ORDINANCE NO. 2005-12-11

STATE OF GEORGIA

COUNTY OF FULTON

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE 1, GENERAL PROVISIONS, SECTION 1, MEETING TIMES, SUBSECTION (A) OF THE CODE OF ORDINANCES OF THE CITY OF SANDY SPRINGS, GA

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on December 13, 2005 at 7:00 p.m. as follows:

SECTION 1. That the Ordinance relating to Amending Chapter 2, Administration, is hereby adopted and approved; and is attached hereto as if fully set forth herein; and

SECTION 2. This Ordinance is effective December 13, 2005; and

SECTION 4. That this Ordinance shall become effective upon its adoption.

ORDAINED this the 13th day of December, 2005.

Approved:

Eva Galambos

Eva Galambos, Mayor

Attest:

Jeanette R. Marchiafava

Jeanette R. Marchiafava, City Clerk

(Seal)

Article 1: General Provisions

Section 1: Meeting Times

(a) As described in Section 2.09(c) of the Charter, the Council shall meet on the first and third Tuesday of the month at 7:00 p.m. The Council may designate alternative meeting times and days so long as the time is published either electronically on the City website or through other means, including posting at the building designated as City Hall at least 24 hours before the meeting.
(Amended December 13, 2005, Ordinance No. 2005-12-11)

Chapter 2: Administration

Article 1: General Provisions

Section 1: Meeting Times

(a) As described in Section 2.09(c) of the Charter, the Council shall meet on the first and third Tuesday of the month at 7:00 p.m. The Council may designate alternative meeting times and days so long as the time is published either electronically on the City website or through other means, including posting at the building designated as City Hall at least 24 hours before the meeting.
(Amended December 13, 2005, Ordinance No. 2005-12-11)

(b) If the regular meeting falls on a federal holiday, the Council may reschedule the meeting to the next Tuesday, and publish the time change as described in subsection (a) of this section.

(c) Special meetings may be called in accordance with the Charter provision 2.09(d).

(d) Any meeting of the Council may be continued or adjourned from day to day, or for more than 1 day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

(e) The initial meeting of the Council shall occur no earlier than December 1, 2005 and no later than December 6, 2005.

Section 2: Compliance with State Law

(a) All meetings shall be held in accordance with the Georgia Open and Public Meetings Act codified at O.C.G.A. § 50-14-1 et seq.

(b) All City records subject to the Georgia Open Records Act, codified at O.C.G.A. 50-18-70 et seq, shall be available to the public. The City Clerk shall comply with any valid requests under the Georgia Open Records Act and prepare any materials requested.

Section 3: Document Retention

Pursuant to the Georgia Records Act, O.C.G.A. § 50-18-90 et seq, the City of Sandy Springs adopts the records management plan and record retention schedules recommended by the Georgia Secretary of State as amended from time to time by future resolutions of the Mayor and Council of the City of Sandy Springs. The City Clerk shall coordinate all records management for the City including storage, archiving, and destruction of records. Records shall be maintained according to approved retention schedules. All requests made under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq, excepting standardized routine requests of the City of Sandy Springs Police Department, the City of Sandy Springs Fire Department, and the City of Sandy Springs Municipal Court shall be made to the City Clerk. No record shall be destroyed except as provided in the approved retention schedule; provided, however, a written

record may be destroyed if it is otherwise preserved by means of microfiche, scanning, or other reliable photographic or digital means as permitted by law. Changes to the retention schedules shall be adopted by resolution of the Mayor and Council.

Section 4: Fees

The City Clerk shall charge the full amount permitted by Georgia law to copy the records subject to the Georgia Open Records Act. If compilation and replication of such documents takes more than 15 minutes, the City Clerk may charge an additional reasonable administrative charge.

Section 5: Subpoenas

(a) The Council, when sitting as a judicial or quasi-judicial body pursuant to public law, its charter, or its ordinances, shall compel the attendance of witnesses by subpoena under the same rules as prevail in the superior courts, and any witness who shall fail to respond to the subpoena, or who shall refuse to testify under oath, shall be guilty of contempt.

(b) The subpoenas as authorized in the preceding section shall bear witness in the name of the Mayor; shall be issued by the City Clerk; and shall be served by the Chief of Police, any police officer, or by such other person as the Mayor may designate.

