# City of Fairburn Work Session
# Agenda

April 10, 2023
6:00 PM

## *The Honorable Mayor Mario Avery*

| | |
|---|---|
| The Honorable Mayor Pro-Tem Linda J. Davis | The Honorable Pat Pallend |
| The Honorable Alex Heath | The Honorable Ulysses J. Smallwood |
| The Honorable Hattie Portis-Jones | The Honorable James Whitmore |
| Mr. Tony Phillips | City Administrator |
| Mr. Rory Starkey | City Attorney |
| Ms. Brenda B. James | City Clerk |

I. Meeting Called to Order: The Honorable Mayor Avery

II. Roll Call: City Clerk

III. Agenda Items:

1. Downtown Beautification Projects **(Economic Development)**
2. Purchasing Policy Update **(Finance)**

IV. Adjournment:

When an Executive Session is required, one will be called for for the following Issues:
**(1) Personnel (2) Real Estate** or **(3) Litigation**

# CITY OF FAIRBURN
# WORK SESSION AGENDA ITEM

**SUBJECT:** Downtown Beautification Projects

**ITEM TYPE:** Presentation

**SUBMITTED:** 04/03/2023 **WORK SESSION:** 04/10/2023 **COUNCIL MEETING:** 04/24/2023

**DEPARTMENT:** Economic Development

**BUDGET IMPACT:** $30,244.00

**PUBLIC HEARING:** No

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**PURPOSE:**

To refresh the downtown pedestrian area within the Historic Commercial District with a town clock as a focal point for pedestrian mobility, cultivating a sense of place by providing a monument for viewing, listening to music, and donor recognition.

Through the Adopt-A-Planter Program, planters will be well-placed throughout the City to enhance the streetscape for shoppers, businesses, and residents.

**HISTORY:**

Beautification within Fairburn's downtown Historic District is an ongoing initiative that includes increasing investment, enhancing tourism, and adding new businesses by cultivating unique areas. Citizens desire the installation of a town clock to improve the downtown public space, embracing traditions while incorporating modernity. The proposed town clock expands the downtown pedestrian area by providing a monument for viewing, listening to music, and donor recognition.

**FACTS AND ISSUES:**

The Howard Replica / Seth Thomas replica is a four-faced clock commissioned to provide a monument within the downtown Historic Commercial District. The Town Clock initiative began as a beautification project submitted to the Art Advisory Council, a quasi-judicial review board, to review the viability of installation within the downtown square. The Art Advisory Council reviewed the clock's specification over three council meetings and voted unanimously to support the structure during a specially-called meeting on March 23, 2023. The Art Advisory Council recommends installing the clock in the pedestrian area nook, located outside of Fairburn's Antique Mall, in the Fairburn blue color scheme, with Roman Numeral lettering.

**FUNDING SOURCE:**

The town clock will be funded through Downtown Development and Capital Projects.

**RECOMMENDED ACTION:**
N/A

**ATTACHMENTS:**
1. ED-TownClock-WorkSession-04102023


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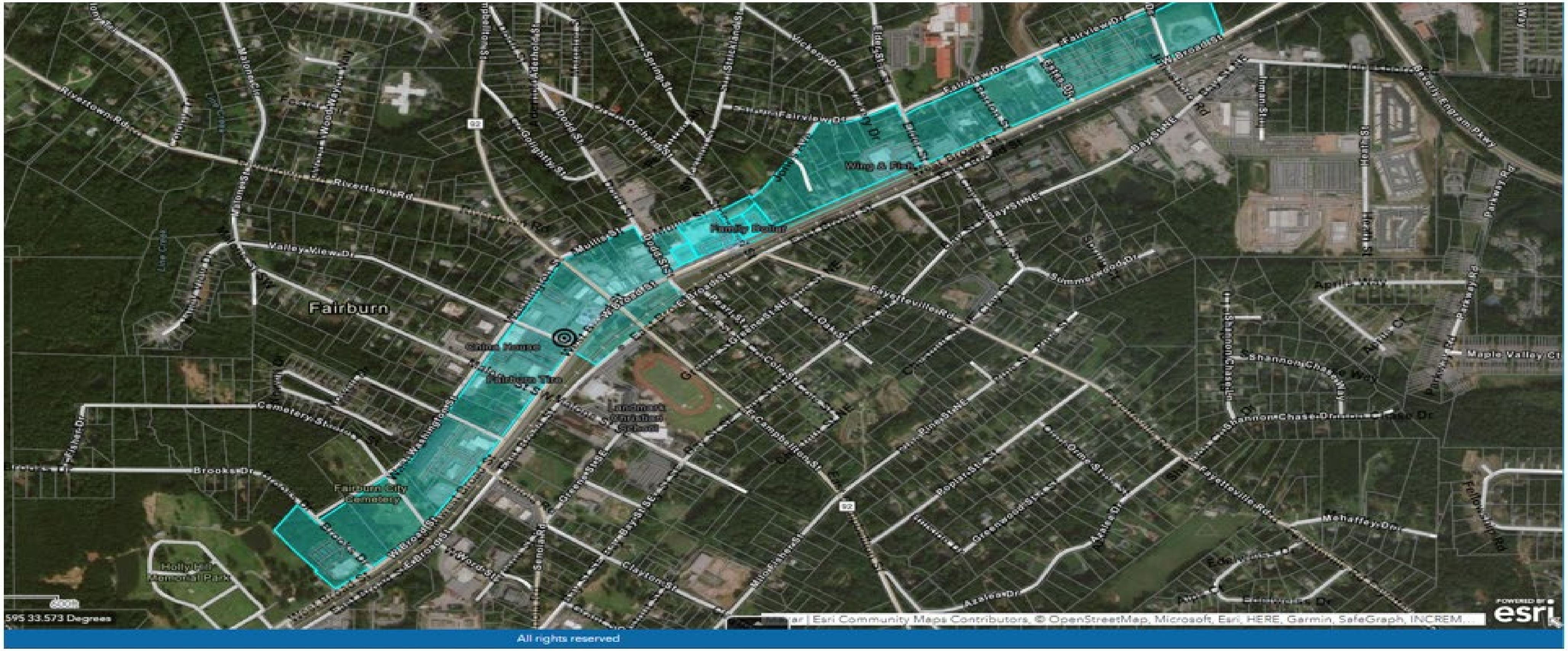
# Downtown Beautification

**Economic Development Department Project Updates**

- Rotary/Town Square Clock
- Adopt-A-Planter Program

**CITY COUNCIL WORK SESSION**
**APRIL 10, 2023 / 6:00 PM**

# Project Boundaries



# City Square Town Clock

**FEBRUARY – SEPTEMBER 2023**

- Downtown Beautification, transforming public spaces into vital settings.
- Showcases the community, adding to Character Spaces.
- Creates focal points on main street.
- Provide legacies to donors.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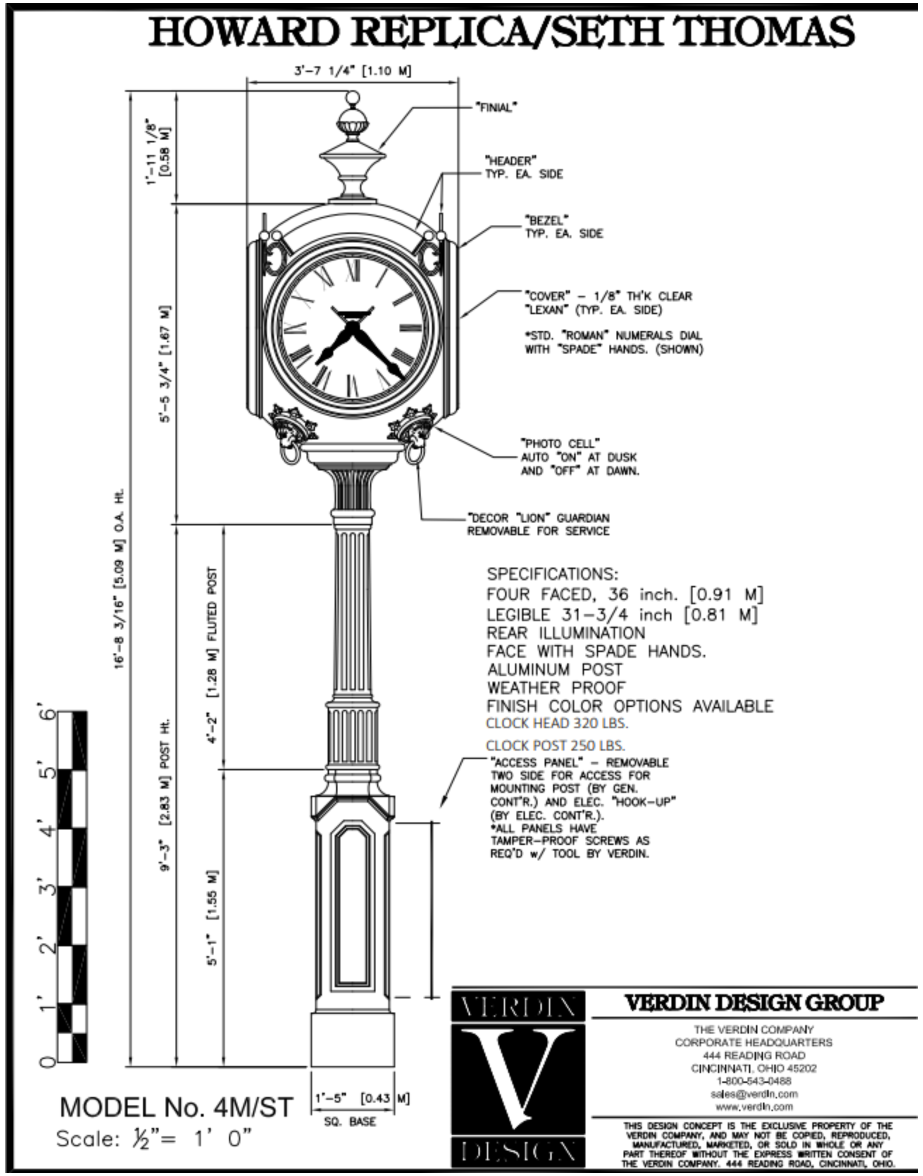


