



Administrative Services Committee Meeting Commission Chamber- 4/12/2010- 12:45 PM

ADMINISTRATIVE SERVICES

1. Motion to approve Code Amendments relating to Procurement and the Local Small Business Program subject to Final Proof Reading Edits. ☐ [Attachments](#)
2. Motion to approve an ordinance to amend the Risk Management and Safety Provisions of Part 6, Paragraph 6C, Subparagraph Age and Employment Status Restrictions, Subparagraph 2, Page 36 of the Augusta-Richmond Employee Handbook, which is part of the Augusta, Ga. Code, to repeal all ordinances in conflict herewith, to provide an effective date and for other purposes. ☐ [Attachments](#)
3. Review and support of the UWH Redevelopment Plan to be developed and built by Walton Communities, LLC in association with the Augusta Housing Authority. This will be a 30-acre mixed use community. ☐ [Attachments](#)

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**Administrative Services Committee Meeting
4/12/2010 12:45 PM**

Motion to approve Code Amendments relating to Procurement and the Local Small Business Program Subject to Final Proof Reading Edits

Department: Procurement

Caption: Motion to approve Code Amendments relating to Procurement and the Local Small Business Program subject to Final Proof Reading Edits.

Background: The Administrative Services Committee has reviewed proposed Code amendments and these amendments have been made available to various departments.

Analysis: Commissioner Grantham has proposed alternative language for Section 1-10-6 which relates to local vendor preference. The options as related to this section are attached hereto.

Financial Impact:

Alternatives: Decline to amend the Code at this time.

Recommendation: Approve amendments to the Code.

**Funds are Available in
the Following
Accounts:**

REVIEWED AND APPROVED BY:

**Finance.
Law.
Administrator.
Clerk of Commission**

Article 1 General Provisions and Definitions

Sec. 1-10-1. Purpose.

Sec. 1-10-2. Application of this chapter.

Sec. 1-10-3. Supplementary laws.

Sec. 1-10-4. Good faith provision.

Sec. 1-10-5. Public access to procurement information.

Sec. 1-10-6. Preference for local suppliers, professional services and contractors.

Sec. 1-10-7. Value analysis.

Sec. 1-10-8. Compliance with state and federal requirement.

Sec. 1-10-9. Definitions--Generally.

Article 2 Reserved

Article 3 Office of the Procurement Director

Sec. 1-10-23. Authority and responsibility of procurement director.

Sec. 1-10-24. Centralization of procurement function.

Sec. 1-10-25. Contract Administration.

Sec. 1-10-26. Unauthorized Contracts.

Sec. 1-10-27. Conflicts of interests.

Sec. 1-10-28. Gratuities and kickbacks.

Sec. 1-10-29. Contingent Fees.

Sec. 1-10-30. Penalties.

Sec. 1-10-31. Reporting of anti-competitive practices to state.

Article 4 Product Specifications

Sec. 1-10-32. Purpose.

Sec. 1-10-33. Types of specifications.

Sec. 1-10-34. Maximum practicable competition.

Sec. 1-10-35. Qualified products list.

Sec. 1-10-36. Background information on vendors.

Sec. 1-10-37. Product references in specifications.

Sec. 1-10-38. Responsibility for specifications.

Sec. 1-10-39. Inspection of purchases.

Article 5 Requirements for Bidding or Proposing on Augusta-Richmond County Contracts

Sec. 1-10-40. Responsibility of bidders and proposers.

Sec. 1-10-41. Cost or pricing data.

Sec. 1-10-42. Cost or price analysis.

Sec. 1-10-43. Bid and performance bonds when required.

Sec. 1-10-44. Bid bonds.

Sec. 1-10-45. Payment and performance bonds.

Sec. 1-10-46. Insurance requirements.

Sec. 1-10-47. Pre-qualifications of contractors.

Article 6 Procurement Source Selection Methods and Contract Awards

Sec. 1-10-48. Generally.

Sec. 1-10-49. Purchase order.

Sec. 1-10-50. Sealed bids selection method.

Sec. 1-10-51. Request for proposals.

Sec. 1-10-52. Sealed proposals.

Sec. 1-10-53. Competitive Selection procedures for professional and consultant services.

Sec. 1-10-54. Quotations or informal bids selection method (Standard and small purchases).

Sec. 1-10-55. Banking services.

Sec. 1-10-56. Sole source procurement.

Sec. 1-10-57. Emergency procurement selection method.

Sec. 1-10-58. Annual Contracts

Sec. 1-10-59. Specific requirements/options for source selection method.

Sec. 1-10-60. Rejection or cancellation of solicitations; negotiating; re-advertisement.

Sec. 1-10-61. Multi-term contract.

Sec. 1-10-62. Right to inspect facilities.

Sec. 1-10-63. Right to audit records.

Sec. 1-10-64. Rebidding or cancellation of existing contract.

Sec. 1-10-65. Multiple Awards.

Article 7 Local Small Business Opportunity Program

Sec. 1-10-66. Short Title.

Sec. 1-10-67. Objective.

Sec. 1-10-68. Policy.

Sec. 1-10-69. Definitions.

Sec. 1-10-70. Application; effective date.

Sec. 1-10-71. Program Administration

Sec. 1-10-72. Registration and Certification procedures.

Sec. 1-10-73. Local small business opportunities program participation

Sec. 1-10-74. Exceptions – Federally Funded Projects

Sec. 1-10-75. Citizen's Small Business Advisory Board

Article 8 Suspension or Debarment of Bidder or Proposer

Sec. 1-10-76. Authority to suspend or debar from qualified bidder/proposer list.

Sec. 1-10-77. Causes for suspension and debarment.

Sec. 1-10-78. Notice

Sec. 1-10-79. Finality of decision

Sec. 1-10-80. Board of Commissioner's initiated debarment

Article 9 Appeals and Remedies

Sec. 1-10-81. Procurement protests.

Sec. 1-10-82. Filing of Protest

Sec. 1-10-83. Decision by Procurement Director

Sec. 1-10-84. Appeals

Sec. 1-10-85. Time for Filing.

Sec. 1-10-86. Request for Hearing and Effect of Untimely Appeal.

Sec. 1-10-87. Notice of Hearing

Sec. 1-10-88. Administrative Services Committee Hearing Procedure and Effect of Failure to Appear at Hearing.

Sec. 1-10-89. Authority of Administrator to Participate Procurement Matters.

Sec. 1-10-90. Hearing Procedures

Sec. 1-10-91. Determination of Commission; Final Decision.

Sec. 1-10-92. Contract claims

Sec. 1-10-93. Augusta-Richmond County's right to amend bid solicitations or awards that are in violation of law.

Article 10 Types of Contracts

Sec. 1-10-94. Authority to approve, sign and execute contracts by type.

Sec. 1-10-95. Public Works Contract

Article 11 Cooperative Procurement

Sec. 1-10-96. Cooperative procurement agreement.

Sec. 1-10-97. Sale, acquisition, or use of supplies.

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Sec. 1-10-99. Joint use of facilities.

Sec. 1-10-100. Use of state contracts.

Sec. 1-10-101. Purchase of surplus and excess property.

Draft procurement Code 3/16/10 version

Sec. 1-10-102. Waiver.

Article 12 Contract Administration and Management

Sec. 1-10-103. Purpose.

Sec. 1-10-104. Augusta-Richmond County contracts and contract clauses.

Sec. 1-10-105. Contract modification.

Sec. 1-10-106. Bid security and performance bonds.

Sec. 1-10-107. Contract performance and payment bonds.

Sec. 1-10-108. Bond forms and copies.

Sec. 1-10-109. Retainage.

Sec. 1-10-110. Wage and requirements for federally funded projects.

Sec. 1-10-111. Approval of accounting system.

Sec. 1-10-112. Contractual provisions for worksite inspections.

Sec. 1-10-113. Contractual provisions for auditing records.

Article 13 Supplies and Fixed Assets Management Programs

Sec. 1-10-114. Surplus supplies.

Sec. 1-10-115. Fixed asset management.

Sec. 1-10-116. Supplies management.

Sec. 1-10-117. Severability.

Sec. 1-10-117 through Sec. 1-10-999. Reserved.

Chapter 10

PROCUREMENT

ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

Sec. 1-10-1. Purpose.

The purpose of this Augusta-Richmond County Procurement Procedures is to provide detailed administrative procedures for implementation of procurement policies for Augusta-Richmond County. Further, the purpose of this article is to:

- (a) Simplify and consolidate the procurement procedures;
- (b) Provide for centralized procurement;
- (c) Ensure fair and equitable treatment of all persons involved in the procurement process; and
- (d) Foster competition in the public procurement process.

This chapter shall contain all of the administrative rules, regulations, and procedures needed to purchase goods and services and provide other procurement services for Augusta-Richmond County government.

(Ord. No. 6939, § 16, 1-2-07)

Sec. 1-10-2. Application of this chapter.

- (a) The requirements of this chapter apply to contracts for the procurement of supplies, commodities, services, construction, professional, and consultant service products solicited or entered into by Augusta-Richmond County. It shall apply to every expenditure of public funds irrespective of the source of the funds. It shall also apply to the disposal of Augusta-Richmond County supplies and personal assets.
- (b) Nothing in this chapter shall preclude Augusta-Richmond

County from complying with the terms and conditions of any grant, gift, donation or bequest that are otherwise consistent with state and federal laws.

Sec. 1-10-3. Supplementary laws.

The principles of law and equity, including those relative to contract, agency, fraud, duress, coercion, mistake, bankruptcy, and Uniform Commercial Code of Georgia (O.C.G.A. 11-1-101 et. seq. as amended) and all other applicable Federal, State and local laws shall apply, as appropriate, to the procurement process.

Sec. 1-10-4. Good faith provision.

All parties involved in the negotiation, performance, or administration of Augusta-Richmond County contracts shall act in good faith. Good faith means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing. See O.C.G.A. § 11-2-201.

Sec. 1-10-5. Public access to procurement information.

- (a) Contract files. Written records pertaining to a solicitation, award or performance of a contract or purchase order shall be maintained by the Procurement Director.
- (b) Retention. All procurement records shall be maintained and disposed of in accordance with the Records Retention schedule as established by the Augusta-Richmond County Commission.
- (c) Public access. Procurement information shall be considered public records to the extent required by the Georgia Open Records Act. A Request for Proposals (RFP) shall not become public record until the final contract is negotiated and awarded. Any financial, trade secrets or commercial data contained in Request for Proposals shall be considered privileged and confidential and shall not be disclosed.

Sec. 1-10-6. Preference for local suppliers, professional services and contractors.

- (a) Augusta-Richmond County encourages the use of local suppliers of goods, services and construction products whenever possible. Augusta-Richmond County also vigorously supports the advantages of an open competitive market place. Nothing in this Section shall be interpreted to mean that the Augusta-Richmond County Administrator or Procurement Director are restricted in any way from seeking formal bids or proposals from outside the Augusta market area.
- (b) When the quotation or informal bids selection method is used by the Procurement Director or using agency head to seek firms to quote on Augusta-Richmond County commodities, services and construction products, local firms should be contacted, if possible, first. Where the Procurement Director or using agency head believes that there may not be at least three (3) qualified informal bidders, quotes shall be sought from outside the Augusta market area.
- (c) In the event of a tie bid (see section 1-10-50 (h)), when all other factors are equal, the Augusta-Richmond County Administrator is encouraged to select the bid from within the local market area. The Administrator shall retain the flexibility to make the award of contract to a bidder outside of the local market area if there is sufficient evidence to support collusive bidding in favor of a local source.
- (d) The local vendor preference policy shall be applied when the lowest bidder is within 5% or \$10,000.00, whichever is less of the lowest non-local bidders. The lowest local bidder will be allowed to match the bid of the lowest non-local bidder, if matched the lowest local bidder will be awarded the contract.
- (e) For the purposes of this section, "local bidder" shall mean a business which:
 - (1) Has had a fixed office or distribution point in and having a street address within Augusta for at least six (6) months immediately prior to the issuance of the request for bids or quotes by Augusta; and
 - (2) Holds any business license required by the AUGUSTA, GA. CODE; and

- (3) Employees at least one full-time employee, or two part-time employees whose primary residence is in Augusta- Richmond County, or if the business has no employees, the business shall be at least 50% owned by one or more persons whose primary residence is in Augusta-Richmond County.
- (f) The Procurement Director shall develop a program to routinely search out local firms that offer products or services which Augusta-Richmond County may purchase and encourage such firms to place themselves on the bidder's list.
- (g) Certification as a local bidder. In order to be certified as a local bidder, a bidder must submit a completed application to the Department of Procurement, and the applicant must be approved and certified by the Department of Procurement. An eligible bidder must submit a completed and signed written application to become a local bidder at least thirty (30) days prior to the date bids are received on an eligible local project. An eligible bidder who fails to submit an application for approval as a local bidder at least thirty (30) days prior to the date bids are received on an eligible local project, and who otherwise meets the requirements for approval as a local bidder, will not be qualified for a bid preference on such eligible local project.
- (h) Criteria. To be certified as a local bidder, the eligible bidder must satisfy the following criteria:
 - (1) The eligible bidder's principal place of business is located in Augusta-Richmond County; and
 - (2) The eligible bidder has held a valid Augusta-Richmond County business license for at least six (6) months prior to the date of application; and
 - (3) A majority of the employees based at the eligible bidder's location(s) in Augusta-Richmond County have been residents of Augusta-Richmond County for at least six months prior to the date of application.
- (i) Term. The certification as a local bidder shall expire two (2) years from the date of the approval of the application. Following the expiration date, a business is no longer a local bidder. An eligible bidder must submit a new application for certification as a local bidder to the Procurement Director and establish that it continues to

meet the requirements contained in subparagraph (g) of this section in order to receive a bid preference on eligible local projects.

- (j) Continuing obligations of eligible bidders certified as local bidders. Eligible bidders certified as local bidders shall be under a continuing duty to immediately inform the department of procurement in writing of any changes in the eligible bidder's business if, as a result of such changes, the eligible bidder no longer satisfies the requirements of subparagraph (g) of this section.
- (k) Nothing in this section shall be interpreted to mean that the Augusta-Richmond County Administrator or Commission may abrogate the provisions of O.C.G.A. §§ 36-10-1 through 36-10-5, Public Works Contracts. This provision of Georgia law requires that all County public works contracts of forty thousand dollars (\$40,000.00) or more, as defined therein, be publicly advertised before letting out the contract to the lowest bidder. Further, nothing in this section shall be interpreted to mean Augusta-Richmond County Administrator or Board of Commissioners may abrogate the provisions of the AUGUSTA, GA. CODE requiring public advertising before letting certain contracts.

(Ord. No. 6890, § 1, 6-15-06; Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-7. Value analysis.

- (a) Purpose. A significant portion of the Augusta-Richmond County Annual Budget is committed each year to various purchase contracts such as raw materials, equipment, equipment parts or components, general supplies, and professional and non-professional services. Therefore, it is essential that maximum value be obtained for every public tax dollar spent. A proven technique for obtaining this goal is value analysis.
- (b) Definition of value analysis. Value analysis is the organized and systematic study of every element of cost in a part, material, or service to make certain it fulfills its function at the best value. It employs techniques which identify the functions the user wants from a product or service; establishes by comparison the appropriate cost for each function; then, it causes the required knowledge, creativity; and

initiative to be used to provide each function for that cost.

- (c) Application of value analysis to the procurement process. Value analysis is a study of function and the value of any service, material, or product established by the minimum cost of other available alternatives, materials, products, or services that will perform the same function. To achieve high value, emphasis must be placed on obtaining high use value at low cost.

Sec. 1-10-8. Compliance with state and federal requirement.

When the procurement transaction involves the expenditure of State or Federal funds, the transaction shall be conducted in accordance with any applicable mandatory State or Federal laws and authorized regulations which are not reflected in this chapter. Notwithstanding where State and Federal assistance or contract funds are used in procurement transaction, any applicable local requirements that are more restrictive than State or Federal requirements but not in conflict therewith shall be followed.

Sec. 1-10-9. Definitions--Generally.

The terms, phrases, words, and their derivations set forth below shall have the meaning given herein. Words not defined herein or within the Official Code of Georgia Annotated shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. Words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense. The words shall, will, and must are mandatory and not discretionary. The word may is permissive.

- (1) Agreement. The bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in O.C.G.A. § 11-1-205 and § 11-2-208. Whether an agreement has legal consequences is determined by the provision of this title, if applicable; otherwise, by the law of contracts (O.C.G.A. § 11-1-103). (O.C.G.A. § 11-2-201)
- (2) Annual contract. Means any contract entered into for a period of one year or multiple one-year periods (including options to

renew for additional one year periods), with a vendor or contractor, to provide Augusta-Richmond County, upon request with a specified product or service, such as paving, concrete or office supplies at a predetermined rate or price.

- (3) Award. Means when legislation authorizing the award of a contract has been adopted by the Board of Commissioners and approved the execution of the contract by the Mayor; however no liability shall attach nor shall the contract be considered binding unless it has been duly executed by the contractor and returned with all required submittals including insurance and bonding, if applicable, executed by the Mayor; attested to by the Clerk and approved by General Counsel as to form.
- (4) Bid. An offer to perform a contract for work and labor or supplying materials or goods at a specified price. Or, an offer by an intending purchaser to pay a designated price for property which is about to be sold at auction.
- (5) Bid Bond. A type of bond required in public construction projects which are filed at the time of the bid and which protects Augusta-Richmond County in the event that the bidder refuses to enter into a contract after the award or withdraws its bid before the award.
- (6) Bidders List. Augusta-Richmond County's official list of qualified persons or vendors to be invited to respond to any type of invitation for bids or requests for proposals which shall be maintained by the Procurement Director.
- (7) Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, firm, or any other private legal entity.
- (8) Change Order. A formal document effecting a unilateral modification that alters the specification, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract signed and issued by the Augusta-Richmond County Administrator or Procurement Director,

directing the contractor to make changes to the scope of work as authorized by the Augusta-Richmond County Commission.

- (9) Commodities. Those things that are useful or serviceable, particularly articles of merchandise moveable in trade, goods, wares, supplies, and merchandise of any kind.
- (10) Construction. The process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- (11) Contract. Means all types of Augusta-Richmond County agreements, including purchase orders, regardless of what they may be called, for the procurement or disposal of supplies, services, construction, professional or consultant services and for the transfer of interests in real property.
- (12) Contract Administration. All activity necessary after award of a contract to administer a contract and to ensure full compliance with its terms, conditions, and scope of services.
- (13) Contract Documents. All documents which define the scope of the project, including but not limited to, the plans and specifications, advertisement for bids, instructions to bidders, the bid, the proposal, bonds, general conditions, special conditions, insurance and technical specifications.
- (14) Contract Modification. Any written alteration in specifications, delivery point, time and rate of delivery, period of performance, price, quantity or other provisions of any contract reached by mutual action of the parties to the contract.
- (15) Contractor and/or Sub-Contractor. Any person having a contract with Augusta-Richmond County, a using agency of Augusta-Richmond County, or a contractor thereof.
- (16) Cooperative Procurement. Acquiring commodities, services,

and construction by, or on behalf of, more than one public procurement agency.

- (17) Cost Analysis. The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- (18) Cost Data. The factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.
- (19) Cost-reimbursement Contract. A contract under which a contractor is reimbursed for costs which are allowable and in accordance with the contract terms and the provisions of this chapter, and a fee or profit, if any.
- (20) Board of Commissioners. The Board of Commissioners of Augusta-Richmond County which is the governing body of Augusta-Richmond County.
- (21) Mayor. The chief executive officer of Augusta-Richmond County who is authorized to sign all contracts for the Board of Commissioners.
- (22) Administrator. The chief appointed administrative officer of Augusta-Richmond County.
- (23) Days. Days mean calendar days. In computing any period of time prescribed by the Procurement Code, the first day shall not be counted but the last day shall be counted. If the last day falls on a Saturday or Sunday, the party shall have through the following Monday. When the last day falls on a legal holiday observed by the governing authority, the party shall have through the next day.
- (24) Debarment. Exclusion from contracting and subcontracting with Augusta-Richmond County for a specified period of time.
- (25) Designee. A duly authorized representative of a person holding

a superior position.

