



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

City Council Meeting
City Council Chambers
145 W. Broad Street
Monday, August 28, 2023
5:30 PM

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Approval of the Minutes of the August 14, 2023 Meeting**
- IV. Approval of the Agenda of the August 28, 2023 Meeting**
- V. Public Comment**
Public Comment Forms are available at the door and should be submitted to the Clerk prior to the start of the meeting.
- VI. Presentation of Morgan Square Improvement Design Concept**
Presenters: Halsey Cook, CEO Milliken and Company, Chairman of Morgan Square Committee
Darren Meyer, Principal, MKSK
Chris Story, City Manager
- VII. Consent Agenda**
 - A. Ordinance To Amend The City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, By Amending Section 206, Changes to District Boundaries, Specifically, The Property Located at Barritt Avenue, and is Further Identified as Tax Map ID: 6-21-02-115.00 on The Spartanburg County Tax Map, As a Part and Parcel of The City of Spartanburg Which is Zoned R-6LW, with a Land Use Designation of General Residential-Live Work District to Be Assigned A Zoning Designation of R-6 PDD, with a Land Use Designation of General Residential-Planned Development District and Providing for Severability and an Effective Date.**
Presenter: Martin Livingston, Community Development Director
 - B. An Ordinance of The City of Spartanburg, South Carolina, to Adopt The 2023 Comprehensive Plan Consistent with Requirements of South Carolina Local Government Comprehensive Planning Enabling Act of 1994.**
Presenter: Martin Livingston, Community Development Director

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information

- C. **Authorizing The City of Spartanburg, South Carolina to Execute and Deliver an Equipment Lease Purchase Agreement in an Amount not Exceeding \$3,100,000 Between the City and The Lessor Thereof to Defray The Cost of Acquiring Certain Equipment; and Other Matters Relating Thereto.**
Presenter: Dennis Locke, Finance Director

VIII. Resolutions

- A. **Resolution Consenting to Inclusion of Tax Map Numbers 7-16-06-208.00, 7-16-06-222.00, 7-16-06-238.00, and 7-16-06-271.00 in Spartanburg-Cherokee Multi-County Industrial or Business Park.**
Presenter: Chris Story, City Manager

IX. Ordinance

- A. **An Ordinance to Grant a Franchise to Lumos Fiber, LLC to Install and Maintain Fiber Optic Cable and Accessories for the Provisions of Telecommunications Services in the Streets and Public Rights of Way in the City.**
Presenter: Robert P. Coler

- X. **Approve the Updated Title VI Plan to Comply with Federal Transit Administration Regulations.**
Presenter: Dennis Locke, Finance Director

XI. Staff Updates

XII. City Council Updates

XIII. Adjournment.

XIV. Executive Session

- A. **Executive Session Pursuant to Section 30-4-70 (a)(5) of the South Carolina Code to Discuss Matters Relating to Economic Development "Project Core" a Potential Mixed-use Development in the Downtown Area.**
- B. **Executive Session Pursuant to Section 30-4-70(a)(5) of the South Carolina Code to Discuss Matters Relating to "Project Church" regarding the Proposed Location, Expansion, or the Provision of Services Encouraging Location or Expansion of Industries or Other Businesses in the Area Served by the Public Body.**

City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.



City Council Meeting
City Council Chambers
145 W. Broad Street
Monday, August 14, 2023
5:30 p.m.

(These minutes to be approved at the August 28, 2023 Council Meeting)

City Council met this date with the following Councilmembers present: Mayor Jerome Rice, Jr, Mayor Pro Tem Rob Rain, Councilmembers Erica Brown, Jamie Fulmer, Ruth Littlejohn, Meghan Smith and Janie Salley. City Manager Chris Story, Deputy City Manager Mitch Kennedy, Assistant City Manager Kevin Limehouse and City Attorney Robert P. Coler were in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are live streamed/recorded. To view the video for a complete transcript, please visit <https://www.cityofspartanburg.org/city-council>

I. Moment of Silence - observed

II. Pledge of Allegiance - recited

III. Approval of the Minutes of the July 24, 2023 City Council Meeting –
Councilmember Littlejohn made a motion to approve the minutes as received.
Councilmember Fulmer seconded the motion, which carried unanimously 7 to 0.

