



**CITY OF SPARTANBURG**

SOUTH CAROLINA

**CITY COUNCIL AGENDA**

City Council Meeting  
City Council Chambers  
145 West Broad Street  
Spartanburg, SC  
Monday, July 25, 2016  
5:30 p.m.

- I. **Moment of Silence**
- II. **Pledge of Allegiance**
- III. **Approval of the Minutes of the July 11, 2016, City Council Meeting**
- IV. **Approval of Agenda of the July 25, 2016 City Council Meeting**
- V. **Public Comment**  
\*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. **Ordinance**
  - A. **Authorizing the City of Spartanburg, South Carolina, To Execute and Deliver an Equipment Lease Purchase Agreement, 2016, in an Amount Not Exceeding \$2,000,000 Between the City and the Lessor Thereof to Defray the Cost of Acquiring Certain Equipment; and Other Matters Relating Thereto (First Reading)**  
**Presenter: Dennis Locke, Finance Director**
  - B. **Approving the Conveyance of Two Permanent Encroachment Easements Necessary to Facilitate the Construction of a Mixed Use Building at the Northeast Corner of the Daniel Morgan Avenue and West Main Street Intersection (First Reading)**  
**Presenter: Ed Memmott, City Manager**

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

**VII. Consent Agenda**

- A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by amending Section 206, Changes to District Boundaries, Specifically Parcel #6-21-13-156.06, Located on "0" Camelot That is Approximately 8.64 acre Vacant Piece of Property Located at the Intersection of Camelot Drive and Camelot Court, Which is Currently Zoned LOD, with a Land Use Designation of Limited Office District to Zone LOD/PDD, with a Land Use Designation of Limited Office District/Planned Development District in Order for the Agent/Developer to Purchase and to Build to Purchase and to Build Camelot Townes, which proposes 72 townhomes. Jay Beeson, Mark III Properties, Agent/Developer, on Behalf of Joseph F. and David Sullivan, Owners. Note; The purchase and development of this property are contingent upon the request being approved. (Second Reading)  
Presenter: Natalia Rosario, Planner III**

**VIII. Other Business**

- A. Approval of Highland Community Memorandum of Understanding  
Presenter: Martin Livingston, Neighborhood Services Director**
- B. Approval of Development Agreement to Support the Renovation and Reuse of 141/143 W. Main Street  
Presenter: Chris Story, Assistant City Manager**
- C. Update on Procurement of Body Worn Cameras/Tasers  
Presenters: Alonzo Thompson, Police Chief  
Ed Memmott, City Manager**

**IX. City Council Updates**

- X. City Council Workshop – Discretionary Grants Allocation (Hospitality Tax)  
Chris Story, Assistant City Manager**

**XI. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Encouraging the Location of Two Businesses in the City**

**Council may take action on matters discussed in Executive Session after exiting Executive Session.**

## **XII. Adjournment**

*\* Non-Agenda Items*

*City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.*

*\*Agenda Items*

*City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.*





**City Council Meeting  
City Council Chambers  
145 West Broad Street  
Spartanburg, SC  
Monday, July 11, 2016  
5:30 p.m.**

**(These minutes are subject to approval  
at the July 25, 2016 City Council meeting.)**

**City Council met this date with the following members present: Mayor Junie White, Mayor pro tem Sterling Anderson, Councilmembers Jan Scalisi, Jerome Rice, Erica Brown, Laura Stille and Rosalyn Henderson Myers. City Manager Ed Memmott and City Attorney Cathy McCabe were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.**

- I. Moment of Silence – observed**
- II. Pledge of Allegiance - recited**
- III. Approval of the Minutes of the June 27, 2016, City Council Meeting –**  
*Councilmember Scalisi made a motion to approve the minutes as received.  
Councilmember Henderson Myers seconded the motion, which carried unanimously 7 to 0.*
- IV. Approval of Agenda of the July 11, 2016 City Council Meeting –**  
*Councilmember Rice made a motion to approve the agenda as received.  
Councilmember Myers seconded the motion, which carried unanimously 7 to 0.*
- V. Public Comment - none**  
\*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Spartanburg Housing Authority Update**  
**Presenter: Terril Bates, Executive Director**  
Ms. Bates<sup>rd</sup> updated Council on status of SHA, highlighting the following:
  - a) 3 largest Housing Authority in SC
  - b) Provide housing to over 7,000 residents in City and County
  - c) Total 2016 operating budget of \$26.5 million
  - d) 722 Public Housing Units
  - e) 1,847 Section 8 Vouchers
  - f) 330 Mod Vouchers
  - g) 338 RAD Vouchers
  - h) Assets: \$54 million
  - i) Net Position (equity): \$48,396,424

- j) Cash and Investments Balance: \$6,021,974  
(an improved cash position of \$1,324,797 from the September 30, 2014 balances)
  - k) Total Revenues: \$22,471,760
  - l) Total Expenses: \$21,254,621
  - m) September 30, 2015 reflects no finding.
- Ms. Bates also shared that in June 2016, HUD formally closed the OIG investigation of SHA.  
*Council received the report as information.*

**VII. Public Hearing**

- A. **Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by amending Section 206, Changes to District Boundaries, Specifically Parcel #6-21-13-156.06, Located on “0” Camelot That is Approximately 8.64 acre Vacant Piece of Property Located at the Intersection of Camelot Drive and Camelot Court, Which is Currently Zoned LOD, with a Land Use Designation of Limited Office District to Zone LOD/PDD, with a Land Use Designation of Limited Office District/Planned Development District in Order for the Agent/Developer to Purchase and to Build to Purchase and to Build Camelot Townes, which proposes 72 townhomes. Jay Beeson, Mark III Properties, Agent/Developer, on Behalf of Joseph F. and David Sullivan, Owners. Note; The purchase and development of this property are contingent upon the request being approved. (First Reading)**

**Presenter: Natalia Rosario, Planner III**

**Ms. Rosario** presented the item to City Council as follows:

“On June 16th, 2016, the Planning Commission held a public hearing and reviewed a rezoning request submitted by Jay Beeson, of Mark III Properties on behalf of Joseph F & David Sullivan, Owners, to rezone parcel #6-21-13-156.06 from Zone LOD: Limited Office District to LOD/PDD: Limited Office District Planned Development District. The proposed townhome development will be located on approximately 8.64 acres in size, and is located at the intersection of Camelot Court and Camelot Drive, although it is currently addressed at ‘0’ John B. White Sr. Blvd. This request is to rezone the property for a townhome/single family residential development, as permitted under the LOD PDD/General Residential Planned Development District Zoning Classification.