- (26) Discussions. As used in the selection process, means an exchange of information or other manner of negotiation during which the offeror and Augusta-Richmond County may alter or otherwise change the conditions, terms, and price of the proposed contract. Discussions may be conducted in connection with competitive sealed proposals, sole source, and emergency procurement.
- (27) Emergency. Any reasonably unforeseen circumstances, i.e. breakdown in major equipment, threatened termination or curtailment of an essential service, or development of a dangerous condition that creates an immediate threat to public health, welfare or safety.
- (28) Employee. An individual drawing a salary or wages from Augusta-Richmond County, whether elected or not; any non-compensated individual performing personal services for Augusta-Richmond County or any department, agency, commission, council, board, or any other entity established by the executive, legislative or judicial branch of Augusta-Richmond County; and any non-compensated individual serving as an elected official of Augusta-Richmond County.
- (29) Fault. Wrongful act, omission or breach.
- (30) Financial Interest. All direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is ten (10) percent or more. (O.C.G.A. § 36-67A-1).
- (31) Firm. Any individual, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice or offer professional or consultant services.
- (32) Good Faith. Honesty in fact in the conduct or transaction concerned. (O.C.G.A. § 11-1-201).
- (33) Gratuity. A payment, loan, subscription, advance, deposit of

money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

- (34) Genuine. Free of forgery or counterfeiting. (O.C.G.A. § 11-1-210).
- (35) Immediate family. Father, mother, son, daughter, brother, sister, grandparents or grandchildren, wife or husband, or the wife or husband of any of the preceding listed persons.
- (36) Interested party. Means an actual or prospective bidder, offeror, or contractor that may be aggrieved by the solicitation or award of a contract, or by the protest.
- (37) Invitation for Bids. An advertisement for the submission of bids for a particular project, item or goods whether attached or incorporated by reference.
- (38) Let (contracts). Award to one of several persons, who have submitted proposals (bids) therefore, the contract for erecting public works or doing some part of the work connected therewith, or rendering some other service to the government for a stipulated compensation.
- (39) Lowest and most responsive Bidder. The most responsive and responsible bidder or offeror as herein defined who has offered the requested goods, services, or construction for the lowest value.
- (40) May. Denotes the permissive.
- (41) Notice. Knowledge, or a notice or notification received by an individual or organization. Notice is effective for a particular transaction from the time when it is delivered to the individual it is addressed to or is delivered to any person in the organization conducting, or seeking to conduct business with Augusta-Richmond County. (O.C.G.A. § 11-1-201).
- (42) Notice to proceed. Written document issued by the Procurement

Director or her designee directing the contractor to proceed with the performance of the contract.

- (43) Offer. A proposal or bid submitted in response to a request for proposal (RFP) or invitation for bid (ITB).
- (44) Offeror. Any person submitting a response to a solicitation issued, including an informal request for quotes, a request for proposal or invitation for bids.
- (45) Organization. Includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity. (O.C.G.A. § 11-1-201).
- (46) Payment bond. A bond issued for the protection of all persons supplying labor and material to the contractor or subcontractors for the performance of the work specified in the contract.
- (47) Performance bond. A bond that insures that the contract will be completed in accordance with contract requirements.
- (48) Person. Any business, individual, union, committee, club, other organization, or group of individuals.
- (49) Pre-qualification. The process to determine whether a prospective bidder or proposer satisfies the criteria established for inclusion on the pre-qualified bidders or proposers list.
- (50) Price Analysis. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
- (51) Pricing Data. The factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered selling prices, historical selling prices, and current selling prices. The definition refers to data relevant to both prime and sub-contract prices.

- (52) Procurement. Means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (53) Procurement Department. The department responsible for the expenditure of public funds for the procurement of commodities, services, or construction products.
- (54) Procurement Director. The department head of the Procurement Department responsible for the procurement of goods and services for Augusta-Richmond County.
- (55) Procurement Officer. Any person duly authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.
- (56) Product. Something produced by physical labor or intellectual effort, commodities, supplies, equipment, materials, goods, services and construction.
- (57) Product Reference. A specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet Augusta-Richmond County requirements, and which provides for the submission of equivalent products.
- (58) Professional and consultant services. Means those services within the scope of the practices of architecture, investment banking, professional engineering, planning, landscape architecture, land surveying, the medical arts, management and analysis, accounting or auditing, law, psychology or any other similar kind or type of professional practice. For purposes of this division, professional and consultant services shall not

include investment management services as defined by the laws of the State of Georgia.

- (59) Proposal. Means the solicited submission of information from a prospective offeror in accordance with the terms of the applicable request for proposals and applicable law.
- (60) Protest. Means a written statement concerning any unresolved disagreement or controversy arising out of the solicitation or award of a contract filed in accordance with the requirements of this Code.
- (61) Protestor. Means any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or the award of a contract and who files a protest.
- (62) Public procurement unit. The United States Government, any department, agency or division thereof, any city, county, town, and any subdivision of the State of Georgia or public agency of any such subdivision, public authority, educational, health, or other institution, any other non-profit entity which expends public funds for procurement or supplies, services, or construction.
- (63) Public Sale. A sale held to dispose of surplus Augusta-Richmond County property.
- (64) Public Works Contract. Any contract for an Augusta-Richmond County government public works project valued at forty thousand dollars (\$40,000.00) or more as more fully defined in O.C.G.A. § 36-10-1 and Article X of this chapter.
- (65) Purchase. Includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property. (O.C.G.A. § 11-1-201).
- (66) Purchase Order. Written authorization requesting the selected vendor to deliver goods with payment to be made later.

- (67) **Qualified Products List.** An approved list of commodities described by model or catalog numbers, which, prior to competitive solicitation, Augusta-Richmond County has determined will meet the applicable product specifications requirements.
- (68) **Quotations or informal bids selection method.** The method for procuring services, commodities or goods without the formality of a written proposal or sealed bid for purchases that do not exceed \$10,000.00.
- (69) **Requisition.** The document submitted by a using agency requesting that a purchase be made on its behalf. Requisition includes, but is not limited to, a description of the requested commodity, service or construction product, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information supplied for the working of any written determination required by law or this Code.
- (70) **Request for Proposals (RFP).** All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (71) **Request for Qualifications (RFQ).** A method used to predetermine the capacity of prospective bidders or proposers for a specific project prior to the issuance of a solicitation.
- (72) **Responsible Bidder or Proposer.** A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance. In considering whether a bidder is responsible, the Procurement Director, Augusta-Richmond County Administrator, using agency head, or Augusta-Richmond County Commission may consider the proposers or bidder's quality of work, general reputation in the community, financial responsibility, and previous employment or use by Augusta-Richmond County.
- (73) **Responsive Bidder or Proposer.** A person who has submitted a bid or proposal which conforms in all material respects to the

requirements set forth in the invitation for bids or request for proposal.

- (74) Sealed Bid. A method for submitting a bid to perform work on a proposed contract. In general, each party interested submits a bid in a sealed envelope, and all such bids are opened at the same time and the most favorable responsible bid is accepted.
- (75) Sealed Proposal. A method for submitting a proposal for services or a combination of services and commodities on a proposed contract.
- (76) Services. The furnishing of labor, time or effort, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- (77) Small Business. A United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.
- (78) Solicitation. Means an invitation for bids, a request for proposals, a request for quotations or any other document issued by the Augusta-Richmond County concerning its soliciting bids or proposals to perform an Augusta-Richmond County contract or purchase order.
- (79) Sole Source. A written determination made by the Procurement Director indicating that there is only one source for the procurement of any goods, supplies, services, construction, manufacturer or product source and/or only one vendor source for the required commodities, services or construction products.
- (80) Specification. Any description of the physical or functional characteristics or of the nature of commodities, services, or construction products. It may include a description of any requirement for inspecting, testing, or preparing a commodity, service, or construction product for delivery.

- (81) Substantial Interest. The direct or indirect ownership of more than twenty-five (25) percent of the assets or stock of any business. (O.C.G.A. § 45-10-20).
- (82) Supplies. Any goods, equipment, material or other personal property owned by Augusta-Richmond County and available for use by the personnel of the organization.
- (83) Surplus Supplies. Any Augusta-Richmond County owned supplies no longer needed having any use to Augusta-Richmond County as determined of official action of the Board of Commissioners.
- (84) Using Agency. Any department, commission, board, office, authority, or division of Augusta-Richmond County requiring commodities, services or construction products or professional or other consultant services.
- (85) Using Agency Head. The director or department head of a using agency that is responsible for the administration or such using agency.
- (86) Value Analysis. An organized and systemic study of every element of cost in a part, material, or service to make certain it fulfills its function at the best value.
- (87) Warranty Period. The period following final acceptance of the project during which the contractor/vendor is responsible for repair of any product, equipment and /or work not caused by vandalism or natural disaster.

ARTICLE 2

Sec. 1-10-10 through 1-10-22

RESERVED*

* Editors Note: Ord. No. 6239, § 2, adopted Jan. 18, 2000, repealed §§

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1-10-10--1-10-22 in their entirety. See the Code Comparative Table.

ARTICLE 3

OFFICE OF THE PROCUREMENT DIRECTOR

Sec. 1-10-23. Authority and responsibility of procurement director.

- (a) Authority. The Procurement Director is designated as the principal public procurement official for Augusta-Richmond County, and shall be responsible for the procurement of commodities, services, construction, and professional service products in accordance with the AUGUSTA, GA. CODE and this chapter.
- (b) Duties. The duties of the Procurement Director include but are not limited to:
 - (1) Procuring or supervising the procurement of all commodities, services, construction, and professional and consultant service products needed by Augusta-Richmond County;
 - (2) Acting to procure for Augusta-Richmond County the highest quality in commodities, construction and service products at the best value to Augusta-Richmond County;
 - (3) Discouraging collusive bidding and endeavoring to obtain as full and open competition as possible on all purchases and sales;
 - (4) Keeping informed of current developments in the field of procurement, prices, market conditions and new products, and secure for Augusta-Richmond County the benefits of research conducted in the field of procurement by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses or organizations;
 - (5) Prescribing and maintaining such forms as needed to operate the procurement program;

- (6) Preparing, recommending, and implementing standard procurement nomenclature for using agencies and product suppliers;
- (7) Preparing, adopting and properly maintaining a vendors' catalog file and qualified products list, if needed;
- (8) Exploring cooperative ventures and possibilities of buying in bulk so as to take full advantage of discounts;
- (9) Procuring for Augusta-Richmond County whenever possible all tax exemptions;
- (10) Cooperating with using agencies so as to secure for Augusta-Richmond County the maximum efficiency in budgeting and purchasing;
- (11) Recommending to the Administrator that product vendors who are irresponsible and non-responsive or default on contracts be debarred from receiving any business from Augusta-Richmond County for an appropriate period of time;
- (12) Exercising general supervision over all other inventories of supplies belonging to Augusta-Richmond County;
- (13) Establishing and maintaining programs for specifications development, contract administration, and inspecting, testing and acceptance, in cooperation with the public agencies using the commodities, services and construction products;
- (14) Working to ensure equal opportunity for all business owners;
- (15) Selling, trading, or otherwise disposing of surplus supplies belonging to Augusta-Richmond County;
- (16) Prequalifying suppliers;
- (17) Prequalifying products through the study of testing data;

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- (18) Maintaining the official Augusta-Richmond County bidder's list;
 - (19) Adopting operational procedures;
 - (20) Contract administration;
 - (21) Examining solicitation documents and contracts;
 - (22) Resolving protests excepts as otherwise designated by the AUGUSTA, GA. CODE; and
 - (23) Any other duty assigned by the Commission or Administrator that is within the intent and scope of duties set forth in the AUGUSTA, GA. CODE.
- (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-24. Centralization of procurement function.

- (a) Except as otherwise required by law, the Procurement Director or designee shall solicit all bids or proposals for the procurement of commodities, services, and construction products, professional or consultant service products and personal property disposition for all using agencies of Augusta-Richmond County, except for certain purchases officially authorized to be made by an elected official or using agency head.
- (b) Augusta-Richmond County shall not be legally bound by any purchase order or contract made contrary to the provisions of the AUGUSTA, GA. CODE and this chapter. Except as may be specifically provided herein, it shall be a violation of this chapter for any officer or employee of Augusta-Richmond County or other person to order the purchase of any commodities, make contracts for any services, or dispose of any property within the purview of this chapter other than through the Augusta-Richmond County Administrator or Procurement Director. Any such purchase may be considered ultra vires. Violators shall be subject to penalties provided by law and/or in the AUGUSTA, GA. CODE.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-25. Contract Administration.

- (a) Using Agency requirements. The Procurement Director shall maintain a close and cooperative relationship with using agencies; and shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to procurement matters affecting the agency. The Procurement Director and the Department Head of the using agency shall consult with and seek technical assistance from professionals or persons within the agency having subject matter expertise and knowledge when drafting and developing solicitation documents. If the knowledge and expertise is not available in the using agency then the Procurement Director and/or the using agency shall consult and seek such technical skills and knowledge from other Augusta-Richmond County departments or professionals.
- (b) Examination of solicitation documents and contracts: The Procurement Director and the using agency shall review each solicitation for accuracy prior to advertising. The Procurement Director and the using agency shall review each contract to determine the accuracy of the terms, conditions, substance and the inclusion of all required documents including insurance and bonding.

Sec. 1-10-26. Unauthorized Contracts

Liability of Augusta-Richmond County officers and employees for unauthorized contracts. If any officer or employee of Augusta-Richmond County shall create any actual legal liability against himself or herself or Augusta-Richmond County under the following circumstances:

- (a) Such officer or employee requests or knowingly permits any person to proceed or to continue with the performance of any construction or services for Augusta-Richmond County or to provide supplies to Augusta-Richmond County; and
- (b) The construction or service, or the provision of supplies was not duly authorized by the Mayor or the Mayor's designee, in accordance with Augusta-Richmond County Charter and the AUGUSTA, GA. CODE,

prior to the performance of the construction, service, or provision of supplies, and such officer or employee knew or should have known such fact; and

- (c) The contractor or supplier expends money, incurs liability or otherwise acts to its financial detriment in reliance upon the representation of Augusta-Richmond County officer or employee involved; then in such event, if Augusta-Richmond County Administrator and department head, in the case of an employee, or the Mayor, in the case of an appointed official, as the case may be, determines that such circumstances exist, that there are no mitigating or extenuating factors sufficient to justify the actions of the officer or employee, and that just cause exists for the discharge of the offending officer or employee of Augusta-Richmond County then such offending officer or employee shall be discharged from his or her employment with Augusta-Richmond County subject to the labor-management relations ordinance where appropriate.
- (d) Nothing in this article or the AUGUSTA, GA. CODE shall be construed as a waiver of any defenses available to Augusta-Richmond County, including immunity.

Sec. 1-10-27. Conflicts of interests.

In accordance with this division it shall be unethical for any Augusta-Richmond County officer or employee to participate directly or indirectly in the procurement process except in the following circumstances:

- (a) Procurement by competitive sealed bidding. Direct or indirect financial interest in or employment by or having any other interest in a business which is involved in a procurement with Augusta-Richmond County only through a competitive sealed bid shall not be a cause for a conflict of interest under this division.
- (b) Disposition of real property by competitive sealed bidding. Direct or indirect financial interest in or employment by or having any other interest in a business which is involved in the acquisition of real property disposed of by Augusta-Richmond County through competitive sealed bidding shall not be a cause for a conflict of interest under this division.

- (c) Disclosure and determination of no adverse interest. Any Augusta-Richmond County officer or employee who has a direct or indirect financial interest in any procurement made other than by a competitive sealed bid shall disclose the nature of the financial interest to the Procurement Director. Augusta-Richmond County Administrator, in consultation with the Procurement Director and General Counsel shall make a written determination as to whether Augusta-Richmond County officer or employee has a conflict of interest that would prevent participation in such procurement.

Sec. 1-10-28. Gratuities and kickbacks.

- (a) Gratuities. It shall be unethical for any person to offer, give or agree to give any employee or former employee or for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decisions, approval, disapproval, recommendation, preparation of any procurement, influencing the content of any specification or procurement standard, rendering of any advice, investigation or acting any advisory capacity or in any in any matter related to a contract, subcontract, solicitation or proposal.
- (b) Kickbacks. It shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor or contractor or any person associated therewith as an inducement for the award of a contract or subcontract. This prohibition against gratuities and kickbacks shall be contained in every solicitation and contract.
- (c) Former Employees. No former employee or officer shall participate directly or indirectly in an Augusta-Richmond County procurement for six (6) months after termination of employment or service with Augusta-Richmond County.

Sec. 1-10-29. Contingent Fees.

- (a) Prohibition. It shall be unethical for a person to be retained or to retain a person to solicit or secure an Augusta-Richmond County contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona

fide employees of bona fide established commercial selling agencies for the purpose of securing business.

- (b) Contract clause required. Every Augusta-Richmond County contract or purchase order shall contain the clause prohibiting contingent fees, as follows:

“The vendor or contractor or firm warrants that it has not employed or retained any company or person, other than a bona fide employee working for the vendor or contractor or firm, to solicit or secure this contract or purchase order; and that the vendor or contractor or firm has not paid or agreed to pay any person, company, association, corporation, individual or firm other than a bona fide employee working for the vendor or contractor or firms, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement, For the breach or violation of the above warranty, and upon a finding after notice and hearing, Augusta-Richmond County shall have the right to terminate the contract or purchase order without liability, and, at its discretion, to deduct from the contract or purchase order price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.”

Sec. 1-10-30. Penalties.

- (a) Criminal penalties. To the extent that violations of the ethical standards of conduct set forth in this division constitute violations of state law or violations of Augusta-Richmond County standards of conduct set forth in section 1-1-8 of the AUGUSTA, GA. CODE, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this division. Criminal, civil and administrative sanctions, against employees or non-employees which are in existence on the effective date of the ordinance from which this article derives shall not be impaired.
- (b) Sanctions. The Augusta-Richmond County Board of Commissioners is permitted to impose sanctions upon any employee or non-employee for violations of these provisions.
- (c) Employees. The Administrator, upon the recommendation of a Augusta-Richmond County Department Director may impose any one

or more of the following sanctions on an employee for violations of the ethical standards of this division:

- (1) Oral or written warnings or reprimands;
 - (2) Suspensions with or without pay for specified periods of time;
or
 - (3) Termination of employment.
- (d) Nonemployees. The Administrator, upon recommendation and approval by the Board of Commissioners, may impose one or more of the following sanctions on a non-employee for violations of the ethical standards:
- (1) Written warnings or reprimands;
 - (2) Termination of contracts; or
 - (3) Debarment or suspension as provided in Article 8.

Sec. 1-10-31. Reporting of anti-competitive practices to state.

Under this article, collusion and other anti-competitive practices among offerors are prohibited by local, state and federal laws, and Augusta-Richmond County, therefore, establishes the following:

- (a) Certification of independent price determination. All offerors shall identify a person having authority to sign for the offeror who shall certify, in writing, as follows:
- "I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of local, state and federal law and can result in fines, prison sentences, and civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this offeror."
- (b) Compliance with this subsection shall be considered met if the certification of independent price determination, as provided in this subsection, is set forth in an exhibit attached to the offer and appropriate language incorporating the exhibit into the offer is set forth therein.

- (c) Reporting of anti-competitive practices. When for any reason collusion or other anti-competitive practices are suspected among any offerors, a notice of the relevant facts shall be transmitted to the State Attorney General by the Augusta-Richmond General Counsel for investigation.

ARTICLE 4

PRODUCT SPECIFICATIONS

Sec. 1-10-32. Purpose.

The purpose of a specification is to provide a description and statement of the requirements of a product, components of a product, the capability or performance of a product, and/or the service or work to be performed to create a product.

Sec. 1-10-33. Types of specifications.

- (a) Design. This specification describes and states the required functional, physical and quality characteristics of a product, components of products, or services.
- (b) Performance. This specification describes and states the intended use, operating conditions, specific features and characteristics, and performance capability of the product. For construction or services, a performance specification states the methods to be employee and/or standards to be met, specific starting and completion schedule, and frequency of the service to be performed to develop the final product.
- (c) Design/performance. This specification is a combination of types (a) and (b) described above. It is a complete description and statement of the required physical makeup, functionality, intended use, operating conditions, specific features and characteristics, and performance capability of the product.
- (d) Service availability. If availability of service is to be a criteria for awarding a contract, the specifications shall clearly state that service availability may be considered in determining the most responsive

bid, and the bidders shall be required to submit information concerning their ability to service and maintain the product or equipment.

- (e) A specification should be complete in its statement requirements. Other published specifications can be incorporated (e.g., Georgia D.O.T. Specifications, Underwriters Laboratory, etc.); however, original statements are preferable. A specification may also include provisions for testing and inspecting where necessary.

