ORDINANCE NO. OR13-292

ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STOCKBRIDGE, GEORGIA RELATING PROCUREMENT SO AS TO CLARIFY AND UPDATE THE CITY'S PROCUREMENT PROCESS AND PROVIDE COMPREHENSIVE PROCURMENT POLICIES FOR THE CITY; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

THE COUNCIL OF THE CITY OF STOCKBRIDGE HEREBY ORDAINS:

SECTION 1. Ordinance. That Title 3, Chapter 30 of the current Code of Ordinances, City of Stockbridge regarding Procurement be deleted in its entirety, and replaced with a new Title 3, Chapter 30, so as to read as follows:

3.30.010 - Short title.
3.30.011 - Scope
3.30.012 - Interpretation
3.30.013 - Application of federal and state law
3.30.014 - Public access to procurement information.
3.30.020 - Definitions.
3.30.030 - Purchasing Agent.
3.30.040 - Powers and duties of the Purchasing Agent.
3.30.050 - Pre-audit certification.
3.30.060 - Ethics.
3.30.061 - Disclaimer of responsibility for improper purchasing.
3.30.070 - Evasion prohibited.
3.30.080 - Small purchases.
3.30.081 - Summary of methods of procurement.
3.30.082 - Mandatory pre-qualification process.
3.30.090 - Purchases based on informal procurement.
3.30.100 - Competitive sealed bids.
3.30.110 - Competitive sealed proposals.
3.30.120 - Reserved.
3.30.130 - Construction acquisition.
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3.30.160 - Exemptions.
3.30.170 - Sale of real property.
3.30.180 - Sale of surplus real property by real estate broker.
3.30.190 - Disposition of personal property.
3.30.200 - Leases of City owned real property.
3.30.210 - Bonding requirements.
3.30.220 - Responsibility of bidders.
3.30.221 - Collusive or anti-competitive practices.
3.30.222 - Approval of contracts.
3.30.223 - Change orders and contract modifications.
3.30.224 - Emergency circumstances for change orders.
3.30.225 - Specifications.
3.30.226 - Types and use of specifications.
3.30.227 - Renewals and extensions.
3.30.228 - Termination of contracts.
3.30.330 - Electronic transmissions of information.
3.30.331 - Electronic signatures and records.
3.30.340-3.30.400 - Reserved.

3.30.010 - Short title.

This chapter may be cited as "The City of Stockbridge Purchasing and Procurement Ordinance."

3.30.011 - Scope.

This Ordinance shall govern all acquisitions and dispositions by the City of Stockbridge of commodities, equipment and services and all related contracts and agreements including those that may generate revenue. This Ordinance supersedes and repeals all previously existing ordinances to the extent they are inconsistent with the provisions herein.

3.30.012 - Interpretation.

A. Purpose. This Ordinance shall be construed and applied to promote its underlying purposes and policies, which are:

   1. To obtain the best value in terms of quality, service and price when expending public funds.

   2. To foster effective, fair and broad-based competition for public procurement within the free enterprise system.

   3. To provide safeguards for the maintenance of quality, integrity and equity, as defined by Section 3.30.060 of this ordinance, in the purchase and disposition of City property.

B. Rules of Construction. In this Ordinance unless the text requires otherwise:

   1. Words in the singular number include the plural, and those in the plural include the singular.

   2. Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

   3. "May" shall be permissive and not mandatory.

   4. "Shall" shall be mandatory and not permissive.

   5. Terms, which are not specifically defined herein, shall have their usual and customary meanings.

3.30.013 - Application of federal and state law.

It is intended that this Ordinance shall conform to all applicable provisions of the laws of the United States and of the State of Georgia, and the provisions hereof shall be so construed wherever possible. In the event any portion of this Ordinance shall be declared invalid for its failure to conform to state or federal law, such invalidity shall not affect the remaining portions hereof. Notwithstanding any other provision of this Ordinance, the City may enter into any contract, follow any procedure, or take any action that is otherwise at variance with this Ordinance if necessary or convenient to receiving funds from the government of the United States or the State of Georgia.

3.30.014 - Public access to procurement information.

Interested persons shall have access to information regarding procurement transactions of the City of Stockbridge in accordance with City policy and the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.

3.30.020 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Absolute Value: The numerical value of an acquisition or change order request.

2. Acquiring Office: The department, division, board, authority, or other unit of the City of Stockbridge under whose authority, on whose behalf, or for whose use a commodity, service, or real property is requested or acquired or a contract or agreement relating thereto is obtained.

3. Acquisition: A transaction in which the City purchases, orders, contracts for, or otherwise agrees to obtain for value any commodity, service, or real property or combination thereof.

4. Best and Final Offer: In competitive negotiation, the final proposal submitted after negotiations are completed that contains the vendor's most favorable terms for price and services or products to be delivered.

5. Bid: Submission of information from a bidder that describes the bidder's commodities or services, and any other information necessary to respond to the specifications and other requirements set forth in an Invitation to Bid.

6. Brand Name or Equal Specification: A specification limited to one or more items by manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.

7. Brand Name Specifications: A specification limited to one or more items by manufacturers' names or catalogue numbers.

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

9. Change Order: A written order signed by a person authorized to act on behalf of the City directing the contractor to make changes that the "Changes" clause of the contract authorizes.

10. City: Means the City of Stockbridge, Georgia.

11. Commodity: A discrete and distinct item of tangible personal property, including, without limitation, any such item which is intended to become an integrated part of another item of

tangible personal property or of any improvement to real property.

12. Confidential Information: Any information which is available to an employee/official only because of their status as an employee/official of the City of Stockbridge and is not a matter of public knowledge or available to the public on request.

13. Construction: The process of building, altering, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. Does not include the routine operation, repair and/or maintenance of existing structures, building or real property.

14. Consultant: A person who has expertise because of education or experience that uniquely qualifies him or her to provide specialized services or advice.

15. Contract: Any city agreement, purchase order, lease, or other document which creates or is intended to create binding reciprocal obligations including, without limitation, any document evidencing a bid or proposal award which has been accepted by the bidder.

16. Contractor: Any person who is party to a contract.

17. Cooperative Purchase: An arrangement whereby two (2) or more public procurement units purchased from the same supplier using a single Invitation to Bid or Request for Proposal.