The 2004 Comprehensive Plan advises this lot be zoned LOD in order to provide a buffer for the residential area (Camelot Neighborhood) to the north from the heavier commercial uses found along John B. White Sr. Blvd to the south. This parcel has lain vacant for many years, with no office development or otherwise proposed or planned. The applicants wish to develop a group of structures (18) that will consist of seventy-two single family townhomes (4 townhouses per structure). Open space amenities will be provided in whole and in part (.61 acres communal, 2.98 acres in part, by lot), exceeding the required .82 acres of open space for the project by 2.78 acres. Placement of an entirely residential development on the lot will both make use of a long vacant parcel and provide a

buffer after the development is completed between the Camelot neighborhood and the commercial intensity on John B. White Sr. Blvd, at a lower density than could be designed for an office complex as currently zoned.

PLANNING COMMISSION RECOMMENDATION: The request was endorsed by the Planning Commission on June 16th, 2016 by a vote of 3 to 0 (quorum of 4, with one abstaining).

ADDITIONAL INFORMATION: Minutes from the June 16th, 2016 Planning Commission Meeting are included.”

*Mayor White opened the Public Hearing, asking if there was anyone to speak against the proposed rezoning. Hearing none, Mayor White asked if there was anyone to speak in favor of the proposed rezoning. Jay Beeson, of Mark III Properties, spoke in favor of the rezoning and asked Council if they had any questions. There were none.*

*Mayor pro tem Anderson made a motion to close the public hearing. Councilmember Scalisi seconded the motion, which carried unanimously 7 to 0. Mayor pro tem Anderson made a motion to approve the rezoning as requested on first reading. Councilmember Rice seconded the motion, which carried unanimously 7 to 0.*

**VIII. Other Business**

**A. 2016 Annual Street Resurfacing**

**Presenter: Tim Carter, Engineering Administrator**

Mr. Carter presented the item to City Council as follows:

“Earlier this year, City Council authorized staff to solicit bids for the resurfacing of 22 streets as shown on Exhibit 1. Based on this authorization, staff prepared resurfacing specifications and solicited bids for approximately 9,600 tons of surface Type C Asphalt, 4,500 square yards of full depth patching, and 34,250 square yards milling.

The following bids were submitted:

Venesky Asphalt Paving & Grading, LLC (Easley, SC)	\$ 968,359.60
F & R Asphalt, Inc. (Easley, SC)	\$ 1,094,695.94
Panagakos Asphalt Paving (Greenville, SC)	\$ 1,185,883.80

Staff has reviewed the bids received and the qualifications for each of these contractors and determined that Venesky Asphalt Paving & Grading, LLC is the responsive low bidder. No bids were submitted from MWBE certified contractors.

ACTION REQUESTED: Allow staff to accept the bid from Venesky Asphalt Paving & Grading, LLC and authorize the City Manager to enter into a contract with Venesky Asphalt Paving & Grading, LLC for the completion of the project.

**BUDGET AND FINANCE DATA:**

\$ 350,000.00 County Transportation Committee Funds (CTC)

\$ 618,359.60 from the Spartanburg County Road Fee Funds.”

*Councilmember Stille made a motion to approve the award of bid to Venesky Asphalt Paving & Grading, LLC in Easley, SC in the amount of \$968,359.60.*

*Councilmember Brown seconded the motion, which carried unanimously 7 to 0.*

**B. Boards and Commissions – Consideration of Applicants HARB and Planning  
Presenter: Connie McIntyre, City Clerk**

**Ms. McIntyre** presented Brad Steinecke’s application for consideration of appointment to the Architectural Design and Historic Review Board.

*Councilmember Rice made a motion to waive the rules and appoint Mr. Steinecke to the HARB board. Councilmember Stille seconded the motion, which carried unanimously 7 to 0.*

**Ms. McIntyre** presented Phillip Stone’s application for consideration of appointment to the Planning Commission.

*Councilmember Brown made a motion to waive the rules and appoint Dr. Stone to the Planning Commission. Mayor pro tem Anderson seconded the motion, which carried unanimously 7 to 0.*

**C. FY16-17 Accommodations Tax Grants**

**Presenter: Kathy Hill, Community Services Coordinator**

**Ms. Hill** introduced Crystal Pace, Chair for the Accommodations Tax Committee, who presented the committee’s recommendations for ATAX allocations to Council.

*After discussion, Councilmember Rice made a motion to approve the recommendations for ATAX allocations. Councilmember Scalisi seconded the motion, which carried unanimously 7 to 0.*

**D. FY17 Hospitality Tax Grants**

**Presenter: Chris Story, Assistant City Manager**

**Mr. Story** presented Staff’s recommendation for allocation of Hospitality Tax grants.

After discussion, Council rejected Staff’s recommendations.

*Councilmember Scalisi made a motion to place the FY17 Hospitality Tax Grants allocation on the July 25, 2016 agenda as a workshop item. Councilmember Stille seconded the motion, which carried unanimously 7 to 0.*

**IX. Executive Session Pursuant to Section 30-40-70 (a) (2) of the South Carolina Code to Receive Legal Advice Relating to the Oakview Apartments.**

**Council may take action on matters discussed in Executive Session after exiting Executive Session.**

*Councilmember Scalisi made a motion to adjourn to Executive Session for the reasons stated. Councilmember Brown seconded the motion, which carried unanimously 7 to 0. Council adjourned to Executive Session at 6:41 p.m.*

*Council reconvened at 7:02 p.m. Mayor White stated that discussion was held with no decisions made.*

**X. Resolution**

**A. To Approve the Purchase of Oakview Apartments (TMS 7-12-05-001.00 Located at 650 Howard Street)**

**Presenter: Ed Memmott, City Manager**

**Mr. Memmott** presented the item to Council as follows:

“Council is aware that condemnation trial for Oakview Apartments is scheduled for later this month. At trial, the just compensation (payment) due the property owner would be determined by the jury. As the trial date has approached, the parties involved have remained in communication regarding possible settlement. Approximately one week ago, a tentative purchase price of \$1.9 million (subject to Council approval) was reached between the parties. \$1.9 million is significantly lower than previous payment demands by the property owner. Approval of this settlement purchase price by Council would result in the termination of legal proceedings in the matter and allow the City to move forward with its plans to build a new community center on the Oakview site.

Staff believes it is in the City’s best interest to settle this matter and avoid financial uncertainty associated with a jury trial.

**ACTION REQUESTED:** Approval of a Resolution authorizing purchase of Oakview Apartments.

**BUDGET & FINANCIAL DATA:** \$1.9 million from TK Gregg Project Fund”  
*Councilmember Henderson Myers made a motion to approve the resolution as presented. Councilmember Scalisi seconded the motion, which carried unanimously 7 to 0.*

**XI. City Council Updates**

**Councilmember Stille** shared it has been a difficult week for our country and that she was very proud of the Spartanburg community during a somewhat impromptu community unity gathering at the Spartanburg County Courthouse.