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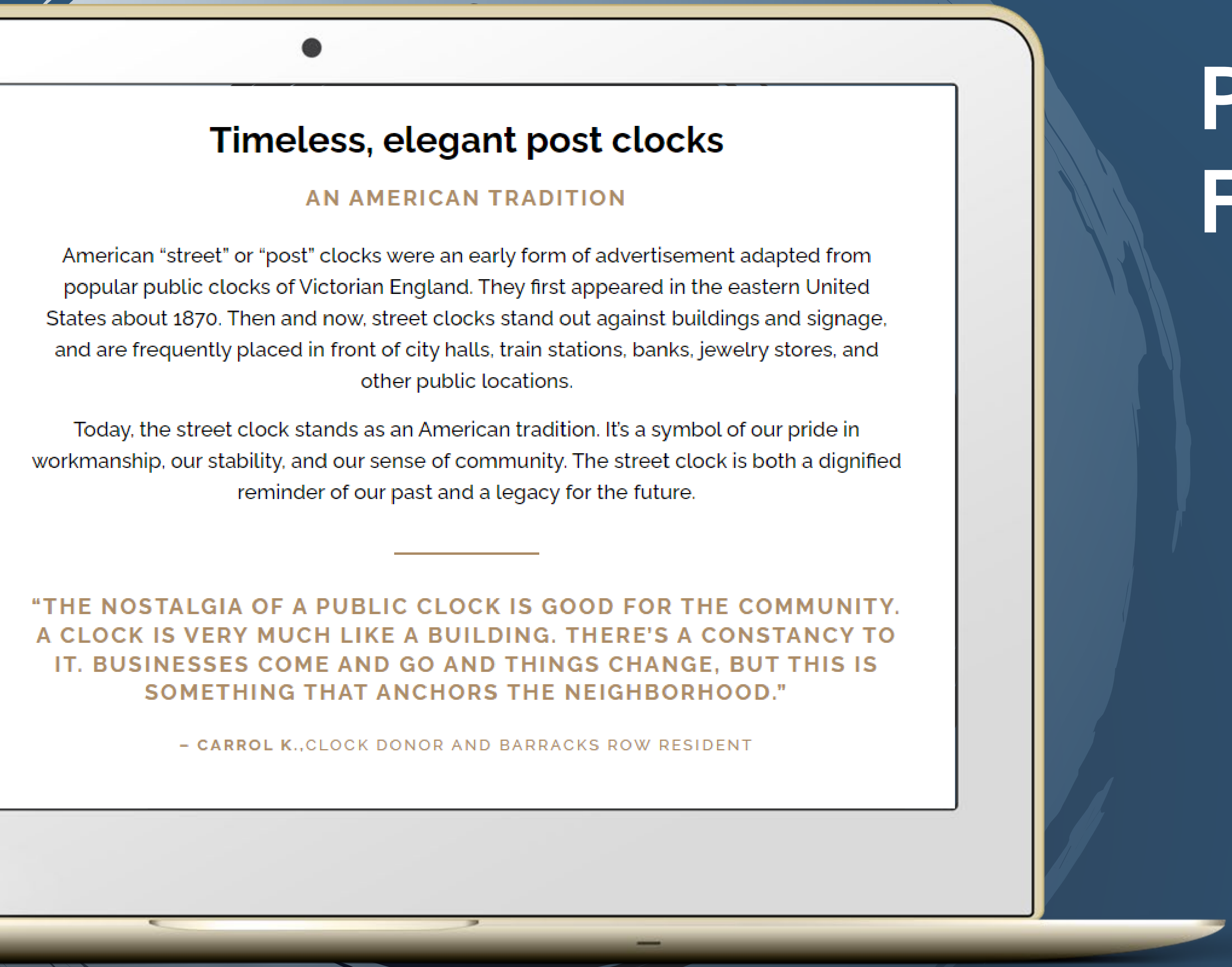

## Timeless, elegant post clocks

**AN AMERICAN TRADITION**

American “street” or “post” clocks were an early form of advertisement adapted from popular public clocks of Victorian England. They first appeared in the eastern United States about 1870. Then and now, street clocks stand out against buildings and signage, and are frequently placed in front of city halls, train stations, banks, jewelry stores, and other public locations.

Today, the street clock stands as an American tradition. It's a symbol of our pride in workmanship, our stability, and our sense of community. The street clock is both a dignified reminder of our past and a legacy for the future.

“THE NOSTALGIA OF A PUBLIC CLOCK IS GOOD FOR THE COMMUNITY. A CLOCK IS VERY MUCH LIKE A BUILDING. THERE'S A CONSTANCY TO IT. BUSINESSES COME AND GO AND THINGS CHANGE, BUT THIS IS SOMETHING THAT ANCHORS THE NEIGHBORHOOD.”

– CARROL K.,CLOCK DONOR AND BARRACKS ROW RESIDENT

# Post Clocks Features

- Reliable clock movements
- Shatterproof clock dials and clear covers
- Moonglow LED backlighting
- Weatherproof
- Best in class craftsmanship
- Made in America
- 55,000 installations worldwide

# The Town Crier Carillon for Street Clocks


The new Verdin Town Crier Carillon is a simple, easy to operate carillon that embodies the features to add voice to your Verdin Street Clock.

FEATURES:

The Sounds:
- American cast bronze bells
- Cast bronze bells with harp

Chimes:
- Westminster chime and hour strike

Music:
- Secular music for all seasons
  - Patriotic
  - Holiday
  - Taps
  - Final Bugle

Speakers:
- Mounted inside clock head

Programs:
- Instant program buttons
- Quick programming for seasonal or event change
- Automatic power return after outage
- Automatic reset for Daylight Saving Time
- Interface with the Master Clock Controller
- 50 year calendar
- Remote control

Cabinet:
- Cabinet to house carillon inside street clock thermostat, fan and heater

STANDARD STREET CLOCK DIAL FACES

ARABIC ROMAN VICTORIAN

AVAILABLE LETTERING STYLES FOR LOGO HEADERS

CALLIGRAPH 1234567890
ENCHANTED 1234567890
Old English 1234567890
BENGUIAT 1234567890
Lydian 1234567890
SAXON 1234567890
FLARE SERIF 1234567890
Mariage 1234567890
PARISIAN 1234567890
CASLON 1234567890
TIFFANY 1234567890
BERNHARD 1234567890
Dauphin 1234567890
ENVIRO 1234567890
GOUDY 1234567890

COPPERPLATE GOTHIC 1234567890
BASKERVILLE 1234567890
ZAPF CHANCERY 1234567890
VALIANT 1234567890
TIMES ROMAN 1234567890
WOOD 1234567890
GARAMOND 1234567890

CUSTOM LETTERING AVAILABLE UPON REQUEST

VERDIN DESIGN

VERDIN DESIGN GROUP
444 Reading Road, Cincinnati, Ohio [illegible]
513-241-4010 1-800-[illegible] FAX 513-241-[illegible]

THIS DESIGN CONCEPT IS THE EXCLUSIVE PROPERTY OF THE VERDIN COMPANY, AND MAY NOT BE COPIED, REPRODUCED, MANUFACTURED, MARKETED, OR SOLD IN WHOLE OR ANY PART THEREOF WITHOUT THE EXPRESS WRITTEN CONSENT OF THE VERDIN COMPANY. 444 READING ROAD, CINCINNATI, OHIO.

| | | |
|---|---|---|
| SCALE: NONE | DRAWN BY: GLFJ | DRAWING NUMBER: 95 CLK/A 1704-20 |
| DATE: 7/15/95 | REVISED: 06/04/21 | |

VERDIN
BELLS & CLOCKS
SINCE 1842

# Raise the funds for your Verdin post clock with donor plaques

*It's easier than you think with this proven donor recognition program*

Cast bronze plaques affixed to the base of your post clock is a permanent way to recognize those who have contributed to your project. Most Verdin post clocks have four panels to hold as many as four cast bronze plaques. The names of up to 25 individual contributors can be cast on each plaque.

