AN ORDINANCE TO DELETE IN ITS ENTIRETY THE EXISTING CHAPTER 2 ADMINISTRATION, ARTICLE IV PURCHASING REGULATIONS IN THE CITY OF GEORGETOWN CODE OF ORDINANCES AND REPLACE WITH THE FOLLOWING REVISED CHAPTER 2 ADMINISTRATION, ARTICLE IV PROCUREMENT

WHEREAS, Council has determined that the existing Purchasing Regulations of the City of Georgetown should be revised and updated; and

WHEREAS, Council further has determined that the Purchasing Regulations can best be revised by replacing all existing regulations with new regulations; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Georgetown, South Carolina that the existing Chapter 2, Article IV, of the City Code of Ordinances is repealed and the following new provisions for Chapter 2, Article IV be adopted.

ARTICLE IV. PROCUREMENT

DIVISION 1. GENERAL INFORMATION

Sec. 2-161 Purpose.

Regulations for the procurement of goods and services for The City of Georgetown, South Carolina, hereinafter referred to as the City, are promulgated under the authority of its Mayor and City Council consistent with the requirements of SC Code § 11-35-50 (political subdivisions required to develop and adopt procurement laws). These regulations are developed to set forth the policies and procedures for procuring goods and services. Regulations herein provided are established to ensure the fair and equitable treatment of those involved in public procurement and maximize the value of public funds. Procedures are also set forth to provide safeguards for maintaining a procurement system of uniformity, quality, and integrity. (cross-ref. SC Code § 22-35-10, et. seq.)

Sec. 2-162 Scope.

The funds for such expenditures having been appropriated in the budget passed by the city council, these regulations apply to the procurement of any materials and supplies, equipment, professional and contractual services, or construction contracts (goods and services) entered into by the City departments and any of its activities with funds expended from all state, federal and local funding sources. All prior procurement regulations of the City shall be amended as applicable, beginning the effective date of these regulations.

Sec 2-163 Who We Are.

The Finance Department's Procurement Division is the responsible buyer for the acquisition of supplies, equipment, materials and many of the various services required by all departments within the City of Georgetown. Services are provided as requested from City departments by planning, organizing, coordinating, and directing the procurement process.

The Procurement Division is part of the Finance Department. The Purchasing Agent is responsible for the management of all City purchases that are processed through the Procurement Division. Purchases not processed through the Procurement Division become the sole responsibility of the respective Department Head wherein the purchase originated. All procurement activities are to be made in accordance with this procurement policy and other state and federal laws and regulations where applicable.

Sec 2-164 Location.

The Procurement Division is located at:

City Hall Finance Department
120 North Fraser Street
Post Office Drawer 939
Georgetown, South Carolina 29442
Telephone: (843) 545-4043
Email: purchasing@cogsc.com

Sec 2-165 Responsibilities.

It is the Procurement Division's responsibility to ensure that all purchases for supplies, equipment, materials and services are made in accordance with the established procedures, policies, and regulations of the City of Georgetown. In addition to procurement responsibilities, the Procurement Division coordinates the disposal of surplus property.

Sec. 2-166 Definitions.

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

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

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

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

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

(f) *Certificate of Insurance*: A document providing evidence that insurance has been purchased.

(g) *Change Order*: Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

(h) *Commodity:* Tangible goods, wares, and merchandise which are moveable in trade.

(i) *Cooperative Purchasing:* Procurement conducted by, or on behalf of, more than one public procurement unit.

(j) *Construction:* The process of building, altering, repairing, remodeling, improving or demolishing any public structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, repair or maintenance of existing structures, buildings or real property.

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

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

(m) *Days:* Days shall mean calendar days. The day of the event from which the designated period of time begins to run is not included. If the final day of the designated period falls on Saturday, Sunday or a legal holiday for the City of Georgetown, then the period shall run to the next business day.

(n) *Department:* A department of the City.

(o) *Designee:* A duly authorized representative of a person holding a superior position.

(p) *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, and national origin, veteran's status, and/or disability. Acts of discrimination are illegal in the performance of projects for the City.

(q) *Emergency:* An immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions that threatens to terminate essential services, a dangerous condition or an immediate need for supplies, equipment, or services.

(r) *Employee:* An individual drawing a salary from the City of Georgetown whether elected or not, and any non-compensated individual performing personal services for the City to include but not limited to board and commission members.

(s) *Encumbrance*: Expenditure commitments created by purchase orders that have been issued, but for which no goods and services have been received.

(t) *Formal Bid*: Procedure required for awarding contracts for apparatus, supplies, materials and equipment by the sealed competitive bid valued at $25,000 or more. They must be advertised, opened in public, and recorded. Awards are made to the lowest responsible bidder taking into consideration quality, performance, and the time specified for the performance of the contract.

(u) *Governmental Body*: Any department or agency of the City.

(v) *Invitation for Bids*: A written or published solicitation issued by an authorized officer for bids to contract the procurement or disposal of stated supplies, services, equipment, or construction, which will ordinarily result in the award of the contract to the responsible bidder making the lowest responsive bid; a contract resulting from such an award is not a grant but a procurement contract.