IV. Approval of the Agenda for the August 14, 2023 City Council Meeting -
Councilmember Smith made a motion to approve the agenda as received.
Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

V. Public Comment –

*Citizen Appearance forms are available at the door and should be submitted to the City Clerk

1. Toni Sutton

VI. Public Hearing

A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, By Amending Section 206, Changes to District Boundaries, Specifically, The Property Located at Barritt Avenue, and is Further Identified as Tax Map ID: 6-21-02-115.00 on the Spartanburg County Tax Map, As a Part and Parcel of The City of Spartanburg Which is Zoned R-6LW, with a Land Use Designation of General Residential-Live Work District to Be Assigned a Zoning Designation of R-6 PDD, with a Land Use Designation of General Residential-Planned Development District and Providing For Severability and an Effective Date.

Presenter: Martin Livingston, Community Development Director

Councilmember Fulmer made a motion to open the public hearing. Councilmember Salley seconded the motion, which carried unanimously 7 to 0.

Mayor Rice asked if any individuals wanted to speak in favor/opposition of the ordinance.

In Favor: None

In Opposition: None

Mayor Pro Tem Rain made a motion to close the public hearing. Councilmember Fulmer seconded the motion, which carried unanimously 7 to 0.

Mayor Pro Tem Rain made a motion to accept the ordinance as presented.

Councilmember Smith seconded the motion, which carried unanimously 7 to 0.

B. An Ordinance of the City of Spartanburg, South Carolina, to Adopt the 2023 Comprehensive Plan Consistent with Requirements of South Carolina Local Government Comprehensive Planning Enabling Act of 1994.

Presenter: Martin Livingston, Community Development Director

Councilmember Smith made a motion to open the public hearing. Councilmember Brown seconded the motion, which carried unanimously 7 to 0.

Mayor Rice asked if any individuals wanted to speak in favor/opposition of the ordinance.

In Favor: Santiago Mariani and Allie Martinson (Upstate Forever)

In Opposition: None

Councilmember Smith made a motion to close the public hearing. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

Councilmember Smith made a motion to approve the ordinance as presented.

Councilmember Fulmer seconded the motion, which carried unanimously 7 to 0.

VII. Ordinance

A. Authorizing the City of Spartanburg, South Carolina to Execute and Deliver an Equipment Lease Purchase Agreement in an Amount not Exceeding \$3,100,000 between the City and the Lessor Thereof to Defray the Cost of Acquiring Certain Equipment; and Others Matters Relating Thereto

Presenter: Dennis Locke, Finance Director

Councilmember Brown made a motion to approve the ordinance as presented.

Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.

VIII. Award of Bid for Airport Taxiway A Rehabilitation Construction

Presenter: Jay Squires, Public Works Director

Mayor Pro Tem Rain made a motion to approve the award of bid. Councilmember Salley seconded the motion, which carried unanimously 7 to 0.

IX. Award of Bid for Airport Fire Hydrant Installation Project

Presenter: Jay Squires, Public Works Director

Councilmember Littlejohn made a motion to approve the award of bid. Councilmember Smith seconded the motion, which carried unanimously 7 to 0.

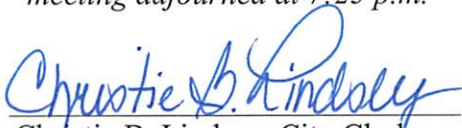
X. Award of Contract for Parking Garage System

Presenters: Mitch Kennedy, Deputy City Manager

Kevin Limehouse, Assistant City Manager

Councilmember Fulmer made a motion to approve the award of bid. Councilmember Salley seconded the motion, which carried unanimously 7 to 0.

- XI. Staff Updates-Mr. Story** gave a brief update of the following: Congratulations to Dr. Marion Blackwell, Fire Chief, on his retirement. Advised Citizens Academy Class will start on August 15, 2023. Advised Mitch will be accompanying others from OneSpartanburg to Durham NC for a Chamber visit the end of this week. Advised that works is still being done regarding the Minor League Baseball team coming to Spartanburg.
- XII. City Council Updates-** Each Councilmember gave updates on their activities since the previous council meeting.
- XIII. Adjournment – Councilmember Brown** made a motion to adjourn the meeting. Councilmember Salley seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 7:25 p.m.