18. Direct or Indirect Participation: Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

19. Employee/Official: An individual drawing a salary or wage from the City of Stockbridge, whether elected or not; any non-compensated individual performing personal services for the City of Stockbridge or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the City of Stockbridge; and any non-compensated individual serving as an elected official of the City of Stockbridge.

20. Gifts/Gratuity/Favors: A payment, loan, subscription, advance, deposit of money, service or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

21. Goods/Commodities: Supplies, apparatus, materials, equipment, and other forms of tangible personal property.

22. Immediate Family: A spouse, children, parents, brothers and sisters, mother in-law and father in-law.

23. Invitation to Bid: All information and documentation disseminated by the City to solicit bids.

24. Local Vendor: Any business or firm having an office located within the boundaries of the

City of Stockbridge and has a current Stockbridge Occupational Tax Certificate on the closing date of solicitation for which the offer has been submitted.

25. Material: Property that is incorporated into or attached to an end item, or consumed in performing a contract; what a thing is made from, the substance of anything manufactured or built; or goods used in the manufacturing process, either directly, such as raw materials, or indirectly, such as factory supplies.

26. Material Fact: One that constitutes substantially the consideration of the contract, or without which it would not have been made.

27. Multiyear Contract: An agreement that lasts longer than a twelve-month period as permitted by O.C.G.A. § 36-60-13 and has been duly approved under the authority of this Ordinance. The life term (multiple years) dollar amount must be used to determine the appropriate approval authority.

28. Offeror: Any person who has submitted a bid or proposal to the City or otherwise offered to form a contract with the City.

29. Ordinance: Means this chapter.

30. Person: Any individual or legal entity.

31. Professional Service: A service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgment, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government.

32. Proposal: Submission of information from a proposer (including a consultant) which states how that proposer intends to fulfill the specifications and other requirements described in a Request for Proposal.

33. Purchase Shopping Cart: A document by which an acquiring office requests the acquisition of commodities or services or specifies the requirements to be filled by the acquisition of commodities or services.

34. Purchase Order: The document used by the city to obtain supplies, goods, commodities and services from vendors.

35. Purchasing Agent: The principal purchasing official of the city.

36. Qualified Products List: An approved list of supplies, services or construction items described by model or catalogue numbers, which prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

37. Request for Proposals: All information and documentation disseminated by the City to solicit proposals.

38. Request for Qualifications: All information and documentation disseminated by the City to

solicit qualifications.

39. Responsible Bidder: A person who has the capability in all respects to perform fully the contract requirements, and the experience, reliability, capacity, facilities, equipment and credit which will assure good faith performance.

40. Responsible Director: The director or acting director who has supervisory authority over a City Department and responsibility for acquiring materials, supplies, equipment and services.

41. Responsive Bidder: A person who has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation to bids or request for proposals.

42. Services: The furnishing of labor, time or effort by a contractor that is not intended to accomplish the delivery of a specified tangible product other than reports which are merely incidental to the required performance, including, without limitation, a professional or consulting service.

43. Specification: In connection with an Invitation to Bid or Request for Proposal, a list or description of the characteristics of the commodities or services which will meet the City's requirements.

44. Supplies: All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land.

45. Term Contract: a contract in which a source of supply is established for a specified period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

46. Unit of Government: The government of the United States of America or any department, agency, or division thereof, the State of Georgia or any department, agency, political subdivision, municipal corporation, or authority thereof.

47. User Department (or Operating Department): Any agency or office, whether headed by an appointed or elected official, for whom the governing authority has budgetary responsibility, except that this definition excludes the Purchasing Office within the Finance Division.

3.30.030 - Purchasing Agent.

The Purchasing Office of the Finance Division shall serve all of the City of Stockbridge Government by obtaining required commodities and services in accordance with State of Georgia law and this Ordinance. The Purchasing Agent shall, except as otherwise specified herein, be responsible for the administration of all transactions governed by the provisions of this Ordinance and shall serve as the principle procurement officer of the City. Unless otherwise provided, any duties and powers of the Purchasing Agent may be delegated by him/her to subordinate purchasing staff members and other employees. The Purchasing Agent shall be

subject to the authority and supervision of the Treasurer.

3.30.040 - Powers and duties of the Purchasing Agent.

The Purchasing Agent shall have the following powers and duties:

A. Procure or oversee the procurement of all goods and services needed by the city and advertise for bids for such goods and services as required by this chapter. Consistent with this chapter and subject to the approval of the Treasurer, the Purchasing Agent is authorized to establish, implement and enforce written operational procedures relating to acquisitions and dispositions subject to this Ordinance and may annually publish a handbook or manual containing those procedures. Such procedures shall, to the extent consistent with applicable law and this Ordinance, be based upon generally accepted public purchasing principles and practices and shall become effective upon approval by the Treasurer. Additionally, these procedures may be revised, as necessary, through the same process used for their initial approval.

B. Provide for and oversee the development of specifications for goods and services purchased by the city, administer purchase contracts to which the city is a party, and provide for inspecting and accepting or rejecting of goods and services purchased by the city.

C. Process or oversee the processing of all claims for loss, damage, breakage, or shortage, and claims for refund and adjustment concerning the purchase of goods or services for the city.

D. Exercise general supervision and control over all inventories of goods belonging to the city, and provide for the transfer between city departments of surplus goods.

E. Require bonds, insurance and other forms of protection for the city on the process of procuring goods and services for the city.

F. Terminate solicitations for bids for any good(s) or service(s) when in the opinion of the City Administrator, it is in the city's best interest to do so.

G. Reject any and all bids, when in the opinion of the City Administrator, it is in the best interest of the city to do so.

H. Following consultation with the City Administrator, terminate contracts or pursue other remedies when the party or parties with whom the city is contracting has or have breached the contract.

I. Sell or oversee the sale of goods or property of the city as authorized by this ordinance.

J. Perform such other duties not inconsistent with this chapter as the Treasurer shall direct.

3.30.050 - Pre-audit certification.

The Purchasing Agent shall not execute any contract for goods or services until the Treasurer certifies, after pre-audit, that there is to the credit of the using department, a sufficient unencumbered appropriation balance in excess of all unpaid obligations, to defray the amount of

such contact. Subject to the approval of the Treasurer, the Purchasing Agent may issue operating rules to ensure compliance with this section.