## Here's how easy it is!

- **Determine the total funds needed for the entire project: clock, foundation, electrical, pavers, benches, planters**
- **Up to 25 names per plaque x 4 plaques = 100 contributors**
- **Divide the funds needed by the number of contributors to determine the value of an individual donor gift**
- **Consider offering tiers of donor recognition: platinum, gold, silver**

VERDIN

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# POST CLOCK ORDER FORM

**THE VERDIN COMPANY**
444 READING ROAD | CINCINNATI, OHIO 45202
PHONE: (513) 241-4010 | TOLL FREE: 800-543-0488 | WWW.VERDIN.COM

DATE: **February 23, 2023**

| | | | |
|---|---|---|---|
| SOLD TO: | **City of Fairburn** | INSTALL AT: | **City of Fairburn** |
| CONTACT: | **Sylvia Abernathy** | CONTACT: | **Sylvia Abernathy** |
| ADDRESS: | | ADDRESS: | **56 Malone Steet SW** |
| CITY: | | CITY: | **Fairburn** |
| STATE: / ZIP: | | STATE: / ZIP: | **GA** / **30213** |
| PHONE: / EMAIL: | | PHONE: / EMAIL: | **(770)964-2244** |

| | | | QTY. | NOTES |
|---|---|---|---|---|
| **POST CLOCK MODEL** | | | | |
| TWO-FACE | | | | |
| FOUR-FACE | 4M/ST | Howard Replica/Seth Thomas (36" dial) | 1 | |
| COURTYARD | | | | |
| **DIAL FACE** | Arabic | Est. 1854 | | Customer choice of dial and lettering |
| **CLOCK COLOR** | Black | | | Customer choice of color (see below fo option) |
| **ACCENT PAINTING** | Gold | | | Customer choice of color |
| **CUSTOM HEADER** | X | CITY OF FAIRBURN | 1 | Customer choice of lettering |
| **BOTTOM PANEL SET** | | | | |
| **RAISED LETTERING** | | | | |
| **CUSTOM PLAQUE** | | | | |
| BRONZE | | | | |
| BRASS | | | | |
| **CUSTOM LIGHTING** | | | | LED MoonGlow Backlighting |
| **VERDIN MASTER CLOCK CONTROLLER** | | | | |
| MCC3 | X | GPS INTERFACE | 1 | Auto update for daylight saving and power outages |
| **TOWN CRIER CARILLON with SPEAKERS** | | | | |
| CARILLON | | REMOTE | | |
| **CUSTOM CLOCK** | | | | |
| **CLOCK RESTORATION** | | | | |
| **OTHER OPTIONS** | | | | |
| **INSTALLATION** | Installation by Verdin | | | Lead time for Verdin installation is approximately 30-45 days following shipment. |
| **FREIGHT** | SHIPPING INCLUDED - FOB Destination | | | See Section 5 of Terms & Conditions regarding customer responsibilities for electrical wiring, foundation, offloading, hoisting equipment, etc. |
| **EST. MANF. LEAD TIME** | Approx. 150 days from receipt of signed quote or PO, deposit, and approved drawings; lead times may vary depending on model purchased and Verdin production backlog. | | | |

All delivery dates subject to final acceptance by The Verdin Co.

| | | "X" Below To Accept Option | Option Cost | | |
|---|---|---|---|---|---|
| *Option #1* | Custom Bronze Plaque ___ X $1,200.00 each | | | SUBTOTAL (*excluding tax*)* | $30,244.00 |
| *Option #2* | Custom clock color other than Black or Verdin Green | | $1,095.00 | Estimated Taxes. (Actual Taxes to be Calculated at Invoicing) | |
| *Option #3* | Town Crier Carillon System | | $4,485.00 | Deposit (50% w/Order)* | $15,122.00 |
| | | | | BALANCE DUE UPON SHIPMENT* | $15,122.00 |

*Specify Other Payment Terms Below*
*Customer to provide sales tax exemption certificate if applicable.*

*Add cost of accepted options to total purchase price and deposit.
PURCHASER RESPONSIBLE FOR ALL TAXES.

Purchaser ______________ Sales Representative **Brian Straits**

# ADOPT A PLANTER PROGRAM

FEBRUARY – SEPTEMBER 2023

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### *Program Scope*

The Adopt-A-Planter Program encourages public investment in the beautification of downtown Fairburn's Historic Commercial District. Planters well-placed throughout the City enables the community to work together to greatly enhance the streetscape for shoppers, businesses, and residents.

**APPENDIX A**
**STANDARD RULES AND REGULATIONS**

By applying, applicant agrees to abide by the Policies & Regulations of the City of Fairburn Adopt a Planter Program MOU.

- After the Planter has been transferred to the possession of the selected applicant, applicant understands that they agreement rest between the business owner and the City of Fairburn as per the City of Fairburn's Adopt a Planter Program MOU, releasing the Downtown Main Street Program of any responsibilities.

2. The City of Fairburn and Fairburn Main Street Board of Directors reserves the right to accept or reject any submission.

3. Applicant understands that review, evaluation, and selection of submitted application are made at the discretion of the Downtown Main Street Board of Directors. All decisions are final.

4. Applicants submitting Adopt a Planter must be 18 years of age or older.

5. Applicant understands that they must be a business and/or property owner within the PBID.

6. Applicant agrees that all risk and expenses incurred by applicant are solely the responsibility of the applicant.

7. City of Fairburn will be responsible for transportation of plant to property or business

9. Planter will be maintained by selected applicant. Failure to maintain planter shall result in termination of Adopt a Planter agreement and removal of planter and/or Adopter's plaque by the City of Fairburn.

10. Planter Guidelines
    - Must leave at least 48 inches of walking space on the sidewalk between the building wall and curb (including planter 36 inches in diameter).
    - Planters shall not be altered without prior approval by the City of Fairburn.
    - Advertisement, decals, or logos are not permitted.

11. The Downtown Fairburn Main Street Program reserves the right utilize applicants' names and likeness for program advertising and reports.



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# Adopt-A-Planter Community Partnership

*Pilot Project with Global Impact Academy*

Students will complete the following deliverables:

- Schematic of the Adopt -A-Planter program area, with installation points.
- Project Management report to include task list, human resources, and timeline.
- Model of planter device.
- Identify vegetation and flowers for planting, consistent with weather patterns.
- Three planter design concepts.


# Q&A

# CITY OF FAIRBURN
# WORK SESSION AGENDA ITEM

**SUBJECT:** Purchasing Policy Update

**ITEM TYPE:** Presentation

**SUBMITTED:** 03/31/2023 **WORK SESSION:** 04/10/2023 **COUNCIL MEETING:** 04/24/2023

**DEPARTMENT:** Finance

**BUDGET IMPACT:** N/A

**PUBLIC HEARING:** No

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**PURPOSE:**
Presentation to Mayor and Council of the proposed Purchasing Policy threshold revisions.

**HISTORY:**
The City of Fairburn Purchasing Policy was last updated in 2016. Based on the current operational needs of the City, the current purchasing policy does not align with operations. It is staff's recommendation that the proposed revisions will improve efficiency, lower costs, and provide for better fiscal management.

**FACTS AND ISSUES:**
The purpose of the Purchasing Policy is to state the City's rules regarding purchasing responsibility and authority. The revised policy will provide control functions, assure proper record keeping and confirm purchases in writing. The policy covers all contractual and purchase agreements between the City of Fairburn and another company or person. The procurement function includes the initial agreement/purchase, changes, and/or re-negotiations.

**FUNDING SOURCE:**
N/A

**RECOMMENDED ACTION:**
N/A

**ATTACHMENTS:**
1. City of Fairburn Purchasing Policy Presentation 4.10.23
2. Purchasing Policy_Final 04032023

# City of Fairburn Purchasing Policy Update

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Presented by:

Bryan Stephens, Finance Director

April 10, 2023

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# Purchasing Policy

The purpose of the Purchasing Policy is to state the City's rules regarding purchasing responsibility and authority. The revised policy will provide control functions, assure proper record keeping and confirm purchases in writing. The policy covers all contractual and purchase agreements between the City of Fairburn and another company or person. The procurement function includes the initial agreement/purchase, changes, and/or re-negotiations.

The City of Fairburn Purchasing Policy was last updated in 2016. Based on the current operational needs of the City, the current purchasing policy does not align with operations. It is staff's recommendation that the proposed revisions will improve efficiency, lower costs, and provide for better fiscal management.

# 2016 Policy vs. 2023 Proposed Policy Changes

| 2016 Policy | 2023 Revised Policy |
|---|---|
| \$150 - \$499: No Quotes | \$2,500 or less: No Quotes |
| \$500 - \$5,000: Three Written Quotes | \$2,501 - \$9,999: Three Written Quotes |
| \$5,001 - \$10,000: Three Written Quotes | \$10,000 - \$24,999: Three Written Quotes |
| \$10,000 or more: Formal Solicitation | \$25,000 or more: Formal Solicitation |

# Proposed Purchasing Thresholds

- **Purchase Amount: $2,500 or less**
  - Approving Authority: Department Head
  - Procurement Method: Procurement Card **or** Check Request
  - Minimum Quotes: 0

- **Purchase Amount: $2,501 - $9,999**
  - Approving Authority: Department Head & Finance Director
  - Procurement Method: Purchase Order **and** Informal Procurement
  - Minimum Quotes: 3 Written

# Proposed Purchasing Thresholds (cont'd)

- **Purchase Amount: $10,000 - $24,999**
  - Approving Authority: Department Head, Finance Director & City Administrator
  - Procurement Method: Purchase Order **and** Informal Procurement
  - Minimum Quotes: 3 Written

- **Purchase Amount: $25,000 or more**
  - Approving Authority: City Council
  - Procurement Method: Formal Procurement
  - Minimum Quotes: N/A

# QUESTIONS

# PURCHASING POLICY

As Amended: XXXXXXX XX, XXXX



## Table of Contents

# I. Introduction

## A. Purpose

The purpose of this policy is to state the City's rules regarding purchasing responsibility and authority. This document will clarify purchasing functions and outline purchasing policies, as well as describe departmental relationships, responsibilities, and participation in the procurement cycle. In addition, this policy will provide control functions, assure proper record keeping and confirm purchases in writing.