(w) *Procurement*: Buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, equipment, and construction. It also includes all functions that pertain to the obtaining of any supply, service, equipment, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contracts.

(x) *Professional Service*: Such services provided by a formally certified member of a professional body.

(y) *Proposer*: Refers to each firm that submits a proposal for consideration by the City in compliance requirements dated in the Request for Bids and Proposals or Request for Quotation.

(z) *Purchase Order (PO)*: Created from a purchase requisition, this is a legal contract document issued by the Finance Department making a purchase to a vendor to order goods and/or services.

(aa) *Purchasing Agent*: The person responsible for the purchase of all supplies, materials and equipment and contractual services required by any office, department, or agency of the city government.

(bb) *Quote*: Procedure used for expenditures less than $25,000. Pricing can be obtained by written quotations, facsimile, email, or sealed competitive bids.

(cc) *Reasonable Price*: Selling price that is fair to both parties considering quality, performance, supply situation, delivery time, and payment options.

(dd) *Request for Proposals*: A written or published solicitation for proposals to provide supplies or services, which ordinarily result in the award of the contract to the responsible bidder making the proposal determined to be most advantageous to the City.

(ee) *Request for Quotation (RFQ)*: Informal procedure to expend budget funds for specific goods or services. Vendors may quote on items in writing by fax, email or informal written quotations.

(ff) *Requisition*: An electronic request from a City department to the Purchasing Agent to obtain specific goods or services.

(gg) *Specifications*: The parameters, requirements, and instructions that define the exact item or service that is desired and provide 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.

(hh) *Subcontractor*: A person(s) having a contract to perform work or render service to a prime contractor as part of the prime contractor's agreement with the City.

(ii) *Supplies and Materials*: Consumable items required by any department or agency of the city government in order to perform and deliver city duties and services.

(jj) *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.

(kk) *The City*: The City of Georgetown, South Carolina.

(ll) *Vehicle*: A piece of mechanized equipment

(mm) *Vendor:* Individual or company who sells products or services and is usually compensated financially.

Secs 2-167-2-169 Reserved.

DIVISION 2. ETHICS IN CITY CONTRACTING

Sec 2-170 Ethical Conduct.

The City of Georgetown strongly believes in the principle of fair and open competition in maintaining the integrity of the City's procurement and contracting process.

Sec 2-171 Conflict of Interest.

The policies and procedures of the City of Georgetown prohibit business transactions with their respective employees, either directly or indirectly. This policy is fully applicable to the Procurement Division, which shall conduct city procurement in compliance with rules and definitions of Title 8,Chapter 13, SC Code of Laws, (Ethics, Government Accountability, and Campaign Reform).

No city official or employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a city official or employee's use that does not result in additional public expense.

No city official or employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A city official or employee who, in the discharge of his official responsibilities, is required to take an action or make a decision that affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:

(a) Prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;
(b) If he is a city employee, he shall furnish a copy of the statement to the City Administrator who shall assign the matter to another employee who does not have a potential conflict of interest;
(c) If he is a city official, he shall furnish a copy of the statement to the Mayor, or presiding officer, of the governing body of any commission or board on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

No city official or employee, elected or appointed, in a decision making or influential position, shall accept anything of value. (cross-ref. SC Code § 8-13-100, et. seq.)

No city official or employee, elected or appointed, may use or disclose confidential information gained in the course of, or by reason of, his public responsibilities in any way that could affect an economic interest held by himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

Sec 2-172 Providing Information to Vendors and Bidders.

No city official or employee, elected or appointed, shall knowingly provide false or misleading information to any vendor or bidder wishing to do business with the city. The procurement process, including the sale of surplus property, shall be open to prospective bidders or suppliers, and all parties shall have equal access to pertinent information; however, any information or statistics accumulated during the course of a bid process, including the number of bids received, or the identity of parties from whom bids have been received, is considered confidential information and should not be disclosed until the time of bid opening whenever disclosure of such information could result in a competitive advantage to one or more vendors or bidders or when not in the best interest of the city.

Sec 2-173 Equal Opportunity.

The policies and procedures of the City of Georgetown prohibit discrimination against any person or business in pursuit of business opportunities on the basis of race, color, sex, religion, or national origin. Furthermore, it is the policy of the City of Georgetown to conduct its contracting and procurement programs so as to prevent any discrimination and to resolve any and all claims of such discrimination.

Sec 2-174 Fair and Open Competition.

The City of Georgetown promotes fair and open competitive solicitation process, wherever practicable. Restrictive or proprietary specifications are kept at minimum and applied where absolutely necessary to meet technical demands for operational compatibility with existing City equipment and/or operations which are 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 or entity preparing specifications shall receive any direct or indirect advantage or benefit from the utilization of such specifications.

Section 2-175 Women/Minority Business Enterprises (WMBE Statement).

It is the policy of the City of Georgetown 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 employment, construction projects, and lease agreements consistent with the laws of the State of South Carolina.

It is further the policy of the City of Georgetown to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, notional origin, religion, sex, age, handicap, or veteran status.

It is further the policy of the City of Georgetown to conduct its contracting and procurement programs so as to prevent such discrimination and to resolve any and all claims of such discrimination

Secs 2-176-2-197 Reserved.