Christie B. Lindsey, City Clerk



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager

FROM:

SUBJECT: Resolutions

DATE: August 28, 2023

BACKGROUND:

ACTION REQUESTED:

BUDGET AND FINANCIAL DATA:

STATE OF SOUTH CAROLINA	)	RESOLUTION CONSENTING TO
	)	INCLUSION OF TAX MAP
CITY OF SPARTANBURG	)	NUMBERS
	)	7-16-06-208.00, 7-16-06-222.00, 7-16-
_____	)	06-238.00 and 7-16-06-271.00IN
	)	SPARTANBURG-CHEROKEE
	)	MULTI-COUNTY INDUSTRIAL OR
	)	BUSINESS PARK

Whereas, S.C. Code Ann. § 4-1-170 (1976), as amended, allows counties to create a multi-county industrial or business park for the purpose of sharing tax revenue and providing incentives to businesses within Park; and

Whereas, S.C. Code Ann. § 4-1-170(C) requires the consent of the municipality when a multi-county industrial or business park will include a portion of the municipality; and

Whereas, in 2018, Spartanburg County (the “County”) and Cherokee County entered into the Agreement for Development of Joint County Industrial/Business Park (the “Agreement”) dated as of December 31, 2018, as amended, governing the Spartanburg-Cherokee Multi-County Industrial or Business Park (“Park”); and

Whereas, the Agreement allows counties to add property to the Park, subject to the requirements of S.C. Code Ann. § 4-1-170; and

Whereas, Bottle Works South, LLC (the “Company”) and the County intend to enter into a fee in lieu of tax (“Agreement”) to provide for the payment of fees in lieu of taxes and the provision of special source revenue credits and the Company desires the inclusion of certain property in the Park for the purpose of qualifying for certain incentives; and

Whereas, the Company owns certain real property located within the municipal limits of the City of Spartanburg (“City”) and identified by tax map numbers 7-16-06-208.00, 7-16-06-222.00, 7-16-06-238.00 and 7-16-06-271.00, which property is more particularly described in the attached **Exhibit A**, (“Property”) which the Company and the County intend to be subject to the Agreement; and

Whereas, the City and the Company previously entered into a Development Agreement dated July 13, 2023 which provided the City would consent to the inclusion of the Property in the Park; and

Whereas, the City recognizes the positive economic impact of the Company and supports the incentives the Company may obtain from inclusion in the Park.

Resolution No.: _____
Date Adopted: _____

NOW, THEREFORE, BE IT RESOLVED that the City consents to the County adding the property identified by tax map numbers 7-16-06-208.00, 7-16-06-222.00, 7-16-06-238.00 and 7-16-06-271.00 and further described in **Exhibit A** to the Park.

Resolution No.: _____
Date Adopted: _____

Adopted this _____ day of _____, 2023.

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY

EXHIBIT A

Legal Description of Property

Parcel One

All that lot or parcel of land located off of South Church Street in the City of Spartanburg, State of South Carolina and County of Spartanburg, bounded as follows: On the West by an alley; on the North by lots now or formerly of A.C. Chambers, Ella Chambers, H. G. Jennings and Mr. Wofford; on the East by lots now or formerly of Jim Norris and on the South by lots now or formerly of Mrs. W.R. May, R.W. Lanford, A.F. Bullington, J.A. Griffin, Lawrence Harvey, Alford Bean and T. P. Hartness.

ALSO: All that lot or parcel of land in the City of Spartanburg, State and County aforesaid lying mainly in the rear of the former home place of Sara J. Hartness. This lot is approximately 55 feet wide and about 85 feet long. It is 55 feet on the northern end and bounded by the line of property now or formerly belonging to C.M. Hill; 85 feet on the western line and bounded by the property formerly known as Sara J. Hartness Home Place and lot acquired by Sara H. Hartness from Julian Calhoun; 50 feet on the southern line and bounded by a 12 foot alley to Palisade Street and Home Building & Loan Association lot formerly Allman; and the eastern boundary is property of Julian Calhoun.