The philosophy behind this policy is one of separating the determination of the need for an item or service by a Department Head from the function of negotiating and executing the necessary contractual purchase agreement by the Purchasing Agent or otherwise authorized officials.

This policy will provide the rules and procedures to exercise the purchasing of and expend funds for purchases of goods and services under the powers of the City's Code of Ordinances, Article V, Division 3.

## B. Scope

The scope of this policy covers the procurement of all materials and services without regard to the past method by which the material or service has been or is customarily procured except where local or general laws of the Georgia legislature or state or federal conditions for use of grants control. The policy covers all contractual and purchase agreements between the City of Fairburn and another company or person. The procurement function includes the initial agreement/purchase, changes, and/or re-negotiations. This policy establishes the specific responsibility and authority for the procurement of materials and services.

## C. Exceptions

The provisions of this policy do not apply in the following instances or procurements:

1. A good is available from only one (1) source or supply, or when standardization or compatibility with existing goods or systems is the overriding consideration.
2. The purchase is pursuant to a cooperative purchasing agreement with (1) the United States of America or an agency thereof or (2) any government unit or agency thereof within the United States for the purchase, lease, or other acquisition of goods.
3. The purchase is regulated by other Federal and State laws, i.e., O.C.G.A § 36-91-2 et seq. (2021);
4. A special emergency exists involving the health and safety of the people or their property; or
5. The purchase is for:
    i. Land, artistic work, or other goods whose inherent nature is unique and cannot be competitively compared to other goods within its class.
    ii. Printed copyright material including published books, maps, periodicals, and technical pamphlets (not including software for computer systems).
    iii. 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.
    iv. Subscriptions, dues, memberships, and board member fees established during the budget process.
    v. Utilities, including but not limited to electricity and telephone service.
    vi. Employee benefits and health related services procured through a quotation and negotiating process conducted by an expert in the field, or to maintain continuity of employee-health records.
    vii. Travel, conferences, training, speakers, instructors, facilitators, and meeting expenses, or other expenditures covered by another City policy.
    viii. Items for resale that require a particular manufacturer to enhance their marketability.
    ix. Legal advertisements.

x. Legal services and legal expenses.
xi. Goods or services required for confidential and secure investigations, apprehensions and detentions of individuals suspected of or convicted of criminal offenses by law enforcement personnel.
xii. Seized property included in a Court Order authorizing disposal.

## D. Ethics in Procurement

To maintain the public trust, each person involved in the procurement process must adhere to the highest standard of ethics and avoid any appearance that their actions are motivated by private or personal interest. Actions such as the acceptance of gratuities or kickbacks are expressly prohibited. Unethical actions by employees or vendors will not be tolerated. As a guideline for the City's procurement activities, the National Institute of Governmental Purchasing (NIGP) Code of Ethics is included in the Appendix. The following principles are to be maintained:

- Consider the best interest of the City in all transactions.
- Purchase without prejudice and follow defined processes and procedures seeking to obtain the best value for each dollar expenditure in accordance with required quality standards.
- Subscribe to and demonstrate honesty and truth in purchasing and avoid all forms of conflict of interest, as well as the appearance of such conflicts of interest.
- Avoid all unethical practices and appearance of the same, including the improper or unlawful attempt to influence the outcome of the procurement process; and
- Strive consistently for knowledge of services, materials and supplies and develop multiple sources for such services, materials and supplies as are required for use by the City.

City employees, officials, agents, and any vendor found in violation of one or more of the ethical standards set forth in this policy will face disciplinary action pursuant to established policy/procedures.

1. Conflict of Interest

   It shall be unethical for any City of Fairburn employee, official or agent to transact any business or participate directly or indirectly in a procurement contract when the employee, official or agent knows that:

   a. The employee, official or agent or any member of the employee's, official's or agent's immediate family has a substantial interest or financial interest pertaining to the procurement contract, except that the purchase of goods and services from businesses in which an employee, official or agent has a financial interest, unless the procurement contract is the result of a competitive bid process, disclosure of the nature of the employee's, official's or agent's interest, or the interest of the employee's, official's or agent's immediate family, is made prior to any action being taken, and a waiver of the prohibition contemplated by this section is approved by the Governing Authority.
   b. Any other person, business, or organization with whom the employee, official, agent or any member of an employee's, official's or agent's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.
   c. An employee, official, agent or any member of an employee's, official's or agent's immediate family who holds a substantial interest or financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest regarding matters pertaining to that substantial interest or financial interest.
      All vendors should sign a disclosure document indicating any business financial or familial connection to or with a City of Fairburn employee, official, or agent.

2. Gratuities, Rebates or Kickbacks

   a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any City of Fairburn employee, official, or agent, or for any City of Fairburn employee, official, or agent to solicit, demand, accept, or agree to accept from another person, a gratuity, rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore in any manner inconsistent with the State of Georgia's Department of Administrative Services Gratuity Policy and O.C.G.A. § 50-5-78. Rebates normally and routinely offered to all customers for the purchase of their products are acceptable and are the property of the City of Fairburn.

b. Kickbacks and Rebates. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order. Rebates normally and routinely offered to all customers for the purchase of their products are acceptable and are the property of the City of Fairburn.
c. Contract Clause. The prohibition against gratuities, rebates and kickbacks prescribed in this Section shall be conspicuously set forth in every contract and solicitation, therefor.
d. Courtesies. Employees may accept for themselves, and members of their families' common courtesies usually associated with customary business practices so long as a strict standard is enforced with respect to gifts, services, discounts, entertainment or consideration of any kind from suppliers of merchandise, services, supplies, etc. to the City of Fairburn. An example of common courtesy is free pens or notepads with the vendor's name on them.
e. Cash. It is never permissible for a City of Fairburn official, employee, or agent to accept a gift in cash, gift cards or cash equivalents (e.g., stocks or other forms of marketable securities) of any amount except in accordance with O.C.G.A. § 50-5-78.

3. Prohibition Against Contingent Fees

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a City of Fairburn contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide established commercial selling agencies whose normal business practice is to charge a commission for the purpose of securing business.

4. Use of Confidential Information

It shall be unethical for any City of Fairburn employee, official or agent knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

5. Penalties and Sanctions

a. Legal or disciplinary action by City Council. The City Council may take appropriate legal and/or disciplinary actions against any City of Fairburn official, vendor, contractor, organization, or person in violation of these ethical standards or any employee under their direct supervision and control subject to the appropriate appeals process of the City of Fairburn.
b. Legal or disciplinary action by the City Administrator. The City Administrator may take appropriate legal and/or disciplinary actions against any City of Fairburn employee or agent subject to the City Administrator's supervision and control as established in the City of Fairburn Code of Ordinances, Art. III, Div. 1, Sec. 2-57, subject to the applicable appeals process.
c. Administrative penalties for employees. The City Administrator may impose any one or more of the following penalties or sanctions on a City of Fairburn employee for violations of the ethical standards in

this Section as appropriate to the situation, subject to the Personnel Manual or other appropriate appeals procedures:

- Oral or written warnings or reprimands.
- Suspension with or without pay for specific periods of time.
- Termination of employment.

d. Administrative penalties for outside contractors, agents, and vendors. The City of Fairburn may impose any one or more of the following penalties or sanctions on a vendor, contractor or other person or organization for violations of these ethical standards:

- Written warnings or reprimands.
- Termination of contract.
- Suspension

6. Vendor Contact During Open Solicitations

Persons seeking an award of a City of Fairburn contract may not initiate or continue any verbal or written communications regarding a solicitation with any 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. The City Administrator or designee 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.

## E. Unauthorized Purchases

No purchases of materials, supplies, equipment, or services shall be made in the name of the City or one of its departments, except such as are required for official use by the City or one of its departments. Purchases in the name of the City or a department for personal use by an individual or for any purpose other than official use are prohibited, and no City funds will be expended or advanced, therefor.

## F. Disclaimer of Responsibility for Improper Purchasing

The City may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from a purchase 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 policy, or the authorization or delegation as provided in this policy. The expense of any such disclaimed transaction will become the personal liability of the individual who acted improperly.

## G. Application of Federal and State Law

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

## H. Equal Opportunity

It is the policy of the City to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. No person shall, on the grounds of race, religion, color, national origin, sex, age, or disability be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of our programs or activities.

## I. Public Access to Procurement Information

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

# II. Staff Responsibilities

## A. Authority and Duties of the Purchasing Agent

The City Council may appoint the City Administrator, or his or her designee, 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.