DIVISION 3. CITY OF GEORGETOWN PROCUREMENT POLICY

Sec 2-180 Oversight.

It is the policy of the City to provide comprehensive oversight of the City's procurement activities which promote public confidence, maximize the value of goods and services acquired with public funds, encourage competition, and ensure equitable and fair access to all potential vendors.

The City Administrator, or his designee, has the authority to issue policies governing the procurement and disposal of all goods and services. The Administrator, or his designee, has the authority to approve procurements outside of its policy when he determines such actions serve an appropriate public purpose which assures that the City's best interests are served and exemplifies the most efficient use of public funds.

All original purchasing documents pertinent to bidding activities shall be retained in official files of the Purchasing Agent; all invoices associated with the purchase of goods or services will be retained by the Finance Department. All files must be maintained under provisions of the City's records retention policy.

The Purchasing Agent is responsible for soliciting and maintaining an up-to-date list of qualified suppliers who have requested that their names be added to the City's "Bidders List". The Purchasing Agent shall have the authority to remove temporarily the names of vendors who have defaulted on their bids or quotations, attempted to defraud the City, or who have failed to meet established specifications, delivery dates, and product or service requirements after an award of a contract. Adequate documentation stating reason for removal of a vendor from the City's "Bidders List" shall be maintained on file.

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. Disposal of items or property purchased with state or federal funds shall also be accomplished in accordance with the authorized agency procedures. Whenever this policy is more restrictive than the state or federal laws or regulations, the provisions of the City's procurement policy shall be followed.

Section 2-181 Purchase of Tangible Assets.

Purchases not in excess of fifteen hundred dollars ($1,500)[1] may be accomplished without securing competitive quotations if the prices are considered to be reasonable. Sufficient funds must have been appropriated in the budget and available for expenditure. The Department Head indicates by signature on the invoice that the price is fair and reasonable (as defined by Section 2-66(cc)) and that purchase becomes the sole responsibility of the Department Head. Upon invoice approval and general ledger coding said invoice should be submitted to the City's Accounts Payable division for payment. Such purchases

[1]The fifteen hundred dollar ($1,500) total would be inclusive of any and all associated costs.

shall be distributed equitably among qualified suppliers. When practical, a quotation will be solicited from someone other than the previous supplier prior to placing a repeat order.

Purchases in excess of fifteen hundred dollars ($1,500) must be submitted via requisition to the Purchasing Agent for approval and purchase order creation following all guidelines detailed in Section 2-187 Purchase Order Authority and Procedures.

Action to verify the reasonableness of the price (as defined by Section 2-166 (cc)) needs to be taken only when the Purchasing Agent or designee suspects that the price may not be reasonable; e.g., comparison to previous price paid, or personal knowledge of the item involved.

Section 2-182 Quotations.

Quotations for all transactions, on materials and/or services with estimated cost of $1,500 up to $24,999 not covered by a contractual agreement, state contract, or cooperative purchasing agreement shall be obtained. Department Heads or designees are responsible for obtaining quotations except for situations otherwise provided in this policy.

Definitions of Quotation: A price that is mailed, faxed, or e-mailed which includes the following:

- Company logo or letterhead
- Sales person's name and signature
- Telephone and email address
- Itemized price
- Delivery date

Levels of Quotations:

$1,500 - $4,999	Minimum of two written quotes
$5,000 - $24,999	Minimum of three written quotes

If unable to secure two quotes, adequate documentation of the effort must be provided for the Purchasing Agent's file.

Real Estate may be acquired or transferred without the bidding process, provided the amount paid or received can be substantiated, on the fair market value or below (in case of a purchase) of the interest which is subject of the transaction. The City Administrator or his designee, the City Attorney, the Director of Finance, and City Council must review and approve all transactions prior to execution of documents.

Vehicles will be purchased using procurement policies and procedures upon approval of the City Administrator or his designee, the Director of Finance, and City Council.

Section 2-183 Emergency Purchases

The City Administrator or his designee may authorize the Department Heads to make **emergency purchases** when there exists an immediate threat to public health, welfare, critical economy and efficiency,

or safety under emergency conditions. A written determination of the basis for the emergency and for the selection of the particular contractor or vendor shall be forwarded to the Purchasing Agent within 5 business days for review and retention. Under these circumstances, the Purchasing Agent may make any necessary purchases outside of the normal purchasing policies and procedures in order to facilitate timely acquisition of critical goods and services.

Section 2-184 Sole Source Purchases

Sole Source Purchases: A bid or contract may be awarded for a supply, service, or equipment without competition when it is determined that there is only one feasible source available for purchase that exists, and that the normal procurement process is not appropriate. Sole source purchasing serves a proper corporate and public purpose. The determination as to whether procurement shall be made as a sole source shall be made by the City Administrator and the Director of Finance. Such determination and the basis therefore shall be in writing. In the case of reasonable doubt, competition should be solicited. Any request by a department that procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

Section 2-185 Competitive Sealed Proposals (Bidding).

All **purchases of tangible assets of twenty-five thousand dollars ($25,000)** and greater shall be purchased by the department/division using the competitive, sealed bidding process, except as otherwise provided in this policy.