Sec. 1-10-34. Maximum practicable competition.

All specifications shall be drafted so as to promote overall economy for the purpose intended and encourage competition in satisfying Augusta-Richmond County's needs, and shall not be unduly restrictive. The procedures in this Section apply to all specifications including, but not limited to, those prepared for Augusta-Richmond County by architects, engineers, designers, draftsmen, and other consulting persons.

Sec. 1-10-35. Qualified products list.

- (a) Augusta-Richmond County shall advertise at least once per fiscal year for vendors to register with the Procurement Department the products and services they wish to offer Augusta-Richmond County. Augusta-Richmond County shall keep an index of these vendors by name and the list shall be cross referenced for products and services. The vendor's name shall be kept for two (2) years or permanently if the vendor continues to offer bids. Records shall be kept as to the number of times a vendor is contacted for informal quotes and other bids. Upon the request of a vendor, the said vendor shall be added or deleted from the list. The use of such a list is not intended to restrict competition. Any vendor may submit, prior to product solicitation, a commodity, product or service to the Procurement Director for review and possible inclusion on the qualified products list.
- (b) Vendors shall be removed from the vendor list for the reasons established by the Procurement Director, including, but not limited to:
 - (1) Declining to offer bids for a two (2) year period.

- (2) Failing to satisfactorily meet terms, agreements, or contracts made with the procurement department or the using agency.
- (3) Being convicted of criminal offenses in obtaining contracts or convicted of embezzlement, violation of state or federal anti-trust statutes, or any other crime which indicates a lack of business integrity or honesty.
- (4) Violating contract provisions or failing to perform without good cause or any other cause which the Procurement Director deems to be so serious as to affect the responsiveness and responsibility of a contractor, including the disbarment or suspension from a vendor's list by another governmental entity.
- (5) Violating the standards as set forth in Article II hereof for conflicts of interest.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-36. Background information on vendors.

The Department Head and/or the Administrator is directed to provide the bid amount as submitted, information concerning the vendor's previous performance, the service and quality of the products offered, the availability of the goods and services when needed, adherence to delivery schedules, and other criteria pertinent to that particular item, on vendors who have submitted bids, proposals, or contracts for the Commission's consideration. The information is to be included in the backup documents for the Commission's consideration in awarding the contract.

Sec. 1-10-37. Product references in specifications.

- (a) Use. Product references may be used in specifications, in conjunction with other descriptive narrative, when:
 - (1) No other design or performance specification or qualified products list is available;
 - (2) Time does not permit the preparation of another form of purchase description;

- (3) The nature of the product or the nature of Augusta-Richmond County's requirements dictates the use of a brand name or equal reference in the specification; or
 - (4) The use of a brand name or equal specification is in Augusta-Richmond County's best interests.
- (b) Designation of several products references. Product reference or equal specifications shall seek to identify as many different product references as are practicable, as or equal references and shall further state that substantially equivalent products to those designated will be considered for award, unless conditions warrant otherwise.
 - (1) Unless otherwise authorized by the Administrator, product reference or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
 - (2) Where a product reference or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of the product reference is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
- (c) In all cases where brand name items are requisitioned by any department, the Procurement Director has the authority to determine whether similar products of equal quality offered for sale to Augusta-Richmond County at a lower price shall be ordered in lieu of the requisitioned brand name items.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-38. Responsibility for specifications.

The using agency shall be responsibility for acquiring specifications data for its procurements. Procurement personnel will assist with this task by providing copies of previously used specifications, brochures, or other reference materials. However, the Procurement office staff's primary

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responsibility is to develop the data provided by the using agency head into the proper format for the solicitation of bids, proposals, or quotations. All specifications shall be drafted so as to promote free and open competition in satisfying the using agency's needs and shall not be unduly restrictive.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-39. Inspection of purchases.

The procurement director, or his or her designee, in conjunction with the using agency or department head shall inspect, or supervise the inspection of, all deliveries of materials, supplies or contractual services to determine their conformance with the specifications set forth in the pertinent purchase order or contract. The Procurement Director may require chemical and physical tests of samples submitted with bids and samples of deliveries, which examinations are necessary to determine quality of the samples and conformance with specifications.

(Ord. No. 6939, § 16, 1-2-07).

ARTICLE 5

REQUIREMENTS FOR BIDDING OR PROPOSING ON AUGUSTA-RICHMOND COUNTY CONTRACTS

Sec. 1-10-40. Responsibility of bidders and proposers.

- (a) Determination of responsibility. The level of responsibility of the bidder or proposer shall be ascertained for each contract awarded by Augusta-Richmond County based upon full disclosure to the Procurement Director concerning the person's capacity to meet the terms of the contract and based upon the person's past record of performance on similar contracts, the bidder's quality of work, general reputation in the community, financial responsibility, and previous employment or use by Augusta-Richmond County. If an offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Procurement Director or the using agency and submitted to the Procurement Director. The failure of an offeror to promptly supply information in

connection with an inquiry with respect to the level of responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror or proposer. A copy of the determination shall be sent promptly to the non-responsible offeror. The final determination shall be made a part of Augusta-Richmond County's contract file and be made a public record.

- (b) Right of nondisclosure. Except as required by the Open Records Act, information furnished by an offeror pursuant to this Section shall not be disclosed outside of the Procurement Department, or using agency, by Augusta-Richmond County staff without prior written consent by the offeror.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-41. Cost or pricing data.

- (a) Required submissions relating to the award of contract. A prospective contractor shall submit cost or pricing data when the contract is expected to exceed five thousand dollars (\$5,000.00) and is to be awarded by competitive sealed proposals (section 1-10-52; Competitive Sealed Proposals), by sole source procurement authority (section 1-10-56; Sole Source Procurement), or by competitive selection procedures for professional and consultant services (section 1-10- 53).
- (b) Exceptions. The submission of cost or pricing data relating to the award of a contract is not required when:
 - (1) The contract price is based on adequate price competition;
 - (2) The contract price is based on established catalogue prices or market prices;
 - (3) The contract price is set by law or regulation; or
 - (4) It is determined by the Procurement Director and approved by the Augusta-Richmond County Administrator, in writing, that the requirements of this Section may be waived, and the determination states the reasons for such waiver.

- (c) Required submissions relating to change orders or contract modifications. A contractor shall submit cost or pricing data prior to the approval of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract, whenever the change or modification involves aggregate increases or aggregate decreases of five percent (5%) or more of original bid or proposal price.
- (d) Exceptions. The submission of cost or pricing data relating to the pricing of a change order or contract modification is not required when:
 - (1) Unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience; or
 - (2) It is determined in a written report by the Procurement Director and approved by the Augusta-Richmond County Administrator that the requirements of subsection (c) hereof (Cost or Pricing Data; Required Submissions Relating to Change Orders or Contract Modifications) may be waived, and the determination states the reasons for such waiver.
- (e) Certification required. Any prospective or current contractor required to submit cost or pricing data in accordance with this Section shall certify that to the best of its knowledge and belief the cost or pricing data submitted was accurate, complete, and current, as of a mutually specified date prior to the award of the contract, or the pricing of the change order for contract modification.
- (f) Price adjustment provision required in contracts. Augusta-Richmond County contracts shall include a provision stating that when detailed pricing data has been requested by Augusta-Richmond County and submitted by the offeror/contractor under the terms of the contract which is later found to be in error, that the price of the products charged to Augusta-Richmond County, including profit or fee, shall be appropriately adjusted. Such prices shall be accurate, complete, and current as of the date agreed upon between Augusta-Richmond

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County and the contractor.
(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-42. Cost or price analysis.

A cost analysis or a price analysis, including life cycle costing as appropriate, may be conducted prior to award of a contract. If this technique is to be used, notice shall be provided the bidder/offeror in the bid solicitation or request for proposals. A written record of such cost analysis or price analysis shall be made a part of the contract file.

Sec. 1-10-43. Bid and performance bonds when required.

Bid and performance bonds or other security shall be requested for any contract as the Procurement Director, using agency head, and/or Administrator deem advisable to protect Augusta-Richmond County's interest under circumstances specified herein. Any such bonding requirements shall be set forth in the solicitation.
(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-44. Bid bonds.

- (a) Requirements. Bid security shall be required, primarily for construction contracts, when the value is estimated to exceed forty thousand dollars (\$40,000.00).
- (b) Bid security shall be a bond provided by a surety company authorized to do business in the State of Georgia or the equivalent in cashier's or certified check (Checks shall be made payable to Augusta-Richmond County), or such other security as approved by the Augusta-Richmond General Counsel.
- (c) Nothing herein prevents the requirements of such security on construction and other purchases less than forty thousand dollars (\$40,000.00) when the circumstances warrant such requirements as determined by the Procurement Director and using agency head.
- (d) Amount. Bid security, when required, shall be in an amount equal to at least ten percent (10%) of the amount of bid or an amount certain specified in the solicitation.

- (e) The bid security of the three (3) lowest bidders shall be held until contract award. Securities posted by others will be returned shortly after receipt of bids. Except for the three (3) lowest bidders, unsuccessful bidders shall be entitled to the return of the bid security. Upon failure of a successful bidder to enter into a contract within an established time frame after Augusta-Richmond County tenders the proposed contract, the bidder shall forfeit the bid security. Upon approval of the contract by the Commission, the remaining bid securities shall be returned.
- (f) Upon failure of an offeror to enter into a contract within ten (10) days after the contract is tendered by Augusta-Richmond County, the offeror's security is subject to forfeiture.
- (g) Rejection of bids/noncompliance with bid bond requirement. When the Invitation for Bids requires bid security, any bid submitted without such security shall be rejected and returned to the bidder with a written explanation of the action taken.
- (h) Withdrawal of bids. If a bidder is permitted to withdraw a bid before award it is considered cause to forfeit bid security unless substantial evidence is presented clearly evidencing the mistake and hardship that would occur to the bidder.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-45. Payment and performance bonds.

- (a) Requirement and amount. When a contract for construction services is awarded in excess of forty thousand dollars (\$40,000.00) the following bonds shall be delivered to Augusta-Richmond County, and shall become binding on the parties upon the execution of the contract:
 - (1) A performance bond in the amount of 100% of the price specified in the contract executed by a surety company authorized to do business in the State of Georgia, and in a form and fashion satisfactory to Augusta-Richmond County; and

- (2) A payment bond in the amount of 100% of the price specified in the contract executed by a surety company authorized to do business in the State of Georgia and in a form and fashion satisfactory to Augusta-Richmond County.
- (b) Nothing in this chapter shall prohibit Augusta-Richmond County from requiring other contractors or suppliers of professional services to comply with one or both bonding requirements if so determined by the Augusta-Richmond County Administrator, and/or using agency head, to be necessary.
- (c) Reduction of bond amounts. Prior to the taking of bids, the Procurement Director and architect/engineer or project manager, upon approval of the Administrator, may reduce the amount of performance and payment bonds when a written determination is made that it is in the best interest of Augusta-Richmond County to do so, provided Georgia law does not mandate the amount of such bond.
- (d) Authority to require additional bonds. Nothing in this Section shall be construed to limit the authority of Augusta-Richmond County to require other security in addition to those bonds if warranted by the circumstances and other than specified in this Section.

Sec. 1-10-46. Insurance requirements.

Standard ranges and types of coverage shall be determined under the direction of the Augusta-Richmond County Administrator and advice of the Augusta-Richmond General Counsel, Risk Management, Finance Director, Procurement Director and other appropriate staff. General requirements shall be reviewed at least once annually. Insurance shall be required within established ranges and for specific purposes for each solicitation and contract, except where otherwise provided for in the AUGUSTA, GA. CODE. (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-47. Request for Qualifications; Pre-qualifications of contractors.

- (a) The Procurement Director, in consultation with the Administrator and using agency head may determine that it shall be in the best interest of Augusta-Richmond County to pre-qualify offerors for contracts of a

particular type. The imposed standards shall be met by any contractor who wishes submit a bid or proposal for the subject project. The contractor shall submit required data in order to obtain a fair and impartial determination of whether the pre-qualification standards have been met. When pre-qualification is required, only those contractors who submit the required pre-qualification information and who are actually pre-qualified to submit a bid or proposal for the proposed solicitation.

- (b) Public notice. Public notice of pre-qualification shall be given in the same manner as provided in section 1-10-50 (c).
- (c) Pre-qualification standards. The Procurement Director and affected using agency heads shall review all information submitted by the suppliers and, if necessary, require additional information. The standards set for pre-qualification shall include but not be limited to factors set forth in section 1-10-50-Sealed Bids; Bid Acceptance and Bid Evaluation or section 1-10-52-Sealed Proposals; Evaluation and Selection. If the Procurement Director and Administrator determine that the contractor meets all standards, then the contractor shall be so pre-qualified. The contractor shall be notified in writing.
- (d) Failure to pre-qualify. Should a contractor not be pre-qualified, appropriate written notice shall be sent and the contractor may appeal such determination as provided in Article 9.
- (e) In no instance shall a contract be awarded from the solicitation of request for qualifications.

ARTICLE 6

PROCUREMENT SOURCE SELECTION METHODS AND CONTRACT AWARDS

Sec. 1-10-48. Generally.

The following sections provide detailed information concerning the use of the seven (7) source selection methods available for use for the procurement of commodities, services and construction products for Augusta-Richmond County. The seven methods are: (1) sealed bids, (2) sealed proposals, (3)

special services, (4) quotations or informal bids, (5) sole source, (6) emergency procurement and (7) annual contracts.

Sec. 1-10-49. Purchase order.

No officer or employee of Augusta-Richmond County shall request a vendor to deliver goods, merchandise, materials or supplies to Augusta-Richmond County except upon a regular purchase order issued by the procurement agent; however, the provisions of this subsection shall not apply to emergency purchases provided for in this section.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-50. Sealed bids selection method.

- (a) Conditions for use. All contracts of Augusta-Richmond County shall be awarded by competitive sealed bidding except as otherwise provided elsewhere in this article (see section 1-10-52-Sealed Proposals; 1-10-53-Professional Services; 1-10-54-Quotations; 1-10-56-Sole Source Procurement; and 1-10-57-Emergency Procurements, of this chapter).
- (b) Invitation for bids and specifications. An invitation for bids shall be issued by the Procurement Office and shall include specifications prepared in accordance with Article 4 (Product Specifications), and all contractual terms and conditions, applicable to the procurement. **All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director.** All requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta-Richmond County Commission for approval by the Augusta-Richmond County Commission.
- (c) Public notice and bidder's list. Adequate public notice of the invitation for bids shall be given in reasonable time, not less than ten (10) working days prior to the date set forth therein for the receipt of bids.

- (1) Public works type contracts (defined per Georgia State Law, Code Section 36, Chapter 10, as contracts necessary to build or repair any courthouse, jail, bridge, causeway, or other public works) with values that equal or exceed forty thousand dollars (\$40,000.00), shall be advertised at least once weekly for at least four (4) weeks prior to opening of bids.
 - (2) Public notice shall include publication for three (3) days within a ten (10) day period in the legal gazette or newspaper. The public notice minimally shall state the place, date, and time of pre-bid conference and/or bid opening, where specification documents may be obtained, and a brief description of the purchase or sale.
 - (3) The Procurement Director shall also directly solicit sealed bids from all responsible prospective suppliers whose names appear on the Augusta-Richmond County Bidders' List which the Procurement Director shall maintain.
- (d) Pre-bid conference and addendum. A conference to be conducted by the Procurement Director and using agency head, if appropriate, hearing will be scheduled at least five (5) working days before receipt of bids. While the pre-bid conference is not a requirement, it is strongly recommended and widely used to further acquaint interested bidders with the bid requirements and items to be purchased and vendor input. Any substantive changes to specifications resulting from the pre-bid conference or other vendor/contractor sessions shall be documented in an addendum and communicated to all bidders registered for the procurement action.
- (e) Bid opening. Sealed Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the public notice and invitation for bids. The amount of each bid, and such other relevant information as the Procurement Director deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-10-5 (Public Access to Procurement Information).
- (f) Bid acceptance and bid evaluation. Provided that the bids are

delivered to the Procurement Director at the time, place, and under the conditions contained in the Invitation for Bids, the bids shall be conditionally accepted without alteration or correction pending evaluation.

- (g) Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include bidder responsibility and responsiveness, capability and past performance, and criteria to determine acceptability such as inspection, testing, quality workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objective and clearly measurable, including but not limited to discounts, transportation costs, and total or life cycle costs.
- (h) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted under the circumstances described below:
 - (1) Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening.
 - (2) The bidder may withdraw the bid, prior to bid opening, without revealing the amount of the bid, by submitting a new sealed bid and providing written notice of such withdrawal.
 - (3) After the bid opening, corrections to bids shall be permitted only as to bid price and only to the extent that the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake, and the bid price actually intended. Otherwise, no changes in bid prices or other provisions of bids shall be permitted.
 - (4) In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - (i) Such error in the calculation of the bid can be documented by clear and convincing written evidence;

- (ii) Such error can be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or materials used in the preparation of the bid sought to be withdrawn;
 - (iii) The bidder serves written notice upon the Procurement Director either prior to the award of the contract or not later than forty-eight (48) hours after the opening of bids, excluding Saturdays, Sundays and legal holidays;
 - (iv) The bid was submitted in good faith and the mistake was due to a calculation or clerical error, an inadvertent omission or typographical error as opposed to an error in judgment; and
 - (v) The withdrawal of the bid will not result in undue prejudice to Augusta-Richmond County or other bidders by placing them in a materially worse position than they would have occupied if the bid had never been submitted.
- (5) In the event that an apparent successful bidder has withdrawn his or her bid as provided in subsection (3) of this Code section, action on the remaining bids should be considered as though the withdrawn bid had not been received. In the event the project is re-let for bids, under no circumstances shall a bidder who has filed a request to withdraw a bid be permitted to resubmit a bid for the work.
- (6) No bidder who is permitted to withdraw a bid pursuant to subsection (3) of this Code section shall for compensation supply any material or labor to, or perform any subcontract or other work agreement for, the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted. (O.C.G.A. § 13-10-22).
- (7) All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported in a written report made by the Procurement Director.

- (8) Withdrawal after receipt of bids is cause to forfeit bid security unless substantial evidence was presented clearly evidencing the mistake and hardship that would occur to either Augusta-Richmond County or the bidder in the event of award.
- (h) Tie bids. In the event two or more bidders are tied in price while otherwise meeting all of the required conditions, the bid shall be awarded to the business which is located within Augusta-Richmond County, or if not within the above, within the State of Georgia. Where this method does not result in the awarding of a bid, the Procurement Director shall call a public forum, cause each bidder or stand-in to write the name of the bidder on paper and placed in a container, the winner to be determined by drawing lots.
- (i) Letting the contract. The contract shall be awarded or let in accordance with procedures set forth herein. Award shall occur with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
- (j) In addition to price and other material factors, the Procurement Director, in consultation with the using agency, shall consider the following in the context of award recommendations:
 - (1) The ability, capacity, and skill of the bidder to perform the contract or provide the services required,
 - (2) The capability of the bidder to perform the contract or provide the service promptly or within the time specified, without delay or interference,
 - (3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder,
 - (4) The quality of performance on previous contracts,
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services,
 - (6) The sufficiency of the financial resources of the bidder relating

to his ability to perform the contract,

- (7) The quality, availability, and adaptability of the supplies or services to the particular use required, and
 - (8) The number and scope of conditions attached to the bid by the bidder.
- (k) Award to other than low bidder. When the award is not given to the lowest most responsive and responsible bidder, a full and complete statement of the reasons for awarding the purchase order or other contract shall be prepared and signed by the Procurement Director and/or Administrator and made part of the record file.
- (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-51. Request for proposals.

Request for proposals shall be handled in the same manner as the bid process as described above for solicitation and awarding of contracts for goods or services with the following exceptions:

- (a) Only the names of the vendors making offers shall be disclosed at the proposal opening.
- (b) Content of the proposals submitted by competing persons shall not be disclosed during the process of the negotiations.
- (c) Proposals shall be open for public inspection only after the award is made.
- (d) Proprietary or confidential information, marked as such in each proposal, shall not be disclosed without the written consent of the offeror.
- (e) Discussions may be conducted with responsible persons submitting a proposal determined to have a reasonable chance of being selected for the award. These discussions may be held for the purpose of clarification to assure a full understanding of the solicitation requirement and responsiveness thereto.