(c) Should any person fail to respond to a subpoena of the Council, after having been lawfully served, without good cause, or should the person refuse to testify under oath, then the Council shall hold the person in contempt, and, in their discretion, punish the person by the imposition of a fine according to the maximum allowed by state law. Each of the failures or refusals herein described shall constitute a separate contempt.

Section 6: Reimbursement and Travel

(a) The Mayor and Council Members shall be reimbursed for their own reasonable travel expenses incurred in connection with City business related to travel outside the City, and those Cities that share borders with the City.

(b) *Overnight Travel*. The City shall reimburse the Mayor or Council members for actual expenses of meals incurred in connection with overnight travel, lodging, ground transportation and incidental expenses incurred in connection with City business.

(c) *Expense Reports*. Within 60 days after incurring the aforementioned expenditure(s), the Mayor or Council Members shall file with the City Manager a signed travel expense form setting forth the reasonable expenses incurred for which City payment is sought. Original receipts documenting each expense must accompany the form, except for reasonable and customary out-of-pocket expenses such as tolls, valet services, gratuities, and mileage. If a travel expense form has not been filed within 60 days after incurring an expenditure, the City shall not reimburse such expenses.

Article 2: Personnel

Section 1: Personnel Manual

The City Manager shall establish a personnel manual for all municipal employees. In addition to sections deemed necessary by the City Manager, the manual shall include policies regarding equal employment opportunity, nondiscrimination, and sexual harassment. The manual will be updated from time to time as required by federal and state laws.

Section 2: Employees

(a) In general, municipal employees shall be categorized as full time, part time or by terms decided by contract with the City.

(b) *Municipal Employees*. Full-time employees will be paid an hourly salary, weekly salary or some other pay rate; part-time employees will work at irregular intervals on a short-term basis, and temporary workers will be hired to fill a temporary need for a specified period of time.

(c) *Contract Employees*. The City Manager shall have the authority to propose contractual employment relationships between the City and third parties. The terms of these third party contracts will be established by the contract at the time of hiring. The Council must approve a contract worth more than $25,000.00. Issues of liability and scope of agency are to be defined by the contract.

Section 3: Job Descriptions

The City shall maintain a job specification for each position held by a Municipal Employee. The City may provide a job specification for contracted positions. Such specification shall describe the duties of the position, the qualifications necessary, licenses required, to whom such employee reports, expected salary range, and such other information as is necessary to recruit for such position effectively. Such specifications may be amended from time to time by the City Manager.

Section 4: Benefits

It shall be the policy of the City of Sandy Springs to attract and retain a qualified workforce through the provision of a comprehensive package of benefits. To that end, the City shall be authorized to contract with benefits providers for the purpose of providing insurance, retirement, pension plans and other benefits deemed necessary by the Council upon approval of the benefit program by the City Council. Eligibility for benefits and the cost to employees shall be specified in the Personnel Manual.

Section 5: Records

The City shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

Article 3: City Advisory Committees

Section 1: Authorization

The Council may establish Advisory Committees. Each Committee must have at least one member of the Council and one of the Council members, if more than one serving, shall preside as Chair for the Committee;; the Mayor is an ex-officio member of every Committee. The City Manager or a designee shall oversee the meetings of each Committee and is an ex-officio, non-voting, member of each.

Section 2: Duties

(a) Each Committee shall, from time to time, propose policies and ordinances to the Council in the subjects germane to the Committee.

(b) This section shall not be interpreted to require Committee approval for a measure to be heard before the Council.

(c) Members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the Committee by the Council.

Section 3: Membership

(a) Except as provided in subsection (b) below, the Council shall establish qualifications for members of each Committee. Each committeeperson, other than members of the Council, shall be nominated by the Mayor and approved by the Council.

(b) Each Committee member must be a resident of the City of Sandy Springs. Should the Committee member move out of the City, he or she may remain active until the Mayor and Council appoint his or her replacement.

Section 4: Terms

(a) Each Committee member shall serve a specified term of not more than 4 years. Consecutive terms are permissible. Each Committee member, but the Mayor and Council members serving thereon, shall have staggered terms of an amount to be specified by the Council.

(b) The Mayor and Council members on each Committee shall serve on that Committee so long as they remain elected to office. A former Council member or former Mayor may serve on a Committee, but such person shall not take the place of the elected member.

(c) Members filling vacancies shall serve the remainder of the term to which they were appointed. A consecutive appointment is permissible.

(d) Any member may be removed with or without cause by the Mayor and a majority of the Council members.