Public Notice of the invitation for bids shall be publicly advertised at least once in a newspaper of general circulation in the city, and through the internet on the City's website not less than five (5) calendar days prior to the established bid receipt and opening date. The notice shall include a general description of the materials, equipment, or services to be purchased, where bid forms and specifications may be obtained and the time and place for the bid opening. However, in the case of professional services, this section shall not apply. When in the best interest of the city, a request for proposal or a request for qualifications may be solicited for professional services.

An invitation for bids shall be issued to at least three qualified vendors, when possible. It shall include specifications and all other contractual terms and conditions applicable to the purchase. The **invitation for bids** shall set forth the evaluation criteria to be used. Each department/division shall assist in maintaining a vendor list for all purchases.

All bids must be kept in a secure location and shall remain unopened until the announced time of the bid opening. Bids shall be **opened publicly** in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. The official clock shall be that of the City's Purchasing Agent. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The Register of Proposals shall be certified in writing as true and accurate by both the person opening the proposals and the witness. The Register of Proposals shall be open to public inspection only after the issuance of an award or notification of intent to award, whichever is earlier. Proposals and modifications shall be shown only to City personnel having a legitimate interest in them and then only on a "need to know" basis. Contents and the identity of

competing offers shall not be disclosed during the process of opening by City personnel. The amount of each bid, the name of each bidder, and any other relevant information shall be recorded by the Department Head, Purchasing Agent, or designee. Upon opening of the bids, the tabulation is open to public inspection (§ 11-35-520). All documents submitted to the city and in the possession of the city may be subject to release under § 30-4-10 et. seq., SC Code of Laws, (the South Carolina Freedom of Information Act ("FOIA") and will be released to the public unless exempt from disclosure. Each party submitting a bid shall clearly and obviously mark any documents it deems to be exempt from disclosure under the FOIA, with the use of highlighting or bolding, to include clear language indicating the exemption.

Bid opening dates may be changed if the scope of work or bid specifications is altered. Any changes in bid opening date must be made in writing and mailed not less than five (5) days prior to the original bid opening date. If it becomes necessary to postpone a bid opening, the Purchasing Agent shall issue the appropriate amendments to the solicitation postponing or rescheduling the bid opening. When the Purchasing Division is closed due to force majeure, bid openings will be postponed to the same time on the next official business day.

Bids shall be evaluated on their responsiveness to bid requirements set forth in the invitation for bids and bid price. Award of bid other than to the low bidder must be approved by the City Administrator or his designee.

The Purchasing Agent shall have the authority to award contracts within the purview of this policy, (consistent with the procedures outlined in Section 2-189, infra). Any type of contract that promotes the best interest of the City may be used. However, a cost reimbursement contract or a cost-plus-a-percentage-of-cost contract may be used only when a written determination is prepared showing that such a contract is likely to be less costly to the City than any other type or that it is impractical to obtain the supplies, services, or construction required except under such a contract. Before awarding a contract or issuing a notification of intent to award, whichever is earlier, the Purchasing Agent must be satisfied that the prospective contractor is responsible. Contracts may be negotiated by the Department Head or his designee and City Attorney. Final approval of all contracts rests with the City Administrator or his designee (consistent with the procedures outlined in Section 2-189, infra). **Contracts shall be awarded to the lowest responsive and responsible bidder.** In determining lowest responsive and responsible bidder, in addition to price, the Purchasing Agent and/or Department Head shall consider:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
(b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
(c) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
(d) The quality of performance of previous contracts or services;
(e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
(f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
(g) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
(h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
(i) Whether the bidder has met the criteria of the bid specifications, terms, and conditions.

The determination is not limited to circumstances existing at the time of opening. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the Purchasing Agent. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the procurement file.

The Purchasing Agent shall not accept the bid from a vendor or contractor who is delinquent in the payment of taxes, licenses, or other monies due the City.

The City of Georgetown reserves the right to use value engineering, negotiate with vendors, reject any or all bids, or waive any informality in the bidding. Bids could be held for a maximum of 60 (sixty) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of bidders, prior to making a final decision.

Local Vendors/Ties: When two or more vendors are tied in price and/or value, quality and service being equal, while otherwise meeting all required items and conditions of the Invitation for Bids, the City shall award the contract as described below to recognize local preference.

(a) If there is an in-city vendor tied with an out-of-city vendor, the award should go to the in-city vendor.
(b) If there is an in-county vendor tied with an out-of-county vendor, the award shall go to the in-county vendor.
(c) If there is an in-state vendor tied with an out-of-state vendor, the award shall go to the in-state vendor.
(d) If two (2) or more tie bids are submitted by in-city, out-of-city, in-county, out-of-county, in-state, or out-of-state vendors the purchasing agent shall award the contract by drawing lots.

The Purchasing Agent and all vendors should bear in mind, however, that to award a contract to a local vendor where he or she is not the lowest responsive and responsible bidder, or where price, quality, and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

When it is impractical to initially prepare a purchase description to support an award based on price, a **Request for Qualifications** may be issued requesting the submission of unpriced offers to be followed by an Invitation for Bids limited to those bidders whose responses have been determined to be technically acceptable.