**Councilmember Brown** stated that she had also attended the unity gathering and she thanked Clerk of Court Hope Blackly for putting it together. She asked that Mr. Memmott update Council on the status of body cameras since she felt that the City was “playing a risky game in the wait game in terms of funding” and that she hoped the City could do something about the cameras sooner rather than later. She thanked the Police Department for their service. She mentioned that Spartanburg Little Theatre’s production of “Avenue Q”, for attendees 18 and older, opened on Friday at the Chapman Cultural Center. She shared that there was a Hub-City Co-op Block Party at the Co-op on Saturday from 4:00 p.m. to 7:00 p.m. to celebrate the new mural. She

mentioned that on July 21, Hub-Bub would be sponsoring another “Top Twenty” program at the Spartanburg Art Museum.

**Councilmember Henderson Myers** stated that she wanted to send out prayers and condolences to Baton Rouge and St. Paul. She stated that, in the wake of recent events, she wanted to see Council keep its word for voting to have body cameras the previous year, and since that had not happened, she wanted to invite the Police Chief, and anyone else he so chose to bring, to address City Council and bring the status, with documentation, as to what the holdup was to getting the cameras. She stated that she did not feel Council had gotten the information they needed and when questions were asked by Councilmembers, they had not received answers. She asked Mr. Memmott to have answers at the next council meeting. Mr. Memmott offered to give Councilmember Henderson Myers an update then. Councilmember Henderson Myers declined his offer, stating that she wanted the Police Chief present when the update was given.

**Councilmember Scalisi** stated that she wanted to address the Dallas and the other recent shootings. She shared that she did not receive the invitation to attend the unity service that morning, but would have attended if she had. She stated that the recent events were national events, but police relations were under serious discussion in the country, and that Spartanburg, and other communities, were not immune to the issues. She stated that she hoped that the city would recognize the issues as real and speak responsibly and carefully, especially in their rolls as public officials. She asked that they listen carefully to points of view from every side, even though they might be difficult conversations to have. She shared that her prayer was that they would take what they know and what they learn and use that information to make the community more cohesive, more united, and safer. She continued that there were a lot of things that could not be controlled, but that there were many things that could be done to make everyone safer every day. She asked for support in her faith in Spartanburg and the ability to address these difficult issues and wholeheartedly join any efforts going forward to find some solutions that will work for everyone.

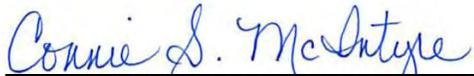
She mentioned that the second “Water Matters” class was coming up and anyone interested in attending should contact Chad Lawson at Spartanburg Water.

**Councilmember Rice** shared that he also attended the prayer vigil at the Courthouse and thanked Clerk of Court Blakely for getting people together in a time of need. He thanked the Police Force for all that they do. He stated that he thought Council needed to address some of the issues and come together with strategies to move forward. He stated that he agreed with the need for body cameras and Tasers and that Council needed to look at some of the funds they were giving out, especially the Hospitality Tax funds, which could be used for that purpose. He invited anyone who had not done so to visit one of the City’s parks and recreation centers for an uplifting, “do your heart well” experience.

**Mayor pro tem Anderson** commended Mr. Memmott, Ms. McCabe and Mr. Max Hyde for their work in negotiating the Oakview Apartments settlement. He recognized Representative Harold Mitchell for his pioneer development of landfill use in South Carolina. He stated that it was beyond the time when the Police Department should have body cameras and Tasers for the protection of the citizens and the officers. He expressed sadness for our country due to recent events, and noted that whenever our

police officers go out, they are putting their lives in jeopardy for us, and that the police officers who were killed were running toward the fray, not away from it. He shared that Spartanburg had been blessed with leaders, present and past, who had the ability to talk together and communicate together on different positions. He asked everyone to pray to whoever they prayed to for our country, for our state, and for all the families who were involved in the conflicts of recent days.

**XII. Adjournment – Councilmember Henderson Myers made a motion to adjourn the meeting. Councilmember Scalisi seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 7:30 p.m.**

  
\_\_\_\_\_  
Connie S. McIntyre, City Clerk





## REQUEST FOR CITY COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Dennis R. Locke, Finance Director  
**SUBJECT:** Capital Lease Financing  
**DATE:** July 6, 2016

### BACKGROUND:

As part of our ongoing efforts to equip staff with the resources they need at the lowest possible cost over the long term, the City is committed to maintaining an annual equipment replacement schedule. Funds are appropriated through the annual budget into the equipment replacement fund from which these purchases are then made throughout the year.

Due in part to very low interest rates in recent years, staff had determined that the City could strengthen its financial position by bundling and leasing the major purchases within a master lease. This mechanism spreads the cost of these purchases over several years. The proposed action is to authorize this year's lease program.

### ACTION REQUESTED:

Staff is recommending the replacement of 12 Police Vehicles, 2 Vehicles Fire Department, (including Pumper Truck, 5 vehicles and 5 various pieces of equipment for Public Services, 1 Vehicle Parks & Recreation, 1 Vehicle Information Technology, 1 Vehicle Construction Management, 1 Vehicle Building Maintenance.

It is staff's recommendation that we use a capital lease to finance these purchases. If approved, we would accept bids from various financial institutions. The source of repayment would be the Equipment Replacement Fund.

### BUDGET & FINANCIAL DATA:

The total will not exceed \$2,000,000 inclusive of closing costs. This amount may be reduced pending final review of acquisition specifications.

ORDINANCE NO. \_\_\_\_\_

AUTHORIZING THE CITY OF SPARTANBURG, SOUTH CAROLINA, TO EXECUTE AND DELIVER AN EQUIPMENT LEASE PURCHASE AGREEMENT, 2016, IN AN AMOUNT NOT EXCEEDING \$2,000,000 BETWEEN THE CITY AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING CERTAIN EQUIPMENT; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

SECTION 1. Findings and Determinations. The City Council (the “Council”) of the City of Spartanburg, South Carolina, hereby finds and determines:

(a) The City of Spartanburg, South Carolina (the “City”), is an incorporated municipality located in Spartanburg County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and the laws of this State.

(b) Section 5-7-40 of the Code of Laws of South Carolina, 1976, as amended (the “S.C. Code”), empowers all municipalities to own and possess real and personal property and such municipalities may lease any such property.

(c) The City desires to enter into a lease-purchase agreement (the “Lease Agreement”) with a bank or other financial institution selected by the City Manager for the purpose of financing the acquisition of equipment (the “Equipment”) to replace the equipment set forth on Exhibit A hereto.

(d) The Lease Agreement will not constitute a “financing agreement” and the Equipment will not constitute an “asset” as such terms are defined in Section 11-27-110 of the S.C. Code. Thus, the amount of the Lease Agreement will not be included when calculating the City’s constitutional debt limit under Article X, Section 14 of the Constitution of the State of South Carolina.

