be required to pay the charge and wait for the proper credit.

I understand that the procurement card being issued to me by the City of Spartanburg has the following maximum limits:

- 4 transactions per day _____
Initials
- \$1,000 per transaction _____
Initials
- \$7,000 per month _____
Initials

I _____ agree not to split a transaction to circumvent the one thousand dollar spending limit.

If the card is lost, stolen, or misplaced, I will immediately notify Bank of America by phone. (888-449-2273 Ext 0 #) I also will inform the City of Spartanburg Procurement & Risk Manager of the loss. (864-596-2790) I understand that failure to notify Bank of America of the theft, loss, or misplacement of the card could make me personally responsible for any fraudulent use. I also understand that unauthorized use of this card may result in immediate disciplinary action.

I agree to surrender the card immediately upon my retirement or termination of employment, or upon the request of any authorized representative of the City of Spartanburg. I understand that use of the card after privileges are withdrawn is prohibited.

This agreement contains the entire agreement with respect to the subject matter hereof. This agreement shall be governed and constructed in accordance with the laws of the State of South Carolina . Each of the parties hereby consents to the exclusive personal jurisdiction of the State courts of, and the Federal courts located in , the State of South Carolina, in connection with any matter relating to or arising under this Agreement

Authorized individuals of the City of Spartanburg and Employee signatures.

_____	_____
Cardholder Name	Department
_____	_____
Cardholder Signature	Date
_____	_____
Cardholder immediate Supervisor's Signature	Department
_____	_____
	Date
_____	_____
Procurement and Property Manager / Card Administrator	Department

APPENDIX E

	Transaction Log	
---	------------------------	---

_____ **Cardholder Name**

_____ **Department / Division**

Transaction Period

----- **to** -----

Item No.	Date	Vendor	Description of Purchase	Account Number	Amount
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					

Totals \$ -

Reconciler's Signature **Date**

Cardholder Signature **Date**

Cardholder Immediate Supervisor Signature **Date**

The Cardholders are to forward their monthly Procurement Card transaction log and supporting documentation to their immediate supervisor for approval. This includes all department heads even those who report directly to the City Manager. Once signed, the transaction log and all documentation will be sent to Procurement.

Thank you,
 Carl F. Wright, Procurement & Property Manager

APPENDIX F



City of Spartanburg
Cost and Price Analysis Form

Comparisons with other competitive proposals: _____
Price quoted by vendor: _____
Competitive prices obtained from other vendors: _____
(name of vendor and price): _____

Previous Contracts: _____
Date of Contract: _____
Purchase Price: _____

Catalog/Market Prices: _____
Source: _____
Purchase Price: _____

Historical Prices: _____
Date: _____
Purchase Price: _____

Independent Cost Estimates: _____
Source: _____
Date: _____
Purchase Price: _____

Price/Performance Ratio (if applicable): _____
Market Data: _____
Source: _____
Date: _____
Purchase Price: _____

(Insert Scope of Work here)

PART II

Estimate Guide Estimate Type	Items to Include	Where to find supporting information
Goods/Equipment	<ol style="list-style-type: none"> 1. Product needed 2. Quantity 3. Unit Price 4. Markups-overhead-profit 5. Delivery Schedule desired 6. Warranty 	<ol style="list-style-type: none"> 1. Vendor/Market Survey 2. Current/Past contracts for same or similar product (s) 3. Contract Administrator can assist with obtaining historical price/cost data.
Services (Other than A & E)	<ol style="list-style-type: none"> 1. Tasks you want accomplished 2. Types of Resources required (Project Manager/Deputy PM Senior Engineer/Supervisor, etc. 3. Estimated hours by position 4. Salary/billing rates applied 5. Prevailing wage rate category applied 6. The overhead and profit rates 7. Direct expenses 8. Completion Schedule 	<ol style="list-style-type: none"> 1. Current/Past contracts for same or similar services 2. Other departments doing similar work 3. Contract Administrator can assist with obtaining historical price/cost data.
Architects, Engineers and Designers	<ol style="list-style-type: none"> 1. Tasks you want accomplished 2. Types of Resources required (Project Manager/Deputy PM Senior Engineer/Supervisor, etc. 3. Estimated hours by position 4. Salary/billing rates applied 5. Prevailing wage rate category applied 6. The overhead and profit rates 7. Direct expenses 8. Completion Schedule 	<ol style="list-style-type: none"> 1. Current/Past contracts for same or similar services 2. Other departments doing similar work 3. Contract Administrator can assist with obtaining historical price/cost data.
Construction	<ol style="list-style-type: none"> 1. Product Needed 2. Labor (at a minimum use Davis Bacon) 3. Materials 4. Bonds 5. Insurance 6. Mobilization 7. Equipment 8. Markups; Fringes, overhead, profit 9. Completion Schedule 	<ol style="list-style-type: none"> 1. Current/Past contracts for same or similar projects 2. Davis Bacon Wage Rates 3. Means/Blue Book 4. Contract Administrator can assist with obtaining historical price/cost data.