3.30.060 - Ethics.

It is the policy of the City of Stockbridge to seek the best overall value when procuring goods and services. Toward this end, the City finds and declares that its objectives will best be achieved through an open, competitive process with a broad range of responsible vendors wishing to furnish products and services to the City. The City of Stockbridge will set up and conduct a procurement program that maximizes service benefit to the community and awards contracts to vendors who offer the best value.

A. The City of Stockbridge declares that City employees and officials along with those wishing to do business with the City have the shared responsibility for avoiding biased, anticompetitive or unethical practices when such receipt has the potential to influence a procurement decision or to gain undue advantage in a procurement competition.

B. The Purchasing Agent and every officer and employee of the city whose duties involve the purchase or sale of goods and/or services, or the preparation of specifications for the purchase of goods and/or services for the city, or deciding which goods shall be declared surplus are expressly prohibited from seeking, requesting, or receiving any material payment, gift, job offer, security, promise of future benefit, or any other tangible or intangible thing of value, directly or indirectly, from any person, company, firm or corporation which seeks to do business with or contract with the city or has contracted with the city within the preceding 12 months, or to which any purchase order or contract is awarded, or to whom any surplus goods may be sold.

C. Prospective vendors must compete for City business within the parameters of the solicitation process and are prohibited from seeking to obtain inside information, attempting to skew the writing of specifications or influencing a procurement decision through any means outside the process established for the particular solicitation. This principle applies to any contractor, subcontractor, representative, employee or agent that may be associated with a procurement transaction.

D. The City's ethics ordinance and City Charter should be consulted for requirements related to lobbying and representation of business interests that come before the City Council or City officials for decision.

E. Ethical business practices are important both during a solicitation and after the decision to grant an award. To this end, the City seeks to establish relationships with business partners whose ongoing ethical standards of business conduct are congruent with those outlined here. The Purchasing Agent is charged with establishing methods for ongoing monitoring for non-compliance with these principles. The prohibition against the offering of or the acceptance of gifts, favors, kickbacks, gratuities, payments or any other thing of value extends beyond and outside any specific procurement or solicitation.

F. A vendor's contract compliance history with the City of Stockbridge and other contractual parties is a valid element in the decision to award a solicitation.

G. The City of Stockbridge stipulates that the furtherance of its strategic goals for job creation, stability and growth in the tax base, business retention, and other fiscal and economic development objectives may be considered during the procurement process. The City Administrator is authorized to establish procurement initiatives consistent with the City's strategic economic development objectives. These procurement practices shall be applied consistently and equitably, and shall have a direct relationship to the City's goals.

H. The City of Stockbridge employees, officials, and their family members are generally prohibited from participation in any procurement decision or any gain of undue advantage in a procurement competition as a result of contemporaneous employment with a potential or actual business partner.

I. It is unethical for any City employee to purchase commodities or services from a City contract for personal use.

J. Individuals, firms and businesses seeking an award of a City of Stockbridge contract may not initiate or continue any verbal or written communications regarding a solicitation with any City officer, elected official, employee or other City representative other than the Purchasing Agent named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the City Council. The City Administrator and Treasurer will review violations. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

3.30.061 - Disclaimer of responsibility for improper purchasing.

The City Council may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from procurement made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Ordinance or the authorization or delegation as provided in this Ordinance. The expense of any such disclaimed transaction will become the personal liability of the individual who acted improperly.

3.30.070 - Evasion prohibited.

No purchase or sale shall be artificially divided for the purpose of evading the provisions of this ordinance. Neither shall this process be used for frequently recurring acquisitions that warrant volume purchases or periodic term contracts.

3.30.080 - Summary of methods of procurement.

In most cases, this Ordinance recognizes seven methods of procurement and the conditions where each method shall be used.

A. Informal Purchase.

Those purchases $50,000 or less do not justify the administrative time and expense for the conduct of competitive sealed bids or proposals.

B. Competitive Sealed Bidding.

In most cases the competitive sealed bid is the preferred method of procurement in the public sector and should be used whenever possible as it allows qualified, responsive bidders to compete on the basis of price. Generally, the following conditions must be met:

1. Clear and adequate specifications are available.

2. Three (3) or more responsible bidders are willing to participate in the process.

3. Cost of materials, supplies, equipment, services or project is greater than $50,000.

4. Revenue is greater than $50,000.

C. Competitive Sealed Proposal.

When use of the competitive sealed bid is either not practical or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposal. Use of the proposal is dependent upon such factors as:

1. Whether quality, availability or capability is overriding in relation to price in procurement of technical supplies or technical or professional services.

2. Whether the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priorities should be given these requirements in the City's best interest.

3. Whether a fixed price or cost type contract is more advantageous.

4. Whether the market place will respond better to a solicitation permitting not only a range of alternate proposals, but evaluation and discussion of them before making the award.

5. Cost of equipment, services or project is greater than $50,000.

6. Revenue is greater than $50,000.

D. Sole Source Purchase.

A sole source procurement may be used when only one vendor or supplier is able to fill requirements for the intended use. Sole source may be used for compatibility with equipment for repair purposes, or for compatibility with existing systems. Standardization may require a sole source procurement, depending upon the intended use. Standardization, which is either established as a result of past procurement(s) or by approval of the City Administrator, can be a satisfactory justification for a sole source. The City Council shall approve all purchases where cost is greater than $50,000.

E. Emergency Purchase.

The Purchasing Agent shall have the authority to purchase commodities and services where

there exists an emergency constituting a threat to public health, safety or welfare or to the soundness and integrity of public property or to the delivery of essential services and where the adverse effects of such emergency may worsen materially with the passage of time. Acquisitions shall be made using such competitive procedures as circumstances reasonably permit. Emergencies shall be documented by the using department and submitted to the Purchasing Office. When a situation exists where time does not permit involvement of the Purchasing Office, the user Department Director is authorized to purchase necessary commodities or make necessary repairs. For emergencies where cost exceeds the amount authorized to a using department, written documentation shall be prepared by the user Department Director and submitted to the Purchasing Office explaining the nature of the emergency. All emergencies where cost is greater than $50,000 require ratification of the City Council.