The Purchasing Agent shall have the following duties and powers:

1. Arrange and negotiate the purchase or contract for all equipment, supplies, and contractual services for the City or any using agency, except as noted in the procedures outlined below; 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.
2. Maintain a perpetual or periodic inventory record of all materials, supplies, or equipment stored in City storerooms, warehouses, and elsewhere, including monthly reports submitted to the Finance Director and the City Administrator that provide:
    - Titles of all requests for proposals (RFPs) and the method of source selections to be used.
    - Contracts authorized by the City Council, the method of source selection used and the total dollar amount.
    - Emergency contracts are awarded pursuant to this Purchasing Policy.
    - Change orders or contract modifications authorized by the Council and the dollar amount and reason.
    - Change orders or contract modifications authorized by the Purchasing Agent and the dollar amount and reason; and
    - 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 the contract is authorized by the City Council.
3. Manage and supervise Purchasing staff.
4. Develop and maintain a purchasing policy and procedure manual as necessary to supplement these regulations which will be updated by the City Administrator (or their designee) periodically.
5. Establish guidelines, within the purchasing policy and procedure manuals, governing the review and approval of specifications for procurement of products and services based on recyclability, energy and water conservation, life cycle cost, and other environmental considerations.
6. Direct efforts to procure services through advertisements of bids in the local legal organ can be utilized.
7. Require bonds, insurance, and other forms of protection for the City in the process of procuring goods and services for the City.
8. 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.
9. Reject all bids when in the opinion of the Purchasing Agent it is in the City's best interest to do so.
10. Consult with the City Attorney if a contracting party breaches or is reasonably anticipated to breach its contract with the City.
11. Assist in negotiating City contracts, as directed. The City Council shall approve final contracts and execute and bind the City to such agreements for purchases of goods or services of more than $25,000.00.
12. Advise the Finance Director and the City Administrator on the status of negotiations as well as contract provisions and their impact on the City.
13. Make recommendations on contract approval, rejection, amendment, renewal, and cancellation.

14. Provide contract administration and supervision of contracts and agreements, as directed by the City Administrator. Such tasks shall include, but not be limited to, monitoring contract amendments, obtaining applicable insurance certificates, and monitoring applicable progress.
15. Plan and implement processes for the ongoing protection of the City's interests.
16. Recommend and implement policies and procedures to provide for compliance with applicable laws related to bidding, contracting, and purchasing.
17. Assist with preparation and submission of grant applications as directed.

## B. Duties of the User Department

The User Department has responsibilities as provided throughout this policy including, but not limited to, the following:

1. *Determine need.* The User Department is responsible for determining the need for a material or service and providing appropriate documentation and justification, including a purchase requisition to the Purchasing Agent.
2. *Determine funding.* The User Department is responsible for providing proper funding. Specific budget account numbers must be on the purchase requisition.
3. *Determine specifications.* The User Department is responsible for determining the quantity, quality, dimensions, duration, estimated purchase price, and all other necessary specifications essential to the determination of what is to be procured. The specifications must, where applicable, conform to the approved City standards for identity and continuity.
4. *Purchase requisition.* It is imperative that the User Department transmits its need to the Purchasing Office. The Purchasing Office can only purchase supplies and services based on an approved and completed purchase requisition. A properly approved purchase requisition contains, at minimum, the following information:
    - Complete description and specifications.
    - Quantity.
    - Need date (lead time of at least one week must be allowed);
    - Estimated cost.
    - Freight.
    - Complete budget account number.
    - Previous purchase information or quotation (if known);
    - Known or suggested vendor(s).
    - Approval of department head; and
    - Approval from the Finance Director.
5. *Preparation of comparative schedule.* Prior to the presentation of a contract to the Mayor and City Council, the User Department is responsible for preparing a schedule outlining the components of the bid and the variations in the proposals received. The schedule should include where possible an evaluation of cost.
6. *Acceptance of procured items or service.* The User Department is responsible for advising the Purchasing Office in writing on a Receiving Report within two business days after receipt or within four business days if the items or services are found to be unsatisfactory.

# III. Procurement Methods and Thresholds

## A. Federal or State funds through GDOT

For all Public Works construction projects utilizing federal or state funds through the Georgia Department of Transportation (GDOT), the City of Fairburn shall use the procurement methods as established by GDOT to comply with GDOT regulations.

## B. Procurement Thresholds

For goods and services below $2,500, the agent shall obtain goods and services most advantageous to the City through direct purchase and enter a check request with proper Department Head and Finance Director approval.

For goods and services between $2,501 and $9,999, the agent shall obtain, where possible, at least three written quotes with proper Department Head and Finance Director approval. The vendor's name and quote must be written on the requisition, which is used to generate the purchase order.

For goods and services between $10,000 and $24,999, the purchasing agent shall obtain, where possible, at least three written quotes with proper Department Head, Finance Director, and City Administrator approval.

For goods and services $25,000 and above, the Purchasing Agent will use a formal procurement process, and final approval requires the approval of the City Council.

No procurement request shall be split into multiple contracts for the purpose of evading the Purchase Amount threshold set forth in this Section B.

| Purchase Amount | Responsible Party | Procurement Method | Minimum Quotes | Approval Authority |
|---|---|---|---|---|
| $2,500 or less | User Department | Procurement Card ***or*** Check Request | 0 | Department Head |
| $2,501 to $9,999 | User Department | Purchase Order ***and*** Informal Procurement | 3 written | Department Head<br>Finance Director |
| $10,000 to $24,999 | User Department | Purchase Order ***and*** Informal Procurement | 3 written | Department Head<br>Finance Director<br>City Administrator |
| $25,000 or more | Purchasing Agent | Formal Procurement | N/A | City Council |

## C. Public Works Contracts

Public Works contracts up to the amount of $99,999, shall be governed by the procurement process set forth in Article III.B in accordance with the dollar amount of the contract to be let.  In addition, even if dollar amounts are below the amounts for formal procurement processes, consideration should be given to the complexity of the project and the need for technical specifications and significant construction skills in determining whether to use the formal procurement process despite being below a dollar amount which would mandate the use of the formal procurement process.  Priority should be given to considerations of quality and the public safety of Public Works projects which may not exist for procurements of consumables and other short life products.

Public Works contracts of more than $100,000 shall be let in conformity with the Georgia Local Government Public Works Construction Law, O.C.G.A. § 36-91-1 et seq.  Such contracts can be let by any competitive formal procurement process hereunder which is in conformity with State law, including the invitation to bid process the request for proposals process and the designation of a sole source as set forth in O.C.G.A. § 36-91-1 et seq.

## D. Non-competitive Procurements

The provisions of this policy section shall apply to the procurement of goods and services, when determined to be in the best interest of the City and not in conflict with the requirements of state law.

### 1. Sole Source / Single Source Procurement

The City may acquire goods, services, or professional services pursuant to a Sole Source/Single Source Procurement. Sole Source/Single Source Procurement is allowable when goods, services, or professional services are limited to one source, or when they must be obtained from a specific manufacturers' dealer and valid competition among dealers does not exist. A Sole Source/Single Source procurement may also be made from one person among others in a competitive marketplace, which, for justifiable reasons, is found to be most advantageous for the purpose of fulfilling the given purchasing need. The purchasing agent may elect to purchase particular brand name goods or services when the goods or services comprise a major brand system, program or service previously selected by the City for standardization due to operational effectiveness, future enhancements or additions, or maintenance or storage of spare parts precludes the mixing of brands, manufacture, etc. The User must submit the justification for the Sole Source/Single source procurement for approval to the Purchasing Agent and City Administrator.

Sole source procurement on Public Works contracts of $100,000 or more shall be made in accordance with the requirements of O.C.G.A. § 36-91-1 et seq.

### 2. Direct Negotiation

Following the completion of a Competitive Award solicitation process that fails to produce a responsible or responsive bidder or proposer, fails to produce a qualified respondent, or for which all submissions were rejected for any reason, the City may procure the goods, services, or professional services that were the subject of such failed solicitation by Direct Negotiation with any provider of such goods or services when recommended by the City Administrator with concurrence the City Attorney.

Direct Negotiation will be completed by the Purchasing Agent or designee, assisted as needed by the User and the City Attorney.

### 3. Emergency Procurement

The City may acquire goods, services, or professional services by directly negotiating an award pursuant to an Emergency Procurement. Emergency purchasing situations occur when 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 diverse effects of such emergency may worsen materially with the passage of time.

It is understood that, from time to time, occasions arise at departments, which dictate **immediate** action to purchase items to prevent disruption of operations. Notwithstanding any other section of this policy, when the City Administrator determines that an Emergency Situation exists, the Purchasing Agent may make or authorize others to make emergency procurements for Goods, Services, construction items, or Professional Services. The City Administrator shall make such a decision when there exists a threat to public health, welfare, or safety under Emergency Situations. Such emergency procurements shall be made with as much competition as is practicable under the circumstances.

A written determination by the department head of the basis for the Emergency Situation and for the selection of the specific vendor shall be included in the purchase 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.

If an Emergency Situation should arise after office hours which requires immediate action for the protection of the best interest of the City or if a like situation arises on a weekend or holiday and when it is not possible or convenient to reach the Purchasing Agent, 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.

Emergency procurements associated with projects utilizing grant funds will always follow the established procurement procedures applicable to the grant. Emergency procurements associated with state and federal declarations for which GEMA and FEMA reimbursement may be made for City emergency expenditures shall follow regulations for those reimbursements whenever possible.

**4. Costs Under the Competitive Threshold**

The User Department may acquire Goods, Services and Professional Services by Direct Negotiation or by some other non-competitive method, when the dollar value of the purchase does not exceed $2,500 and a properly executed and authorized requisition is received. Under this non-competitive method, the User Department shall attempt to obtain the Goods, Services or Professional Services most advantageous to the City, price and other factors considered.

**5. Direct Negotiation and Other Public Entities and Co-ops**

The City may acquire Goods, Services, and Professional Services by Direct Negotiation or other method involving limited or no competition from a Supplier having a requirements Contract/Annual Agreement with any public entity (e.g., federal, state, county, city, authority, school board, Buying Cooperative, etc.) for Goods, Services, or Professional Services described in such contract and at prices or discounts no less favorable than any set forth in such Contracts. Use of State/Co-Op Contracts: The Purchasing Agent may, independent of the requirements of the bid process of this article, procure supplies, services or construction items through a Contract established through competitive means by the purchasing division of the State of Georgia, national Co-Ops (i.e.-U.S. Communities), and collaborative purchasing agreements with other local governments when deemed to be in the best interest of the City.