(e) The Lease Agreement will be subject to annual appropriation by the Council.

(f) It is in the best interest of the City to acquire the Equipment by entering into the Lease Agreement. The Lease Agreement will enable the City to purchase the Equipment which will provide services necessary or useful to the operations of the City government.

SECTION 2. Approval of Lease/Purchase Financing; Delegation of Authority to Determine Certain Matters Relating to the Lease/Purchase Financing. The Equipment described in Exhibit A shall be acquired pursuant to a lease purchase financing which is hereby approved in a principal amount of not exceeding \$2,000,000. A Request for Proposals in substantially the form set forth as Exhibit B hereto shall be distributed to various banks and other financial institutions in the City and other areas as the City’s Finance Director determines. Without

further authorization, the Council hereby authorizes the City Manager to: (a) determine the payment schedule under the Lease Agreement; (b) determine the date and time for receipt of bids under the Request for Proposals; (c) award the sale of the lease-purchase financing to the bidder (the "Bidder") who submits the proposal determined to be the most advantageous to the City in accordance with the terms of the Request for Proposals; and (d) make changes to the quantity, cost or description of the Equipment.

SECTION 3. Approval of Lease Agreement. Without further authorization, the City Manager is authorized to approve the form, terms and provisions of the Lease Agreement proposed by the Bidder. The City Manager is hereby authorized, empowered and directed to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the City. The Lease Agreement is to be in the form as shall be approved by the City Manager, the City Manager's execution thereof to constitute conclusive evidence of such approval.

SECTION 4. Execution of Documents; Written Procedures. The Mayor, Mayor Pro Tempore, City Manager, Finance Director, City Attorney and Municipal Clerk are fully empowered and authorized to take such further action and to execute and deliver such additional documents as may be reasonably requested by the Bidder to effect the delivery of the Lease Agreement, including any project fund or acquisition fund agreement, or any payment or draw request thereunder, in accordance with the terms and conditions therein set forth, and the transactions contemplated hereby and thereby, and the action of such officers in executing and delivering any of such documents, in such form as the Mayor or City Manager shall approve, is hereby fully authorized. In addition, the City Manager and the Finance Director are further authorized to adopt written procedures on behalf of the City to ensure the City's compliance with federal tax matters relating to the Lease Agreement.

SECTION 5. Federal Tax Covenant. The City, as lessee, agrees and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest components of the payments to be made under the Lease Agreement to become includable in the gross income of the Bidder or its successors or assignees for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and regulations promulgated thereunder in effect on the date of original issuance of the Lease Agreement, and that it will comply with all applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder, to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the payments to be made under the Lease Agreement; and to that end the City shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Lease Agreement is outstanding;
- (b) establish such funds, make such calculations and pay such amounts in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the times and places required by the Code.

The City will timely file Form 8038-G in accordance with the applicable regulations of the Internal Revenue Service.

The City will designate the Lease Agreement as a “qualified tax-exempt obligation” for purposes of Section 265 of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes interest expense that is allocable to carrying and acquiring tax-exempt obligations.

SECTION 6. Reimbursement. This Ordinance shall constitute the City’s declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the City from a portion of the proceeds of the Lease Agreement for expenditures it anticipates incurring in the approximate amount of \$200,000 (the “Expenditures”) with respect to the Equipment prior to the execution and delivery of the Lease Agreement. Expenditures which are reimbursed are limited to Expenditures which are: (a) properly chargeable to capital account (or would be so chargeable with a proper election or with the application of the definition of “placed in service” under Regulation §1.150-2 of the Code) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the Code. The source of funds for the Expenditures with respect to the Equipment will be the City’s general funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such Equipment was placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 7. Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the City covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the City within thirty (30) days of the City’s receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the City, adversely affects more than five (5%) of the City’s revenue or its tax base.

SECTION 8. Severability. All ordinances, orders, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the execution of the Lease Agreement are, to the extent of such conflict, hereby repealed.

SECTION 9. Effective Date. This Ordinance shall be effective upon its enactment.

[Execution Page Follows]

DONE AND RATIFIED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF SPARTANBURG, SOUTH  
CAROLINA

\_\_\_\_\_  
MAYOR

(SEAL)

ATTEST:

\_\_\_\_\_  
CITY CLERK

Date of First Reading: July \_\_\_\_\_, 2016

Date of Second Reading: August \_\_\_\_\_, 2016

This Ordinance has been reviewed by me and is hereby approved as to form and legality.

\_\_\_\_\_  
City Attorney, City of Spartanburg, South Carolina

Execution Page

EXHIBIT A

List of Equipment to be Replaced

<b>Department / Division</b>	<b>Vehicle / Equip. Number</b>	<b>Model Year</b>	<b>Model or Manufacturer</b>	<b>Description</b>	<b>Estimated Cost FY 2015 - 2016</b>
Information Technology	Veh# 59	2000	Dodge	Caravan	<u>30,000</u>
Construction Management	Veh# 185	2001	Ford	Taurus	<u>30,000</u>
Building Maintenance	Veh# 339	1998	Chevrolet	Astro Passenger Van	<u>25,000</u>
Police / Chief's Office	Veh# 731	2008	Chevrolet	Impala	<u>31,500</u>
Police/Patrol	Veh# 213	2003	Ford	F-250 SD Truck	34,000
	Veh# 395	2006	Chevrolet	Impala	51,500
	Veh# 708	2007	Chevrolet	Impala	51,500
	Veh# 722	2008	Ford	Crown Vic	51,500
	Veh# 724	2008	Ford	Crown Vic	<u>51,500</u>
					240,000
Police/Investigations	Veh# 492	2005	Chevrolet	CG33503 Express Van	32,000
	Veh# 716	2007	Chevrolet	CG33503 Express Van	32,000
	Veh# 723	2008	Ford	Crown Vic	51,000
	Veh# 730	2008	Chevrolet	Impala	32,000
	Veh# 732	2008	Chevrolet	Impala	32,000
	Veh# 733	2008	Chevrolet	Impala	<u>32,000</u>
					211,000
Fire/Fire Administration	Veh# 219	2008	Ford	F-150 Pickup	31,000
					<u>31,000</u>
Fire/Fire Suppression	Veh# 222	1990	Pierce Lance	Pumper Truck	<u>550,000</u>
					550,000
Grounds Maintenance	Veh# 411	2003	Ford	F-350 XL SD Truck	45,000
	Veh# 568	2007	Kubota	F2880F Front Deck Mower	20,000
	Veh# 804	2004	Ford	F-750 Leaf Truck	80,000
				Rear Steer Knuckle boom Loader	160,000
	Veh# 807	2005	International		160,000
	Veh# 808	2005	ODB	Leaf Machine	25,000
	Veh# 809	2005	ODB	Leaf Machine	<u>25,000</u>
					355,000
Street Maintenance	Veh# 98	1992	Ford	F-700 Dump Truck	<u>95,000</u>
					95,000