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- (f) Revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offers.
- (g) In conducting discussions with the persons submitting the proposals, there shall be no disclosure of any information derived from the other persons submitting proposals.

Sec. 1-10-52. Sealed proposals.

- (a) Conditions for use. The competitive sealed proposals method may be utilized when the Augusta-Richmond County Administrator approves the written justification of the Procurement Director or using agency head that the sealed bid method is not in the best interest of Augusta-Richmond County. Generally, this method may be used when competitive sealed bidding (involving the preparation of detailed and specific specifications) is either not practicable or not advantageous to Augusta-Richmond County.
- (b) Request for proposals. Competitive sealed proposals shall be solicited through a request for proposals (RFP).
- (c) Public notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in section 1-10-50(c)(Public Notice and Bidder's List); provided the normal period of time between notice and receipt of proposals minimally shall be fifteen (15) calendar days.
- (d) Pre-proposal conference. A pre-proposal conference may be scheduled at least five (5) days prior to the date set for receipt of proposals, and notice shall be handled in a manner similar to section 1-10-50(c)-Public Notice and Bidder's List. No information provided at such pre-proposal conference shall be binding upon Augusta-Richmond County unless provided in writing to all offerors.
- (e) Receipt of proposals. Proposals will be received at the time and place designated in the request for proposals, complete with bidder qualification and technical information. No late proposals shall be accepted. Price information shall be separated from the proposal in a sealed envelope and opened only after the proposals have been reviewed and ranked.

The names of the offerors will be identified at the proposal acceptance; however, no proposal will be handled so as to permit disclosure of the detailed contents of the response until after award of contract. A record of all responses shall be prepared and maintained for the files and audit purposes.

- (f) Public inspection. The responses will be open for public inspection only after contract award. Proprietary or confidential information marked as such in each proposal will not be disclosed without written consent of the offeror.
- (g) Evaluation and selection. The request for proposals should state the relative importance of price and other evaluation factors that will be used in the context of proposal evaluation and contract award. (Pricing proposals will not be opened until the proposals have been reviewed and ranked). Such evaluation factors may include, but not be limited to:
 - (1) The ability, capacity, and skill of the offeror to perform the contract or provide the services required;
 - (2) The capability of the offeror to perform the contract or provide the service promptly or within the time specified, without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience, and efficiency of the offeror;
 - (4) The quality of performance on previous contracts;
 - (5) The previous and existing compliance by the offeror with laws and ordinances relating to the contract or services;
 - (6) The sufficiency of the financial resources of the offeror relating to his ability to perform the contract;
 - (7) The quality, availability, and adaptability of the supplies or services to the particular use required; and

- (8) Price.
- (h) Selection committee. A selection committee, minimally consisting of representatives of the procurement office, the using agency, and the Administrator's office or his designee shall convene for the purpose of evaluating the proposals.
 - (i) Preliminary negotiations. Discussions with the offerors and technical revisions to the proposals may occur. Discussions may be conducted with the responsible offerors who submit proposals for the purpose of clarification and to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of information derived from proposals submitted by competing offerors.
 - (j) From the date proposals are received by the Procurement Director through the date of contract award, no offeror shall make any substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams or members of the offeror's team.
 - (k) Final negotiations and letting the contract. The Committee shall rank the technical proposals, open and consider the pricing proposals submitted by each offeror. Award shall be made or recommended for award through the Augusta-Richmond County Administrator, to the most responsible and responsive offeror whose proposal is determined to be the most advantageous to Augusta-Richmond County, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain a written report of the basis on which the award is made/recommended. The contract shall be awarded or let in accordance with the procedures set forth in this Section and Article 10, section 1-10- of this chapter.
- (Ord. No. 6939, § 16, 1-2-07).

1-10-53. Competitive selection procedures for professional and consultant services.

As used in this section professional and consultant services, such as those provided by architects, engineers, investment banking, professional engineering, planning, landscape architects, land surveying, the medical arts, management and analysis, accounting or auditing, psychology or any other similar kind or type of professional practice which are normally obtained on a fee basis.

- (a) Conditions for use. The Procurement Director, upon the request or recommendation of the using agency, shall procure professional and consultant services, in accordance with this section.
- (b) Statement of qualifications. The Procurement Director shall request and maintain statements of interest from persons interested in providing professional and consultant services that shall include a statement of qualifications and performance data for such persons. Each using agency shall encourage professional and consultant firms, which desire to provide services to the agency, to submit statements of qualifications to Procurement Director. Procurement Director may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement. Any person placed on the qualifications list shall be removed if found in violation of any provision of this article or if such person is found in default under any contract with Augusta-Richmond County.
- (c) Public notice. When requested by the using agency, Procurement Director shall issue public notice for requests for proposals from professional and consultant offerors as provided in 1-10-50 (c).
- (d) Selection. Procurement Director, in consultation and upon the recommendation of the head of the using agency, shall select from among the offerors no less than three offerors (the "short-listed offerors") deemed to be the most responsible and responsive; provided, however, that if three or less offerors respond to the solicitation, this requirement will not apply. The selection of the short-listed offerors shall be made in order of preference. From the date proposals are received by Procurement Director through the date the contract is awarded, no offeror may make substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams or members of offeror's teams prior to award. The

- selection criteria shall include, but not be limited to, those contained in subsection 1-10- 52 (g) and the following:
- (1) Previous experience demonstrating competence to perform work or services involved in the solicitation;
 - (2) Past performance of previous contracts with respect to time of completion and quality of work;
 - (3) The fee or compensation demanded for the services;
 - (4) The ability to comply with applicable laws;
 - (5) The ability to comply with the schedule of the commencement and completion of the services, as required by Augusta-Richmond County;
 - (6) The financial ability to furnish the necessary bonds to the extent necessary;
 - (7) The financial condition of the offeror; and
 - (8) The ability to provide staffing of management personnel, satisfactory to Augusta-Richmond County.
- (e) Negotiations and award. Procurement Director shall negotiate a contract with the most responsible and responsive short-listed offeror at compensation that Procurement Director determines in writing to be fair and reasonable to Augusta-Richmond County. In making this decision, Procurement Director shall take into account the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should Procurement Director be unable to negotiate a satisfactory contract with the offeror considered to be the most responsible and responsive at a price for Procurement Director determines to be fair and reasonable to Augusta-Richmond County; negotiations with that offeror shall be terminated. Procurement Director shall then undertake negotiations with the second most responsible and responsive short-listed offeror. If negotiations with the second most responsible and responsive short-listed offeror are unsuccessful, negotiations shall be terminated and Procurement Director shall then undertake negotiations with the third most responsible and responsive short-listed offeror. Should Procurement Director be unable to negotiate a contract with any of the short-listed offerors, Procurement Director and the using agency may select from the additional offerors that were not short-listed in order of their responsibility and responsiveness and Procurement Director may

continue negotiations in accordance with this section until an agreement is reached.

Sec. 1-10-54. Quotations or informal bids selection method (Standard and small purchases).

- (a) Conditions for use. Any standard or small purchase contract or purchase order for supplies, services, and construction not exceeding ten thousand dollars (\$10,000.00) in total value may be made in accordance with the purchase procedures authorized in this Section and other applicable provisions of this Article. Contract requirements shall not be artificially divided so as to constitute a small purchase under this Section.
- (b) Request for quotations and specifications. Requests for quotations may be issued in writing or by telephone for purchases less than ten thousand dollars (\$10,000.00). In either case, specifications shall be prepared describing the item or service in a form suitable for an appropriate vendor response.
 - (1) Informal oral bid quotations. Quotes from a minimum of three (3) sources shall be obtained. Maximum purchase under this system is to be five thousand dollars (\$5,000.00), including sales tax. Vendor quotes are to be noted on the requisition for retention. The procurement requirement shall not be artificially divided so as to constitute a purchase to be made by this method.
 - (2) Informal written bid quotations. Solicitation for written bid quotes shall be obtained from three (3) sources, if available, from the vendor list. The maximum purchase under this system is to be five thousand dollars (\$5,000.00), including sales tax.
 - (3) Selection is to be made from the list in the following manner:
 - (i) Low bidder on last quote;
 - (ii) Next vendor on list;

- (iii) Repeat procedure until all vendors have been asked to quote;
 - (iv) Begin new rotation of vendors by using the last low bidder on quote.
- (c) Public notice. Notice in the form of advertisements is not required. However, no less than three (3) vendors/contractors shall be directly solicited, if available, to submit quotations.
- (d) Receipt of quotations. Quotations shall be scheduled for receipt at a date, time and place certain. The amount of each quote and such other relevant information as the Procurement Director deems appropriate, together with the name of each offeror shall be recorded. The record of each quote shall be open to public inspection in accordance with section 1-10-5 (Public Access to Procurement Information).
- (e) Evaluation. Quotations shall be evaluated based on the requirements set forth in the request for quotations, which may include bidder responsiveness, capability and past performance, and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the quoted price and be considered in evaluation forward shall be objective and clearly measurable, including but not limited to discounts, transportation costs, and total or life cycle costs. No criteria may be used in the evaluation processes that are not set forth in the request for quotations or other notice.
- (f) Correction or withdrawal of quotes. Correction or withdrawal of inadvertently erroneous quotes before or after the evaluation of the quotes may be permitted under the circumstances described in section 1-10-50(g) (Correction or Withdrawal of Bids).
- (g) Tie quotes. Shall be handled in the manner described in section 1-10-50 (h) (Tie Bids).
- (h) Award. Award shall be made to the most responsible and responsive bidder offering the lowest acceptable quotation. The names of the person submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record. Written

quotations are advisable but not expressly required.

- (i) Agency purchases under five hundred dollars (\$500.00)/authority of using agency. Procurement of an item or article which does not exceed five hundred dollars (\$500.00), including any sales tax, shall be exempt from the bid process except that, where applicable, contract vendors shall be used unless substitution is approved in writing and in advance by the Procurement Director. Further, the procurement requirements shall not be artificially divided so as to constitute a small purchase. A reasonable effort shall be made to negotiate price agreements that will cover much of the small purchase volume. For purchases of five hundred dollars (\$500.00) or less in value the using agency head may issue a Purchase Order to acquire commodity and service products. The using agency shall obtain adequate and reasonable competition for the supply, service, or construction being purchased. Further, the using agency head shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchase made. Small purchases under five hundred dollars (\$500.00) may be made by the elected official or using agency head of all using agencies as follows:
 - (1) Where the purchase does not exceed five hundred dollars (\$500.00) and a Using Agency Purchase Order is prepared and presented to the vendor.
 - (2) A copy of the purchase order shall be forwarded to Finance and Procurement notifying the Director of Finance and Procurement of the purchase and requesting payment to be made from funds previously allocated to such using agency.
- (j) Limitations on small purchases made by using agencies. When small purchases are made by the using agency head pursuant to Subsection (i), the following requirements shall be met:
 - (1) Such purchases are limited to goods and minor services where no contract exists or goods are not stocked by Augusta-Richmond County. No equipment and furniture purchases are authorized under subsection (i);

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- (2) The Using Agency Purchase Orders and original invoices shall be prepared and signed by an authorized party at the using agency level and forwarded to Finance for further processing;
 - (3) Purchases shall not be divided artificially to constitute a small purchase; and
 - (4) Using agencies are responsible for checking the availability of funds prior to making any small purchase.
- (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-55. Banking services.

- (a) Vendor and payroll accounts. Requests for Proposals shall be solicited as provided in section 1-10-52 of this chapter for each of these accounts.
- (b) Accounts other than vendor and payroll accounts.
 - (1) Requests for Proposals shall be solicited as provided in section 1-10-52 of this chapter for each such account.
 - (2) As provided in section 1-10-6, local banks shall be contacted first. For purposes of this section, local banks shall be defined as those banking institutions with a full service banking location in Augusta-Richmond County.

Sec. 1-10-56. Sole source procurement.

- (a) Notwithstanding other provisions in this Article, whenever it shall be made to appear that by reason of design, capacity, compatibility with other equipment or with machinery, purpose, function or other characteristics an item of procurement required by Augusta-Richmond County or one of its departments is obtainable only from one source, the item may be procured by the Procurement Department through negotiation from the source from which it is available without the necessity of bids or proposals.
- (b) Before any item may be obtained under the provisions of this section, however, the requisitioning agency must accompany its requisition for

- the order with a statement specifying in reasonable detail the reasons why the item should be procured by sole source. This specification of reasons shall be in writing and shall be attached to the requisition at the time it is transmitted to the procurement officer and shall demonstrate due diligence in determining if other sources exist. The due diligence review shall include the research of available sources, contact with professional and trade associations related to the supply, service or construction item or professional or consultant service. There shall also be a written determination which states the sources reviewed, the name of the contractor and the terms of the agreement reached including terms and prices.
- (c) If the Augusta-Richmond County Administrator, upon considering the requisition and the substantiation therefore, determines that the item should be purchased by sole source procurement and the cost thereof does not exceed ten thousand dollars (\$10,000.00), the Administrator may approve such procurement. If the item exceeds ten thousand dollars (\$10,000.00) in cost, and the Administrator determines that sole source procurement is appropriate, the requisition shall be referred to the Commission for action.
 - (d) The Procurement Director shall conduct the negotiations as to the terms of the sole source.
 - (e) The Procurement Director shall draft a letter of justification for the sole source and place in the contract file.
- (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-57. Emergency procurement selection method.

Notwithstanding any other provisions of this chapter, the Procurement Director, Augusta-Richmond County Administrator or constitutional officer may make or authorize others to make emergency procurement of equipment, supplies, services, general construction, or public works type construction services when there exists a threat to public health, welfare, or safety, or where daily operations are affected; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. 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(s) procured under the

contract, and the identification number of the contract file. A written report explaining the determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file, and a copy of same provided the Augusta-Richmond County Commission at their next regular meeting in the case of public works contracts as defined by Georgia State Law or other Augusta-Richmond County purchases when the value of the purchase exceeds ten thousand dollars (\$10,000.00).

In the event an emergency should arise after office hours or on holidays or weekends which requires immediate action on the part of the using agency involved and where it is not possible or convenient to reach the Procurement Director, constitutional officer, or Administrator, the using agency head is authorized to make purchases. Such purchases shall be well documented, packaged for payment, and forwarded to the Procurement Director within twenty-four (24) hours, if possible, after occurrence.

In the event the Board of Commissioners of Richmond County determines at an open meeting of which minutes are recorded, that an emergency exists, and there is an immediate need for goods, materials or supplies to relieve said emergency, the Board of Commissioners shall be allowed to approve purchases without bids in the event the Board has determined an emergency exists, but all such declarations of emergency shall be in strict accordance with applicable State law defining 'emergency'." (1975 Ga. Laws p. 4334 as amended). (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-58. Annual Contracts.

Upon approval of an annual contract by the Augusta Richmond Board of Commissioners for supplies and services to a particular vendor or vendors, any using agency may order supplies or services under such annual contract pursuant to an individual project or purchase order.

Sec. 1-10-59. Specific requirements/options for source selection method.

Encumbrance of funds. The Procurement Director shall not execute any contracts or purchase orders, except in the case of certain emergency purchases, until the Finance Department staff certifies, after pre-audit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to

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defray the amount of the purchase.

Sec. 1-10-60. Rejection or cancellation of solicitations; negotiating; re-advertisement.

- (a) Conditions for use. An invitation for bids/quotes, a request for proposals, or other solicitation may be canceled, or any or all bids may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of Augusta-Richmond County. The reasons thereof shall be made part of the contract file. Each solicitation issued by Augusta-Richmond County shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of Augusta-Richmond County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.
- (b) Authority to reject/cancel. If the value of the bid is \$10,000 or greater, the Augusta-Richmond County Commission shall have the authority to reject/cancel any and all bids. If the bid/quote is less than \$10,000, the Administrator shall have the authority to reject/cancel any and all bids, quotes and proposals.
- (c) Negotiating. If the low responsive and responsible bid for the project exceeds available funds as certified by the Finance Department staff, and such bid does not exceed such funds by more than twenty percent (20%), the Augusta-Richmond County Administrator and the Procurement Director are authorized, when time permits, or economic considerations preclude further re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsive bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.
- (d) Re-advertisement. In the event that the negotiating process set forth in subparagraph (c), above, is unsuccessful, the Procurement Director may, in the alternative, re-advertise for the purpose of receiving a new

set of bids. Therefore, if the lowest and best bid exceeds the budgeted amount and the Augusta-Richmond County Commission does not appropriate additional funds, the Procurement Director may readvertise for bids after making sufficient changes in the specifications to bring the project within budget.

Sec. 1-10-61. Multi-term contract.

- (a) Maximum period. A contract for services or supplies may be entered into for a period up to five (5) years, provided that the term of the contract and the conditions for renewal or extension, if any, is included in the solicitation and funds are available for the balance of the then current fiscal year. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. All multi-year contracts shall contain a clause which terminates the contract at the beginning of a fiscal year when funds are not appropriated by the Commission for continuation of the contract for that fiscal year.
- (b) Determination prior to use. Prior to the utilization of a multi-term contract, it shall be determined in writing:
 - (1) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (2) that such a contract will serve the best interest of Augusta-Richmond County by encouraging effective competition or otherwise promoting economies in procurement.
- (c) Cancellation due to unavailability of funds in succeeding fiscal periods. All multi-term contracts shall include provisions providing that when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled with appropriate notice.
- (d) Renewal of contract. At least ninety (90) days prior to the expiration of any term of a multi-term contract, the using agency shall submit to the Augusta-Richmond County Administrator, a report of the performance of the contract and the agency's recommendation as to the renewal of the contract. The Administrator, after consultation with

the using agency and review of the report, and upon appropriate approval, shall renew the contract if renewal is in the best interest of Augusta-Richmond County. All other requirements of this Section must be met in order to consummate a renewal.

- (e) Expiration and extension. Contracts being considered for renewal or re-bid may be extended by the Administrator for a period of time not exceeding ninety (90) days. Any extensions are subject to the availability of funds and mutual agreement of the vendor/contractor and Augusta-Richmond County.

Sec. 1-10-62. Right to inspect facilities.

Official representatives of Augusta-Richmond County shall have the right to inspect facilities of a vendor at any reasonable time which is related to the performance of any contract award, bid on or to be awarded by Augusta-Richmond County.

Sec. 1-10-63. Right to audit records and contracts.

- (a) Official representatives of Augusta-Richmond County may, at reasonable times and upon reasonable written notice to vendor, inspect the official records of the person or firm pertaining to a contract, change order, or purchase order with Augusta-Richmond County when such inspection is required by law, or is authorized by the Administrator in writing as being in the public interest.
- (b) Contract audit. Augusta-Richmond County shall be entitled to audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract, other than a firm fixed-price contract to the extent that such books, documents, papers and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is authorized in writing.

Sec. 1-10-64. Rebidding or cancellation of existing contract.

In the event a vendor is unwilling or unable to perform a contract or the vendor gives written notice of cancellation of an existing contract, the Procurement Director may immediately pursue a replacement of said contract either by formal or informal bid procedure as is appropriate, with the approval of the Augusta-Richmond County Administrator. The Procurement Director may accept a next lowest bidder. The options selected shall be the most advantageous to Augusta-Richmond County. (Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-65. Multiple awards; limitations on multiple awards.

- (a) Multiple awards. Unless otherwise provided in this section, or unless otherwise provided by law, two or more offerors may be awarded separate contracts, at the discretion of the Administrator, on the basis of one solicitation for the same or similar work, supplies or services if Augusta-Richmond County reserves the right to do so in the solicitation. Multiple contracts may be awarded, in the discretion of the Administrator for the procurement of annual contracts for supplies, annual contracts for construction and annual contracts for services. The solicitation shall also include a statement that Augusta-Richmond County may, in its discretion, elect to award only one contract if the procurement director, after consultation with the head of the using agency, determines in writing that one contract is sufficient for the needs anticipated by Augusta-Richmond County at the level of quality desired. Awards shall be made in accordance with the provisions of this article. Notwithstanding anything contained in this section, however, if multiple awards are not anticipated in a solicitation prior to the deadline established for receipt of bids, proposals or quotations, multiple awards shall not be made under that solicitation.
- (b) Prohibition against multiple awards for the procurement of construction or services that are not annual contracts. Except as provided in subsection (a) of this section, or unless otherwise provided by law, multiple contracts shall not be awarded under one solicitation for the procurement of construction or services which are not annual contracts.
- (c) Inapplicability. This section shall not apply to the grant agreements, inter-governmental agreements or emergency procurements.