Section 5: Compensation

Committee members may serve without compensation. Reasonable expenses for travel may be reimbursed and committee members may be compensated pursuant to a policy to be established by the City Manager and approved by the Council.

Section 6: Quorum

A majority of actual Committee members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

Section 7: Procedure

(a) Each of the Committees shall make its rules of procedure and determine its time of meetings. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of the Mayor and Council.

(b) All meetings at which official action is taken shall be open to the public and all records maintained by the Committee shall be public records unless expressly excepted by a provision of the Georgia Open Records Act. The Committees shall keep minutes of their formal proceedings, showing the vote of each member upon each question; and records of their examinations and other official actions, all of which shall be filed in the office of the City Clerk. Copies of the minutes shall be sent to the Mayor and each member of the City Council. The minutes of the meetings shall be a public record. This section shall not be construed as prohibiting closed sessions when permitted by the Georgia Open Meetings and Open Records Acts.

(c) Expenditures of the Committees, if any, shall be within the amounts appropriated for the purpose intended by the Mayor and Council during the annual budgeting process.

Section 8: Training

The Council may establish a mandatory training program for Committee members.

Article 4: City Departments

Section 1: Authorization

The following departments may be established by the Council:

(a) Administration

(b) Finance
(c) Community Development
(d) Transportation
(e) Public Works
(f) Police
(g) Fire
(h) Parks and Recreation
(i) Building

Section 2: Right of Contract

The City may contract with third parties to provide all or portions of the functions of any municipal department.

Section 3: Oversight

(a) At the election of the City manager each department shall have a Department Head or its equivalent. That Department Head shall be responsible for the day-to-day management of each department and shall report and make recommendations to the City Manager from time to time.

(b) The City Manager or his designate shall supervise each department.

Article 5: City Boards

Section 1: Creation

There may be created a Board of Zoning Appeals, a Design Review Board, a Historic Preservation Board, a Planning Board, a Construction Board of Adjustment and Appeals, and an Alcohol Licensing and Appeals Board, which shall have the powers and duties and be subject to and governed by the regulations set forth in this Article and this Code. The duties of each Board are defined in the corresponding City Code section.

Section 2: Composition

All Board members must be appointed by the Mayor and approved by the Council.

Section 3: Membership

(a) Except as provided in subsection (b) below, the Council shall establish qualifications for members of each Board. Each Board member shall be nominated by the Mayor and approved by the Council. The Council shall determine if and at what amount Board members will be compensated.

(b) Each Board member must be a resident of the City of Sandy Springs. Should the Board member move out of the City, he or she may remain active until the Mayor and Council appoint his or her replacement.

(c) Members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the Board.

Section 4: Terms

(a) Each Board member shall serve a specified term of not more than 4 years. Consecutive terms are permissible. Each Board member, but the Mayor and Council members that may serve on a Board, shall have equal terms of an amount to be specified by the Council.

(b) The Mayor and Council members on each Board may serve on a Board so long as they remain elected to office. A former Council member or former Mayor may serve on a Board, but such person shall not take the place of the elected member.

(c) Members filling vacancies shall serve the remainder of the term to which they were appointed. A consecutive appointment is permissible.

(d) Any member may be removed with or without cause by the Mayor and a majority of the Council.

Section 5: Quorum

A majority of actual Board members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

Section 6: Procedure

(a) Each of the Boards shall make its rules of procedure and determine its time of meetings. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of Mayor and Council.

(b) Each of the Boards shall elect, annually, at its first meeting of the calendar year, one of its members to serve as Chair.

(c) All meetings at which official action is taken shall be open to the public and all records maintained by the Committee shall be public records unless expressly excepted by a provision of the Georgia Open Records Act. The Boards shall keep minutes of their formal proceedings, showing the vote of each member upon each question; and records of their examinations and other official actions, all of which shall be filed in the office of the City Clerk. Copies of the minutes shall be sent to the Mayor and each member of the Council. The minutes of the meetings shall be a public record. This section shall not be construed as prohibiting closed sessions when permitted by the Georgia Open Meetings and Open Records Acts.

Section 7: Training

The Council may establish a mandatory training program for Board members.

Article 6: City Finance

Section 1: City Accountant

(a) The Mayor may appoint a City Accountant, subject to the confirmation of the Council. The City Accountant may also serve as the City Treasurer, City Tax Collector, and City Finance Director. Unless otherwise specified, the terms "City Accountant," "City Treasurer," and "City Tax Collector" are used interchangeably in this Code.