F. Cooperative Purchase.

The City may participate in a cooperative purchase for commodities, supplies and services when determined that it is in the best interest of the City. The sponsoring entity, whether federal, state or local must have performed a competitive procurement process and entered into a contract that stipulates allowance for other governmental entities to purchase from the supplier at the same price and under the same terms and conditions as extended to it. If such arrangement has not been made a part of the contract, written permission from the sponsoring entity and the awarded supplier must be obtained. Documentation to substantiate this decision will be maintained by the Purchasing Office. Cooperative purchases where the cost is greater than $50,000 shall be approved by the City Council.

G. Governmental and Affiliated Entity Purchase.

The City may purchase services and incidental commodities from other federal, state or local governments, associations and non-profit organizations when determined to be in the best interest of the City. Documentation to substantiate this decision will be maintained by the Purchasing Office. Such purchases where cost is greater than $50,000 shall be approved by the City of Stockbridge City Council.

3.30.082 - Mandatory pre-qualification process.

A. Public Works Construction Contracts Governed by O.C.G.A. § 36-91-20 et seq. The Purchasing Agent is hereby delegated the authority to administer a process for mandatory pre-qualification of prospective bidders for public works construction contracts pursuant to O.C.G.A. § 36-91-20(f).

B. All Other Contracts. The Purchasing Agent is authorized to determine that a process for mandatory pre-qualification for competitive sealed bids and competitive sealed proposals of bidders or proposers is appropriate for the procurement of a particular commodity or service, subject to these requirements:

1. Criteria for pre-qualification shall be reasonably related to the project or the quality of the work.

2. Criteria for pre-qualification shall be available to any prospective bidder requesting such

information.

3. There shall be a method of notifying prospective bidders of the criteria for pre-qualification.

4. There shall be a procedure for a disqualified bidder to respond to his or her disqualification to the Purchasing Agent; however, such procedure shall not include a formal appeal.

5. No bid or proposal shall be eligible for consideration by the City from a prospective bidder who has not been pre-qualified on the procurement in question where the Invitation to Bid or Request for Proposals specified that pre-qualification would be mandatory, and any bid or proposal received shall be returned to the prospective bidder unopened.

3.30.090 - Purchases based on informal procurement.

A. General. Procurements that involve amounts $50,000 or less do not require a formal sealed bid/proposal process. However, the processes used for this type of procurement will include as much competition as is consistent with the anticipated cost of the procurement and the best interest of the City.

B. Prohibition of Improper Use of Informal Purchase Process. Purchases may not be artificially divided as to constitute an informal purchase, thereby circumventing the dollar limit requirement for competitive sealed bids/proposals.

C. Procedures. Procurement within this category shall be made in accordance with the informal purchase procedures established by the Purchasing Agent. These procedures will cover purchases delegated to user departments as well as those handled through the central procurement process. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service or construction being purchased. Further, such operational procedures shall require the preparation and maintenance of written records to adequately document the competition obtained, properly account for the funds expended and facilitate audit/review of the transaction.

D. Types of Informal Purchases. Informal purchases are classified by two (2) categories:

1. Those that may be made directly by the using department.

2. Those that are required to be made through the central procurement process.

E. Informal Purchase by User Departments.

1. Authority. Each user department is granted the authority, at the discretion of the Department Director or City Administrator, to handle purchases where the cost is less than $5,000.

2. Prohibition of Misuse. Purchases may not be artificially divided in order to qualify for handling by the using departments. Neither shall this process be used for frequently

recurring acquisitions that warrant volume purchases or periodic term contracts.

F. Informal Purchases by Purchasing Staff.

1. Purchasing staff shall obtain commodities and services competitively through telephone solicitations where cost is $5,000 or less. A minimum of three quotations is required unless adequate source supply is not available.

2. Purchasing staff shall obtain commodities and services competitively through written quotations where cost is $5,000 to $50,000. A minimum of three (3) written quotations is required unless adequate source supply is not available.

3.30.100 - Competitive sealed bids.

A. Acquisitions Greater Than $50,000. Any commodity that is expected to cost or generate revenue greater than $50,000 shall be acquired through the competitive sealed bid process except as otherwise provided in this Ordinance.

B. Dissemination of Invitation to Bid. Public notice of an Invitation to Bid shall be given as required by Georgia law. The public notice shall contain a general description of the purchase, shall state the location where documents may be obtained and the date, time and place of bid opening. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be posted in the Purchasing Office. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to required advertisement, at the discretion of the Purchasing Agent.

C. Receipt of Bid. No written bid shall be eligible for consideration by the City unless it is placed in a sealed envelope or package and actually received by the Purchasing Office by the date and time specified in the Invitation to Bid. All bids shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A bid delivered late shall under no circumstances be eligible for consideration by the City.

D. Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Invitation to Bid. The name of each bidder, the purchase price contained in each bid, and such other information as the Purchasing Agent deems appropriate shall be announced as the bids are opened. A record of bid information shall be recorded and available for public inspection.

E. Modification of Bid. Any clerical mistake that is patently obvious on the face of a bid, subject to the limitations described below, may be corrected upon written request and verification, submitted by the bidder. A non-material omission in a bid may be corrected if the Purchasing Agent determines the correction to be in the City's best interest. Omissions affecting or relating to any of the following shall be deemed material and shall not be corrected after bid opening:

1. Price information.

2. Any required bonding.

F. Withdrawal of Bid. Bids may be withdrawn at any time prior to the bid opening. After bids have been publicly opened, withdrawal of bid shall be based upon the following:

1. The bidder shall give notice in writing of his claim of right to withdraw his bid due to an error within two (2) business days after the conclusion of the bid opening procedure.

2. Bids may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder's original work papers shall be the sole acceptable evidence of error and mistake if request is made to withdraw the bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be the low bid.

G. Bid Evaluation. Bids shall be evaluated based on the requirements set forth in the Invitation to Bid. No criteria may be used in bid evaluation that is not specifically set forth in the solicitation.

H. Bid Cancellation. An Invitation to Bid may be canceled prior to opening date or any or all bids may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the City in accordance with regulations promulgated by the Purchasing Office or, as a result of improper conduct on the part of a City employee. The reasons for any cancellation shall be made part of the bid file.