Section 2-186 Bid and Performance Bonds.

Bid and performance bonds or other securities may be requested for supply contracts and service contracts as the Risk Manager, Purchasing Agent, and/or Department Head deems advisable to protect the City's interest. Any such bonding requirement shall be set forth in the solicitation.

Bid Security: In an amount equal to or at least five percent (5%) of the amount of the bid shall be required for all competitive bidding for construction contracts exceeding one hundred thousand dollars ($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 one hundred thousand dollars ($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 Purchasing Agent.

When a construction contract is awarded in excess of one hundred thousand dollars ($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 execution of the contract. Bid or performance bonds shall not be used in substitution for determination of bidder's responsibility.

(a) A **performance bond** shall be in an amount equal to one hundred and ten percent (110%) of the contract amount; and
(b) A **payment bond** for the protection of all persons supplying labor and material to the contractor 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 Purchasing Agent shall make the award of bid after obtaining the recommendation from City Council. The award letter shall be issued by the Purchasing Agent or designee to the lowest responsible and responsive bidder meeting the requirements set forth in the Invitation for Bids.

(a) The division/department head is responsible for obtaining the required insurance certificates and Business License verification for submittal to the Purchasing Agent and Risk Manager for approval.
(b) A bid may be canceled and/or all bids rejected upon written recommendation of the division/department manager, and approval of the Purchasing Agent.

Section 2-187 Professional and Construction Services.

The purpose of this section is to outline the procedure for the selection of architectural, engineering and construction management firms to provide professional services to the City. Professional services with cost estimates less than ten thousand dollars ($10,000) will be purchased using quotes as the basis.

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

Procedure:

(a) The City Administrator or his designee may appoint a Project Committee. The City Administrator or designee may designate one committee member as Project Director. The City Administrator or his designee may serve as ex-officio member of the Committee.
(b) The Project Committee may develop a Project Description and a Request for Professional Qualifications. The Project Description may include: (a) Scope of professional services; (b) project design objectives; (c) time of performance; (d) preliminary site information; and (e) special conditions or unique factors affecting the project design.
(c) A Notice of Request for Professional Qualifications may be published on the City website and in the local newspaper including the notification of the availability of the Project Descriptions and a specified date by which all proposals must be received.
(d) 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 Review Committee will generally select no more than five of the most qualified responding firms. The Committee may interview each of the selected firms and select the most qualified by vote of the Committee. The department/division head will present the Committee's recommendations to the City Administrator or his designee, who will decide who may negotiate a fee for professional work to be done based on the scope of services. With City Administrator Approval, the applicable staff member and/or City Administrator will proceed to 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.

Section 2-188 Requests for Qualification (RFQ) leading to Request for Proposals (RFP).

The Departments may issue an RFQ to prospective offerors leading up to the issuance of an RFP. The RFQ may require information only on qualifications, experience, and ability to perform the requirements of the contract. Such request could contain, as a minimum a description of goods or services to be solicited by the RFP, the general scope of work, the deadline for submission of information, and how prospective offerors may apply for consideration.

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 but under no circumstances less than the top two prospective offerors to be selected to receive the RFP. The RFP shall not be reviewed by the City as grounds for protest from the prospective offerors.

Adequate public notice of the RFQ shall be given in the manner as provided for the issuance of an RFP.

An Invitation for Bids, a Request for Proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of the City, and documentation supporting the reason(s) for rejection shall be made a part of the solicitation file.

Section 2-189 Purchase Order Authority and Procedures.

A purchase order authorizes a vendor to ship and invoice materials as specified. Purchase orders must be created in a clear and concise manner which will prevent unnecessary misunderstandings and time consuming contact with the vendor. Once a purchase order is issued, all monies for that purchase order become encumbered funds.

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 Purchase Order or contract.*** The following levels of authority are based on the dollar amount of purchase:

$0 - $1,500	Department Head or Designee-Purchase Order not required
$1,501 - $5,000	Department Head & Purchasing Agent
$5,001 - $10,000	Department Head, Purchasing Agent, Director of Finance
$10,001 - $15,000	Purchasing Agent, City Administrator, & Director of Finance
$15,001 and Over	Purchasing Agent, City Administrator, Director of Finance, & Council

All change orders and contract amendments shall be signed and approved by the City Administrator or his designee.

Purchases that do not exceed fifteen hundred dollars ($1,500) shall be made by department managers, or their designees, provided sufficient funds have been appropriated in the budget and are available for

expenditure. Award shall be made to a qualified vendor who has submitted a fair and reasonable price (as defined by Section 2-166 (cc)). A purchase order is not required.

Purchases where the cost exceeds fifteen hundred dollars ($1,500) but does not exceed ten thousand dollars ($10,000) shall be submitted via requisition to the Purchasing Agent for approval and purchase order creation prior to purchase. Department Heads, or their designees, shall solicit no less than three (3) written quotations from qualified vendors, unless the purchase is available on state contract or approved cooperative purchasing program, available from qualified, responsible vendors at process which are equal to or less than state contract prices, or when the items can be sufficiently justified as an emergency or sole source purchase. Documentation of vendors contacted, dates of quotations, description of items required and quoted shall be submitted to the Purchasing Agent via requisition for approval and purchase order creation prior to purchase.