(b) The City may contract with a third party to serve as City Accountant.

(c) The City Accountant shall perform at least the following duties. The Mayor and Council may require the City Accountant to perform other duties.
(i) Managing, planning, directing, and maintaining the City's financial operations, including serving as Chair of the City Finance Department, if such a department is established; and
(ii) Directing and supervising the work of personnel involved in performing the accounting, utility billing, property tax, payroll, and purchasing functions for the City; and
(iii) Providing technical leadership in budgeting, overseeing and directing investment opportunities and debt administration, as well as insuring proper record retention policies are strictly followed.

Section 2: City Tax Collector

(a) The Mayor may appoint a City Tax Collector, subject to the confirmation of the Council. The City Tax Collector also may serve as the City Treasurer, City Accountant, and City Finance Director.

(b) The City may contract with a third party, including the Tax Commissioner of Fulton County, Georgia, to serve as City Tax Collector.

(c) The City Tax Collector shall perform at least the following duties. The Mayor and Council may require the City Accountant to perform other duties:
(i) Managing, planning, and directing the collection of all City taxes.
(ii) Notifying delinquent taxpayers of their status in accordance with Georgia law.

Article 7: Purchasing

Section 1: Definitions

When used in this Article, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any terms not defined by this Article shall have the meaning ascribed to them elsewhere in this Code.

(a) *City Finance Director* means the City Accountant, his agent, or the Chair of the City Finance Department, if such a department is created, or is in existence.

(b) *Construction* means 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. The term "Construction" does not include the routine operation, repair and/or maintenance of existing structures, building, or real property.

(c) *Contract* means any City agreement, regardless of form or title, for the procurement or disposition of goods, commodities, and services.

(d) *Employee* means an individual drawing a salary or wage from the City whether on a full-time or part-time basis. The term shall encompass all members of the Governing Authority without regard to whether or not such individual is compensated.

(e) *Gifts or Favors* means any thing or any service of value.

(f) *Goods or Commodities* means supplies, apparatus, materials, equipment, and other forms of tangible personal property.

(g) *Governing Authority* means the City entity responsible for the contract.

(h) *Ordinance* means this Article.

(i) *Purchase Order* means the document used by the City to obtain supplies, goods, commodities and services from vendors.

(j) *Purchasing Agent* means the principal purchasing official of the City pursuant to Section 2 of this Article.

Section 2: Purchasing Agent

(a) The Council may appoint the City Manager or his agent to serve as the Purchasing Agent for the City, or the Council may contract with an independent third party to serve as the Purchasing Agent.

(b) *Duties*. The Purchasing Agent shall have the following duties and powers:

(i) Arrange and negotiate the purchase or contract for all equipment, supplies and contractual services for the City or any using agency; arrange and negotiate for the sale or otherwise dispose of all surplus equipment and supplies or real estate of the City or any using agency;

(ii) Maintain a perpetual or periodic inventory record of all materials, supplies, or equipment stored in City storerooms, warehouses, and elsewhere, including monthly reports that provide

(A) The titles of all requests for proposals and the method of source selections to be used;

(B) All contracts authorized by the Council, the method of source selected used and the total dollar amount;
(C) All emergency contracts awarded pursuant to this Article.
(D) All change orders of contract modifications authorized by the Council, the dollar amount and the reason;
(E) All change orders or contract modifications authorized by the Purchasing Agent, the dollar amount and the reason;
(F) An explanation of any changes, and the costs involved, in the scope of services made between the time a contract is awarded and the time that a resolution authorizing the contract is sent to the Council for adoption.
(iii) Control and supervise all City storerooms and warehouses unless otherwise provided in this code; and
(iv) Develop and maintain a purchasing policy and procedure manual which will be updated by the Purchasing Agent periodically.
(v) Direct efforts to procure services through advertisements of bids as required by this Article and by state law.
(vi) Require bonds, insurance and other forms of protection for the City on the process of procuring goods and services for the City.
(vii)Terminate solicitations for bids for any good(s) or service(s) when, in the opinion of the Purchasing Agent, it is in the City's best interest to do so. This includes termination for breach of contract or anticipated breach of contract.
(viii)Reject any and all bids, when in the opinion of the Purchasing Agent it is in the City's best interest to do so.
(ix) Consult with the City Attorney if a contracting party breaches or is reasonably anticipated to breach its contract with the City.