I. Bid Award.

1. Responsive and Responsible Bidder(s). Subject to approval by the City Council, bids shall be awarded to the responsible bidder(s) who have submitted the lowest cost responsive bid(s), highest revenue responsive bid(s), or whose bid represents the best value to the City.

2. Approval of Bid. All bid awards for amounts greater than $50,000 (cost or revenue) shall be approved by the City Council.

3. Rejection or Deferral of Bid. The Purchasing Agent may reject bids, or may defer bid awards to allow time for additional evaluation or review of bids or for other business purposes, consistent with the best interest of the City.

4. Disqualification of Bid. The following types of bids shall be disqualified for consideration for a bid award:

a. A proposal submitted without required bonds.

b. A proposal submitted by an individual, firm or business on the Ineligible Source List.

c. A proposal which is incomplete in any material fact.

d. A proposal submitted by an individual, firm or business that has litigation pending against the City, or anyone representing a firm or business in litigation against the City, not arising out of the procurement process.

5. Tie Bids. In the event two (2) responsive bids are tied for the lowest price and the other terms and conditions of the two (2) bids are substantially the same, the bid shall be awarded to the local vendor if only one of the bidders has an office located within the boundaries of the City of Stockbridge. If both or neither of the tied bidders are local vendors, the Purchasing staff shall request the firm's best and final offers, and the award shall be to the lowest bid.

3.30.110 - Competitive sealed proposals.

A. Acquisitions Greater Than $50,000. Any item or service which is expected to cost or generate revenue greater than $50,000, when the competitive sealed bid process is not applicable nor in the best interest of the City, shall be acquired through the competitive sealed proposal process except as otherwise provided in this Ordinance.

B. Dissemination of Proposal. Proposals shall be disseminated through a Request for Proposal. Public notice shall be advertised as required by Georgia law. The public notice shall contain a general description of the item or service to be purchased, shall state the location where documents may be obtained and the date, time and place of proposal receipt. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be posted in the Purchasing Office. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to required advertisement, at the discretion of the Purchasing Agent.

C. Receipt of Proposal. No written proposal shall be eligible for consideration by the City unless it is placed in a sealed envelope or package and actually received by the Purchasing Office by the date and time specified in the Request for Proposals. All proposals shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A proposal delivered late shall under no circumstances be eligible for consideration by the City.

D. Proposal Opening. Proposals shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Request for Proposals. The name of each Proposer shall be announced.

E. Proposal Cancellation. A Request for Proposals may be canceled prior to opening date or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the City in accordance with regulations promulgated by the Purchasing Office or as a result of improper conduct on the part of a City employee. The reasons for any cancellation shall be made part of the proposal file.

F. Proprietary Information. Information submitted by a Proposer that is specifically marked "proprietary" shall not be disclosed outside of the Purchasing Office without prior notification to the Proposer. The City of Stockbridge is required to comply with the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq. and therefore may not be able to protect

information submitted in any response. Entire proposals may not be deemed "proprietary".

G. Evaluation of Proposal.

1. Initial Evaluation. Each proposal shall be evaluated to determine whether it is responsive to the specifications and other terms and conditions contained in the Request for Proposals. With the approval of the Purchasing Associate named in the solicitation, the evaluating team may communicate with each proposer to clarify and amplify each Proposer's proposal. No information concerning any other Proposer's proposal shall be communicated in any way to the Proposer.

2. Request for Supplemental Information. Additional information may be requested of Proposers. The Purchasing Office will initiate such requests.

H. Award of Proposal.

1. Responsive and Responsible Proposal. Award shall be made to the responsive and responsible proposer whose proposal is determined to be the most advantageous to the City based upon the evaluation factors set forth in the Request for Proposal. In the event there are two (2) or more firms whose scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.

2. Approval of Proposal. The City of Stockbridge City Council shall approve all awards where cost or revenue is greater than $50,000.

3. Rejection or Deferral of Proposal. The Purchasing Agent may reject, or may defer award for any proposal when he or she deems such action to be in the best interest of the City.

4. Disqualification of Proposal. The following types of proposals shall be disqualified for consideration for award:

   a. A proposal submitted without required bonds.

   b. A proposal submitted by an individual, firm or business on the Ineligible Source List.

   c. A proposal which is incomplete in any material fact.

   d. A proposal submitted by an individual, firm or business that has litigation pending against the City, or anyone representing a firm or business in litigation against the City, not arising out of the procurement process.

3.30.120 - Reserved.

3.30.130 - Construction acquisition.

Construction acquisition shall follow the procedures for formal procurement in accordance with section 3.30.100 with competitive sealed bids section 3.30.110 being the preferred method of procurement. The City, at its discretion, may require bid, performance, and payment bonds for any construction contract where cost is less than $50,000. The Treasurer shall set specific

requirements.

3.30.140 - Professional services.

A. It is the policy of this City to award contracts for professional services on the basis of demonstrated competence and qualifications at a fair and reasonable price with ultimate selection based on the best interest of the City and receipt of maximum value.

B. When expected expenditures for professional services exceed twenty-five thousand dollars ($25,000). The selection process for professional services shall follow the same process as that for competitive sealed proposals presented in Section 3.30.110.

C. The Purchasing Agent, subject to the approval of the City Administrator, shall establish methods for weighting the variables and factors utilized for evaluation of proposals.

D. The user departments will have primary responsibility for establishing proposal requirements and evaluation of the proposals while Purchasing will ensure that the process is handled in accordance with this policy. Any agent or firm employed to assist in any procurement project shall be required to adhere to the requirements of this policy.

3.30.150 - Waiver based on other government purchases.

When the City Administrator determines it to be in the best interest of the city to do so, the requirements of this chapter may be waived for the purchase of goods and/or services valued at $50,000 or less from the following entities provided they have, within the previous twelve (12) months, after having completed a public, formal bid process or contracted to furnish the same type of goods:

A. The United States of America or an agency thereof of; or

B. The State of Georgia or any agency or political subdivision of the State; or

C. Any other state or local government, association or non-profit organizations, or agency or political subdivision of any other state, provided that entity is willing to furnish the goods at the same or more favorable price, terms, and conditions as those provided under the contract with the other unit or agency and provided the bid procedures are the same or more stringent than those of the City; or

D. A entity engaged in cooperative purchases as governed by Section 3.30.080 (F) of this ordinance.

3.30.160 - Exceptions.