Parcel Two

All that lot or parcel of land beginning at an iron pin on the East side of South Church Street, the Northwest corner of lot of Mrs. Elizabeth Tuck as recorded in Deed Book 6H at Page 364 and being approximately 118 feet from the North edge of Palisade Street; thence S74E along said Tuck line 183 feet to west side of Alley; thence N24E 10 feet to stake, corner of lot of Mrs. Sarah Hartness as recorded in Deed Book 8V at page 70, thence with said line N74W 183 feet to South Church Street; thence with said Street S24.20W 10 feet to the beginning.

Parcel Three

All that lot or parcel of land in the City of Spartanburg, County and State aforesaid, and lying and being on an alley leading from Hartness Bottling Works to Amos Street, and being the rear portion of a lot located at 127 Amos Street, and adjoining property of Hartness Bottling Works, and being more particularly described as follows: Beginning at an iron pin at the corner of said alley and property of the Hartness Bottling Works and running thence along and with said alley N. 20-02 W. for a distance of 65.3 feet to an iron pin; thence S. 69-47E. for a distance of 52.2 feet to an iron pin; thence S. 23-20 W. for a distance of 56.2 feet to an iron pin on the Hartness Bottling Works line; thence along and with the Hartness Bottling Works line N. 82-06 W. for a distance of 50.2 feet to an iron pin, the beginning corner, said property containing approximately 3100 square feet, more or less, and for a detailed description of said property, reference is hereby had to a plat made for Hartness Bottling Works, by W. N. Willis Engineers, Spartanburg, S.C. on June 11, 1953, to be recorded herewith.

Parcel Four

All that lot or parcel of land in the City of Spartanburg, State and County aforesaid, situated on the south side of Amos Street and being designated as Number 141 Amos Street, fronting thereon 56.3 feet and having a depth of 157 feet on one side and 178 feet on the other.

Parcel Five

All that piece, parcel or lot of land, situate, lying and being in the City and County of Spartanburg, State of South Carolina, known as 151 Amos Street, beginning at a stake on Amos Street and running thence S. 8-30 W. 130 feet to a stake, near Bradshaw's corner; thence S. 8-30 E. 50 feet to a stake, corner of Lot No. 55; thence N. 8-30 E. 110.8 feet to a stake on Amos Street; thence along and with Amos Street N. 6-30 W. 53.3 feet to the beginning corner.

Parcel Six

All that lot or parcel of land lying and being in the city of Spartanburg, State and County aforesaid, on the East side of South Church Street, beginning at an iron pin located in middle of an alley dividing house number 657 and house number 663, South Church Street, and running from the pin in a southerly direction 50 feet; thence in an easterly direction 182 feet to an 11 foot alley from Palisade Street; thence in a northerly direction with this alley 45 feet to corner of Lot of T. P. Hartness; thence in a westerly direction with the line of T.P. Hartness 181 feet to the beginning corner on South Church Street; also all my right, title and interest in and to an 8 foot alley extending between this lot and the lot of T.P. Hartness, said alley extending 100 feet from South Church Street.

ALSO, all that lot or parcel and land in the City of Spartanburg, situate on the East side of South Church Street, as follows: Beginning at the northwest corner of the home place of Mrs. Sara J. Hartness and running in an easterly direction with said Hartness line the full depth of her present lot; thence in a northerly direction about 35 feet to line of C.M. Hill's lot; thence in a westerly direction with said Hill's line to the sidewalk on South Church Street; thence in a southerly direction with the sidewalk of said street about 5 feet to the beginning corner.

ALSO, all that lot or parcel of land in the State and County aforesaid, in the city of Spartanburg, on the East side of South Church Street, fronting thereon approximately 50 feet, and bounded by Lots of Ethel O. Petrie, W.W. Montgomery and others.