Purchases where the costs exceeds ten thousand dollars ($10,000) but does not exceed fifteen thousand dollars ($15,000) shall be submitted via requisition to the Purchasing Agent for approval and purchase order creation prior to purchase and require the approval of the City Administrator. Department Heads, or their designees, shall solicit no less than three (3) written quotations from qualified vendors, unless the purchase is available on state contract or approved cooperative purchasing program, available from qualified, responsible vendors at process which are equal to or less than state contract prices, or when the items can be sufficiently justified as an emergency or sole source purchase. Documentation of vendors contacted, dates of quotations, description of items required and quoted shall be submitted to the Purchasing Agent via requisition for approval and purchase order creation prior to purchase.

Purchases greater than fifteen thousand dollars ($15,000) shall be submitted via requisition to the Purchasing Agent for approval and purchase order creation prior to purchase and require the approval of city council prior to award of bid or contract. The City Administrator and appropriate Department Head shall obtain and submit necessary bids or proposals and make recommendations for purchase to city council. A requisition must be generated from the using department who is responsible for obtaining approval for said purchase at this level by an agenda item addressed during a Council Meeting. The Purchasing Agent will assure this required approval was obtained and verified by signature of the City Administrator before the purchase order is issued.

Section 2-190 Cooperative Purchasing.

The City Administrator, Director of Finance, Department Head, or Purchasing Agent may wish to administer a **cooperative purchasing** agreement for goods and services with one or more governmental entities by entering into an intergovernmental agreement. The procurement policies, laws, and ordinances of each entity will be considered in the agreement.

In the event the City enters in an **intergovernmental agreement** for a joint project with the 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, then the purchasing practices of the other public entity may be used in lieu of the City's own procedures.

Section 2-191 Permit and License Requirements.

Contractors and professional service providers contracted by the City shall be required to provide a **Certificate of Insurance** for Liability and Worker's Compensation with insurance coverage limits acceptable to and approved by the Risk Manager prior to commencing work. Certificates containing verbiage which releases the insurance company from liability for non-notification of cancellation of the insurance policy shall not be acceptable. Policies shall be endorsed to include a waiver of subrogation against its officers, officials, agents, and employees. Separate endorsements shall be required naming the City of Georgetown as additional insured for Liability insurance, and provide a waiver of subrogation for Worker's Compensation Insurance. Also, execution of a Hold Harmless/Indemnification Agreement may be required at the discretion of the Risk Manager in an effort to hold the City free of liability in the event circumstances warrant same due to a vendor's use and operation of any City-owned property.

Every person engaged or intending to engage in any calling, business, occupation or profession listed in the rate classification index portion of this article in whole or in part, within the limits of the City, is required to pay an annual license fee and obtain a **business license** as provided in Chapter 13, Article II, Business Licenses of the Code of Ordinances of the City of Georgetown, South Carolina.

Business means a calling, occupation, profession or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly. A charitable organization shall be deemed a business unless the entire proceeds of its operation are devoted to charitable purposes.

Section 2-192 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 Division.

The city shall have the authority to perform chemical and physical tests of products or samples of products when necessary to determine their quality and conformance with specifications. The city shall have the authority to make use of any testing facilities or laboratories of its choice when conducting such tests.

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 product 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 is a clause that uses one or more manufacturers' brand names or catalog numbers to describe the "best value" needed to win a bid.

Section 2-193 Exemptions.

The following goods and services may be exempt from the standard procurement process as could be considered to be in the best interest of the City:

1. One of a kind items;
2. Published books, maps, periodicals, subscriptions, and technical pamphlets, training/professional development programs;
3. Membership fees;
4. Postage stamps and other delivery fees;
5. Tuition reimbursement;
6. Conference registration;
7. Public advertising;
8. Existing bid or contract for like supplies, services, construction
9. State of South Carolina or GSA contracts;
10. Supplies and/or services from other governmental entities or cooperative purchasing programs, including colleges and universities;
11. Medicines/drugs;
12. State/Federal Surplus;
13. Used Equipment/supplies;
14. Equipment maintenance or service agreement with the manufacturer or authorized service agent; and
15. City Administrator or designee directed contracts for professional services or employment when the provider is customarily employed on a fee basis rather than through competitive bidding and it is determined that such contract(s) are in the best interest of the City of Georgetown. (Examples: architects, attorneys, accountants, auditors, appraisers, engineers, physicians, etc.)

Section 2-194 Protest Procedures.

Any actual bidder or contractor who is aggrieved in connection with the intended award or award of a contract in excess of ten thousand dollars ($10,000) shall protest to the City Administrator or his designee in the manner stated under this section within ten (10) calendar days of the date of notification of award posted in accordance with this policy.

Protest Procedure: A protest shall be in writing, submitted to the City Administrator or his designee, as stated above, and shall set forth the grounds of protest and relief requested with enough details to give notice of the issues to be decided.

Authority to Resolve Protest: The City Administrator or his designee 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.

Decision: If the protest is not resolved by mutual agreement, the City Administrator or his designee 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.