The following supplies and services are exempted from this Ordinance when:

A. A good is available from only one (1) source or supply, or when standardization or compatibility is the overriding consideration;

B. The purchase is pursuant to a contract with

1. The United States of America or an agency thereof of;

2. The State of Georgia or any agency or political subdivision of the State; or

C. A special emergency exists involving the health and safety of the people or their property as governed by Section 3.30.080 (E) of this ordinance; or

D. The purchase is for:

1. Works of art for public places, or other creative/artistic endeavors that require a particular and demonstrated skill or talent to include, but not limited to, artists, musicians, and writers.

2. Printed copyright material including published books, maps, periodicals and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a quantity purchase.

3. Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property.

4. Subscriptions, dues, memberships and board member fees.

5. Services provided directly to individual citizens and city employees including, but not limited to, catering and gifts.

6. Utilities, where there is no reasonable basis for competitive procurement, for example electric power, water, and sewerage.

7. Legal services, litigation, and related legal expenses.

8. Licensed health professions.

9. Marketing of bonds and other forms of debt or debt related services and management products, including but not limited to interest rate management agreements; the purchase of certain investment assets and services; and pension assets and services.

10. Training, facilitators for meetings, travel, lodging or meal expenses covered by other City policies and regulations.

11. Items for resale that require a particular manufacturer or provider to enhance their marketability.

12. Advertisements and legal advertisements including but not limited to bid/proposal solicitations or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the City of Stockbridge, required by law to publicly advertise their meetings or actions in the legal organ.

13. Public works construction contracts to the extent governed by O.C.G.A. § 36-91-1 et seq.

14. Antiques and other unique assets of historical value, including restoration of these items.

15. Materials or services required for confidential and secure investigations, apprehensions and detentions of individuals suspected of or convicted of criminal offenses by law enforcement personnel.

16. Repair of equipment excluding city vehicles.

17. Repair of buildings where the extent of the project cannot be predetermined.

18. Professional services not covered in this chapter.

19. Cooperative Purchases as governed by Section 3.30.080 (F).

20. Governmental and Affiliated Entity Purchases as governed by Section 3.30.080 (G).

3.30.170 - Sale of real property.

A. Public Sale Required. Disposition of real property owned by the City shall be conducted by public sale in accordance with O.C.G.A. § 36-9-3, or as otherwise provided by state law.

B. Exceptions to Public Sale. The following transactions shall not be governed by subsection (A):

1. A redemption of real property acquired by City under tax deed.

2. A grant of easement or license.

3. A grant or conveyance of right-of-way or for other transportation purchases.

4. A conveyance to any other unit of government.

5. A conveyance of recreational set-aside property to a homeowner's association in the manner permitted by state law.

6. A lease that constitutes a usufruct under state law.

C. Procedures. Except as otherwise specifically provided by state law, the City shall not dispose of any real property unless the City Council has declared such real property to be unserviceable. Other than dispositions governed by subsection (A) or by specified provisions of state law, any disposition may be made at public or private sale, upon such terms as the City Council shall deem to be in the City's best interest.

3.30.180 - Sale of surplus real property by real estate broker.

Real property, specifically properties which are remnants of land from total takes on the City of Stockbridge road projects, may be disposed of by sale by real estate broker in accordance with Georgia law O.C.G.A. § 32-7-4 et seq.

A. Requirements for Real Estate Brokers. Real estate brokers must be licensed in accordance with Georgia law O.C.G.A. § 43-40-1 et seq.

B. Declaration of Surplus Property. Property is declared surplus by the City Council in a regularly scheduled meeting.

C. Notification to Former or Subsequent Owner. The former or subsequent owner is notified in writing of intent to sell, as he/she has the first right to purchase the property at the fair market value price. If the former or subsequent owner waives this right, then adjoining property owners are notified that the property will be sold by real estate broker or by competitive sealed bid.

D. Selection of Broker. Broker shall be selected competitively, by the competitive sealed proposal process, as outlined in Section 3.30.100.

E. Advertising and listing of property. Commencing at the time of the listing of the property as provided in O.C.G.A. § 32-7-4, the City shall publicly advertise once a week for two (2) weeks in the legal organ of the City the property and the name of the broker handling the property. Property shall be listed for a period of at least three (3) months. Property cannot be sold for less than fair market value excluding commission fee. If property does not sell during the listing time, the City may renegotiate the commission to a lower fee, extend the Exclusive Agreement with the real estate broker or recommend to the City Council that disposal be by competitive sealed bid or public auction.

F. Approval of Sale. All sales of properties shall be approved by the City Council at a regular scheduled public meeting.

3.30.190 - Disposition of personal property.

A. Declaration of Unserviceability. The City Council shall determine whether a particular item or category of personal property can no longer be used advantageously by the City and has therefore become unserviceable. The City Council may establish criteria establishing unserviceability for categories of personal property which may become unserviceable on a regular, frequently recurring basis, and may delegate to the City Administrator the determination of whether a particular commodity meets the criteria of unserviceability for its category.

B. Disposition. Unserviceable personal property may be sold by public sale, sealed bidding, spot bidding or any other means deemed most advantageous to the City under the particular circumstances as determined by the City Council. A sale to a private person shall be for the highest net purchase price reasonably obtainable by the City. A sale to another unit of government shall be for a fair and reasonable purchase price that need not be as high as the purchase price obtainable from a private person. All sales for personal property items where the original unit purchase cost is $10,000 or less shall be approved by the City Administrator. The City Council shall approve sales for personal property where original unit cost exceeds $10,000.

3.30.200 - Leases of City owned real property.

The City Council may offer to lease city-owned real property if:

A. The sale of the real property is not in the best interest of the City but the real property is not currently being used by the City.

B. The real property has been newly acquired but not immediately put to use by the City, and may reasonably be leased on a month-to-month or short-term basis.