## E. Competitive Procurements

The Purchasing Agent will determine the procurement method to be used based on the type and estimated price of the purchase.

The City reserves the right to reject any or all bids if it determines such rejection to be in the best interest of the City.

Formal Solicitations will generally be solicited on a project-by-project basis. The User will submit the Scope of Goods and/or Services to the Purchasing Agent, who will then determine which of the competitive processes best suits the purchase.

A performance guarantee, such as a Performance Bond or Letter of Credit, may be required for any solicitation that includes Services to be performed after consultation with the City Administrator, and others, as necessary.

Notwithstanding any other provisions herein, Public Works Projects over $100,000 will be entered into pursuant to the Georgia Local Government Public Works Construction Law. Public Works Projects are required to have Payment Bonds and Performance Bonds for 100% of the contract amount. When these bids are requested the standard City documents containing this information will be used. The City will also require that a 5% Bid Bond be submitted with the bid. These projects will be advertised in the official legal organ of the City.

Periodically, the City may be given private/public grants and donations from sources such as the State and Federal Government and private organizations. These types of solicitations may be more restrictive and may dictate the procurement process and methodology that the City is to follow for an award. Both federal and state procurement policy supersedes City of Fairburn's purchasing requirements when buying goods and services using federal or state grant monies. Departments should consult with the Finance Director regarding the use of federal and state funds.

### 1. Invitation to Bid (ITB) or any derivation thereof.

Invitation to Bids (ITB) are prepared and issued to prospective bidders, with the goal of obtaining competitive bids for goods and services where there are clear and adequate specifications for items.

Public notice (such as publication in a newspaper of general circulation or posting on the Finance Division's Internet Webpage) https://www.fairburn.com/finance-department of the ITB must be given a minimum of fourteen (14) calendar days prior to the date set for bid opening or as required by state and federal law, unless it can be demonstrated that an urgent requirement for Goods or Services exists, in which instance, the requirement for public notice may be reduced by the Purchasing Agent.

Bids shall be opened publicly by the Purchasing Agent, or their designee, in the presence of one or more witnesses at the time and place designated in the Invitation to Bids. All relevant information, including each bid amount and bidder's name, will be recorded on a summary sheet, and signed by the opener and witness.

A split or partial bid may be awarded, if an ITB is for multiple Goods or Services, more than one vendor provides a bid that meets the specifications for the items, and a price comparison can be made between the items quoted. The award may be split between more than one vendor by awarding to the lowest cost provider of each item or reasonable grouping of items if acquisition, delivery, and other requirements can be reasonably administered. A Split or Partial Bid Award shall not be used under the following conditions:

a. When the solicitation is for an integrated system and the split of the award between components or parts of that system would jeopardize performance; or
b. If the item is part of a system and the performance of that system would be jeopardized if another brand was substituted.

Tie Bids: In the event two or more identical bids are received, the following procedure will be used when the basis of award is low bid:

a. To the extent permitted by law, a tie bidder from a registered business within the city limits of Fairburn would be recommended to the appropriate approving authority for an award over one without a physical location in the City. A registered business within the county limits of Fulton County would be recommended to the appropriate approving authority for an award over one without a physical location in the County. A registered business within the State of Georgia would be recommended to the appropriate approving authority for an award over one without a physical location in Georgia.
b. If the procedures in (a) do not result in an award, then, the tie bidders will be contacted and advised of the tie bid. Bidders will be given the opportunity to provide a best and final offer in writing submitted in a sealed envelope to be opened at the time and place stated by the Purchasing Agent. If one or more of the tied bidders agrees to participate, an award will be made to the new low bid. If none of the tied bidders agree to participate or if the new bids are tied, then the Purchasing Agent shall break the tie by following the procedures described below, as necessary.

c. If the procedures in (a) and (b) do not result in an award, then, to the extent permitted by law, a tie bidder deemed in the City's sole discretion to provide the most environmentally preferable Goods would be recommended to the appropriate approving authority for an award over one deemed environmentally inferior.
d. In the event the above does not result in an award, the City reserves the right to award both tie vendors when it is feasible and in the best interest of the City to do so.

Correction or withdrawal of inadvertently erroneous bids is permitted in accordance with the terms indicated within the ITB; however, minor irregularities may be waived by the City. No bid may be withdrawn except for error as stated above for a period of one hundred twenty (120) days after the time scheduled for bid opening except as permissible by State law.

Any bid received after the time and date set for receipt of bids is late. Any substitution or modification of a bid received after the time and date set for opening of bids, at the place designated for opening, is considered late. Late bids will be rejected and remain unopened.

Bids will be evaluated based on the evaluation factors set forth in the ITB, which may include criteria to determine acceptability of Goods (for example, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose). Criteria for the acceptability of Goods shall be used to determine whether particular Goods are responsive to the Invitation to Bids, and not to determine the relative desirability between acceptable Goods. The City reserves the right to waive any informalities or irregularities of bids, to request clarification of information submitted in any bid, to further negotiate with the Responsive and Responsible Bidder selected for Contract award, or to reject any or all bids for any reason whatsoever.

If no Responsive and Responsible Bids are received or all bids are rejected, the City may procure such Goods and Services by direct negotiation as indicated in the Non-Competitive Procurement of Goods and Services Section of this Policy.

The Bid will be awarded, if an award is made, to the Responsible and Responsive Bidder offering the lowest price whose bid meets the requirements and criteria set forth in the ITB. The Bid may require a Contract.

### 2. Request for Informal Quotes (RFIQ)

Requests for Informal Quotes are prepared and issued to prospective bidders by the Purchasing Agent, with the goal of obtaining competitive responses for items costing between $2,501 and $9,999. The RFIQ clearly defines the scope of the work and contains contractual terms and conditions. In most cases, the bid award will be made on the best price, but the award may be made in what is determined to be in the best interest of the City. The RFIQ may require the submission of bid samples, descriptive literature, and technical data and may require inspection or testing of a product before a final award.

### 3. Request for Proposals (RFP)

When the Purchasing Agent determines the use of an ITB is not practical or not advantageous because of existing market conditions or the type of items required, the City may procure Goods, Services, or Professional Services through receipt of competitive sealed proposals. Competitive sealed proposals are solicited using an RFP, with the goal of obtaining competitive responses for items costing more than $25,000.

Public notice of the RFP shall be given in the same manner as the procurement described in section D, sub-section 1 of this policy.

Proposals shall be opened publicly by the Purchasing Agent, or their designee, in the presence of one or more witnesses at the time and place designated in the RFP. A register of proposals is prepared that lists each Proposer's name, which will be signed by the opener and the witness.

Correction or withdrawal of proposals is permitted in accordance with instructions contained within the RFP. No proposal may be withdrawn for a period of one hundred twenty (120) days after the time scheduled for proposal opening or as permissible by State law.

Proposals shall be deemed late in the same manner as the procurement described in section D, sub-section 1 of this policy.

The RFP will identify the criteria to be considered and evaluated as the basis of the award.

Proposals submitted by Responsible and Responsive Proposers are evaluated by a committee, pursuant to the City's procedures, based upon the criteria applicable to the RFP. All proposals (or the most acceptable proposals in the discretion of the committee evaluating proposals) will be ranked in order of their acceptability to the City, considering the criteria set forth in the RFP. The City has no obligation to award the Contract to the Proposer who proposes the lowest price.

The City reserves the right to waive any informalities or irregularities of proposals, to request clarification of information submitted in any proposal, to further negotiate with a Responsive and Responsible Proposer who has been selected for Contract award, or to reject any or all proposals for any reason whatsoever.

The Contract award will be made, if at all, by the City to the Responsive and Responsible Proposer whose proposal is determined, in the City's exclusive discretion, to be the most advantageous to the City, taking into consideration price, qualifications, and other factors as indicated in the RFP. The RFP will contain the basis on which the award is to be made.

If no Responsive and Responsible proposals are received or all proposals are rejected, at the direction of the City Administrator, the City may procure such Goods, Services, and Professional Services by direct negotiation with proposers as allowed by state law. Alternatively, the City may release the same or a modified RFP to procure such goods, services, and professional services.

### 4. Quality Based Selections (QBS) – Request for Qualifications (RFQ)

Requests for Qualifications (RFQ) may be used when it is determined to be in the City's best interest to evaluate the experience and qualifications of a Service provider, without regard to price or prior to considering price.

The procedure for soliciting, opening, and evaluating statements of qualifications shall be the same as described herein for competitive sealed proposals. Service providers whose qualifications meet the criteria established in the Request for Qualifications, at the sole discretion of the City, may be considered for Contract award by participation in the completion of price negotiation. The City shall attempt to negotiate a fee with the highest ranked firm. If no agreement is reached, the City shall begin negotiations with the next highest ranked firm. Negotiations will proceed in this manner until an agreement is reached. Alternatively, the City may, by Direct Negotiation, finalize terms with any of the service providers who have qualified. The City reserves the right to reject any or all responses for any reason. Clarification of information may be requested by the City.

The RFQ process will be the method of procurement when the professional services are estimated to exceed $25,000.