Notice of Decision: A copy of the decision under subsection "d" of this section shall be mailed or otherwise furnished immediately to the protestant and any other intervening party.

Failure to Render Timely Decision: If the City Administrator or his designee does not issue the written decision required under this section 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.

Section 2-195 Inventory and Surplus Property.

All departments are responsible for ensuring that an accurate and perpetual inventory of all materials, equipment, and goods is maintained. All offices, departments, or agencies of the city government shall submit to the purchasing agent, at such time and in such form as he or she shall prescribe, reports showing stocks of all material, equipment, and goods which are no longer used or which have become obsolete, depleted or scrapped.

The purchasing agent shall have authority to transfer excess or surplus materials, equipment, and goods stock to other offices, departments, or agencies of the city government. The purchasing agent shall also have the authority to sell all materials, equipment, and goods that have become unsuitable for public use, or to exchange the same for, or trade in the same, on new materials, equipment, and goods. Generally, materials, equipment, and goods with more than a nominal value will be advertised for sale through competitive sealed bids or by public auction. Award will be made to the highest responsible bidder; however, the city has the right to reject any and all offers. The city may negotiate a sale of surplus property to another government or nonprofit entity with the approval of the city administrator.

Items considered to be of nominal value and otherwise would be discarded may be disposed of through informal procedures developed by the purchasing agent.

Any items deemed by the purchasing agent to be beyond repair or unusable by the city may be discarded as refuse or sold for scrap value. Items that are beyond repair shall be documented as such and disposed of properly.

Disposal of all surplus property must be authorized by the purchasing agent and accompanied by proper documentation.

None of the above criteria applies to the sale or lease of public lands pursuant to section 2-41 of the City of Georgetown Code of Ordinances.

Section 2-196 Credit Card Program Policies and Procedures.

Credit cards in the name of the City of Georgetown shall be used only for purchases that are for the use and benefit of the City of Georgetown. Any cardholder who makes unauthorized purchases or carelessly uses the credit card, allows the card to be used by unauthorized individuals, or fails to secure the card so that it is used by unauthorized individuals will be liable for the total dollar amount of the unauthorized purchase(s) plus any administrative fees associated with the misuse charged by the lending financial institution. Additionally, the amount of the unauthorized purchase may be deducted from the employee's paycheck as an advance of wages. Failure to comply with the program criteria will result in permanent revocation of the card, notification of the situation to the City Administrator, and disciplinary action in

accordance with City Policies and Procedures relating to disciplinary action and termination for cause. ***Misuse of the City's credit card may constitute fraud and criminal charges may be issued against the cardholder.***

Credit cards will only be issued to Department Heads with the approval of the City Administrator and the Director of Finance. The employee's name will be entered on the card as it is shown on their Driver's License. This card should be used **ONLY** by the employee whose name appears on the card. **NO OTHER PERSON IS AUTHORIZED TO USE YOUR ASSIGNED CREDIT CARD.** Each cardholder is responsible for safeguarding their issued card and all corresponding account information. The following criteria must be met prior to card issuance:

1. Applicant must be a City of Georgetown Department Head;
2. Applicant's request must be approved by the City Administrator and the Director of Finance; and
3. Applicant must sign the Employee Acknowledgement of Responsibilities and Obligation for Use of the City of Georgetown Credit Card.

Should the cardholder be terminated or transferred to another department, the issued card must be returned to the Director of Finance immediately.

Credit cards may be used to purchase any small dollar goods, with a total dollar amount of less than one thousand dollars ($1,000). The credit card may not be used for the following:

1. Personal purchases;
2. Any single purchase that exceeds one thousand dollars ($1,000) or the card's purchase limit;
3. Cash advances;
4. Telephone calls/monthly service;
5. Alcohol and tobacco;
6. Office supplies that are on contract;
7. Restaurants, groceries, food items, or meals of any kind unless for City meetings;
8. Employee compensation;
9. Items in inventory; or
10. Travel (and all related expenses) unless pre-approved by City Management.

The maximum amount for any single purchase transaction is one thousand dollars ($1,000). You CANNOT split a purchase into several transactions to stay within the single purchase limit.

The City of Georgetown is not tax exempt and should be charged sales tax when applicable.

Although competitive bidding is not required for small purchases less than one thousand dollars ($1,000), employees are expected to seek competition and the lowest prices for goods and services. Whenever making a credit card purchase, check as many vendors as reasonable for the situation, to assure best price and delivery. The Finance Department has the discretion to establish pricing agreements and identify a "preferred supplier" list. You are expected to purchase from the vendors on that list whenever possible. You will be notified of any arranged discounts.

All items purchased over the counter must be immediately available at the time of credit card use. No back ordering of merchandise or prepayment is allowed.

When the goods are received, retain all shipping documentation and detailed receipts to turn in for payment verification.

Record all proper general ledger account information with the documentation for each purchase and forward to the Director of Finance for payment verification.

Any and all travel expenses must be accompanied by the appropriate PF form(s) within 15 days of travel so that the Finance Department can ensure compliance with the City's travel policy.
You are responsible for all receipts. You should keep all documentation in a file to compare against the monthly statements. If you don't have a receipt for a transaction, you must attach an explanation to your monthly documentation that includes a description of the item(s) purchased, date of purchase, vendor's name, and reason for the lack of supporting documentation. The statement is to be submitted to the Director of Finance for approval. If you continue to misplace receipts, your card privileges will be revoked.