ARTICLE 7

LOCAL SMALL BUSINESS OPPORTUNITY PROGRAM

Sec. 1-10-66. Title.

Augusta-Richmond County Local Small Business Opportunities Program (“LSBOP”).

Sec. 1-10-67. Objective.

Augusta-Richmond County is firmly committed to the principles of equal opportunity and in keeping with these principles, hereby sets forth a program and establishes a mechanism for developing, approving, and implementing procedures by which local small business enterprises shall be identified, informed and educated regarding opportunities for supplying goods, general services, and construction services required by Augusta-Richmond County, and providing for objectives for bidders to incorporate the use of Local Small Businesses as commercially useful sub-contractors, thereby promoting balanced economic and community growth throughout Augusta-Richmond County. The LSBOP is a race and gender-neutral program.

Sec. 1-10-68. Policy, Intent and Purpose.

- (a) Policy. It is the policy of Augusta-Richmond County that all necessary and reasonable steps shall be taken to ensure that local small business enterprises have the maximum opportunity to compete for and participate in all contracts and subcontracts funded by or through Augusta-Richmond County government. Further, the Augusta-Richmond County Commission has determined as a means to ensure full economic participation by small local business that a mechanism for developing, approving and implementing a LSBOP is required.

Augusta-Richmond County has established the LSBOP to promote opportunities for certified Local Small Business to participate in Augusta-Richmond County’s contracting and procurement activities by requiring contractors to utilize certified Local Small Businesses to perform commercially useful functions to the maximum extent

possible and as economically feasible, as partners or subcontractors for service delivery or as suppliers of various goods required in the performance of a contract. This LSBOP is in addition to and shall not supplant the Local Preference Ordinance, Code §1-10-6.

Augusta's Local Small Business Opportunities Program shall comply with federal and state requirements applicable to small or disadvantaged business, including but not limited to those requirements set forth by regulation by the Federal Aviation Administration, U.S. Department of Defense, U.S. Department of Housing & Urban Development, and the Georgia Department of Transportation. It is expressly recognized that such federal and state regulations preempt Augusta's regulations regarding this subject.

- (b) Intent and Purpose. The Augusta-Richmond County Local Small Business Opportunity Program is established to encourage equal opportunity, diversity, and equity in Augusta-Richmond County's contracting and procurement activities. In a race- and gender-neutral manner, the Program will promote fair and equal opportunities for all local small businesses. It is specifically intended that the encouragement of local small businesses will allow for the development and growth of such businesses to increase competition for construction and procurement opportunities.
 - (1) It is the intent and purpose of this program to encourage equal opportunity in Augusta-Richmond County's contracting and procurement and to eliminate discrimination and the effects of past discrimination therein.
 - (2) It is also the intent and purpose of this program to encourage the use of the Local Small Business Opportunity Program, which will have the benefit to Augusta-Richmond County of assisting the local economy with job formation while remedying the discrimination against minority owned business enterprises in the Augusta-Richmond County contracts and procurement in a race- and gender-neutral manner.
 - (3) It is also the intent and purpose of the LSBOP to develop evidence relevant to whether future race and gender conscious

programs are necessary to remediate the effects of past or current discrimination, as required by applicable laws.

Sec. 1-10-69. Definitions.

- (a) Generally. Those definitions set forth in Chapter 10 of the Code of Ordinances shall also apply to this Article, except as provided in this section.
- (b) Specifically.
 - (1) Citizen's Small Business Advisory Board (CSBAB). Is a council to advise the Commission and Local Small Business Coordinator of matters pertaining to this section, and to meet with small businesses to review and advise as to the issues in program administration. See Consolidation Act, Ga. Laws 1995, p. 3648, § 1-40. Members are appointed by the Mayor, Commission and the Richmond County Legislative Delegation to the Georgia General Assembly. A list of the appointees is maintained in the Clerk of Commission's Office and is incorporated herein by reference.
 - (2) Commercially Useful Function. For the purpose of determining whether a registered Local Small Business is performing a commercially useful function, the Local Small Business Office shall consider all of the facts in the record, viewed as a whole, including without limitation the following:
 - (i) A Local Small Business performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.
 - (ii) To perform a commercially useful function, the Local Small Business must be responsible, with respect to material and supplies used on the contract or sub-contract for which it is engaged, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

- (iii) A Local Small Business does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of Local Small Business participation. In determining whether a Local Small Business is such an extra participant, the Local Small Business Office will examine similar transactions, particularly those in which Local Small Businesses do not participate.
- (3) Good Faith Efforts. Techniques used by a bidder/proposer to seek Local Small Businesses to participate as a subcontractor or supplier required to fulfill the bid/proposal request for participation. Such good faith efforts of a bidder/proposer include, but are not necessarily limited to, the following actions:
 - (i) Including qualified local small businesses in the prime contractor's solicitations for subcontractors and suppliers.
 - (ii) Assuring that local small businesses are solicited whenever such business enterprises can perform a commercially useful function.
 - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation of local small businesses.
 - (iv) Establishing delivery schedules, where the requirements of the prime contract permit, which encourage participation of local small businesses.
 - (v) Using the services and the assistance of the Local Small Business Office in the identification of qualified local small businesses and negotiating subcontracts and supply contracts with such enterprises.
 - (vi) Requiring each first tier subcontractor to take the affirmative steps outlined in sub paragraphs 1 through 5 above with respect to the identification and usage of second or third tier sub-contractors.

- (vii) Placing notices of opportunities for qualified local small business to perform subcontracting work on the eligible project in newspapers, trade journals, and other relevant publications, including publications specifically targeted to local small businesses, or communicating such notices of opportunities via the Internet or by other available media or means.
- (viii) Designating portions of the work for local small businesses subcontracting in trades with available local small business subcontractors.
- (ix) Providing a minimum of five (5) days notice to local small businesses when requesting bids or proposals for furnishing material or services as a subcontractor or supplier.
- (4) Gross Receipts. Total income or, in the case of sole proprietorship gross income, plus “cost of goods sold” as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms; Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for sole proprietorships.
- (5) Joint Venture. An association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge.
- (6) Local Small Business. A corporation, sole proprietorship, partnership or other business organization that meets the requirements for registration as such with Augusta-Richmond County in accordance with Section 1-10-64 of this code.
- (7) Monthly Utilization Report or MUR. A memorialization by a prime contractor of all subcontracting and Local Small Business participation utilized on a contract. Contractors/vendors are required to submit the Monthly Utilization Reports on all subcontracting participation to the Local Small Business Office.

- (8) **Non-Discrimination Statement.** Written affirmation made by a bidder relating to the bidder's conduct prior to submission of a bid as well as after award of a contract that the bidder agrees to:
 - (i) Follow the policies of Augusta-Richmond County relating to the participation of local small businesses.
 - (ii) Undertake certain measures to ensure the maximum practicable participation by local small businesses; and
 - (iii) Not engage in discriminatory conduct against local small businesses inconsistent with the policy.
- (9) **Personal Net Worth.** Net value of the assets of an individual owner, after total liabilities are deducted must not exceed seven hundred and fifty thousand dollars (\$750,000). An individual's Personal Net Worth does not include the individual's ownership interest and the individual's equity in his or her primary place of residence. An individual's Personal Net Worth includes his or her share of assets held jointly with the individual's spouse. Property held by the entireties is deemed to be owned equally by the spouse.
- (10) **Prime Contractor.** A person or firm who is awarded a contract from Augusta-Richmond County for provision of goods or services and has the primary responsibility for performance of the contract. The Prime Contractor may subcontract portions of the work required to Subcontractors, as indicated in the bid or solicitation documents.
- (11) **Registered Local Small Business.** Any business entity registered by the Local Small Business Office, providing goods or services, which has its principal office and place of doing business in Augusta-Richmond County; with gross annual receipts being less than \$500,000; and whose owners meet the personal net worth threshold, all as defined herein. The term Local Small Business shall also include a manufacturer with seventy-five (75) employees or less or wholesaler with fifty (50) employees or less without regard to gross revenues.

- (12) Schedule of local small business Participation. Written data sheet which is a required submittal for a bid or proposal that lists proposed local small business subcontractors and the estimated value of proposed sub-contracts.

Sec. 1-10-70. Application; effective date.

This ordinance shall apply to all bids, proposals, contracts, expenditures and purchases commenced by Augusta-Richmond County except sole source or emergency procurement. The effective date of this ordinance shall be the date it is approved by the Augusta-Richmond County Commission.

Sec. 1-10-71. Program Administration.

- (a) SERVICES TO BE PROVIDED BY THE LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM (LSBOP). The Local Small Business Coordinator shall have the primary responsibility to assure that the LSBOP is effectively and equitably carried out in Augusta-Richmond County. The Local Small Business Coordinator shall direct the LSBOP so as to work in partnership with the Procurement Program set forth in Chapter 10 of ARC Code. Other Augusta-Richmond County officials and management personnel shall give their full cooperation towards the implementation of the program.
- (B) PROGRAM. The Local Small Business Opportunities Program administration consists of performing vendor registration, education and outreach, and review of bid and proposal documents. Specifically, the program shall consist of:
 - (1) Developing and administering local small business registration criteria and procedures.
 - (2) Establishing and maintaining a directory available to the public of registered local small businesses capable of supplying the type and quality of equipment, supplies, general services, construction, and professional services required by Augusta-Richmond County.
 - (3) Regularly seeking out and registering new local small businesses to bid on Augusta-Richmond County purchases and solicitations.

- (4) Notifying vendors of their registration status and advising non-registered parties of their right to appeal which shall be filed with Augusta-Richmond County Administrator within seven (7) days of receipt of such notice.
- (5) Developing annual forecasts and periodically updating same based on a review of anticipated purchases and certified local small businesses.
- (6) Monitoring and reporting on legislative and judicial actions relevant to local, small business interests.
- (7) Reviewing specifications and bid documents with the Procurement Department to ensure maximum opportunities for registered local small businesses to compete on an equal basis for contracting opportunities and to perform commercially useful functions.
- (8) Convening and/or participating in information sessions with local small businesses regarding bid requirements and contract performance.
- (9) Providing technical assistance, conducting seminars, visiting vendors, and performing other outreach services to encourage and increase participation in Augusta-Richmond County's bidding process by local small businesses.
- (10) Exploring and developing other means of expanding the program, and attracting and increasing local small business participation including joint efforts with other governmental agencies and authorities.
- (11) Refer local small businesses to third party development assistance providers when appropriate for bonding, financial and technical assistance.
- (12) Attend pre-bid, pre-qualification or pre-proposal conferences to provide information on the LSBOP.
- (13) Preparing and presenting an annual LSBOP report to the Augusta-Richmond County Commission.

- (14) Assist prime contractors and other potential bidders in identifying and contacting local small businesses.
 - (15) Develop outreach programs specifically targeted to educate local small businesses about the LINK DEPOSIT PROGRAM.
 - (16) Local Small Business Coordinator shall work with User Departments to set contracting goals for each project over \$100,000 to include those with subcontracting and/or supplier possibilities. Local Small Business Coordinator and User Departments shall have the authority to reduce or eliminate such local small business goals on a project based on the type of contract, the type of subcontracting work that will be required, and the availability of local small businesses.
 - (17) At Risk Management Construction Project Prime bidders will also be subject to the contract goals for subcontractors.
 - (18) Augusta-Richmond County shall indicate goals for local small businesses in Project Specific solicitations over \$100,000 to provide opportunities for local small business participation.
 - (19) Where a bid provides a goal for local small business participation, the Local Small Business Office and User Department shall recommend a bidder be awarded a contract only where the bidder has demonstrated Good Faith Efforts to meet the designated goals.
- (c) Procurement Department Responsibilities.
- (1) Notify all registered vendors of formal bid opportunities through direct solicitation or public advertisement, including information on the LSBOP.
 - (2) Work with project managers or user agencies to divide larger projects into smaller projects or contracts when commercially appropriate, in order to create more opportunities for local small businesses to participate in contracts let by Augusta-Richmond County.

- (3) Provide data and technical assistance to support the outreach efforts of the LSBOP as necessary and appropriate.
- (4) Develop and utilize specifications that are open and competitive.
- (5) The Procurement Director, in consultation with the Local Small Business Coordinator, the Using Agency and the Finance Director, may make special provision for progress payments as deemed reasonable to assist local small businesses to carry out the terms of a contract.
- (6) When a local small business is awarded a contract with Augusta-Richmond County, the Procurement Director may furnish written confirmation of the same, providing the terms of the contract which may be used by the local small business in negotiating lines of credit with lending institutions.

(D) EVALUATION OF THE LOCAL SMALL BUSINESS OPPORTUNITY PROGRAM BY AUGUSTA-RICHMOND COUNTY COMMISSION. The Local Small Business Opportunities Assistance Program shall be evaluated on an annual basis. Each annual report shall be compiled by the Local Small Business Coordinator and shall compare the fiscal year ending with the previous fiscal year. Evaluation of the program may include:

- (1) Number of local small business firms certified or registered;
- (2) Training and technical assistance offered to local small businesses;
- (3) Dissemination of LSBOP information at pre-bid conferences; and
- (4) Evaluation of the effectiveness of the local small business in relation to the achievement of Augusta-Richmond County's goals set forth under this policy, including the utilization of local small businesses on contracts.

Sec. 1-10-72. REGISTRATION AND CERTIFICATION PROCEDURES.

(A) REGISTRATION CRITERIA; ACCEPTANCE OF CERTIFICATION BY OTHER GOVERNMENTAL AGENCIES.

The Augusta-Richmond County's Local Small Business Opportunities Program requires prior registration or evidence of current certification of a Local Small Business in order to count the participation of that Local Small Business toward program goals. Eligibility requirements for registration are:

- (1) Certification as to small business status may be accepted from other local governmental, state or federal agencies that apply criteria substantially similar to that imposed by this ordinance.
- (2) Applicant firm must complete an appropriate application form obtained from the Local Small Business Office and must qualify as a local small business, as the term is defined in this Article as to principle place of business, gross annual receipts and personal net worth thresholds.
- (3) Applicant firm must have its principal place of business in Augusta-Richmond County. A location utilized solely as a post office box, mailbox, mail drop, virtual office, telephone message center, or any combination thereof, with no substantial work function, shall not be deemed to be a significant local presence sufficient to qualify as a local small business.
- (4) Applicant firm must possess a valid Augusta-Richmond County business license for six (6) months prior to submitting their LSBOP registration application;
- (5) The firm's three-year average annual gross receipts, as defined herein, must not exceed \$1.5 million in annual gross receipts;
- (6) Applicant firm owner must be a citizen or lawfully admitted permanent resident of the United States;

- (7) Applicant firm must be a business, including a sole proprietorship, partnership, corporations, limited liability company, or any other business or professional entity:
 - (i) which is at least fifty-one (51) percent owned by one (1) or more of the applicant individuals identified, and the ownership must have been in existence for one (1) year or more, and the applicant individual must have maintained such fifty-one (51) percent ownership for at least one (1) year; and
 - (ii) in the case of a publicly-owned business, at least fifty-one (51) percent of all classes of stock which is owned by one (1) or more of such persons, each of whom meets the net worth criteria as defined herein.
- (8) No individual owner of an applicant firm, or if a sole proprietorship or partnership the individuals themselves, may have a personal net worth that exceeds \$750,000, as that term is defined in this Article.
- (9) No local small business shall be registered on the basis of the race or gender of its ownership regime.

(b) **Renewal of Registration.** Local small business registration is valid for a two-year period beginning on the date Augusta-Richmond County registers the business. To re-apply, a local small business must submit a new application and evidence of continuing eligibility.

It is the responsibility of the local small business to notify Local Small Business Office of any change in its circumstances affecting its continued eligibility for the program. Failure to do so may result in the firm's de-registration and preclusion from future participation in the LSBOP;

- (1) A Local Small Business that no longer meets registration criteria shall not be re-registered by the Local Small Business Office;
- (2) Firms that have been denied registration or re-registration may protest the denial as follows:

- (i) Within seven (7) days of receipt of denial of registration or re-registration, the firm may protest such action in writing to the Local Small Business Coordinator;
 - (ii) A hearing shall be held by Augusta-Richmond County Administrator at which time the firm may present additional facts and evidence in support of its eligibility. Augusta-Richmond County Administrator shall control all aspects of the hearing, including scheduling, conduct, witnesses, and evidence, and may request the attendance of witnesses and production of particular documents;
 - (iii) Augusta-Richmond County Administrator shall send written notice of the decision to the firm within 30 days of the hearing.
 - (iv) A firm found to be ineligible cannot apply for registration or re-registration for a period of one year after the effective date of the final decision.
- (c) Limitations. Notwithstanding any other provision of this program except on a finding of good cause by Augusta-Richmond County, a registered local small business is no longer eligible to participate in the LSBOP after being enrolled for ten (10) consecutive years regardless of whether the firm received contracts or prime contracts under the program. If a firm has been released from the program before graduation as a result of exceeding the LSBOP thresholds, it will still be eligible to receive contracts from ARC, but such participation will not be counted toward the LSBOP goal of identifying and employing local small businesses to the greatest extent possible.

In determining whether a good cause exists for a firm to continue participation beyond ten (10) consecutive years, ARC may review all relevant factors such as amount of business previously received by the firm, and capability of other small firms to provide goods and services, impact on a potential contract opportunity for other local businesses to compete. In no event shall a firm's participation in the program extend beyond fifteen (15) years.

Participation or registration as a local small business in the LSBOP shall not preclude a registered firm from competing for a prime contract with Augusta-Richmond County on the same basis as other prime contractors or suppliers.

- (d) Graduation. Augusta-Richmond County shall graduate a local small business from eligibility as a local small business. The local small business will be graduated from local small business if any one of the following occurs:
 - (1) The local small business' gross revenues in each of the previous consecutive three (3) years exceed an average of \$1.5 million;
 - (2) The net worth of any owner of a local small business exceeds an average of \$750,000.00 for each of the previous consecutive three (3) years, exclusive of principal residence and the value of the local small business ; or
 - (2.) The local small business has participated in the LSBOP for ten (10) years and ARC has not approved an extension of participation based on good cause.

**Sec. 1-10-73. LOCAL SMALL BUSINESS OPPORTUNITIES
PROGRAM PARTICIPATION**

- (a) Sealed Bids, Sealed Proposals, Professional Services And Other Major Purchasing. The following procedures and contract requirements will be used to insure that local small businesses are encouraged to participate in Augusta-Richmond County contracts, including but not limited to construction contracts, requests for professional services and the performance of public works contracts. The Augusta-Richmond County user department shall indicate goals for local small business in all solicitation with contracts over \$100,000 in value:
 - (1) Bid conditions, requests for proposals, and all other specifications for contracts awarded by Augusta-Richmond County will require that, where subcontracting goal is utilized in performing the contract, the bidder or proponent, will make Good Faith Efforts to subcontract with or purchase supplies

from local small businesses. Bid specifications will require the bidder or proponent to keep records of such efforts that are adequate to permit a determination of compliance with this requirement.

- (2) Each bidder shall be required to provide documentation of achieving goal or provide documentation of Good Faith Efforts to engage local small businesses as subcontractors or suppliers, the names of local small businesses and other subcontractors to whom it intends to award subcontracts, the dollar value of the subcontracts, and the scope of the work to be performed, recorded on the form(s) provided or made available as part of the bid package. If there are no sub-contracting opportunities, bidder shall so indicate on the appropriate form.
- (3) For all such contracts, the Procurement Department will provide the Local Small Business Coordinator with a copy of the invitation to bid or bid specifications, including the scope of work. The Local Small Business Office will identify the existence of certified local small businesses which are qualified to submit bids as prime contractors.
- (4) The Local Small Business Office shall identify subcontracting opportunities and shall make available trade-specific lists of certified local small businesses to potential prime contractors. Prime contractors are encouraged to form Joint Ventures with local small businesses to perform major contracts, particularly in the areas of construction and professional services.
- (5) Within thirty (30) days of the adoption of this Ordinance, the Procurement Department will include a copy of this ordinance in each bid or proposal or shall publish and make available an internet link at which the LSBOP Ordinance and related forms may be found on the official website of Augusta-Richmond County.

- (6) All bid documents shall require bidders or proponents to submit with their bid the following written documents, statements or forms, which shall be substantially similar to those attached to this ordinance as Exhibit “A,” and as shall be made available by the Procurement Department.
 - (i) Non-Discrimination Statement which shall affirm the bidder’s: (i) adherence to the policies of Augusta-Richmond County relating to equal opportunity in contracting; (ii) agreement to undertake certain measures as provided in this policy to ensure maximum practicable participation of local small businesses; and (iii) agreement not to engage in discriminatory conduct of any type.
 - (ii) Proposed Local Small Business Subcontractor/Supplier Utilization Plan.
 - (iii) Documentation of Good Faith Efforts to use local small businesses.