A lessee's interest under any lease executed under this Section shall constitute a usufruct only. Where City-owned real estate is to be leased for nonpublic use, the City Administrator shall cause public notice of the availability of the real property to be published, soliciting inquiries and offers. The City Administrator shall include as part of the solicitation the requirement that improvements to the real estate be insured for the City's benefit at the Lessee's expense. The solicitation shall also describe any restrictions to be placed on the use of the real property. The City Administrator shall report to the City Council all offers to lease the real estate and shall make recommendations as to which offer is in the City's best interest. The City Council shall approve the offer that it deems to be in the best interest of the City. Such approval shall constitute authority for the City Administrator to execute a lease and any instruments on behalf of the City necessary to accept and effectuate the offer.

3.30.210 – Bonding requirements.

A. Bid Bonds.
When the City requires bonding, any bid submitted shall be given a good and faithful surety or sureties approved by the City. Such bid bond shall secure the faithful acceptance by the bidder or proposer of a bid or proposal award and shall be issued for the protection of the City. The bid bond shall be in an amount as specified in the bid or proposal. Bonds shall be of a forfeiture type. All sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Treasurer and be listed in the Finance Division's publication of companies holding certificates of authority as acceptable reinsuring companies. In lieu of the bid bond described above, a bidder or proposer may submit with the bid or proposal a cashier's check payable to the City of Stockbridge in an amount as specified in the bid or proposal. To the extent permitted by Georgia law, a guaranteed letter of credit in the proper amount will act as a bid bond, provided that the form of such letter of credit and the lending institution have been approved by the City in advance. Release of bonds to the successful bidder shall be conditioned upon the bidder's execution of a contract within 30 days following the City's award.

B. Performance and Payment Bond.

1. Any required performance bond shall be issued with good and sufficient surety or sureties approved by the City, in favor of the City and in at least the amount of the total purchase price or as specified in the solicitation and payable under the bid or proposal. Such performance bond shall be conditioned upon the bidder's faithful performance of the terms of the bid or proposal and the contract executed in connection therewith. All

sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Finance Division and be listed in the Finance Division's publication of companies holding certificates of authority as acceptable surety on federal bonds and as acceptable reinsuring companies.

2. Any required payment bond shall be issued with good and sufficient surety or sureties approved by the City, in favor of the City and in at least the amount of the total purchase price or as specified in the solicitation and payable under the bid or proposal. Such payment bond shall be for the benefit of all persons supplying labor, materials, machinery and equipment in the prosecution of the work to be done under the bid or proposal. All sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Finance Division and be listed in the Finance Division's publication of companies holding certificates of authority as acceptable surety on federal bonds and as acceptable reinsuring companies.

B. Insurance Requirements.

The Treasurer shall determine what types and amounts of insurance coverage are reasonably necessary for the protection of the City's interests for all acquisitions covered by this Purchasing Ordinance. All sureties must be licensed to do business in the State of Georgia and have the ratings established by the Finance Division. The Treasurer shall have the authority to waive any requirements regarding insurance.

C. Employment of Unauthorized Aliens Prohibited.

It is the policy of the City of Stockbridge that unauthorized aliens shall not be employed to perform work on City contracts involving the physical performance of services. Therefore, the City shall not enter into a contract for the physical performance of services within the State of Georgia unless the contractor shall provide evidence on the City-provided forms that it and its subcontractors have registered for and are participating in the federal work authorization program as defined by O.C.G.A. § 13-10-91 et seq. to verify information of all newly hired employees. The Purchasing Agent with the assistance of the City Administrator shall be authorized to conduct random audits of a contractor's or subcontractors' compliance with O.C.G.A. § 13-10-91 and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the physical performance of services where any persons are employed on the City contract.

Whenever it appears that a contractor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employ of such contractor or subcontractor, the Treasurer shall report same to the Department of Homeland Security.

A contractor's failure to participate in the federal work authorization program as defined by O.C.G.A. § 13-10-90 et seq. shall be sanctioned by termination of the contract and any other active contracts between the contractor and the City. If it is determined that a subcontractor is not participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90 et seq., the City of Stockbridge shall direct the contractor to terminate that subcontractor. A contractor's failure to follow the City of Stockbridge's instruction to terminate a

subcontractor that is not participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90 et seq. shall be sanctioned by termination of the contract and any other active contract between the contractor and the City.

Any Contractor found to be in non-compliance as defined by O.C.G.A. § 13-10-90 et seq. shall be placed on the City's Ineligible Vendor List for a period of twelve (12) months following the termination date of the contract.
The above requirements shall be in addition to the requirements of state and federal law, and shall be construed to be in conformity with those laws.

3.30.220 - Responsibility of bidders.

A. Determination of Non-responsibility. If a bidder or offeror who otherwise would have been awarded a contract is found to be non-responsible, a written determination of non-responsibility shall be prepared by the Purchasing Agent. A copy of the determination shall be made part of the contract and vendor performance files.

B. Vendor Performance Rating. The Purchasing Agent is authorized to establish a vendor performance rating system for use in eliminating those vendors who fail to perform or perform unsatisfactorily. Rating system may be used for evaluation and award of bids and contracts.

C. Penalties for Non-performance. The Purchasing Agent shall establish penalties for nonperformance for delivery failures or default in contract.

D. Ineligible Source List.

1. Establishment of List. The following persons or entities shall be placed on an Ineligible Source List pursuant to the provisions of this section for a reasonable period not to exceed three years, based upon the recommendation of the Treasurer and the approval of the City Administrator:

    a. Any person or entity that submits a bid or proposal in bad faith; or

    b. Any person or entity that willfully or repeatedly breaches a contract with the City; or

    c. Any person or entity that repeatedly refuses to accept a bid or proposal award; or

    d. Any person or entity that has established a pattern or practice of unethical or immoral business practices; or

    e. Any person that has been convicted of a crime involving moral turpitude; or

    f. Any person or entity that is owned, controlled or managed, in whole or in part, by any other person described in (a) through (e) above.

3.30.221 - Collusive or anti-competitive practices.

Each bidder shall certify in writing that such bidder has not engaged in any collusive or anti-competitive practices in responding to a solicitation for bids or proposals.

3.30.222 - Approval of contracts.

A. General Provisions. All contracts shall be reviewed and approved as to form by the City Attorney prior to execution on behalf of the City. A contract shall conform to state and federal law and to City ordinances and shall otherwise contain such provisions as are reasonably necessary to protect the interest of the City.