Solid Waste	Veh# 126	2001	Bobcat	Tractor	45,000
	Veh# 152	1990	Ford	F-800 Truck	55,000
	Veh# 842	2007	Autocar	Expeditior Side Loader	270,000
	Veh# 890	2004	CAT	Clamshell Grapple	<u>12,500</u>
					382,500
P&R Administration	Veh# 551	2000	Ford	F150 Pickup Truck	<u>25,000</u>
				<b>GRAND TOTAL</b>	<b>1,981,000</b>

EXHIBIT B

Form of Request for Proposals

REQUEST FOR PROPOSALS

City of Spartanburg, South Carolina  
Equipment Lease Purchase Financing, 2016  
Bid Number: Proposal No. \_\_\_\_\_

Response Due: \_\_\_\_\_, 2016  
12:00 Noon, South Carolina Time

---

BANK-QUALIFIED

---

The City of Spartanburg, South Carolina (the “City”), is requesting proposals from various banks and financial institutions for not exceeding \$2,000,000 tax-exempt lease purchase financing to defray the costs of acquisition of certain equipment as described herein. The City invites interested parties to submit a proposal to finance the equipment by specifying a rate of interest and other conditions for such financing.

Mailed or Hand Delivered Bids: Each mailed or hand delivered proposal shall be enclosed in a sealed envelope marked “Proposal for 2016 Equipment Lease Purchase” and should be mailed or delivered to:

Carl Wright  
Purchasing Manager  
City of Spartanburg  
145 West Broad Street  
Post Office Box 1749  
Spartanburg, South Carolina 29304  
Telephone: 864.596.2049

Facsimile Bids: The City will accept the facsimile transmission of a proposal at the risk of the bidder. The City shall not be responsible for the confidentiality of proposals submitted by facsimile transmission. Any delay in receipt of a facsimile proposal, and any incompleteness or illegible portions of such proposal are the responsibility of the bidder. Proposals by facsimile should be transmitted to the attention of Mr. Carl Wright, Property and Procurement Manager, fax number: 864.596.2365.

E-Mail Bids: Electronic proposals may be e-mailed to the attention of Carl Wright at e-mail address: [cwright@cityofspartanburg.org](mailto:cwright@cityofspartanburg.org), with a copy to [bnorris@mcnair.net](mailto:bnorris@mcnair.net).

PROPOSALS MAY BE DELIVERED BY HAND, BY MAIL, BY E-MAIL OR BY FACSIMILE TRANSMISSION, BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BY THE CITY AT THE PLACE, DATE AND TIME APPOINTED, AND THE CITY SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERROR RESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF BIDS.

Please note that this Request for Proposals is also being sent to a number of other institutions as well and that the City reserves the right to select the proposal determined to be the most advantageous to the City in its sole discretion. The selection process will be heavily weighted toward lowest financing costs; however, lowest financing cost is not the only factor that may be considered by the City. The City reserves the right to reject any or all bid proposals as well as negotiate with the lowest responsive bidder.

The City requests that each bidder reference the following bid number in its proposal for the Lease/Purchase financing: Bid Number: Proposal No. \_\_\_\_\_.

I. Terms and Conditions

- (a) Amount to be Financed: The amount to be financed will not exceed \$2,000,000. The City retains the option to reduce the total amount to be financed by up to 10%.
- (b) Equipment: The equipment to be financed by the lease is described and designated as having a five or ten year amortization period on Exhibit A attached hereto (respectively, “Five Year Equipment” and “Ten Year Equipment”). Five Year Equipment will be released from the lien of the lease on October 1, 2021 (the “Five Year Release Date”).
- (c) Payments: With respect to Five Year Equipment, ten (10) approximately equal principal and interest payments to the Lessor payable semi-annually on April 1 and October 1 of each year commencing April 1, 2017 and ending October 1, 2021. With respect to Ten Year Equipment, twenty (20) approximately equal principal and interest payments to the Lessor payable semi-annually on April 1 and October 1 of each year commencing April 1, 2017 and ending October 1, 2026. The City shall make one combined semi-annual payment of principal and interest on each of the semi-annual payment dates set forth above with respect to Five Year Equipment and Ten Year Equipment. Unless otherwise designated by a bidder, interest on the Lease will be calculated based on a 360 day year comprised of twelve 30-day months.
- (d) Guarantee of Interest Rate: The interest rate, costs and other terms of the bid submitted must be guaranteed from the date of your proposal to the closing date (expected to be on or about \_\_\_\_\_, 2016).
- (e) Form of Equipment Lease/Purchase Agreement: A bidder’s proposed form of lease agreement (“Lease Agreement”) should be provided to the City’s special counsel within three (3) business days of the award of the successful proposal.

- (f) Non-appropriation: A non-appropriation provision acceptable to the City must be included in the Lease Agreement. Any and all amounts due, including, but not limited to, scheduled lease payments, reimbursements, penalties and fees under the Lease Agreement or any escrow agreement relating to an Acquisition/Escrow Account (as defined below), must be subject to annual appropriation by the City.
- (g) Non-substitution: A non-substitution provision is not permitted to be included in the Lease Agreement.
- (h) Deficiency Judgment: No deficiency judgment can be assessed or imposed against the City nor will the full faith, credit and taxing power of the City be pledged to the payment of the Lease Agreement.
- (i) Title: Title to the equipment will be in the name of the City subject to the bidder's rights under the Lease Agreement. Upon the closing of the Lease Agreement, the successful bidder shall be responsible for taking all actions it deems necessary to impose its lien upon or perfect any security interest in the Equipment. The Lease Agreement must allow the City to dispose of certain equipment in its sole discretion prior to the termination of the Lease Agreement provided the value of the remaining items of equipment is not less than the outstanding principal balance of the Lease Agreement at the time of such disposition.
- (j) Acquisition Account: The City will require the successful bidder to transfer by Federal funds the full amount of this financing on the date of the closing. If a bidder requires that the acquisition or escrow account (the "Acquisition/Escrow Account") be held by it or its designee, the bidder must so indicate on its proposal (including any fees required thereunder). Otherwise, the City retains the right to designate a bank to act as custodian of the Acquisition/Escrow Account. Interest earnings in the Acquisition/Escrow Account must accrue to the City. Payments therefrom may be made either to the City as reimbursement for prior expenditures or directly to the equipment vendor for payment of the equipment as directed by the City. Without limitation of the foregoing, funds on deposit in the Acquisition/Escrow Account must be made available upon request of the City for periodic partial payments to equipment vendors for the manufacture and/or assembly of equipment prior to delivery and acceptance of such equipment by the City. In such cases, funds will be paid to the City as reimbursement for prior expenditures, or directly to the equipment vendor, as directed by the City.
- (k) Costs of Issuance: All such costs relating to the preparation of the Lease Agreement and fees of special counsel will be paid by the City. Any fees and costs of the bidder to be paid by the City must be stated in the response to this Request for Proposals. The Lease Agreement must allow the City to pay its legal fees and costs related to execution and delivery of the Lease Agreement out of the proceeds of the Lease Agreement.