Section 3: General Procurement Efforts

(a) *Non-Discrimination*. To the extent not required by federal law, the City shall not consider race, gender, national origin, or religion when evaluating bids for City contracts or the disposition of City property. To the greatest extent practicable, the bids submitted to the City will not convey the race or gender of the submitting party or the majority of shareholders in the submitting corporation.

(b) The Council remains the final policy maker for all decisions of the Purchasing Agent.

(c) The City may procure goods or services through (1) emergency purchases; (2) informal purchases; or (3) formal purchases. Unless otherwise specified, competitive bidding shall apply to informal and formal purchases.

(d) *Exceptions*. Competitive Bidding shall not apply in the following instances:
(i) A good is available from only one source or supply, or when standardization or compatibility is the overriding consideration;
(ii) The purchase is pursuant to a contract with (a) the United States of America or an agency thereof of (b) any government unit or agency thereof within the United States for the purchase, lease, or other acquisition of goods;

(iii) The purchase is for:
(A) Works of art for public places
(B) 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
(C) 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
(D) Subscriptions, dues, memberships, and Board member fees
(E) Services provided directly to individual citizens and employees including reimbursements and other miscellaneous payments
(F) Utilities, including but not limited to electricity and telephone service
(G) Licensed health professions
(H) Training, travel, and lodging or meal expenses
(I) Items for resale that require a particular manufacturer to enhance their marketability
(J) Legal advertisements
(K) Repair of equipment
(L) Repair of buildings where the extent of the project cannot be predetermined
(M) Professional services not covered in this Ordinance.
(iv) Purchases or contracts where the Governor's Commission for the City of Sandy Springs, which was created pursuant to O.C.G.A. § 31-36-8, followed a specific procedure, issued a request for proposals or a request for information, and the proposals or responses were reviewed by representatives of the Governor's Commission and the members of the Governor's Commission and were made available to the members of the public at large.

Section 4: Pre-audit clearance

The Purchasing Agent shall not approve any contract for goods or services until the City Director of Finance or City Accountant 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 City Manager and City Finance Director or City Accountant, the Purchasing Agent may issue operating rules to verify compliance with this section.

Section 5: Small Purchases

The Purchasing Agent shall establish procedures for purchasing goods or services for less than $5,000.00. These procedures must include quotations from as many competitive sources as reasonably practical.

Section 6: Emergency Purchases

(a) Notwithstanding any other section of this Code, when the City Manager determines that an emergency exists, the Purchasing Agent may make or authorize others to make emergency procurements for supplies, services, construction items, or professional or consultant services.

The City Manager shall make such determination when there exists a threat to public health, welfare, or safety under emergency conditions. Such emergency procurements shall be made with as much competition as is practicable under the circumstances.

(b) A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item procured under the contract, and the identification number of the contract file.

(c) If an emergency should arise after office hours which requires immediate action on the part of the agency involved for the protection of the best interest of the City or if a like situation arises on a Sunday or holiday and when it is not possible or convenient to reach the purchasing agency, any purchase necessary shall be made by the official in charge of such agency, and such purchase reported to the Purchasing Agent within 24 hours.

Section 7: Informal Purchases

(a) All contracts for the purchase of goods and services involving the estimated expenditure of $5,000.00 or more of public money, but less than $25,000.00 (except those described in Section 3 (d), hereof) shall be made after informal bids are secured.

(b) In addition to the normal publication of bids, the Purchasing Agent may directly solicit informal bids from no less than three businesses. The Purchasing Agent shall keep a record of all bids submitted and the record shall be available for public inspection after the contract is awarded, in the manner provided by law.

(c) The Purchasing Agent shall develop written procedures for implementing the provisions of this section, which shall be subject to the approval of the City Manager and City Finance Director. Such procedures shall be made publicly available.

Section 8: Formal Purchases

Except as otherwise provided in this Ordinance, no contract for the purchase of goods and/or services involving the estimated expenditure of $25,000.00 or more of public money shall be awarded unless the provisions of this section are followed. The Purchasing Agent, subject to the approval of the City Administrator and City Finance Director, shall make the determination of the method of procurement.

Section 9: Competitive Bidding

(a) All purchases of, and contracts or agreements for supplies and contractual services, having an approved budget estimate greater than $5,000.00 except as otherwise provided herein, shall be based wherever reasonably possible on three or more sealed competitive bids after publishing notice of request for bids. Where budget estimates are under $5,000.00, quotations shall be obtained from as many competitive sources as possible.