Parcel Seven

All that lot or parcel of land in the City of Spartanburg, State and County aforesaid, commonly known and referred to as No. 743 South Church Street, and being more particularly described as follows: Beginning at an iron pin on the East side of South Church Street at the corner of property belonging to Hartness Bottling Works, Inc. and running with the line of said property of Hartness Bottling Works, Inc. S. 75-10 E. for a distance of 183 feet to an iron pin on a ten foot alley, thence along and with said alley S. 23-50 W. for a distance of 50 feet to an iron pin at the corner of property of T. P. Hartness, known as 749 South Church Street; thence along and with said line of T.P. Hartness N. 75-10 W. for a distance of 183 feet to an iron pin on South Church Street; thence

along and with South Church Street, N. 23-50 E. for a distance of 50 feet to an iron pin, the point of beginning.

Parcel Eight

All that lot or parcel of land in the above-named State and County, in the City of Spartanburg, S.C. and being situated at the rear of a lot known and designated as 1359 Amos Street, being shown on a plat made for T.P. Hartness by W.N. Willis, Eng., on February 3, 1954, revised September 5, 1958, and being more particularly described, according to said plat, as follows: Beginning at a point 178 feet from Amos Street at the rear of the lot designated as the Osborne lot, and running thence S. 23-20 W. 56.2 feet to an iron pin; thence N. 82-44 W. 70 feet to an iron pin; thence N. 23-20 E. 56.2 feet to an iron pin at the rear corner of the Osborne lot; thence S. 82-44 E. 70 feet along the rear line of the Osborne lot to an iron pin, the point of beginning.

Parcel Nine

All that certain lot, or parcel of land, lying and being situate on Palisade Street in the City of Spartanburg, County and State aforesaid, being known and designated as 130 Palisade Street, and being more particularly described as follows: Beginning at an iron pin on Palisade Street at corner between property of J.F. Alman, Jr. and Lucile Kennedy, running along said Street S. 82-25 E. 70 feet to an iron pin; thence N. 4-50 E. 187.4 feet to an iron pin; thence S. 89.00 W. 33.6 feet to an iron pin; thence S. 16.05 W. 185.3 feet to the beginning point.

Parcel Ten

All that lot or parcel of land in the City of Spartanburg, State and County aforesaid on the South Side of Amos Street, beginning at a stake Northern Corner of R.J. Caldwell's line, being 150 feet from inside curb on South Church Street, and running thence with Amos Street to a stake West line of 15 foot alley, thence in Southerly direction with line of the said alley to a stake J.J. Cudd's line; thence with J.J. Cudd's line in a Westerly direction to Southeast corner of L.T. Williams lot; thence in a Northern direction with a line of Williams and Caldwell's lots to the beginning corner.

ALSO a vacant lot located off South Church Street, in the City of Spartanburg, County and State above named, bounded as follows: On the West by an alley, on the North by lots of A.C. Chambers, Ella Chambers, H.G. Jennings and Mr. Wofford; on the East by lot of Jim Norris and on the South by lots of Mrs. W.H. May, R.W. Lanford, A.F. Bullington, J.A. Griffin, Lawrence Harvey, Alford Bean and T.P. Hartness.

Parcel Eleven

All that lot or parcel of land on the east side of South Church Street, Spartanburg, South Carolina, being known and designated as No. 749 South Church Street and shown on a plat of Survey for the Hartness properties, by W.N. Willis, Engineers, Spartanburg, S.C., on February 3, 1954, and being described according to said plat as follows: Beginning at an iron pin at the intersection of South Church Street and Palisade Street and running along with South Church Street N. 23-50 E. 68.5 feet to an iron pin; thence S. 75-10 E. 183 feet to an iron pin; thence S. 23-50 W. 68 feet to

an iron pin on Palisade Street; thence along with Palisade Street N. 75-10 W. 183 feet to an iron pin on South Church Street, the point of beginning.

ALSO, all that lot of parcel of land in the State and County aforesaid and in the corporate limits of the City of Spartanburg, S.C., fronting 61 feet on Amos Street and running back with an alley 124.15 feet, having a rear width of 60 feet and a depth on the east line of 117 feet, this lot being a part of Lot No. 35 and all of the rear portion of Lot No. 36 on plat of the Walker Estate made by W.B.W. Howe, November, 1903.