- (l) Insurance: The City provides insurance through the South Carolina Municipal Insurance and Risk Financing Fund for equipment/personal property. The equipment will be insured in a similar manner at face value. The lessor may be listed as a loss-payee, but may not be listed as an additional insured under the City's insurance arrangement with the South Carolina Municipal Insurance and Risk Financing Fund.
- (m) Closing: The City expects to accept the successful proposal on August 18, 2016, and close the transaction on or about September 1, 2016.
- (n) Lease Agreement Designated as Qualified Tax-Exempt Obligation: The City will designate the Lease Agreement as a "qualified tax-exempt obligation" for purposes of Section 265 of the Internal Revenue Code of 1986, as amended (the "Code") relating to the ability of financial institutions to deduct from income for federal income tax purposes interest expense that is allocable to carrying and acquiring tax-exempt obligations.
- (o) Redemption: Unless otherwise specifically provided in a bidder's proposal and agreed to by the City, the Lease Agreement will be subject to prepayment at the option of the City in whole or in part at any time without any prepayment penalty.

## II. Form of Proposal

- (a) The proposal must be in writing. It is preferred that a bidder's proposal not be subject to further credit or underwriting approval.
- (b) No proposal may be modified by a bidder after it has been submitted.
- (c) Proposals should include: the name, address, telephone number of your institution; the primary contact; and identity of legal counsel, if any.
- (d) Proposals must be accompanied with a list of all requirements and conditions associated with its bid.
- (e) Proposals must indicate a single fixed interest rate for the lease term. It is requested that proposals include an amortization schedule showing annual payment amounts for the term of the financing.
- (f) Proposals must provide full disclosure of all financing costs, including any closing, legal, and tax opinion charges.
- (g) Any prepayment penalty or other fee requirements should be detailed in the proposal.

## III. Evaluation of Proposals and Award

The Lease Agreement may be awarded to the bidder that provides the most advantageous proposal, as determined by the City in its sole and absolute discretion. After the proposals are

received, they will be evaluated by the officials of the City based on various factors, including, but in no way limited to, the interest rate, redemption terms, additional credit or underwriting approval, additional covenants and terms, if any, and other conditions set forth therein. The City reserves the right to reject any and all bids or to waive irregularities in any proposal. The City expects to accept the successful proposal on August 18, 2016.

IV. Legal Opinions. The execution and delivery of the Lease Agreement is subject to the respective opinions of the McNair Law Firm, P.A., Special Counsel, and the City Attorney, Cathy Hoefler McCabe, Esquire.

V. Tax Exemption and Other Tax Matters. The Code, and the Treasury Regulations promulgated thereunder, include provisions that relate to tax exempt obligations, such as the Lease Agreement, including, among other things, permitted uses and investment of the proceeds of the Lease Agreement and the rebate of certain net arbitrage earnings from the investment of such proceeds to the United States Treasury. Noncompliance with these requirements may result in interest paid under the Lease Agreement becoming subject to federal income taxation retroactive to the date of issuance of the Lease Agreement. The City has covenanted to comply with the requirements of the Code to the extent required to maintain the exclusion of interest on the Lease Agreement from gross income for federal tax purposes. Failure of the City to comply with these covenants could cause the interest on the Lease Agreement to be taxable retroactively to its date of issuance.

The Code imposes an alternative minimum tax on a taxpayer's alternative minimum taxable income. Interest on the Lease Agreement is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however such interest will be taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax imposed on certain corporations.

The accrual or receipt of interest on the Lease Agreement may affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status or other items of income or deduction. Prospective purchasers of the Lease Agreement should be aware that ownership of the Lease Agreement may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies and taxpayers otherwise entitled to claim the earned income credit and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Lease Agreement. Special Counsel will not express any opinion as to such collateral tax consequences. Prospective purchasers of the Lease Agreement should consult their tax advisors as to collateral federal income tax consequences.

Special Counsel will not undertake to determine (or to inform any person) whether any action taken (or not taken) or event occurring (or not occurring) after the date of issuance of the Lease Agreement may affect the tax status of interest on the Lease Agreement. In rendering its opinion, Special Counsel will rely upon certificates and representations of the City with respect

to certain material facts solely within the knowledge of the City relating to the application of the proceeds of the Lease Agreement.

VI. Investment Letter. The lessor will be requested to execute a letter to the City in substantially the form submitted with this Request for Proposals.

VII. Additional Information

Persons seeking additional information should communicate with:

Dennis R. Locke, CGFO  
Finance Director  
City of Spartanburg, South Carolina  
Phone: 864.596.2059  
E-mail: [dlocke@cityofspartanburg.org](mailto:dlocke@cityofspartanburg.org)

Brandon T. Norris, Esquire  
Special Counsel  
McNair Law Firm, P.A.  
Phone: 864.271.4940  
E-Mail: [bnorris@mcnair.net](mailto:bnorris@mcnair.net)

Michael W. Burns, Esq.  
Special Counsel  
McNair Law Firm, P.A.  
Phone: 864.271.4940  
E-Mail: [mburns@mcnair.net](mailto:mburns@mcnair.net)

CITY OF SPARTANBURG, SOUTH CAROLINA

Dated: \_\_\_\_\_, 2016

Exhibit A  
Equipment





## REQUEST FOR CITY COUNCIL ACTION

**TO:** Mayor and Members of City Council  
**FROM:** Ed Memmott, City Manager  
**SUBJECT:** Conveyance of Permanent Encroachment Easements  
**DATE:** July 21, 2016

**BACKGROUND:** Staff has determined that the mixed use development that will be located on the northwest corner of the West Main and Daniel Morgan Avenue will benefit from the granting to two permanent encroachment easements. One permanent easement, approximately 6' in width, along the western dimension (Daniel Morgan Avenue side) of the development parcel would be granted. A second permanent easement, approximately 2' in width, (West Main Street side) would be also be granted. The easements will allow the buildings to have certain architectural features that will enhance the project.

**ACTION REQUESTED:** First reading approval of an Ordinance authorizing the granting of two permanent encroachment easements.