B. City Administrator Authority. The City Administrator shall have the authority to sign contracts up to $50,000 without City Council approval.

3.30.223 - Change orders and contract modifications.

A. General Provisions. Except as hereinafter provided, any change order or other modification of a contract term shall be approved by the City Council.

B. City Administrator Authority. The City Administrator shall have authority to approve all change orders to purchase orders and contracts up to an absolute value of 20% of the original contract, provided the total change order amount is $50,000 or less.

3.30.224 - Emergency circumstances for change orders.

Where time is of the essence or emergency circumstances exist that will not permit delay of a project, the user Department Director shall notify the City Administrator before proceeding to authorize work. Subsequent City Council ratification and approval must be obtained at the following public meeting. If work has not been satisfactorily completed by the scheduled meeting, then the City Council must be informed and ratification scheduled at the earliest possible time.

3.30.225 - Specifications.

All specifications shall be prepared so as to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be overly restrictive. This policy applies to all specifications including but not limited to those prepared for the City by architects, engineers, designers and draftsmen.

3.30.226 - Types and use of specifications.

The Purchasing Agent is authorized to establish procedures for the applicability and appropriate use of "qualified products lists", "brand name or equal" specifications and "brand name" specifications.

3.30.227 - Renewals and extensions.

A. General provisions. Some contracts contain renewal clauses describing the conditions under which it may be renewed. The user department(s) must certify in writing to the Purchasing Agent that the contractor(s) has performed satisfactorily and met all of the requirements set forth in the original award. In rare instances, contracts may require an extension for such a period as may be necessary to afford the City a continuous supply of items or services in the event of the termination or near termination of the award/contract. The user department(s) must justify extensions in writing to the Purchasing Agent. The Purchasing Agent, if in agreement, may seek approval as outlined in Section 3.30.227 (B) below.

B. Approval Authority. The City Council shall approve all renewals or term contract extensions:

   1. Where cost is greater than $50,000.

   2. When the original contract was approved by the City Council.

C. The City Administrator shall otherwise approve all other renewals and extensions.

3.30.228 - Termination of contracts.

Upon recommendation by the user department(s), the City Administrator shall have the authority to cancel a contract for any reason to include but not limited to cause, convenience, and lack of appropriation of funds; and shall process the cancellation pursuant to the contract terms and conditions.

3.30.330 - Electronic transmissions of information.

Electronic commerce shall include but not limited to on-line vendor registration, acceptance of bids and proposals by electronic mail, electronic or virtual purchasing malls and catalogs, internet auctions and reverse auctions, notifications of solicitations and download capability and acceptance of electronic (digital) signatures.

Notwithstanding any other provisions, this chapter applies to records generated, stored, processed, communicated, or used for any purpose by the City of Stockbridge for purchasing, acquisition, services, or disposition of personal property. This shall apply to all the City of Stockbridge contracts except for Public Works contracts.

The Treasurer or his/her designee is authorized to promulgate procedures to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic commerce, electronic records, electronic signatures, and electronic security procedures by and for the City of Stockbridge for these purposes.

The Purchasing Agent shall be authorized to develop, implement, and facilitate procedures for the use of electronic records, electronic signatures, and security procedures for all other purposes. The Purchasing Agent is authorized to promulgate methods, means, and standards for secure electronic procurement transactions.

3.30.331 - Electronic signatures and records.

An electronic record satisfies any rule requiring a document to be in writing. An electronic signature satisfies any rule of law requiring a signature. Any electronic record is signed as a matter of law if it contains a secure electronic signature.

An electronic signature is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and provided the electronic signature can be verified. Further, it is considered secure if it can be linked to the electronic record to which it relates in a manner such that, if the record is changed, the electronic signature is invalidated.

An electronic record is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and agreed to by the City of Stockbridge. The electronic record will be deemed secure when it can be verified not to have been altered since a specified point in time.

SECTION 2. Repeal. That the existing Title 3, Chapter 30 be repealed from the Code of Ordinances, City of Stockbridge, Georgia.

SECTION 3. Intention of the Governing Body. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Stockbridge, Georgia, and the sections of the ordinance may be renumbered to accomplish such intention.

SECTION 4. Approval of Execution. The Mayor is hereby authorized to sign all documents necessary to effectuate this Ordinance.

SECTION 5. Attestation. The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this ordinance, subject to approval as to form by the City Attorney.

SECTION 6. Codification and Severability.
(a) It is hereby declared to be the intention of the City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were upon their enactment believed by the City Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the City Council that to the greatest extent allowed by law each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is hereby further declared to be the intention of the City Council that to the greatest extent allowed by law no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.

(c) In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the

remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that to the greatest extent allowed by law all remaining Sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 7. Repeal of Conflicting Provision. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 8. Effective Date.
(a) Every ordinance adopted by the City Council shall be presented by the City Clerk to the Mayor within three days after its adoption.

(b) The Mayor shall within ten days of the adoption of an ordinance return it to the City Clerk with or without his approval, or with his disapproval. If the ordinance has been approved by the Mayor, it shall become law upon its return to the City Clerk; if the ordinance is neither approved nor disapproved, it shall become law on the eleventh day after its adoption; if the ordinance is disapproved, the Mayor shall submit to the City Council through the City clerk a written statement of the reasons or the veto. The City Clerk shall record upon the ordinance the date of its delivery to and receipt from the Mayor.

(c) Ordinances vetoed by the Mayor shall be presented by the City Clerk to the City Council at its next meeting and should the City Council then or at its next general meeting adopt the ordinance by an affirmative vote of the entire Council, it shall become law.

(d) The Mayor may disapprove or reduce any item or items of appropriation in any ordinance. The approved part or parts of any ordinance making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the City Council over the Mayor's veto as provided in this section. The reduced part or parts shall be presented to the City Council as though disapproved and shall not become law unless overridden by the Council as provided in subsection (c) of this section.

SO ORDAINED this 14th day of January, 2013.

Mark A. Alarcon
MARK A. ALARCON, Mayor

ATTEST:

Rhonda A Blackmon (SEAL)
RHONDA A. BLACKMON, City Clerk

APPROVED AS TO FORM:

William J. Rustado, Jr.
~~JACK HANCOCK~~, City Attorney
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