**ARCHITECTURAL AND ENGINEERING (A & E) SERVICES
WORK ESTIMATE SHEET
PART II A**

Project Name:

Direct Labor	Hours	Rate/Salary	Total Labor Hours/Rate/S alary
Project Manager		\$0.00	
Senior Engineer		\$0.00	
Senior Engineer		\$0.00	
List applicable labor categories:			
Other staff		\$0.00	
Total Direct Labor		\$0.00	
Overhead _____ %		Total Overhead Costs Overhead x Total Labor	
Overhead/Indirect Costs	_____ %	\$0.00	
Fixed Fee (Limited to 10% of the total labor and overhead expense)	_____ %	\$0.00	
Direct Expenses		\$0.00	
Travel (Lump Sum)		\$0.00	
Travel (Per mile)		\$0.00	
Meals		\$0.00	
Lodging		\$0.00	
Postage		\$0.00	
Telephones		\$0.00	
Copies		\$0.00	
Other Direct Expenses (Describe)		\$0.00	
Total Direct Expenses		\$0.00	
Total Estimated Cost		\$0.00	

**SERVICES
WORK ESTIMATE SHEET
PART II B**

Project Name:

Note: If federal funds are used, cost principles of FAR Part 31 (for cost reimbursement type contracts) apply. See website www.arnet.gov/far for additional information.

Labor Type	# of Hours	Billing Rate*	Total Labor Hours X Billing Rate
Site Supervisor		\$0.00	
Journeyman 1		\$0.00	
Journeyman Assistant		\$0.00	
Provide Specific Labor Categories:			
Other		\$0.00	
Total Labor		\$0.00	
Other Expenses	QTY	Unit Rate	Total Cost Hours x Unit Rate
Training		\$0.00	
Insurance		\$0.00	
Warranty		\$0.00	
Transportation		\$0.00	
Equipment (Rental/Lease)			
Repair Job			
Other (Describe)			
Total Estimated Services:			

*Use current prevailing wage rates.

**EQUIPMENT ESTIMATE SHEET
PART II c**

Project Name:

Quantity	Item Description	Unit of Measure (Each, box, ft, etc)	Unit Price	Total Price
	Item		\$0.00	\$0.00
	Item		\$0.00	\$0.00
	Item		\$0.00	\$0.00
	Item		\$0.00	\$0.00
	Item		\$0.00	\$0.00
	Item		\$0.00	\$0.00
	Training		\$0.00	\$0.00
	Warranty		\$0.00	\$0.00
	Handling Fee (If Applicable)		\$0.00	\$0.00
	Shipping (If Applicable)		\$0.00	\$0.00
	Total Equipment Estimate (Rental/Lease Equipment)		\$0.00	\$0.00

Note: Multiply the quantity by the Unit Price to determine the Total Price

APPENDIX H



Procurement Process Checklist

Procurement Name _____

Procurement Number _____ Procurement Type (RFP, IFB, SOLE SOURCE, ETC) _____

SCDOT Approval to move forward with Procurement _____ **Section Number** _____

FTA /FAA/ HUD Notification to move forward with Procurement? _____ **Section Number** _____

Grant Name _____ Grant # _____

Page No.	General Documentation	✓	Page No.	Bid Review	✓
	Price Justification			Sign in sheet for Review Committee	
	Sole Source Justification			Review for Conflicts of interest?	
	Review for Conflicts of interest. (copy)			Review Results Spreadsheet or minutes	
	List of Potential Bidders			Evidence of Intent to Award?	
	Proof the list of Potential Bidders received bid			Contract Review – (Federal Clauses) ?	
	Copies of SCBO & SHJ Legal notice			SAM Reviewed, Printed and in file?1	
	Solicitation and Bid				
	Are Pretest Procedures included?				

Page No	“Prebid Documents	✓	Page No	Bid Opening	✓
	Sign In Sheet			Signed list of attendees	
	Copies of any handouts			Bid Tabulation	
	Copy of Q & A’s Per the pre-bid conference			City Council minutes of Bid approval	
	Email evidence of Q&A distributions?			Purchase Order	

Page No	Additional Documentation	✓	Page No.		✓