**BUDGET AND FINANCIAL DATA:** Not applicable

## AN ORDINANCE

### **APPROVING THE CONVEYANCE OF TWO PERMANENT ENCROACHMENT EASEMENTS NECESSARY TO FACILITATE THE CONSTRUCTION OF A MIXED USE BUILDING AT THE NORTHEAST CORNER OF THE DANIEL MORGAN AVENUE AND WEST MAIN STREET INTERSECTION**

WHEREAS, the City of Spartanburg is seeking to promote the revitalization and economic redevelopment of its downtown; and

WHEREAS, the City of Spartanburg has from time-to-time provided various inducements and incentives to encourage private investment, job creation, and other economic development activities; and

WHEREAS, on March 14, 2016 the City Council of the Spartanburg approved a development agreement with F.T. Cantrell Wagons, LLC for the construction of a mixed use building (“Building”); and

WHEREAS, the City has determined that the project will benefit from the granting of two permanent encroachment easements on rights-of-way controlled by the City; and

WHEREAS, the permanent encroachment easement for a portion of the Building on the Daniel Morgan Avenue right-of-way is expected to be approximately 6’ in width and will extend from the full western dimension of TMS 7-12-20-022; and

WHEREAS, the expected permanent encroachment for a portion of the Building on the West Main Street right-of-way will be approximately 2’ in width and will extend along the full southern dimension of TMS 7-12-20-022; and

WHEREAS, the exact dimensions of the two permanent encroachment easements will be exactly defined by professional survey of the Building’s foundation once in place.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. The granting of two permanent encroachment easements as defined above is hereby approved.

Section 2. The City Manager is hereby authorized to execute all documents necessary to effect the conveyance of these permanent encroachment easements.

Section 3. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED This \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





## REQUEST FOR CITY COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Martin Livingston, Neighborhood Services Director  
**SUBJECT:** Highland Community – Memorandum of Understanding  
**DATE:** July 25, 2016

**BACKGROUND:** The Highland Working Group has been meeting to discuss a potential Master Plan for the redevelopment of the Highland Community. Meeting regularly since December of 2015, the group has discussed potential opportunities and challenges that could affect the community. Members of the group include representation from the City of Spartanburg, Highland Neighborhood Association, Spartanburg School District 7, the Spartanburg Housing Authority, the Bethlehem Center, Macedonia Missionary Baptist Church, and the Highland Community Development Corporation.

The memorandum of understanding outlines the roles and responsibilities of each partner. The partners included in the memorandum are early participants the City identified as key to a successful redevelopment of the community. Additional partners may be added to the meetings and discussions as the planning process progresses. There is no financial commitment included in the memorandum of understanding.

**ACTION REQUESTED:** Staff is requesting approval to allow the City Manager to execute the Highland Community Memorandum of Understanding.

**BUDGET AND FINANCIAL DATA:** Not applicable

STATE OF SOUTH CAROLINA )  
 ) MEMORANDUM OF UNDERSTANDING  
COUNTY OF SPARTANBURG )

This Memorandum of Understanding made this \_\_\_\_\_ day of July, 2016, between City of Spartanburg (“City”), the Highland Community Development Corporation of Spartanburg County (the “CDC”), the Highland Neighborhood Association (Association), the Spartanburg Housing Authority (SHA), the Bethlehem Center (The Center), and Spartanburg School District Seven (The School District) to provide a path forward for the conservation of the Highland Neighborhood in Spartanburg, South Carolina.

WHEREAS, Highland CDC is a non-profit 501(C)3 organization dedicated to improving the Highland community in the City of Spartanburg; and

WHEREAS the City desires to proceed with various community and economic development initiatives in the community and surrounding areas; and

WHEREAS the Highland Neighborhood Association is a neighborhood organization created to inform and educate the community on issues vital for its development and conservation; and

WHEREAS the Spartanburg Housing Authority (SHA), wishes to partner will all parties to determine the best path for a redevelopment of its existing Cammie Clagget multifamily sites that would improve the community; and

WHEREAS the Bethlehem Center, a community organization dedicated to the

development of residents of the Highland community in the areas of community leadership, recreation, and personal development;

WHEREAS the Spartanburg School District Seven (7), a “League of Innovative Schools” District that provides for the educational success of the City of Spartanburg’s students from cradle to college; and

WHEREAS, all parties mutually agree to assist in the process of improving the Highland community and the surrounding areas.

NOW, THEREFORE, in consideration of these promises and other goods and valuable consideration, which is acknowledged, the City, the CDC, the Neighborhood Association, the Spartanburg Housing Authority, the Bethlehem Center, and Spartanburg School District Seven (7) agrees as follows:

**I. As to the Highland Community Development Corporation**

- a) Develop partnerships with similar or diverse organizations that would advance its mission to include the development of affordable housing, economic development, and job creation.
- b) Engage participation of the Neighborhood Association in efforts to improve the community.
- c) Partner with the City, planners, consultants, architects, or similar professionals to develop a Master Plan or Community Conservation planning process for the community and surrounding area.
- d) Share with partners any information that would help with improvements of the community.
- e) Assist with bringing technical and financial resources only available to non-profits to the planning and development efforts in the Highland community.
- f) Advise the community and all partners on any development efforts by the City, developers, or housing partners.

**II. As to the City of Spartanburg**

- a) Assist the CDC and the Neighborhood Association with planning efforts in the

Community.

- b) Assist the CDC with technical and professional assistance where necessary.
- c) Provide funding to the CDC where available and necessary for neighborhood improvement activities.
- d) Support partnerships of the CDC, the Neighborhood Association, and other organizations.
- e) Engage and Support the Bethlehem Community Center and any related organizations to make improvements to the facility.
- f) Serve as an information source for the Spartanburg Housing Authority for developments involving their property, where necessary.
- g) Provide technical assistance and support for the redevelopment of public housing authority sites in the Highland community.
- h) Determine the feasibility of expanded recreation programs in the community and in cooperation with Bethlehem Center and other existing or new partners.

**III. As to Highland Neighborhood Association**

- a) Participate and engage the neighborhood in planning efforts in the community and surrounding areas.
- b) Advise the partners of neighborhood concerns and challenges that may affect any potential improvements to be undertaken by the City and CDC.
- c) Work with partners if a task force is developed to engage planning efforts in the community.

**IV. As to Spartanburg Housing Authority**

- a) Support partner and community efforts to develop or re-develop affordable housing in the area known as the Highland community. To develop or redevelop commercial or mixed use developments, in accordance with HUD regulations governing such development activity and to the extent that funding and other considerations exist.
- b) Contribute to discussions with the Highland Working Group and its partners regarding the property known as Norris Ridge Apartments. Such discussions may include redevelopment opportunities.
- c) Provide technical assistance regarding funding sources that may be available to make improvements to SHA properties in the community, to the extent that the capacity for such assistance exists within the SHA staffing compliment.
- d) Communicate regularly to partners the status of ongoing projects or activities that may affect the community.
- e) Partner with potential developers and all partners to improve scattered site SHA properties in the community, in accordance with HUD regulations and procurement requirements.