At the end of each billing cycle you will receive a statement of purchases for your card. This is not a bill for you to pay. Simply forward all corresponding documentation to the Finance Department for final approval and payment.

When you receive your statement verify that each transaction agrees to your receipts and any shipping documents. Make sure all charges are correct and the goods were received or the services performed. Include completed employee expense reports if the card was used for travel. Assign the correct charge accounts to all purchases listed on the statement. Add and total charges for each account number and check to see they match the total on the statement. Staple all original sales documents (packing slips, invoices, cash register receipts, employee expense reports, etc.) to the back side of the statement in order as listed. This data attachment is critical for accounts payable. Sign the statement and forward the entire package to the Finance Department for approval within five (5) days of receiving the monthly statement. If the documentation is not received by the 6th day, that account may be suspended until all issues are resolved.

If an item purchased on the card is not satisfactory, received wrong, damaged, defective, etc., the cardholder is responsible for replacing the item or securing a credit. Contact the vendor as soon as possible to explain the problem and inquire about return policies. If a credit is given, retain the appropriate transaction documentation to compare with the monthly statement. If purchased items or credits are not listed on your monthly statement, you should hold on to the receipt or credit memo and check the next monthly statement. If the purchase or credit does not appear on the statement within sixty (60) days after the date of purchase, notify the Director of Finance immediately. ***Under no circumstances should you accept cash in lieu of a credit.***

If there is a charge on your monthly statement for something not purchased or an incorrect purchase amount, contact the vendor to resolve any incorrect transactions. If the vendor cannot correct the problem, notify the Director of Finance immediately.

A credit card may be declined if the cardholder has exceeded the single purchase/transaction limit or monthly credit limit. If this occurs contact the Director of Finance and explain the situation. The City's financial institution will be contacted to authorize the purchase, if appropriate.

If your credit card is lost or stolen you should immediately contact the Director of Finance.

Issuance of a City of Georgetown credit card in compliance with this policy implies no personal liability to the cardholder. The credit card is a city liability.

If, in the City's opinion, the cardholder has violated the terms of this policy, the cardholder's account may be closed and the employee may be disciplined. Reasons for this action include but are not limited to:

1. The credit card is used for personal or unauthorized purposes;
2. The credit card is used to purchase alcoholic beverages or any substance, material, or service which violated policy, law, or regulation pertaining to the City of Georgetown;
3. The card is used by someone other than the person to whom it is issued;
4. The cardholder uses the credit card to circumvent the purchase limit assigned to the cardholder or the limitation of the credit card itself;
5. The cardholder fails to provide the Finance Department with required receipts;
6. The cardholder fails to provide, when requested, information about any specific purchase; or
7. The cardholder does not adhere to all of the credit card policies and procedures.

Secs 2-197-2-199 Reserved.

City of Georgetown, SC

Credit Card Program Cardholder Agreement

I, _____, agree to the following terms, conditions, and requirements relating to my use of the City of Georgetown credit card.

1. I understand that I am being entrusted with access to the City of Georgetown's Credit Card Program, including the use of the credit card, to make financial commitments on behalf of the City of Georgetown and will restrict my purchases to approved City of Georgetown activities only.

2. I understand that under no circumstances will I use the credit card to make personal purchases, either for myself or for others. Use of the credit card for unauthorized purchases may result in disciplinary actions and/or criminal prosecution.

3. I will follow the established City procedures for using the credit card. Failure to do so may result in revocation of my credit card privileges and/or other disciplinary action up to and including termination of employment and/or criminal prosecution. In addition, I will keep the credit card secure so that it cannot be used by unauthorized persons.

4. I agree that should my credit card privileges be terminated or if I am transferred to another job or position within or without the City, I will return the credit card that I have been issued in connection with the City of Georgetown's Credit Card Program to the Director of Finance immediately.

5. I agree that should I violate the terms of this agreement and use the City of Georgetown's credit card for personal use or gain for myself or others, I will reimburse the City of Georgetown for all incurred charges and any fees (including attorney's fees and expenses) related to the collection of these charges, and will be subject to any other disciplinary actions the City may take, up to and including termination and/or criminal prosecution. I agree that the value of any unauthorized purchases may be deducted from my paycheck as an advance of wages.

6. I understand and agree to process all transactions made in connection with my credit card as prescribed in the City of Georgetown's Credit Card Policy.

7. A copy of the City of Georgetown's Credit Card Program Policy is incorporated by reference into this agreement and I agree to be bound by all terms, conditions, and requirements contained therein.

Employee Name (Print)	Employee Signature	Date
City Administrator Name (Print)	City Administrator Signature	Date
Director of Finance Name (Print)	Director of Finance Signature	Date

PASSED by City Council duly assembled this 16th day of September, 2010.

ATTEST:

Ann U Mercer, City Clerk

Jack M Scoville, Jr, Mayor

Approved as to Form:

Elise F Crosby, City Attorney

First Reading: 19 August 2010
Second Reading 16 September 2010