Failure to submit the above documentation shall result in the bid or proposal being declared non-responsive.

- (7) Before advertising and soliciting bids, the Local Small Business Office and using department will assess if large contracts can be segmented into multiple contracts. Methods to be considered include:
 - (i) The term of a contract may be shortened that results in a dual effect; the reduction of quantity required, and the risk inherent in guaranteeing prices over a longer period of time.
 - (ii) Work to be performed may be grouped according to geographic location within Augusta-Richmond County.
- (8) When the Solicitation bid document contains a local small business goal, each Bidder must either: meet the local small business goal or comply with the Good Faith Effort requirement

set for in section 1-10-69(b)(3). Failure to do so constitutes grounds for rejecting the Bid.

- (9) When the Solicitation bid document does not contain a local small business goal, each bidder must negotiate in good faith with each local small business that responds to the Bidder's solicitation and each local small business that contacts the Bidder on its own accord.
 - (10) Self-Performance. Self performance does not exempt Bidders from the Local Small Business Opportunity Program requirements unless the self performer is a qualified and registered local small business. Bidders that do not meet the local small businesses goal and desire to self-perform all or part of the construction contract must nevertheless demonstrate that they complied with the Good Faith Efforts requirements as set forth in section 1-10-69.
- (b) Departmental Purchase Requirements (All Formal Bids over \$100,000). User Departments making purchases or issuing solicitations for projects over \$100,000 (including project management, contract management, and/or construction, and/or design contracts) shall have the following duties and responsibilities with regard to the LSBOP:

Departments shall:

- (1) Establish Project Specific Goals on all projects \$100,000 and above.
- (2) Submit the scope of work and cost estimate evaluations to the Local Small Business Department so appropriate local small business subcontracting goals may be determined.
- (3) Assist the Local Small Business Department with setting Project Specific Goals.
- (4) Assist in identification of available local small businesses.

- (5) Gather and maintain data for those contracts which they manage.
 - (6) Submit subcontracting data to the Local Small Business Office within fourteen (14) days of progress payments and thirty (30) days of contract closeout.
 - (7) Submit to the Local Small Business Office, on or before the beginning of each Fiscal year, the Department's annual list of projects, listing all upcoming projects, estimating the probable monetary value, and stating the projected bid advertisement date.
 - (8) Indicate goals for local small businesses in solicitations for contracts that provide opportunities for local small business participation.
 - (9) Work with User Departments to monitor contracts to facilitate prompt payments to local small business and to be in compliance with Project Specific Goals and commitments.
 - (10) Track and report statistics regarding the effectiveness of the LSBOP, as measured by a review of data indicating prime and subcontractor spending with local small business, as required by the policies and procedures.
- (C) Methodology for Setting Local Small Business Project Specific Goals. The Local Small Business Coordinator in consultation with User Department shall establish a local small business goal for all contracts through rules and guidelines for the implementation of the LSBOP. Such methodology shall take into account the reasonably known availability of subcontracting opportunities that local small businesses can perform on each contract. Local small business goals should be calculated based upon specific contracting, subcontracting, and/or supplier opportunity and the availability of local small business registered in Augusta-Richmond County's directory. This will be achieved by adopting the Federal Guidelines for setting Goals 49 CFR Part 26-45.

- (d) Post Contract Award Requirements. The purpose of this sub-section is to establish requirements for contractor compliance with the LSBOP after a contract has been awarded. This is incorporated into all Augusta-Richmond County Contracts for which a local small business goal has been established or negotiated.
- (1) Contractors shall have an affirmative, ongoing obligation to meet or exceed the committed local small business goal for the duration of the contract. The Augusta-Richmond County may deem a contractor to be in violation of the LSBOP and in breach of its contract if at any time Augusta-Richmond County determines that: (a) The contractor will not meet the committed local small business goals; and (b) the reasons for the contractor's failure are in within the contractor's control. For example, if a contractor does not meet the local small business goal because the contractor terminated a local small business without cause or if the contractor caused and local small business to withdraw from the project without justification, then Augusta-Richmond County is justified in finding the contractor to be in violation of the LSBOP.
- (2) Exceptions. A contractor shall not be deemed in violation of this Program for failure to meet the committed local small business goal to the extent such failure is directly attributable to:
- (i) Augusta-Richmond County reducing the scope of a Contract so as to eliminate or reduce work that was going to be performed by local small businesses (whether through a change order, contract amendment, force account or otherwise);
- (ii) A local small businesses voluntary withdrawal from the project, if the contract demonstrates that such withdrawal was beyond the contractor's reasonable control, so long as the contractor complied with the Good Faith Efforts to replace the local small business with another local small business; or
- (iii) Termination or reduction in the work of a local small business, if the contractor demonstrates that such

termination was consistent with the terms of this Program, and that the contractor complied with the Good Faith Efforts to replace the local small business with another local small business.

- (3) Contractors have an ongoing, affirmative obligation to ensure that local small businesses performing on the contract are performing a Commercially Useful Function. A contractor shall be in violation of the LSBOP and in breach of its contract if it lists a local small business to receive credit toward a committed local small business goal with knowledge that the local small business will be acting as a conduit or will otherwise not be performing a Commercially Useful Function reasonably commensurate with the payment amount for which the contractor will be seeking credit.
- (4) Contractors shall not terminate, replace or reduce the work of a local small business that the contractor has counted toward meeting the committed local small business unless:
 - (i) The local small business refuses to enter into a contract consistent with the local small business' Letter of Intent.
 - (ii) The local small business materially breaches its contract with the contractor
 - (iii) Augusta-Richmond County reduces the contract scope of work so as to eliminate or reduce the work that the local small business was to perform; or
 - (iv) The local small business voluntarily withdraws from the contract for reasons not within the contractor's reasonable control.
- (5) Contractor shall provide the User Department and the Local Small Business Coordinator written notice prior to replacing or terminating a local small business on a contract. The notice shall identify the local small business and the contract; state the reason for the termination or replacement and state the proposed date on which such termination or replacement will occur. Unless the circumstances necessitate immediate

termination or replacement, the contractor shall provide such notice to the User Department and the Local Small Business Coordinator at least 5 Business Days before the contractor terminates the local small business . The contractor shall further provide written notice to the local small business stating the reasons for the termination. Unless circumstances dictate otherwise, the contractor shall provide such notice before termination is to occur.

- (6) Good Faith Efforts to replace a local small business to a contract. When a local small business withdraws or is terminated from a contract for any reason, the contractor shall comply with the Good Faith Efforts requirement to replace the departing local small business with another local small business. Likewise, when new opportunities for subcontracting arise on a contract and Augusta-Richmond County sets a Supplemental local small business goal, the contractors shall comply with the Good Faith Efforts set in an effort to meet the Supplemental local small business goal.
- (7) Utilization Reports and Documentation of Payment. Contractors shall report to Augusta-Richmond County the total dollars paid to each local small business on each contract, and shall provide such payment affidavits, regarding payment to subcontractors as may be requested by Augusta-Richmond County. Such documents shall be in the format specified by the Disadvantaged Business Enterprise Department, and shall be submitted at such times as required by Augusta-Richmond County. Failure to provide such reports within the time period specified by Augusta-Richmond County shall entitle Augusta-Richmond County to exercise any of the remedies set forth, including but not limited to, withholding payment from the contractor and/or collecting liquidated damages.
- (e) Departmental purchase requirements (small purchases, quotations, or informal bids). Subject to the dollar limits set forth under Augusta-Richmond County ordinance, departments are authorized to make small purchases using Agency Purchase Orders. Departments shall be directed by Augusta-Richmond County Administrator to utilize local small businesses on small purchases whenever possible and appropriate.

- (1) The Local Small Business Office shall make available to every Augusta-Richmond County department a directory of registered local small businesses and encourage their use of by departments.
 - (2) The Local Small Business Office shall provide annual training to all Augusta-Richmond County Departments on the Local Small Business Opportunities Program.
 - (3) The Local Small Business Office shall track local small business purchases by department and provide feedback to department heads and the Local Small Business Coordinator on use of local small businesses for small purchases.
 - (4) The Procurement Director shall ensure that all Augusta-Richmond County specifications for goods and services do not contain any unnecessary impediment to local small business participation in the bid process. The Local Small Business Coordinator will make recommendations to the Procurement Director when a specification appears to impede local small businesses from competitively participating in a bid.
 - (5) For small purchases, quotations or informal bids, the Using Department will solicit bids from registered local small businesses to supply the required materials, equipment, supplies or services using the local small business Registry created and maintained by the Local Small Business Office.
 - (6) The Local Small Business Coordinator will notify the Procurement Director whenever there are no registered local small businesses available for utilization on a project-by-project basis. The Local Small Business Office will attempt to identify qualified local small businesses, and if successful, will notify the Procurement Director of their registration and availability. The Procurement Director will include such local small business in bid/quote solicitation lists.
- (f) Procurement Department Buyer 's Responsibilities.

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- (1) For all purchases on which written bids are sought, registered local small businesses which are ready, willing and able to perform the required services or provide the required commodity will be solicited for a written quotation or bid.
- (2) Purchases from local small businesses shall be tracked by the buyer.
- (g) Maintenance of Records.
 - (1) The Local Small Business Office, with the assistance of the Department of Information Technology, shall compile data on local small business participation. Information on prime contract awards and subcontractor utilization will be maintained by the Local Small Business Office which will gather information from all user Departments on a quarterly basis.
 - (2) Local small business utilization statistics shall be maintained in the following manner:
 - (i) Contracts and purchases shall be grouped into four categories: construction, professional services, general services and materials/equipment/supplies.
 - (ii) Statistics shall measure overall awards to local small businesses by category of purchase (i.e. construction, professional services, general services, and materials/equipment/supplies).
 - (3) The following statistics shall be reported not less than annually to the Augusta-Richmond County Commission by the Local Small Business Coordinator.
 - (i) Regarding purchases of professional services, general services and material/equipment/supplies made through the competitive bid and quotation process:

Total value of purchases
Total value of purchases from local small businesses

- (ii) Regarding small purchases by operating department using Agency Purchase Orders:

Total value of small purchases by Augusta-Richmond County Department

Total value of small purchases from local small businesses by Department

- (iii) Regarding construction purchases:

Total value of construction contract awards

Total value of construction contracts awarded to local small businesses as prime contractors.

Total value of subcontracts awarded to local small businesses

- (h) Compliance.

- (1) It will be the duty of the Procurement Director to ensure that bids or proposals issued from the Procurement Department adhere to the provisions set forth in this Policy.
- (2) The Procurement Director, and all department directors will assume responsibility for evaluating compliance with this program in their respective contract areas and will review, on a continuing basis, all aspects of the program's operations to assure that the purpose is being attained and reporting same to the Local Small Business Coordinator for tracking and annual report purposes.
- (3) Each Augusta-Richmond County contract will contain a provision requiring compliance with this policy including maintenance of records, good faith efforts, and maintenance of information necessary to document compliance, and include the right of the Local Small Business Coordinator and Procurement Director, or their respective designees to inspect such records. The record will be a part of the official files located in the Procurement Office.

- (4) The Local Small Business Coordinator shall be responsible for evaluating good faith efforts documentation and subcontractor information submitted by bidders in conformance with this policy, AUGUSTA, GA. CODE and any State and Federal Laws applicable to any bid specifications for competitive sealed bid or competitive sealed proposal projects prior to award of the contract.
- (5) Each Augusta-Richmond County contract will contain a provision prohibiting any agreements between a contractor and a local small business in which the local small business promises not to provide subcontracting quotations to other bidders or potential bidders.

(i) Competitive Bids.

Nothing in this Policy is to be construed to require Augusta-Richmond County to award a bid contract to other than the lowest responsible bidder, or to require contractors to award to subcontractors, or to make significant material purchases from local small businesses who do not submit the best overall pricing to Augusta-Richmond County.

(j) Outreach.

To maximize the identification, registration and utilization of local small businesses, the following efforts will be undertaken by the Local Small Business Office:

- (1) Increase efforts to locate and register additional vendors, service providers, and construction contractors that can provide goods and services for Augusta-Richmond County through media, vendor fairs, and electronic message boards.
- (2) As GDOT, DOD and FAA certified construction contractors are located invite local firms to register with Augusta-Richmond County in accordance with the requirements of this Article in order to create an enhanced resource to using departments, buyers and prime contractors to locate registered local small businesses for projects that can utilize local small businesses for a commercially useful function.

- (3) Supply information to the Board of Commissioners regarding the ordinance and offer opportunities for ways in which the Board of Commission can be an advocate of the LSBOP.

Sec. 1-10-74. Exceptions – Federally Funded Projects.

In accordance with §1-10-8, this chapter shall not apply to any bid or procurement to which federal or state laws, regulations or guidelines regarding the use of disadvantaged businesses or other requirements apply.

Sec. 1-10-75. Citizens Small Business Advisory Board.

Augusta-Richmond County Local Small Business Opportunities Citizens' Small Business Advisory Board (CSBAB) shall be constituted to advise the Commission and Local Small Business Coordinator on matters related to this ordinance, and to meet with local small businesses, to review and provide input as to the issues in program administration. See Consolidation Act, Ga. Laws 1995, p. 3648, §1-40. Members are appointed by the Mayor, Commission and the Richmond County Legislative Delegation. A list of the appointees is maintained in the Clerk of Commission's Office and is incorporated herein by reference.

Note: Augusta-Richmond County does not operate a Disadvantaged Business Program or a Women/Minority Owned Enterprise Program.

ARTICLE 8

SUSPENSION OR DEBARMENT OF BIDDER OR PROPOSER

Sec. 1-10-76. Authority to suspend or debar from qualified bidder/proposer list for consideration of contract award.

Authority to debar or suspend. The Procurement Director, after consulting with the General Counsel, is authorized to debar a person for cause from participation in any Augusta-Richmond County procurements at any tier and consideration for award of contracts. The debarment shall be for a period of not more than five years. The period of time during which the debarment will be imposed is to be determined by the Procurement Director based upon the severity of the causes for debarment. After consultation with the using

agency and General Counsel, the Procurement Director is authorized to suspend a person from participation in any Augusta-Richmond County procurement at any tier and consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding the greater of: (1) three months; (2) the period during which administrative review of the suspension is pending; or (3) the period during which judicial review of an administrative decision that was adverse to the suspended firm is pending.

Sec. 1-10-77. Causes for debarment or suspension.

The causes for debarment or suspension include:

- (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract.
- (b) Conviction under state and federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as an Augusta-Richmond County contractor.
- (c) Conviction under state or federal antitrust statutes arising out of the solicitation and submission of bids or proposals.
- (d) Violation of contract provisions, as set forth below, of a character which is regarded by the Procurement Director to be so serious as to justify debarment action:
 - (i) Deliberate failure to perform in accordance with the provisions or within the time limit provided in any Augusta-Richmond County contract.
 - (ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment. In the event that the contractor asserts in a suspension or debarment proceeding that such recent failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts was

caused by acts beyond the control of the contractor, the contractor must introduce documentation from the applicable contract/project in which it provided notice of such acts beyond its control and/or invoked its rights to equitable adjustment or other similar remedies under the applicable contract as a result of force majeure or other similar events; provided, however, that Augusta-Richmond County's determination on such issue will be independent from the contract/project at issue. It is insufficient in a debarment proceeding for the contractor to raise this issue for the first time concerning a prior contract under which it failed to perform or performed unsatisfactorily.

- (e) For violation of any ethical standards set forth in Article 3, Ethics in Public Contracting.
- (f) Submission to Augusta-Richmond County of a claim for additional compensation that is without merit, including, but not limited to claims seeking to recoup:
 - (i) Costs incurred by the contractor but not included in its bid or proposal due to its own error;
 - (ii) Costs that it has already been paid or will be paid under the contract;
 - (iii) Costs asserted simply for the purpose of forcing Augusta-Richmond County to consider a settlement at a reduced amount;
 - (vi) Costs that the contractor has not certified pursuant to the contract documents; and
 - (v) Costs that the contractor would not be entitled to recover under the contract documents, including, but not limited to attorneys fees and interest on unpaid sums.
- (g) Material misrepresentation of the composition of the ownership or work force of a business entity certified to Augusta-Richmond County as a minority business enterprise.
- (h) Any other cause the Procurement Director, in consultation with the using agency and General Counsel, determines to be so serious and compelling as to affect responsibility, including, but not limited to, debarment by another governmental entity.

Sec. 1-10-78 . Notice.

The Procurement Director shall issue a written notice of the decision to debar or suspend. The notice shall state the reasons for the action taken and the effective date of the debarment or suspension and shall inform the debarred or suspended person involved of the right to administrative review as provided in this division.

Sec. 1-10-79. Finality of decision.

A decision under this section is final and conclusive, unless fraudulent or any person adversely affected by the decision appeals administratively to the Administrative Services Committee in accordance with this division.

Sec. 1-10-80. Board of Commissioner's initiated debarment.

The Board of Commissioners, by enactment of an appropriate resolution, may request that the Procurement Director initiate an investigation into whether a particular person should be debarred and/or suspended and, after consulting with the General Counsel, the Procurement Director is authorized to debar or suspend such person for cause from participation in any Augusta-Richmond County procurements at any tier and consideration for award of contracts.

ARTICLE 9

APPEALS, PROTESTS AND REMEDIES

Sec. 1-10-81. Procurement protests.

Authority to Resolve Protested Solicitations and Awards.

- (a) **Right to Protest.** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Procurement Director.
- (b) **Authority to Resolve Protests.** The Procurement Director and the Administrator shall have the authority, prior to a final decision by the Commission, to settle and resolve the protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.
- (c) **Decision of Procurement Director.** If the protest is not resolved by mutual agreement, the Procurement Director shall issue a decision in writing regarding the protest as specified in Section 1-10-83. The decision shall:
 - (1) state the reasons for the action taken; and
 - (2) inform the protester of its right to administrative review as provided in this Article.
- (d) **Notice of Decision.** A copy of the decision shall be mailed or otherwise furnished to the protestor and any other interested party.
- (e) **Finality of Decision.** A decision under Subsection (d) of this Section shall be final and conclusive, unless any person adversely affected by the decision files a timely appeal in accordance with Section 1-10-84.
- (f) **Stay of Procurements During Protests or Appeals.** In the event of a timely protest under section 1-10-82 of this Article the Procurement Director shall not proceed further with the solicitation or with the award of the contract unless the Procurement Director, after consultation with the head of the using agency and General Counsel, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of Augusta-Richmond County. Such a determination shall be provided to the protestor.

1-10-82. Filing of Protest.

- (a) Protests shall be made in writing to the Procurement Director and shall be filed in within five (5) business days after the protestor knows or should have known of the facts giving rise thereto. A protest is considered filed when received by the Procurement Department. **Protests filed after the five (5) day period shall not be considered and are deemed a failure on the part of the protestor to exhaust administrative remedies.**
- (b) Subject of Protest. Protestors may file a protest on any phase of solicitation or award including but not limited to specifications preparation, bid solicitation, award, or disclosure of information marked confidential in the bid or offer.
- (c) To expedite handling of protests, the written protest shall include as a minimum the following:
 - (1) the name and address of the protestor;
 - (2) appropriate identification of the procurement, and, if a contract has been awarded, its number;
 - (3) a statement of reasons for the protest; and
 - (4) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time in which case the expected availability date shall be indicated.
- (d) Requested Information; Time for Filing. Any additional information requested by any of the parties should be submitted within the time periods established Procurement Director in order to expedite consideration of the protest. Failure of any party to comply expeditiously with a request for information by the Procurement Director may result in resolution of the protest without consideration of any information which is untimely filed pursuant to such request.
- (e) Making Information on Protests Available. The Procurement Director shall upon written request make available to any interested party information submitted that bears on the substance of the protest except where information is proprietary, confidential, or otherwise prohibited from disclosure or required to be withheld by law or regulation. Persons who wish to keep such information submitted by them

confidential should so request by specifically identifying such information within documents submitted, and indicating on the front page of each document that it contains such information.