**V. As to Bethlehem Center**

- a) Determine the feasibility of the renovation or expansion of the existing community center.
- b) Work with existing or new partners to determine funding sources for the renovation, expansion or construction of a new community center facility.

- c) Communicate with partners the progress, challenges, opportunities that are created towards.
- d) Advise on additional innovative community programs that could be sponsored by the Center and supported by existing and new partners.
- e) Determine potential partnership efforts with Way to Wellville in Center programs and in the Highland community.

**VI. As to Spartanburg School District Seven (7)**

- a) Collaborate with existing and new partners to address educational needs of the Highland community.
- b) Identify and report any potential grants and funding sources that would be helpful in creating new programs or sustaining existing educational programs in the community.
- c) Advise the Highland Working Group and partners of any potential organizations, partnerships, collaborations, and resources that may be available for the community.
- d) Communicate existing and new educational efforts and their status.
- e) Report any information that may be relevant for improvement of the educational needs of students in the community.

IN WITNESS WHEREOF, the Parties to this memorandum have hereunto set our hands and seals and executed this Memorandum of Understanding the day and year first above written.

IN THE PRESENCE OF:

<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>CITY OF SPARTANBURG</p> <p>By _____</p> <p style="padding-left: 40px;">Ed Memmott</p> <p>Its: City Manager</p> <p>_____</p> <p style="padding-left: 40px;">Highland Community Development Corporation</p> <p>_____</p> <p style="padding-left: 40px;">Highland Neighborhood Association</p>
---	--

---

---

---

Spartanburg Housing Authority

---

---

---

Bethlehem Center

---

---

---

Spartanburg School District Seven





## REQUEST FOR COUNCIL ACTION

**TO:** Spartanburg City Council

**FROM:** Chris Story, Assistant City Manager

**SUBJECT:** Requested Approval of Development Agreement to Support the Renovation and Reuse of 141/143 W. Main Street

**DATE:** July 20, 2016

141/143 West Main is an important structure within the historic blocks of Morgan Square. It has been vacant since 2006 and prior to that was occupied by finance companies, a pawn shop and law offices. Since that time, our Economic Development staff has sought to encourage a mixed use renovation and reuse of this 10,000 +/- square foot building.

Recently 141/143 West Main, LLC, a locally owned corporation purchased the building for the purpose of renovating and restoring the property to being a productive contributor to our downtown. The lower level will support a full service restaurant, and the upper level and building wing will include 5 apartments. The attached development agreement would provide necessary incentives to ensure completion of this undertaking. We recommend your approval.

Please let us know if you have any questions.

COUNTY OF SPARTANBURG ) DEVELOPMENT AGREEMENT  
 )  
 ) BETWEEN  
 ) THE CITY OF SPARTANBURG,  
 ) AND  
STATE OF SOUTH CAROLINA ) 141/143 WEST MAIN LLC

WHEREAS, the City of Spartanburg (the “City”) has determined it is in its best interest to encourage private investment by providing incentives that have included, but are not limited to, discounted land sales, façade renovation grants, residential development grants, special assessments, and funding of public improvements; and

WHEREAS, the City has provided incentives to projects that provide significant benefit and leveraging of public resources and which are likely to create additional jobs and generate revenues for the City; and

WHEREAS, 141/143 WEST MAIN LLC, a South Carolina limited liability company (the “Developer”), and its affiliates, have acquired and begun renovation of the structure located at 141/143 West Main Street; and

WHEREAS, 141/143 West Main Street is a contributing property to the Morgan Square Historic District and is of strategic importance to the positive development of the center of downtown Spartanburg; and

WHEREAS, the Developer has requested financial assistance in returning the property to productive and positive use; and

WHEREAS, SC State Code provides a mechanism for local governments to offer a Special Assessment for Rehabilitated Historic Properties to provide tax incentives for those undertaking projects of this nature.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Developer and the City in consideration of the promises and the mutual covenants and agreements herein contained do hereby agree to the following:

**Developer Commitments:**

1. To fully renovate the 141/143 West Main expending a minimum of \$150,000 on the project (the “Project”).
2. To lease the ground floor commercial space to an appropriate commercial tenant whose business will be complementary and contributing to the continued progress of Morgan Square.
3. To engage properly licensed contractor(s) and/or subcontractor(s) to make the interior and exterior improvements as stated above.

4. To meet all typical and customary City permitting (Zoning, Building Inspections, and Business License) requirements. Nothing in this Agreement relieves the Property Owner from complying with all other City Ordinances, statutes, laws, or regulations that pertain to the construction of the Project.

### **City Commitments:**

1. Take necessary steps to ensure the project benefits from a Special Assessment for Rehabilitated Historic Property for a period of five (5) years.
2. Upon identification of desirable committed commercial tenant for the ground floor, provide Developer with a grant to reimburse 15% of documented expenditures related to the tenant upfit but not to exceed \$20,000. Upon verification of expenditures, 50% of the grant amount will be distributed near the date of the new business opening, 25% after its first full year of operation, and the final 25% after its second full year of operation.

### **General Conditions**

1. **Invalidity.** Should any of the provisions of this Agreement held invalid in whole or in part, it shall not affect or invalidate the balance of such provision or any other provisions.
2. **Amendments.** This Agreement may not be amended, modified or changed, except by an instrument in writing and signed by all the parties.
3. **Entire Agreement.** This Agreement contains the sole and entire understanding between the parties, and all other promises, inducements, offers, solicitations, agreements, representations and warranties heretofore made between the parties, if any, are merged into this Agreement.
4. **Notices.** All, notices, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by overnight courier, or by fax, with evidence of delivery, to each party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of delivery. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any party, from time to time, may change its address for notices hereunder.
5. **Counterparts.** This Agreement may be executed in several counterparts, each of

which shall be deemed an original, and all such counterparts together shall constitute one and the same agreement.

- 6. **Successor and Assigns; Termination.** This Agreement shall be binding on the parties hereto, their heirs, successors and assigns. This Agreement may only be terminated with the consent of all parties hereto.
- 7. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.
- 8. **No Continuing Waiver.** The waiver of any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands and seals and executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

IN THE PRESENCE OF:

**141/143 WEST MAIN LLC**

\_\_\_\_\_

By: \_\_\_\_\_  
Its:

**CITY OF SPARTANBURG**

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

By: \_\_\_\_\_  
Ed Memmott  
Its: City Manager

ATTEST:

By: \_\_\_\_\_  
Connie McIntyre  
Its: City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Cathy H. McCabe  
City Attorney