### 5. Multi-step Solicitation

The City may initiate one of the multi-step solicitation processes described below when: (a) in the City's discretion, it is impractical to prepare an adequate or complete description of the Goods or Services desired (due to insufficient data, uncertain requirements, unfamiliar market options, etc.), (b) the City desires to identify a field of qualified Bidders, Proposers, Goods or Services, out of a broader field of Bidders, Proposers, Goods or Services, or (c) the City believes a multi-step process would best serve its purposes.

a. **Consecutive Multi-step Process:** The City may request statements of qualifications to be evaluated based on the criteria in the RFQ for purposes of identifying one or more desirable or acceptable Goods, Services, or Professional Services or for purposes of identifying a field of qualified or most qualified bidders or proposers.
After identifying a field of most qualified bidders or proposers with the capability of providing the desirable or acceptable Goods, Services, or Professional Services, the City may either follow a Competitive Invitation to Bid (ITB) process or by a Request for Proposal (RFP) process as referenced in the Competitive Procurement Section above among the field of Vendors identified as having the capability to meet the City's requirements for the procurement.

## F. Protests

### 1. Submission of Protest

Subject of Protest and Time for Filing a Protest - If a vendor or bidder is aggrieved by any aspect of a solicitation, the vendor or bidder can choose to protest in accordance with this section.

### 2. Format of Protest

- The name and address of the Protestor;
- Appropriate identification of the solicitation, and, if a contract has been awarded, its number;
- A statement of reasons for the Protest; and
- Supporting exhibits, evidence, or documents to substantiate any claims unless evidence is not available within the filing time; in which case the expected availability date shall be indicated for each missing item of evidence.

### 3. Filing a Protest of Bid Procedure

A written statement of protest pertaining to events or facts arising during the solicitation process signed by a company officer, or individual if the protestor is a sole proprietor, authorized to sign contracts on behalf of the vendor, must be received by the Purchasing Agent no later than three (3) Business Days prior to the bid due date. If the protest pertains to events or facts occurring less than three (3) Business Days prior to the bid due date or at the bid opening, a written statement of protest must be received within seven (7) Business Days of the bid due date. Failure to file a protest by the time required may be deemed a waiver of any grounds the vendor or bidder may protest. All inquiries received after the time stated herein are welcome and will be fully investigated. However, the inquiry will not be considered a formal protest.

### 4. Filing a Protest of Contract Award

A written statement of protest of contract award signed by a company officer, or other individual authorized to sign contracts on behalf of the vendor, must be received by the Purchasing Agent no later than seven (7) Business Days following the date of the notice to award or issuance of purchase order, whichever is earlier.

Failure to file a protest by the time required may be deemed a waiver of any grounds the vendor or bidder may protest. All inquiries received after the seven (7) Business Day period are welcome and will be fully investigated. However, the inquiry will not be considered a formal protest.

### 5. Stay of Procurement During Protest

When a Protest pertaining to events or facts arising during the solicitation process, (example: protests concerning specifications and evaluation criteria), has been timely filed , the Purchasing Agent shall suspend the award of a contract until a final decision has been issued, unless the Purchasing Agent makes a written determination, after consulting with the User Department, that proceeding with the procurement without delay is reasonably necessary to protect the best interests of the City.

When a Protest has been filed in a timely fashion within seven (7) Business Days following the issuance of a contract notice of award, the Purchasing Agent may suspend the award of a contract until a final decision on the Protest is made, unless the Purchasing Agent makes a written determination, after consulting with the issuing department that proceeding with the procurement is reasonably necessary to protect the best interests of the City. If it is determined that it is necessary to proceed with the procurement or some portion of the work without delay, the Bidder/Offeror that was the lowest responsive and responsible Bidder/Offeror not filing a protest may receive a contingent contract and proceed with performance and receive payment for work performed in strict accordance with the terms of the contract; however, such Bidder/Offeror shall not be entitled to reimbursement for any capital outlay costs, or other up front expenditures incurred in performing the contract, which might have been reimbursable under the terms of circulation for the original procurement process.

### 6. Decision by Purchasing Agent

<u>Time for Decisions.</u> If it is determined that delay in awarding a contract to procure Goods or Services will result in material detriment to the public safety, health, or welfare of the citizens of the City or which will pose significant financial hardship to the City or its citizens, the City may enter an interim contract to procure the Goods or Services. The Purchasing Agent will make a recommendation to the City Attorney as expeditiously as possible after receiving all relevant requested information in regard to the Protest filed. After consultation with the City Attorney, the Purchasing Agent will notify the bidder in writing of the decision no later than thirty (30) days after the Protest is filed.

If a Protest is sustained, available remedies may include one of the following:

a. For a Protest sustained prior to an award, modification of the solicitation document, including but not limited to specifications, terms and conditions and evaluation criteria; additional time for bids and proposals to be circulated and responses received; and extension of the opening date, if appropriate.
b. For a Protest sustained after an award is made, suspension or cancellation of the award, re-evaluation and re-award, or re-solicitation with appropriate changes to the new solicitation document.

### 7. Request for Formal Review

a. <u>Subject of Request for Formal Review and Time for Filing</u> If a Protestor disagrees with the decision submitted by the Purchasing Agent, the Protestor must request a formal review of the decision by the Protest Review Committee (consisting of the City Administrator, Finance Director, and City Attorney) within five (5) Business Days of the decision. The decision will be delivered to the Protestor by certified mail deposited in the United States Postal Service with adequate postage affixed thereto. The request for formal review shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors or concerns in the Purchasing Agent's decision.

b. Final Decision The decision of the Protest Review Committee will stand as the City's final decision.

# IV. Disposal of Surplus Property

Surplus property is anything and everything that is subject to ownership by the City and has no foreseeable use or need to continue ownership.

## A. Sale of Real Property

1. Disposition of real property owned by the City shall be conducted by public sale either by sealed bids or by auction in accordance with O.C.G.A. § 36-37-6 or as otherwise provided by state law.

2. Exceptions to public sale as follows:

   a. A redemption of real property acquired by the City under tax deed;
   b. A grant of easement or license;
   c. A grant or conveyance of right-of-way or for other transportation purposes;
   d. A conveyance to any other unit of government;
   e. A conveyance of recreational set-aside property to a homeowner's association in the manner permitted by state law; and
   f. A lease which constitutes a usufruct under state law.

3. 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 1 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.

## B. Sale of Surplus Real Property by Real Estate Broker

1. Real property may be disposed of by sale by a real estate broker in accordance with Georgia law O.C.G.A.§ 36-37-6(a)(2).

2. Declaration of unserviceability- Property is declared surplus by the City Council in a regularly scheduled meeting.

3. Notification to former or subsequent owner – The former or subsequent owner is notified in writing of the 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.

4. Selection of Broker – Real estate broker shall be selected competitively, by the request for proposal process.

5. Advertising and Listing of Property – Commencing at the time of the listing of the property as provided in O.C.G.A. § 36-37-6(a)(2), the real estate broker shall publicly advertise once each week for two weeks in the official 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 handled through competitive sealed bid or public auction.

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

## C. Disposition of Personal Property

1. 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.

2. Disposition – Unserviceable personal property may be sold by public sale or auction, sealed bidding, spot bidding or any other means deemed most advantageous to the City under the circumstances and 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, which need not be as high as the purchase price obtainable from a private person.

## D. Sale to Employees

It will be the policy of the City to prohibit the direct sale of surplus property to any City employee. This policy does not prohibit the employee from extending an offer at a public auction or in the form of a sealed bid. No employee may acquire any city property unless through a public auction or sealed bid. City employees may never purchase personal items with city funds or purchase orders.

# V. Definitions

When used in this policy, the following words, terms, and phrases, and their derivations, shall be the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

- ***Addendum***: A change, clarification, or correction in the solicitation documents prior to the award of a contract.
- ***Agent***: A contracted or subcontracted person who is authorized to act on behalf of the City of Fairburn and represent the City's interests.
- ***Available locally***: One or more businesses within the City or immediate surrounding areas are able to provide goods and services in a timely manner, and in sufficient quantity and quality to meet a specific need.
- ***Best value***: The most advantageous balance of price, quality, time, and performance considerations at competitive costs over the useful life of the goods/services, which best meets the operational needs of the User Department. When applicable, procurement decisions should include costs beyond the initial purchase (e.g., total cost of ownership principles which include maintenance, support, useful life, efficiencies, operational savings, etc.).
- ***Bid***: An offer submitted in response to public notice of an intended sale or purchase.
- ***Bidder***: One who submits an offer in response to public notice of an intended sale or purchase, including by submittal of a bid, a proposal, or a quote.
- ***Bid opening***: The act of publicly opening the bid envelopes and making the bids available for public inspection.
- ***Bond***: A form of financial protection against damages; a binding agreement executed by a bidder or vendor and another party to guarantee the performance of certain obligations or duties to the purchaser. *(See also "payment bond" and "performance bond.")*
- ***Budget*:** The annual appropriations for each User Department together with any subsequent budget amendments.
- ***Business Day(s):*** Any day other than a Saturday or Sunday or Federal holiday or legal holiday in the State of Georgia or any other day on which the City is authorized or required to close.
- ***Buying cooperative or alliance***: A group of public entity purchasers organized for the purpose of creating contracts or pricing agreements in order to take advantage of group or quantity buying discounts or special pricing from which members of the group can benefit.
- ***Centralized purchasing*:** The system under which the City Administrator, or his or her designee, as the official Purchasing Agent, is authorized to enter into contracts for goods and services on behalf of the City.
- ***Change order***: An agreed upon addition to, deletion from, correction, or modification of a contract.
- ***City***: The City of Fairburn, Georgia and, as the context warrants, those persons or bodies authorized to act on its behalf, including but not limited to the Council, committees, and staff.
- ***City Administrator***: The chief administrative officer and Purchasing Agent of the City.
- ***City Council***: The legislative and governing body of the City.
- ***Competitive procurement***: A procurement based upon the outcome of one of the competitive processes set forth in this policy, where award is made based on the lowest quotation or bid submitted by a responsible and responsive bidder or to the most qualified or advantageous proposer based on the qualitative and/or quantitative factors identified for the procurement. A competitive award can be made even if only a single bid or proposal has been received from a bidder or proposer who is determined to be responsible and responsive.
- ***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. The term "construction" does not include the routine operation, repair, and/or maintenance of existing structures, buildings, or real property.
- ***Contract***: A legally binding mutual agreement between two parties. Any City agreement, regardless of form or title, for the procurement or disposition of goods or services. Contracts also include amendments, modifications,

and supplemental agreements with respect to any of the foregoing. Every contract must be duly authorized and approved prior to execution.