Sec. 1-10-83. Decision by the Procurement Director

Time for Decisions. A written decision on a protest shall be made by the Procurement Director within ten (10) business days after receiving all relevant, requested information. If a protest is sustained, the Procurement Director may determine that the solicitation or award violates the law; or may make a determination that the solicitation should be cancelled in order to comply with the applicable law.

Sec. 1-10-84. Appeals.

Appeal of a decision of the Procurement Director may be requested by the protestor or any department involved in the protest. The appeal shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted.

Sec. 1-10-85. Time for Filing Appeal.

Appeals of a decision of the Procurement Director shall be filed not later than five (5) business days after receipt of such decision.

Sec. 1-10-86. Request for Hearing and Effect of Untimely Appeal.

A contractor or prospective contractor that has been notified of a denial of its protest action may request in writing an appeal to the Augusta-Richmond-County Commission. All appeals must be received by the Procurement Director within five (5) business days. **Appeals filed after the five (5) day period shall not be considered and are deemed a failure on the part of the protestor to exhaust administrative remedies.** Where no appeal (or an untimely appeal) is filed, the Procurement Director's decision is considered final and the award shall proceed.

Sec. 1-10-87. Notice of Hearing.

If a timely appeal is filed by the protestor, the Procurement Director shall place the protest on the agenda of the Administrative Services Committee. The Clerk of Commission's Office shall provide public notice of the Administrative Services Committee Agenda as required by law. In addition, the Procurement Department may, but is not required, to send to the protestor written notice of the time and place of the hearing. Copies of such

notice shall be sent to the Augusta-Richmond General Counsel and the Department head of the appropriate user department.

Sec. 1-10-88. Administrative Services Committee Hearing Procedure and Effect of Failure to Appear at Hearing.

- (a) Protests appearing on the Administrative Services Committee shall be treated as any other Committee agenda item, except that the Protestor, or his or her representative, shall have the right to address the Committee and to present evidence in support of the protest for a minimum of ten (10) minutes. The Procurement Director and user department shall also have the opportunity to present evidence relating to the protest for a minimum of ten (10) minutes. The Chairman of the Administrative Services Committee may grant additional time equally to each party at his or her discretion.
- (b) After considering the evidence presented, the Administrative Services Committee shall vote to grant or deny the protest or to send the item to the full Augusta-Richmond County Commission without recommendation. Regardless of the decision made by the Committee, the protest shall be forwarded to the full Commission agenda. However, the Commission may, at its discretion, dispose of the agenda item via the Consent Agenda and the Protestor does not have the right to force the item to be moved from the Consent Agenda to the Regular Agenda.
- (c) Effect of Failure to Appear at Hearing. Failure on the part of the Protestor to appear before either the Administrative Services Committee or the full Augusta-Richmond County Commission is considered **an abandonment of their right to appeal and a failure on the part of the protestor to exhaust administrative remedies.** The Procurement Director's decision is considered final and the award shall proceed accordingly. However, the Chairman of the Administrative Services Committee or the Mayor may, at his or her discretion, grant the Protestor one continuance to the next regularly scheduled Committee or Commission Meeting. Such continuance may only be granted during the Committee or Commission meeting and shall be recorded on the minutes of such meeting.

Sec. 1-10-89. Authority of Administrator to Participate Procurement

Matters.

The Augusta-Richmond County Administrator has the authority to:

- (a) communicate with the protestor and other interested parties to try to settle any dispute, or narrow the issues for matters to be presented to the Committee or Commission;
- (b) consult with the Procurement Director, the User Department and the General Counsel regarding the need for a stay pursuant to Section 1-10-81(f);
- (c) participate in all aspects of the procurement process as necessary to support the best interests of Augusta-Richmond County.

Sec. 1-10- 90. Hearing Procedures.

- (a) Hearings shall be as informal as may be reasonable and appropriate under the circumstances and in accordance with the applicable rules of the Administrative Services Committee and Commission. The Procurement Director shall provide the Administrative Services Committee and Commission with copies of the protest and the response of the Procurement Department.
- (b) Witnesses providing testimony at before the Administrative Services Committee or Commission shall testify under oath or affirmation.

Sec. 1-10-91. Determination of Commission; Final Decision.

The Commission's decision regarding a Protest is the final step in the Appeals process for Augusta-Richmond County. The parties shall have thirty (30) days to file a judicial appeal of any such decision. Such appeal shall be by writ of certiorari to the Superior Court of Richmond County.

Sec. 1-10-92. Contract claims.

Decision of Augusta-Richmond County Administrator. All claims by a contractor or vendor against Augusta-Richmond County relating to a contract shall be submitted in writing to the Augusta-Richmond County Administrator through the officially designated Augusta-Richmond County Project Manager. The contractor or vendor may request a conference on the claims. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or

other cause for contract modification or rescission.

Sec. 1-10-93. Augusta-Richmond County's right to amend bid solicitations or awards that are in violation of law.

Applicability. This section applies where it is determined by administrative review that a solicitation or award of a contract is in violation of applicable law. For purposes of this section administrative review shall refer to a review by the Procurement Director and/or Augusta-Richmond County Administrator in consultation with the General Counsel.

- (a) Prior to bid opening or closing date for receipt of proposals. If prior to the bid opening or the closing date for receipt of proposals, the Procurement Director, after consultation with the Augusta-Richmond County Administrator, and the Augusta-Richmond County General Counsel, determines that a solicitation is in violation of federal, state, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable laws.
- (b) Prior to award. If after bid opening or the closing date for receipt of proposals, the Procurement Director, after consultation with the Administrator or his designee, and the Augusta-Richmond General Counsel determine that a solicitation or proposed award is in violation of federal, state or municipal law, then the solicitation or proposed award shall be canceled.
- (c) After award. If, after an award, the Procurement Director, after consultation with the Administrator and the Augusta-Richmond General Counsel, determines that a solicitation or award of a contract was in violation of applicable law, the following options shall be available to Augusta-Richmond County:
 - (1) The contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of Augusta-Richmond County and the person or company awarded the contract has not acted fraudulently or in bad faith; or
 - (2) If services or work have not commenced under the contract, it may be terminated and declared null and void; or

- (3) If services or work have commenced under the contract, it may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred for partially performing and in terminating its performance under the contract; or
(Ord. No. 6939, § 16, 1-2-07).

ARTICLE 10

TYPES OF CONTRACTS

Sec. 1-10-94. Authority to approve, sign and execute contracts by type.

- (a) Generally. The following section establishes five (5) types of purchases: (1) major purchases, (2) standard purchases, (3) small purchase, (4) using agency purchase, and (5) emergency purchases.

Each type of purchase has its parameters involving: (1) value of purchase, (2) level of approval required within the organization for the purchase, (3) level of budget authorization given for the purchase, (4) level of authority required for the source selection process, and (5) person within the organization charged with the responsibility to sign the purchase contract document.

- (b) Major purchase contracts. Capital equipment, construction and all services purchase contracts with a value of forty thousand dollars (\$40,000.00) or more must have:
- (1) Specific project concept approval by the Commission;
 - (2) Specific budget approval (listed in budget) or special funding authorization by the Commission;
 - (3) Commission approval of the source selection method and award of contract; and
 - (4) Contract to be signed by the Mayor.
- (c) Standard purchase contracts. Goods and services purchase contracts

with a value less than forty thousand dollars (\$40,000.00) but more than one thousand five hundred dollars (\$1,500.00) must have:

- (1) General project concept approval by the Commission and/or Augusta-Richmond County Administrator; and
 - (2) General budget approval by the Commission and specific budget approval of the Administrator, or special funding authorization by the Commission or the Administrator (if the transfer of funds is necessary and general project concept not approved previously by the Commission); and
 - (3) Administrator approval of source selection method and award of contract; and
 - (4) Contract to be signed by the Mayor.
- (d) Small purchase contracts. Small purchases of less than \$1,500 but more than five hundred dollars (\$500.00) must have:
- (1) General project concept approval by the Commission or Augusta-Richmond County Administrator; and
 - (2) General budget approval by the Commission (e.g. could be specified within a larger account) and specific budget approval of using agency head as designee of the Administrator, or special funding authorization by the Administrator (when transfer of funds is necessary and general project concept not previously approved by the Commission or Administrator); and
 - (3) Using agency head approval of source selection method and Administrator award of contract; and
 - (4) Small purchase orders to be signed by the Procurement Director or designee.
- (e) Using agency purchase contracts. Using agency purchases (as defined elsewhere) of less than five hundred dollars (\$500.00) must have:
- (1) Specific project concept approval by the Commission; and

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- (2) General budget approval by the Commission (e.g. could be specified within a larger account) and specific budget approval of using agency head as designee of the Augusta-Richmond County Administrator; and
- (3) Using agency head approval of the source selection method and award of contract; and
- (4) Purchase order to be signed by the Procurement Director.
- (f) Emergency purchase contracts. Emergency purchases (as defined elsewhere) regardless of the amount of the purchase must have:
 - (1) Specific project concept approval by the Commission; and
 - (2) General budget approval by the Commission (e.g. could be unspecified within a larger account) and specific budget approval of the using agency head as the Administrator's designee; and
 - (3) Using agency head approval of the source selection method and award of contract if during non-standard working hours, or by the Administrator during normal working hours; and
 - (4) Contract/small purchase order to be signed by the Administrator, using agency head, or Mayor based on the value of the purchase.

(Ord. No. 6939, §§ 14, 16, 1-2-07).

Sec. 1-10-95. Public Works Contracts.

Augusta-Richmond County is authorized to utilize any construction delivery method, provided that places the bidder or offeror at risk for construction; and requires labor or building materials in the execution of the contract shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals.

- (a) Waiver of Technicalities. Augusta-Richmond County shall have the authority to reject all bids or proposals or any bid or proposal that is

nonresponsive or not responsible and to waive technicalities and informalities.

- (b) **Modifications or Addenda to Public Works Plans and Specifications.** Augusta-Richmond County shall not issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by O.C.G.A. § 36-91-20 (b).
- (c) **Change Orders.** Augusta-Richmond County bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes open, fair and competitive public bidding on public works contracts.
- (d) **Notice to Proceed.** The Procurement Director shall, after consultation with the using agency, issue a Notice to Proceed to the contractor, stating the name of the project, the date upon which the project is to begin, the contact name and telephone number for the using agency and the contract term.
- (e) **Registration and Participation of Contractors pursuant to the Georgia Security and Immigration Compliance Act and the Immigration Reform and Control Act of 1986.** All contractors and subcontractors entering into contracts with Augusta-Richmond County for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Augusta-Richmond County has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorized programs operated by the

United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. §13-10-91 and shall continue to use the federal authorization program throughout the contract term.

ARTICLE 11

COOPERATIVE PROCUREMENT

Sec. 1-10-96. Cooperative procurement agreement.

Cooperative procurement may be agreed to between Augusta-Richmond County and other public procurement units. Written agreements are encouraged so as to clearly document the requirements and any special conditions of purchase should a public solicitation be utilized.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-97. Sale, acquisition, or use of supplies.

Augusta-Richmond County may sell to, acquire from, or use any supplies belonging to another public procurement unit independent of the requirements of Article 6 (Procurement Source Selection Methods and Contract Awards) and Article 13 (Supplies and Fixed Assets Management Programs).

Sec. 1-10-98. Cooperative use of supplies or services.

Augusta-Richmond County may enter into an agreement with any public procurement unit for the cooperative use of supplies or services under the terms agreed upon between the parties.

Sec. 1-10-99. Joint use of facilities.

Augusta-Richmond County may enter into agreements for the common or

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joint use or lease of warehousing facilities, capital equipment, and other facilities with any public procurement unit under the terms agreed upon between the parties.

Sec. 1-10-100. Use of state contracts.

Augusta-Richmond County may procure supplies, services or construction items through contracts established by the Procurement Division of the State of Georgia where such contracts and contractors substantially meet the requirements of the AUGUSTA, GA. CODE.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-101. Purchase of surplus and excess property.

Augusta-Richmond County may purchase surplus and excess personal and real property from the United States Government or any other public procurement unit upon verification of need, fund availability, and approval by the appropriate level of authority within Augusta-Richmond County.

Sec. 1-10-102. Waiver.

Any use of cooperative procurement as described above is independent of the requirements for source selection and contract award as described in Article 6 of this chapter.

ARTICLE 12

CONTRACT ADMINISTRATION AND MANAGEMENT

Sec. 1-10-103. Purpose.

A contract administration system, designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded, shall be maintained by the Procurement Director with assistance from the using agency. Effective administration therefore includes the development of concise and competitive specifications, well developed terms and conditions of contract, and prompt, efficient day-to-day administration. Contract administration generally shall be the responsibility of the using agency requesting the commodity, general or construction

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service, except that certain specialized contracts may be administered by selected trade professionals, e.g., architects, engineers, construction managers, etc.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-104. Augusta-Richmond County contracts and contract clauses.

- (a) Use of model (standard) contracts and clauses. The Procurement Director, after consultation with the Augusta-Richmond County Administrator, using agency head, and Augusta-Richmond County General Counsel, may establish standard contract clauses for use in Augusta-Richmond County contracts for various commodities, services and construction products. Such contracts shall include provisions necessary to clearly define the responsibilities and rights of the parties to the contract.
- (b) Provisions of Augusta-Richmond County contracts. Whether designed as a model or standard contract provision or specifically tailored for a particular contract, all Augusta-Richmond County contracts should include provisions for:
 - (1) The unilateral right of Augusta-Richmond County to order in writing a temporary stopping of the work, or delaying performance that does not alter the scope, of the contract;
 - (2) Variations, occurring between estimated quantities of work in contract and actual quantities;
 - (3) Defective pricing;
 - (4) Liquidated damages;
 - (5) Specified excuses for delay or non-performance;
 - (6) Termination of the contract for default;
 - (7) Termination of the contract in whole or in part for the convenience of Augusta-Richmond County;

- (8) Payment procedures;
- (9) Hold harmless provisions;
- (10) Prohibition against contingent fees;
- (11) Suspension of work on a construction project ordered by Augusta-Richmond County;
- (12) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
 - (i) When the contract is negotiated,
 - (ii) When the contractor provides the site or design, or
 - (iii) When the parties have otherwise agreed with respect to the risk of differing site conditions, and
- (13) Insurance requirements.
- (14) Contractor's consent to venue in the Superior Court of Richmond County, Georgia;
- (15) Provision that the terms of the contract supersedes any and all provisions of the Georgia Prompt Pay Act.
- (16) An acknowledgement by all parties contracting with Augusta-Richmond County as follows:

Contractor acknowledges that this contract and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, Contractor is deemed to possess knowledge concerning Augusta-Richmond County's ability to assume contractual obligations and the consequences of Contractor's provision of goods or services to Augusta-

Richmond County under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Contractor may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Contractor agrees that if it provides goods or services to Augusta-Richmond County under a contract that has not received proper legislative authorization or if the Contractor provides goods or services to Augusta-Richmond County in excess of the any contractually authorized goods or services, as required by Augusta-Richmond County's Charter and Code, Augusta-Richmond County may withhold payment for any unauthorized goods or services provided by Contractor. Contractor assumes all risk of non-payment for the provision of any unauthorized goods or services to Augusta-Richmond County, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta-Richmond County, however characterized, including, without limitation, all remedies at law or equity." This acknowledgement shall be a mandatory provision in all Augusta-Richmond County contracts for goods and services, except revenue producing contracts.

- (17) Use of Augusta-Richmond County Landfill. All contracts for contractors performing demolition and/or construction projects for Augusta-Richmond County shall contain a provision requiring that all debris, trash and rubble from the project be transported to and disposed of at the Augusta-Richmond County Solid Waste Landfill in accordance with local and state regulations. The contractor shall provide evidence of proper disposal through manifests, which shall include the types of material disposed of, the name and location of the disposal facility, date of disposal and all related fees.
- (18) All contractors and subcontractors entering into contracts with Augusta-Richmond County for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Augusta-Richmond County has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorized programs

operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. §13-10-91 and shall continue to use the federal authorization program throughout the contract term. All contractors shall further agree that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Augusta-Richmond County the contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the subcontractor affidavit provided in Rule 300-10-01-.08 or a substantially similar form. All contractors shall further agree to maintain records of such compliance and provide a copy of each such verification to Augusta-Richmond County at the time the subcontractor(s) is retained to perform such physical services.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-105. Contract modification and price adjustments.

- (a) Modifications. Every modification to a contract with Augusta-Richmond County shall be subject to approval by the Commission prior to execution. A contract modification does not require Commission action if a contingency amount has been approved and the contract modification is within that amount and provided the Augusta-Richmond County Administrator has been contractually or otherwise specifically designated by the Commission for such purpose.

In instances where the Procurement Director, architect/engineer, or project manager, with the approval of the using agency head, and Administrator, determine that the contract modification or change order cannot be delayed without substantial delay and cost to Augusta-Richmond County and funds are available and the appropriate budget transfer is made, the Administrator may authorize the appropriate action.

- (b) Price adjustments. Adjustments in price in contracts shall be computed in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the contract or subsequently agreed upon;
 - (3) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon; and
 - (4) In such other manner as the contracting parties may mutually agree upon.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-106. Bid security.

- (a) Requirement for bid security. Bid security shall be required for all competitive sealed bids for construction contracts when the price is estimated by the Procurement Director to exceed forty thousand dollars (\$40,000.00).
- (b) Amount of bid security. Bid security shall be in an amount equal to at least ten (10) percent of the amount of the bid.
- (c) Rejection of sealed bids for noncompliance with bid security and authority. If required, and the bid security is not included with the bid, the Procurement Director shall recommend to the Commission that the bid be rejected.
- (d) Withdrawal of bids. If a bidder is permitted to withdrawn its bid before award as provided in section 1-10-50(g) Sealed Bidding; Correction or Withdrawal of Bids no action shall be taken against the bidder or the bid security and the bidder may be entitled to the return of its bid security).

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-107. Contract performance and payment bonds.

- (a) Performance bonds or security shall be delivered to Augusta-Richmond County and shall become binding on the parties upon the execution of the contract to provide a performance bond satisfactory to Augusta-Richmond County.
- (b) Payment bond satisfactory to Augusta-Richmond County for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.
(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-108. Bond forms and copies.

The form of payment and performance bonds and other required bonds shall be prescribed by the Augusta-Richmond County General Counsel. Any person may request and obtain from Augusta-Richmond County a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

Sec. 1-10-109. Retainage.

- (a) Maximum amount to be withheld. In any contract or subcontract for construction which provides for progress payments in installments based upon an estimated percentage of completion with a percentage of the contract's proceeds to be retained by Augusta-Richmond County pending completion of the contract or subcontract, the retained amount of each progress payment or installment shall be no more than ten (10) percent). The retainage may be reduced to five (5) percent after fifty (50) percent of the work is complete if Augusta-Richmond County desires.
- (b) When used. Retainage may be applied to any construction contract, regardless of the dollar amount and its use shall be set forth in the invitation for bids or proposals.
- (c) Release of retainage. Funds held by Augusta-Richmond County as

retainage under the contract shall be released upon completion and acceptance of work except as described in the contract.

- (d) No interest on retainage. No interest shall be due to any contractor on any sum held as retainage pursuant to any construction contract.

Sec. 1-10-110. Wage and requirements for federally funded projects.

When a project has federal funds, the prevailing wages paid shall correspond as nearly as practicable to those prescribed in the Federal Davis Bacon Act when required. The wage scale shall be posted by the contractor in a prominent and easily accessible place at the site of work in accordance with Federal Government requirements.

Sec. 1-10-111. Approval of accounting system.

Except with respect to firm fixed-price contracts, no contract type shall be used unless it has been determined in writing by Augusta-Richmond County that:

- (a) The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type completed; and
- (b) The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

Sec. 1-10-112. Contractual provisions for worksite inspections.

All contracts shall provide that Augusta-Richmond County may, at reasonable times, inspect the part of the plant, place of business, or work site of a contractor or subcontractor or subunit thereof which is pertinent to the performance of any contract awarded or to be awarded by Augusta-Richmond County.

Sec. 1-10-113. Contractual provisions for auditing records.

- (a) Audit of costs or pricing data. All contracts shall provide that

Augusta-Richmond County may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who received a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.

- (b) Contract audit. All contracts shall provide that Augusta-Richmond County shall be entitled to audit the books and records of a contractor or subcontractor at any time under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

ARTICLE 13

SUPPLIES AND FIXED ASSETS MANAGEMENT PROGRAMS

Sec. 1-10-114. Surplus supplies.