(b) Sealed Bid Procedure.

(i) Bids shall be invited by advertisement in a newspaper having general circulation in the City and distributed 6 days per week within the City limits. The advertisement shall state the time and place where specifications may be obtained, and the time and place for opening of bids unless otherwise directed by the Council. At least fourteen full days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the City reserves the right to reject any or all of the bids and to make award that is in the best interest of the City.

(ii) The Purchasing Agent may require that bid deposits be submitted with each bid. If bid deposits are required, they shall be in an amount equal to 5 percent of the amount of the bid and may be submitted in the form of a bid bond signed by a surety company authorized to do business in the State of Georgia, cashier's check, certified check issued by a bank or trust company insured by the Federal Deposit Insurance Corporation, or any other form of bid security deemed sufficient by the City Attorney or his designee. The bid deposit requirement, including the form in which the bid security may be submitted, shall be included in the specifications.

(iii) Bids shall be sealed. All bids shall be publicly opened and the Purchasing Agent shall make or oversee the making of a record of the bids received. The record and the bids received shall be subject to public inspection after the bid opening in the manner prescribed by law.

(iv) As provided in the invitation for bids, the Purchasing Agent may require the successful bidder to furnish a payment and/or performance bond to secure the faithful performance of all of the terms of the contract. The payment and/or performance bond shall be in a form approved by the City Attorney and the form of the bond(s) shall be included in the specifications.

(v) All contracts of $25,000.00 or more, excluding commodity purchases, to which this section applies shall be in writing and shall be approved by the City Council. The City Council may reject any and all bids.

(c) The lowest bid for purchases shall be accepted by the Purchasing Agent or, if the Purchasing Agent, relevant Department, or other contracting authority finds that the lowest bid is not in the City's best interest, whereupon the Purchasing Agent may accept another bid or may call for additional bids. The City reserves the right to reject all bids. If the Purchasing Agent finds that the lowest bid is not in the City's best interest, he must file reasons for that finding with the Council before the next scheduled meeting.

(d) In addition to price on all bids or quotations, the following shall be considered, but not limited to in determining responsiveness:

(i) The ability, capacity, and skill of the person or firm offering the bid or quotation to perform the contract or provide the service required;

(ii) Whether the person or firm can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(iii) The quality of performance on previous contracts or services with the City or others;

(iv) The previous and existing compliance by the person or firm with laws and ordinances relating to the contractual service or supplies;

(v) The sufficiency of the financial resources and ability of the person or firm to perform the contract or provide the service;

(vi) The quality, availability, and adaptability of the supplies, or contractual services to the particular use required;

(vii) The ability of the person or firm to provide future maintenance and service for the use of the subject of the contract; and

(viii) The number and scope of conditions attached to the bid or quotation.

(ix) The above requirements shall not apply to any projects for which the City receives aid from any federal agency, state agency, or foundations, when unit prices have been established by such other agency. The contractor shall be selected from contractors certified by the agency supplying the funds for the project. In addition, the Purchasing Agent shall further ascertain that existing and future procurement procedures are in accord with applicable federal guidelines regulating procurement procedures for recipients of federal funds.

(x) The above requirements shall not apply in sole source procurements where there is only one vendor capable of providing particular goods or services as determined by the Purchasing Agent.

Section 10: Competitive Sealed Proposals

(a) When the Purchasing Agent determines, in writing, that the 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:

(i) When the quality, availability, or capability is overriding in relation to price in procurement of technical supplies or services;

(ii) When 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;

(iii) If a fixed price or cost type contract is more advantageous or;

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

(b) Procedure for Sealed Proposals.

(i) Proposals shall be requested by advertisement in a newspaper having general circulation in the City. The advertisement shall state the time and place where

specifications may be obtained, and the time and place for deadline for receipt of proposals unless otherwise directed by the Council. At least 14 full days must pass between the day the advertisement appears and the day of the deadline for receipt of proposals. The advertisement shall state that the City reserves the right to reject any or all of the proposals.

(ii) Proposals shall be sealed. All proposals shall be received in public and the Purchasing Manger shall make or oversee the making of a record of the proposals received. The name of each proposer shall be announced but no other information shall be disclosed nor shall the proposals be considered an "open record" until a contract is awarded. The record of the proposals received shall be subject to public inspection after the deadline for receipt in the manner prescribed by law.