- ***Contractor***: Any person or business having a contract with the City.
- ***Debarment***: Action taken by the City to bar a vendor from doing business with the City for a period of time not to exceed four years.
- ***Department***: An organizational unit within City government that is responsible to the City Administrator, or designee.
- ***Department Director***: The director of the User Department requesting the procurement. Where applicable, (User) Department Director will also refer to his/her designee.
- ***Emergency purchase***: The purchase of supplies and/or services whose immediate procurement is essential to protect life or property.
- ***Emergency***: An immediate threat or danger to public health, safety, or welfare, loss of public or private property, or interruption in the delivery of an essential governmental services.
- ***Employee***: An individual drawing a salary or wage from the City whether on a full-time, part-time basis, or contractual third-party. ***Encumbrance***: A financial commitment for unperformed or unpaid contracts for goods or services.
- ***Finance Director***: The Finance Director or City Accountant or other employee or agent as designated in writing by the City Administrator.
- ***Gifts/favors***: Anything or any service of a value in excess of $100.
- ***Goods/commodities***: Supplies, apparatus, materials, equipment, and other forms of tangible personal property used by a City department in the accomplishment of its responsibilities.
- ***Governing authority***: The City entity responsible for the contract.
- ***Invitation to bid (ITB)***: All documents utilized for soliciting bids, including those attached or incorporated by reference. These include a scope of work and all contractual terms and conditions applicable to the procurement.
- ***Life Cycle Cost Assessment***: The comprehensive accounting of the total cost of ownership, including initial costs, energy and operational costs, longevity and efficacy of service and disposal costs.
- ***Late bid/proposal***: A bid or proposal received after the time or date such bid or proposal was due, as stated in the solicitation documents.
- ***Local vendor***: A person or business entity that meets the following requirements:
    - Has a permanent place of business with full-time employee(s) within City limits for a minimum of six months prior to the issuance date of any formal solicitation to which the business will be responding. The permanent place of business must distribute goods/services and cannot be a post office box or a residence unless the business is a licensed home occupation.
    - Has a valid business license from the City.
    - Is not delinquent on any taxes/fees owed to the City (e.g., property taxes, business license fees, etc.)

  The Fairburn vendor will be required to certify their eligibility as part of the formal solicitation process.
- ***Local vendor preference***: Applies to all informal and formal procurements excluding construction projects, professional and consulting services, federally funded projects, and online/electronic sealed bid/reverse auctions. A local vendor's bid will be awarded if the bid is within three percent (3%) of the non-local vendor's bid who otherwise would have received the award of the contract.
- ***May:*** Denotes the permissive.
- ***Mayor:*** Chief Executive Officer of the City.
- ***Official:*** Any elected or appointed person who holds office or serves in a position of public capacity for the City of Fairburn.
- ***Ordinance:*** The purchasing ordinance authorized by the City Council.

- ***Payment bond***: A bond which assures payments, as required by law, to all persons supplying labor or material for the completion of work under the contract.
- ***Performance bond***: A bond provided by a contractor/supplier in which a surety guarantees to the City that the goods are delivered, or the services are performed in accordance with the contract documents. A letter of credit issued by a financial institution that meets the City's requirements may, at the discretion of the City, be substituted for the performance bond.
- ***Practicable***: Satisfactory and within reason when considering price, performance, availability, compatibility with specified operation, and public safety.
- ***Professional services***: Services that involve specialized education, knowledge, labor, judgment, and skill which are predominantly mental or intellectual (as opposed to physical or manual) in nature. Professional services typically require professional licensing or accreditation such as architects, certified public accountants, auditors, attorney and engineers. Professional services include but are not limited to evaluations, consultations, management systems, management consulting, compiling statistical data, support of planning and operating activities, appraisal services, and research and development studies or reports. The Purchasing Agent makes the final determination on which services as classified as professional services.
- ***Protest:*** A specific written objection by an interested person to a Request for Informal Quotes, an Invitation to Bid, a Request for Proposals, or any other solicitation, or an award or proposed award of a contract.
- ***Protestor***: An actual bidder who is aggrieved in connection with the bid process, including contract award, and who files a protest in writing in accordance with this policy.
- ***Purchase order***: A document authorizing a City of Fairburn employee contracting with a seller to deliver goods with payment to be made after receipt of the goods by the City.
- ***Purchasing***: The process of securing materials, services, repairs, leases, and rentals necessary for the operation and support of the City. The renewal, renegotiation, and modification of contracts, leases, and agreements are functions of purchasing.
- ***Purchasing agent***: The principal purchasing official of the City of Fairburn. The Purchasing Agent for the City of Fairburn is defined as the City Administrator, or such person appointed by the City Administrator to act as Purchasing Agent.
- ***Reasonable cost***: Cost that by its nature or amount does not exceed what would normally be incurred by an ordinarily prudent person in the conduct of competitive business.
- ***Registered business***: A business that has a valid occupation tax certificate issued by the appropriate governmental authority.
- ***Request for Informal Quotes (RFIQ)***: All documents utilized for soliciting quotations for goods, services, or professional services, in which award is made based on the lowest responsive and responsible quotation and in which the type or cost of the procurement does not require a more formal bid or proposal process.
- ***Request for Information (RFI)***: A document used in an informal, noncompetitive solicitation where vendors provide feedback on industry standards and procedures which allows the Purchasing Agent to decide and implement a procurement strategy.
- ***Request for Proposal (RFP)***: A document used in purchasing complex services when the competitive sealed bid is neither practical nor advantageous. The RFP process considers both quality of the solution offered and price to obtain the best overall value.
- ***Request for Qualifications (RFQ)***: A document used in purchasing complex services when the competitive sealed bid is neither practical nor advantageous. The RFQ process considers both contractor qualifications and price to obtain the best overall value.
- ***Requisition***: An internal document, provided by a department to the Purchasing Agent that contains the fund source, approvals, descriptions, quantities, and other information about the goods, services, or professional services, to proceed with procurement.

- ***Responsible bidder***: A vendor who has the capability in all respects to fully perform the contract requirements and the experience, integrity, perseverance, reliability, capacity, facilities, and reliability which assures good faith performance.
- ***Responsive bidder***: A vendor who has submitted a bid that conforms in all administrative and material respects to the requirements stated in the invitation to bid.
- ***Sealed bid***: An offer submitted in response to a formal procurement solicitation in a closed envelope to be opened at a specific time and place.
- ***Sealed proposal***: An offer submitted in response to a formal procurement solicitation in a closed envelope where the technical response and cost are separated to be opened at specific time and place.
- ***Services***: Any performance of effort or labor, for which the City has contracted other than professional services or construction services.
- ***Shall***: Denotes the imperative.
- ***Sole source/Single source***: Only one vendor possesses the unique knowledge, skills, and/or performance and singularly available capability required to ensure successful consultation, implementation, installation, maintenance, etc., of a requested good/service which is an integral component of the City's existing infrastructure, equipment, and/or operations.
- ***Specification/Scope of work***: Any description of the physical or functional characteristics, or of the nature of goods, services, or professional services. Specifications or scope of work may include any function and other criteria that will be required to perform the work and a description of any requirement for inspection, testing, or delivery.
- ***Suspension***: Action by the City to bar a vendor from doing business with the City during a period when investigation into possible disqualification or debarment is underway, provided that the suspension period will not exceed 120 days.
- ***User Department***: The department which has the authority and responsibility for determining the need for an item or service, its related specifications, and need date. The User Department is responsible for funding the need and advising the Purchasing Agent of the approved funding and the specific budget account number.
- ***Vendor***: Any individual or business conducting business or seeking to do business with the City; one who sells goods and/or services; a supplier.

# Appendix: NIGP Code of Ethics

The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization:

- Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honor and integrity in all public and personal relationships to merit respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.

- Believes that employees of the City should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Keeps the governmental organization informed, through appropriate channels, of problems and the progress of applicable operations by emphasizing the importance of the facts.
- Resists encroachment on control of personnel to preserve integrity as a professional manager.
- Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment based on politics, religion, color, national origin, disability, gender, age, pregnancy, and other protected characteristics.
- Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.
- Subscribes to and supports the professional aims and objectives of NIGP - The Institute for Public Procurement.