- (a) Generally, salvageable surplus supplies are divided into categories as described below:
 - (1) Scrap. Any ferrous supplies that can be used for remelting to produce iron, steel, or its alloys.
 - (2) Waste. All non-metallic refuse which has market value, e.g. paper.
 - (3) Worn or damaged. Either scrap or waste supplies that may be sold or used as trade-in.
 - (4) Obsolete and surplus. Any supplies that are of no use by Augusta-Richmond County.

- (5) Excess. Any supply that does not have a useful purpose for a particular department or agency. The supply may have value, within other departments or Augusta-Richmond County agencies and may be transferred. Nothing herein refers to the sale, lease or disposal of real property.

Sec. 1-10-115. Fixed asset management.

The Fixed Assets Management function in Augusta-Richmond County was implemented for the purpose of surveying and documenting all Augusta-Richmond County owned personal assets, performing regular audits of Augusta-Richmond County assets, centralizing the administration and control of excess supplies and determining whether excess supplies are suitable for other uses prior to disposition and prior to procuring new items of similar quality and functionality. Also, the Procurement Director shall regularly check with agencies regarding the use and availability of excess or potentially surplus items.

With respect to surplus supplies, all using agencies shall submit to the Procurement Director, at such times and in such forms as prescribed, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped. The Fixed Assets Manager shall determine whether the item(s) can be relocated for further use by other departments or agencies prior to disposition. If the item(s) has no further use to Augusta-Richmond County, the Procurement Director shall prepare a report to the Augusta-Richmond County Administrator advising that office of the item(s) available for disposition.

(Ord. No. 6939, § 16, 1-2-07).

Sec. 1-10-116. Supplies management.

- (a) Responsibility. The Procurement Director has responsibility for the sale, lease, or disposal of surplus supplies. No employee or official of Augusta-Richmond County or their agent shall be entitled to purchase such supplies.
 - (1) The Procurement Director is responsible for the sale, or disposal of supplies via means described below; except that it

shall first be determined that the item(s) has no further use by Augusta-Richmond County.

- (2) The Procurement Director shall handle the procurement of auction facilities and professional auction services, and the advertisement process, or coordinate the sealed bidding process.
 - (3) The Augusta-Richmond County Commission shall authorize the sale, lease, or disposal of surplus supply items when necessary and appropriate.
- (b) Surplus supplies--How disposed.
- (1) Auction or sealed bids.
 - (2) Transfer to other using agency or public entity.
 - (3) Trade-in on new supplies or equipment.
- (c) Award. Award shall be made in accordance with the invitation for bids or public outcry to the highest bidder if the price is reasonable and acceptable to Augusta-Richmond County.
- (d) Payment. U.S. currency, U.S. Postal Money Orders, local personal checks, certified checks, or cashier's checks are acceptable methods of payment.
- (1) Held at a place reasonably available to persons who might desire to attend and submit bids; and
 - (2) At which those attending shall be given the opportunity to bid on a competitive basis; and
 - (3) At which the sale, if made, shall be made to the highest and best bidder; and
 - (4) Except as otherwise provided in this title for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published,

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in Augusta-Richmond County where the sale is to be held, and which notice shall state the day and hour, between 10:00 a.m. and 4:00 p.m., and the place of sale, and shall briefly identify the goods to be sold.

Sec. 1-10-117. Severability.

Should any section, paragraph, subdivision, clause, phrase, or provision of this chapter be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole or any part or provisions thereof, other than the part so decided to be invalid or unconstitutional.

Sec. 1-10-117 through Sec. 1-10-999. Reserved.

Augusta-Richmond County Procurement
Code Options as to Preference for Local Vendors

OPTION 1: (Version proposed by the Procurement Department)

Sec. 1-10-6. Preference for local suppliers, professional services and contractors.

- (a) Augusta-Richmond County encourages the use of local suppliers of goods, services and construction products whenever possible. Augusta-Richmond County also vigorously supports the advantages of an open competitive market place. Nothing in this Section shall be interpreted to mean that the Augusta-Richmond County Administrator or Procurement Director are restricted in any way from seeking formal bids or proposals from outside the Augusta market area.
- (b) When the quotation or informal bids selection method is used by the Procurement Director or using agency head to seek firms to quote on Augusta-Richmond County commodities, services and construction products, local firms should be contacted, if possible, first. Where the Procurement Director or using agency head believes that there may not be at least three (3) qualified informal bidders, quotes shall be sought from outside the Augusta market area.
- (c) In the event of a tie bid (see section 1-10-50 (h)), when all other factors are equal, the Augusta-Richmond County Administrator is encouraged to select the bid from within the local market area. The Administrator shall retain the flexibility to make the award of contract to a bidder outside of the local market area if there is sufficient evidence to support collusive bidding in favor of a local source.
- (d) The local vendor preference policy shall be applied when the lowest bidder is within 5% or \$10,000.00, whichever is less of the lowest non-local bidders. The lowest local bidder will be allowed to match the bid of the lowest non-local bidder, if matched the lowest local bidder will be awarded the contract. For the purposes of this section, "local bidder" shall mean a business which:

- (1) Has had a fixed office or distribution point in and having a street address within Augusta for at least six (6) months immediately prior to the issuance of the request for bids or quotes by Augusta; and
 - (2) Holds any business license required by the Augusta-Richmond County Code; and
 - (3) Employees at least one full-time employee, or two part-time employees whose primary residence is in Augusta- Richmond County, or if the business has no employees, the business shall be at least 50% owned by one or more persons whose primary residence is in Augusta-Richmond County.
- (e) The Procurement Director shall develop a program to routinely search out local firms that offer products or services which Augusta-Richmond County may purchase and encourage such firms to place themselves on the bidder's list.
- (f) Certification as a local bidder. In order to be certified as a local bidder, a bidder must submit a completed application to the Department of Procurement, and the applicant must be approved and certified by the Department of Procurement. An eligible bidder must submit a completed and signed written application to become a local bidder at least thirty (30) days prior to the date bids are received on an eligible local project. An eligible bidder who fails to submit an application for approval as a local bidder at least thirty (30) days prior to the date bids are received on an eligible local project, and who otherwise meets the requirements for approval as a local bidder, will not be qualified for a bid preference on such eligible local project.
- (g) Criteria. To be certified as a local bidder, the eligible bidder must satisfy the following criteria:
- (1) The eligible bidder's principal place of business is located in Augusta-Richmond County; and
 - (2) The eligible bidder has held a valid Augusta-Richmond County business license for at least six (6) months prior to the date of application; and
 - (3) A majority of the employees based at the eligible bidder's location(s) in Augusta-Richmond County have been residents of Augusta-

Richmond County for at least six months prior to the date of application.

- (h) Term. The certification as a local bidder shall expire two (2) years from the date of the approval of the application. Following the expiration date, a business is no longer a local bidder. An eligible bidder must submit a new application for certification as a local bidder to the Procurement Director and establish that it continues to meet the requirements contained in subparagraph (g) of this section in order to receive a bid preference on eligible local projects.
- (i) Continuing obligations of eligible bidders certified as local bidders. Eligible bidders certified as local bidders shall be under a continuing duty to immediately inform the department of procurement in writing of any changes in the eligible bidder's business if, as a result of such changes, the eligible bidder no longer satisfies the requirements of subparagraph (g) of this section.
- (j) Nothing in this section shall be interpreted to mean that the Augusta-Richmond County Administrator or Commission may abrogate the provisions of O.C.G.A. §§ 36-10-1 through 36-10-5, Public Works Contracts. This provision of Georgia law requires that all County public works contracts of forty thousand dollars (\$40,000.00) or more, as defined therein, be publicly advertised before letting out the contract to the lowest bidder. Further, nothing in this section shall be interpreted to mean Augusta-Richmond County Administrator or Board of Commissioners may abrogate the provisions of the AUGUSTA, GA. CODE requiring public advertising before letting certain contracts.

(Ord. No. 6890, § 1, 6-15-06; Ord. No. 6939, § 16, 1-2-07).

OPTION 2: (Version proposed by Commissioner Grantham)

Sec. 1-10-6. Preference for local suppliers, professional services and contractors.

- (a) Augusta-Richmond County encourages the use of local suppliers of goods, services and construction products whenever possible. Augusta-Richmond County also vigorously supports the advantages of an open competitive market place. Nothing in this Section shall be interpreted to mean that the Augusta-Richmond County Administrator or Procurement Director are restricted in any way from seeking formal bids or proposals from outside the Augusta market area.
- (b) When the quotation or informal bids selection method is used by the Procurement Director or using agency head to seek firms to quote on Augusta-Richmond County commodities, services and construction products, local firms should be contacted, if possible, first. Where the Procurement Director or using agency head believes that there may not be at least three (3) qualified informal bidders, quotes shall be sought from outside the Augusta market area.
- (c) In the event of a tie bid (see section 1-10-50 (h)), when all other factors are equal, the Augusta-Richmond County Administrator is encouraged-required to select the bid from within the local market area. The Administrator shall retain the flexibility to make the award of contract to a bidder outside of the local market area if there is sufficient evidence to support collusive bidding in favor of a local source.
- (d) The local vendor preference policy shall be applied when the lowest bidder is within 5% or \$10,000.00, whichever is less of the lowest non-local bidders.
- (1) For all Public Works Construction projects and other projects required by law to be awarded to the lowest responsive and responsible bidder, the lowest local bidder will be allowed to match the bid of the lowest non-local bidder, if matched the lowest local bidder will be awarded the contract.
- (2) For all bids that are not Public Works Construction projects and are not other projects required by law to be awarded to the lowest

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responsive and responsible bidder. The lowest local bidder will be awarded, how to match the bid even if the local bidder is not the lowest bidder, as long as the local bidder's bid is within 5% or \$10,000.00, whichever is less of the lowest non-local bidders, of the lowest non local bidder, if matched the lowest local bidder will be awarded the contract.

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(e) For the purposes of this section, "local bidder" shall mean a business which:

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- (1) Has had a fixed office or distribution point in and having a street address within Augusta for at least six (6) months immediately prior to the issuance of the request for bids or quotes by Augusta; and
- (2) Holds any business license required by the Augusta-Richmond County Code; and
- (3) Employees at least one full-time employee, or two part-time employees whose primary residence is in Augusta- Richmond County, or if the business has no employees, the business shall be at least 50% owned by one or more persons whose primary residence is in Augusta-Richmond County.

(ef) The Procurement Director shall develop a program to routinely search out local firms that offer products or services which Augusta-Richmond County may purchase and encourage such firms to place themselves on the bidder's list.

(fg) Certification as a local bidder. In order to be certified as a local bidder, a bidder must submit a completed application to the Department of Procurement, and the applicant must be approved and certified by the Department of Procurement. An eligible bidder must submit a completed and signed written application to become a local bidder at least thirty (30) days prior to the date bids are received on an eligible local project. An eligible bidder who fails to submit an application for approval as a local bidder at least thirty (30) days prior to the date bids are received on an eligible local project, and who otherwise meets the requirements for approval as a local bidder, will not be qualified for a bid preference on such eligible local project.

(gh) Criteria. To be certified as a local bidder, the eligible bidder must satisfy the following criteria:

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- (1) The eligible bidder's principal place of business is located in Augusta-Richmond County; and
- (2) The eligible bidder has held a valid Augusta-Richmond County business license for at least six (6) months prior to the date of application; and
- (3) A majority of the employees based at the eligible bidder's location(s) in Augusta-Richmond County have been residents of Augusta-Richmond County for at least six (6) months prior to the date of application.

(~~hi~~) Term. The certification as a local bidder shall expire two (2) years from the date of the approval of the application. Following the expiration date, a business is no longer a local bidder. An eligible bidder must submit a new application for certification as a local bidder to the Procurement Director and establish that it continues to meet the requirements contained in subparagraph (g) of this section in order to receive a bid preference on eligible local projects.

(~~ij~~) Continuing obligations of eligible bidders certified as local bidders. Eligible bidders certified as local bidders shall be under a continuing duty to immediately inform the department of procurement in writing of any changes in the eligible bidder's business if, as a result of such changes, the eligible bidder no longer satisfies the requirements of subparagraph (g) of this section.

(~~jk~~) Nothing in this section shall be interpreted to mean that the Augusta-Richmond County Administrator or Commission may abrogate the provisions of O.C.G.A. §§ 36-10-1 through 36-10-5, Public Works Contracts. This provision of Georgia law requires that all County public works contracts of forty thousand dollars (\$40,000.00) or more, as defined therein, be publicly advertised before letting out the contract to the lowest bidder. Further, nothing in this section shall be interpreted to mean Augusta-Richmond County Administrator or Board of Commissioners may abrogate the provisions of the AUGUSTA, GA. CODE requiring public advertising before letting certain contracts.

(Ord. No. 6890, § 1, 6-15-06; Ord. No. 6939, § 16, 1-2-07).



**Administrative Services Committee Meeting
4/12/2010 12:45 PM
Ordinance Amendment-Risk Management and Safety Provision**

Department: Law

Caption: Motion to approve an ordinance to amend the Risk Management and Safety Provisions of Part 6, Paragraph 6C, Subparagraph Age and Employment Status Restrictions, Subparagraph 2, Page 36 of the Augusta-Richmond Employee Handbook, which is part of the Augusta, Ga. Code, to repeal all ordinances in conflict herewith, to provide an effective date and for other purposes.

Background: Augusta, GA Code Section §1-7-51(a), as re-adopted July 10, 2007, provides that the Augusta-Richmond County Personnel Policies and Procedures Manual, also known as the Augusta, Georgia Employee Handbook, is designated as Appendix B to the Augusta-Richmond County Code and which includes all amendments through the date of the recodification of this Code and all amendments thereafter. The Risk Management and Safety Provision of Part 6, Paragraph 6C, Subparagraph Age and Employment Status Restrictions, Subparagraph 2 provides that only full time regular employees are authorized to drive Augusta-Richmond County vehicles.

Analysis: Airport administrators seek the proposed amendment in order to improve the efficiency of airport operations via use of part time employees under the supervision of certified full time employees, along with compliance with FAA's airport certification programs.

Financial Impact: none

Alternatives: Deny motion

Recommendation: Approve motion.

Funds are Available in the Following Accounts: N/A

REVIEWED AND APPROVED BY:

Finance.
Law.
Administrator.
Clerk of Commission

Ordinance No. _____

AN ORDINANCE TO AMEND THE RISK MANAGEMENT AND SAFETY PROVISIONS OF PART 6, PARAGRAPH 6C, SUBPARAGRAPH AGE AND EMPLOYMENT STATUS RESTRICTIONS, SUBPARAGRAPH 2, PAGE 36 OF THE AUGUSTA-RICHMOND COUNTY EMPLOYEE HANDBOOK, WHICH IS PART OF THE AUGUSTA, GA CODE, TO REPEAL ALL ORDINANCES IN CONFLICT HERewith, TO PROVIDE AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the Risk Management and Safety provisions of the Employee Handbook need to be updated and revised;

WHEREAS, it is the desire of the Commission to update and improve the Risk Management and Safety provisions applicable to Augusta-Richmond County employees;

THE AUGUSTA-RICHMOND COUNTY COMMISSION hereby ordains as follows:

SECTION 1. AUGUSTA, GA CODE Section §1-7-51(a) as re-adopted July 10, 2007, provides that the Augusta-Richmond County Personnel Policies and Procedures Manual, also known as the Augusta, Georgia Employee Handbook, is “designated as Appendix B to the Augusta-Richmond County Code and [is] incorporated herein by reference and which includes all amendments through the date of the recodification of this Code and all amendments thereafter.” The newly added Risk Management and Safety provisions shall replace Part 6, Paragraph 6C, Subparagraph Age and Employment Status Restriction, Subparagraph 2, Page 36 in its entirety, as set forth in “Exhibit A” hereto.

SECTION 2. This ordinance shall become effective upon its adoption in accordance with applicable laws, in accordance with the amended Risk Management and Safety provisions, attached hereto as “Exhibit A.”

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed, except that nothing in this Ordinance shall be construed to repeal or modify the Code of Ethics contained in AUGUSTA, GA, CODE §§1-1-20 through 1-1-26.

SECTION 4. The Second Reading of this Ordinance is hereby Waived.

Adopted this _____ day of _____, 2010.

David S. Copenhaver
As its Mayor

Attest:

Lena J. Bonner, Clerk of Commission

CERTIFICATION

The undersigned Clerk of Commission, Lena J. Bonner, hereby certifies that the foregoing Ordinance was duly adopted by the Augusta-Richmond County Commission on _____, 2010 and that such Ordinance has not been modified or rescinded as of the date hereof and the undersigned further certifies that attached hereto is a true copy of the Ordinance which was approved and adopted in the foregoing meeting(s).

Lena J. Bonner, Clerk of Commission

Published in the Augusta Chronicle.

Date: _____

First Reading: _____

Second Reading: _____

Exhibit “A”

~~6.C — VEHICLE SAFETY~~

~~AGE AND EMPLOYMENT STATUS RESTRICTIONS~~

~~2. — Only full time regular employees are authorized to drive A-RC vehicles.~~

REPLACE WITH:

6.C VEHICLE SAFETY

AGE AND EMPLOYMENT STATUS RESTRICTIONS

2. Only full time regular employees are authorized to drive A-RC vehicles, with the specific exception of part time employees of the Augusta Regional Airport, whose duties include driving of fuel trucks, towing of aircraft in and out of aircraft storage hangars, marshalling of aircraft into parking positions, servicing of aircraft lavatories, and the operation of various golf carts, sedans and vans in the course of their regular duties, subject to the oversight and supervision of properly trained and certified full time employees, continued participation in the Augusta, Georgia's random drug testing policy, continued compliance with the Federal Aviation Administration's (FAA) standards (which are part of the FAA's airport certification program and the Augusta Regional Airport's FAR Part 139 Certificate).

Nothing in this section shall be construed to repeal or modify the Personnel Policies and Procedures contained in AUGUSTA, GA, CODE §§1-7-51 through 1-7-59.

These requirements will be applied in accordance with applicable state and federal law, and any employee who violates the policy will be subject to discipline up to and including termination.



Administrative Services Committee Meeting
4/12/2010 12:45 PM
UWH Redevelopment Phase I Plan

Department:	Housing & Community Development
Caption:	Review and support of the UWH Redevelopment Plan to be developed and built by Walton Communities, LLC in association with the Augusta Housing Authority. This will be a 30-acre mixed use community.
Background:	UWH Redevelopment Phase I will be development, built and managed by Walton Communities. This development will consist of 75 one-, two-, and three-bedroom units displaying exceptional interior appointments with the highest quality elevations. The community will be developed and constructed with low-income tax credits allocated by the Georgia Department of Community Affairs. The units will serve moderate income families earning 60% or less of the area median income. These income restrictions allow for maximum household incomes ranging from \$ 23,340 for a family of one to \$ 38,640 for a family of six. In order to reach these potential residents, marketing efforts will reach out to work-force employment centers such as retail and service industries, local government employees, teachers and seniors. UWH Redevelopment Phase I will offer a fully-equipped cardio fitness facility and Community Center housing a Business Center and Family Life Library for use by the residents. This fully-equipped facility includes computer labs targeted toward differing age groups, and space for community events. The staff will provide educational and enrichment programs for pre-schoolers through teens, as well as field trips and mentoring programs. Programs will also be available for adults such as Moms & Tots and the Single Parent Night Out. Additional community amenities will include a swimming pool, car care center, picnic areas and a state-of-the-art playground. Floorplans at UWH Redevelopment Phase I will include spacious one, two and three bedroom homes with a host of elegant interior features such as crown molding, 9-ft. ceilings, Whirlpool appliances with self-cleaning ovens, separate laundry rooms with pantry shelving and convenient raised vanities in the baths. Each home will be prewired for home office technology with high-speed internet and fax capabilities. Some plans will also feature built-in computer stations and garden tubs.
Analysis:	: If the UWH Redevelopment Phase Plan is supported by by the Augusta City Commission, the project will have more leverage as required by a low income tax credit project. This project will utilize the support of civic organizations, governmental authorities and residential neighbors in proving that this concept works when it is executed in such a way as to provide mixed income and mixed tenure housing with first-class amenities in an aesthetically superior combination of land planning, architectural elements and landscaping.

Financial Impact: If approved by the City Commission, the Plan will bring more tax dollars to the City of Augusta. . .

Alternatives: None

Recommendation: Accept the UWH Redevelopment Phase I by resolution

Funds are Available in the Following Accounts: none

REVIEWED AND APPROVED BY:

Finance.

Law.

Administrator.

Clerk of Commission