(iii) Award of contract shall be made to the proposer that submits the proposal deemed in the best interest of the City taking into account the evaluation factors outlined in the proposal documents. A team consisting of no less than three persons shall conduct evaluation of proposals. This team shall include the Purchasing Agent, the Head of the user department, and an additional representative of the user department selected by the respective Department Head.

(iv) As provided in the invitation for proposals, the Purchasing Agent may require the successful proposer to furnish a performance bond to secure the faithful performance of all of the terms of the contract. The performance bond shall be in a form approved by the City Attorney and the form of the bond shall be included in the specifications. The City Council may reject the bond of any proposer if they find it to be unacceptable.

(v) All contracts of $25,000.00 to which this section applies shall be in writing and shall be approved by the City Council. The City Council may reject any and all proposals.

Section 11: Multi-Step Competitive Sealed Procurement

The multi-step competitive sealed procurement method may be used when the City desires to award a contract not necessarily based on price, and when specifications may not be readily available or when technical qualifications are essential for the decision making process. This type shall take the form of request for proposals or request for information and shall follow the following format. If time is of the essence, the two steps can be combined with the priced offer submitted in a separate sealed envelope at the time of submission of the technical offer. The pricing data is to remain unopened until evaluation of technical offers is complete.

(a) The solicitation shall be advertised in a newspaper having general circulation in the City. The advertisement shall state the time and place where documents may be obtained, and the time and place for deadline for receipt of proposal unless otherwise directed by the Council. At

least 14 full days must pass between the day the advertisement appears and the day of the deadline for receipt of documents. The advertisement shall state that the City reserves the right to reject any or all documents received.

(b) The initial step shall consist of solicitation of technical offers with no costs or prices included. Unweighted evaluation criteria shall be included in the solicitation documents. A team consisting of no less than three persons shall evaluate the results of this solicitation. This team shall include the Purchasing Agent, the Head of the user department, and an additional representative of the user department selected by the respective Department Head. Evaluation shall follow the same criteria as under request for proposals.

(c) In the second step, those who submitted technical offers deemed responsible and responsive in the initial step are then asked to submit price bids.

(d) Proposals shall be sealed. All proposals shall be publicly opened and the Purchasing Agent shall make or oversee the making of a record of the proposals received. The record and the proposals received shall be subject to public inspection after the proposal opening in the manner prescribed by law.

(e) Award of proposal shall be made to the bidder that submits the lowest responsible and responsive proposal that meets the specifications contained in the proposal documents and is in the best interest of the City. The City reserves the right to make award if a single proposal is received.

(f) If required by the soliciting documents, the Purchasing Agent may require the successful contracting party to furnish a payment and/or performance bond to secure the faithful performance of all of the terms of the contract. The payment and/or performance bond shall be in a form approved by the City Attorney and the form of the bond(s) shall be included in the specifications.

(g) All contracts of $25,000.00 or more to which this section applies shall be in writing and shall be approved by the City Council. The City Council may reject any and all bids.

Section 12: City Surplus Property

(a) All using agencies shall submit to the Purchasing Agent, at such times and in such form as he or she shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

(b) The Purchasing Agent shall have the authority to transfer surplus stock to other using agencies.

(c) The Purchasing Agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade in the same on, new supplies, upon approval of the City Manager.

(d) The Purchasing Agent may dispose of all personal property of the City in a manner consistent with this code section. Competitive bids shall be encouraged to the extent possible.

Section 13: Bid Protests and Appeals

(a) Any party that submits a bid pursuant to this Article and has a good faith basis to protest the bid, must prepare a formal complaint to be filed with the City Manager. The complaint shall specify the alleged act or omission by the City that provides the basis for the complaint.

(b) Upon the filing of a complaint, within 3 working days, the City Manager shall request a response from the City Purchasing Director within 30 days. Failure by the City Purchasing Director to file a response may be considered as evidence by the City Manager.

(c) If requested by either party, the City Manager or his designate shall have a hearing on the complaint and decide the merits of the claim. The City Manager is empowered to decide that the contract at issue be voided, upheld, or whatever other relief may be necessary. The Council shall approve or reject the City Manager's decision.

(d) If the party bringing the complaint disagrees with the conclusions of the City Manager and Council, the decision may be appealed to the Superior Court of Fulton County.