ALSO, all that lot or parcel of land on the north side of Palisade Street, City of Spartanburg, S.C., being known and referred to as No. 126 Palisade Street and being shown on a Plat of Survey made for Hartness, et al. by W.N. Willis, Engineers, Spartanburg, S.C., on February 4, 1954, and being described according to said plat as follows: Beginning at an iron pin on Palisade Street 193 feet from South Church Street and running thence N. 22-50 E. 178.1 feet; thence N. 87-33 E. 43.4 feet to an iron pin; thence S. 16 W. 185.3 feet to an iron pin on Palisade Street; thence with Palisade Street N. 75-40 W. 67.6 feet to an iron pin, the point of beginning.

ALSO, all that lot or parcel of land on the north side of Palisade Street, Spartanburg, S.C., known and referred to as No. 138 Palisade Street and being shown on a plat. of Hartness Properties, et al. made by W.N. Willis, Engineers for Spartanburg County, S.C., on February 3, 1954, and being described according to said plat as follows: Beginning at an iron pin on Palisade Street and running thence N. 4-40 E. approximately 185 feet to an iron pin, thence N. 87-33 E. 50 feet to an iron pin; thence S. 4-23 W. 193 feet to an iron pin on Palisade Street; thence N. 86-15 W. 50 feet to an iron pin, the point of beginning.

ALSO, all that lot or parcel of land lying on the north side of Palisade Street and being known and referred to as No. 148 Palisade Street, Spartanburg, South Carolina, being shown on a plat of the Hartness properties, et al. made by W.N. Willis, Engineers, Spartanburg, South Carolina, on February 3, 1954, and being described according to said plat as follows: Beginning at an iron pin on Palisade Street and running thence N. 4-23 E. 193 feet to an iron pin; thence N. 87-33 E. 50 feet to an iron pin; thence S. 4-23 W. 197 feet to an iron pin on Palisade Street, thence N. 86-15 W. 50 feet to an iron pin, the pint of beginning.

ALSO, all that lot or parcel of land lying on the east side of South Church Street and being know and referred to as No. 713 South Church Street and shown on a plat made for Sara J. Hartness, et al. on February 3, 1954, by W.N. Willis, Engineers, of Spartanburg County, S.C. and being described according to said plat as follows: Beginning at an iron pin on South Church Street approximately 235 feet south of Amos Street and running thence S. 69-26 E. 209.5 feet to an iron pin; thence S. 24-12 W. 53 feet to an iron pin, corner of Lowry property; thence N. 76-59 W. 171 feet to an iron pin; thence N. 66-10 W. 42 feet to an iron pin on South Church Street; thence N. 23-50 E. 74 feet on South Carolina Church Street to an iron pin, the point of beginning.

ALSO, all that lot or parcel of land lying on the east side of South Church Street in the City of Spartanburg, S.C., and being known and referred to as No. 707 South Church Street, Spartanburg, S.C. and being shown on a plat made for Sara J. Hartness, et al. by W.N. Willis, Engineers, Spartanburg, S.C., on February 3, 1954, and being described according to said plat as follows:

Beginning at an iron pin on South Church Street approximately 155 feet S. of Amos Street and running thence S. 66-47 E. 150 feet to an iron pin; thence S. 66-47 E. 57.5 feet to an iron pin; thence S. 24-12 N. 70 feet to an iron pin; thence N. 69-26 W. 209.5 feet to an iron pin on S. Church Street; thence N. 23-50 E. along South Church Street 80 feet to an iron pin, the pint of beginning.

Parcel Twelve

All that piece, parcel or lot of land in Spartanburg County, State of South Carolina in the City of Spartanburg, on Amos Street, commencing at a stake and running S. 28-33 W. 240 feet to a stake on Bradshaw line; thence S. 83.3 about 50 feet to a stake, corner of this lot and lot of C.M. Amos; thence N. 28-33 E. 216.7 with Amos line to Amos Street; thence with Amos Street N. 61.47 W. to the beginning, as shown by plat of A. Madole, Surveyor, made on the 25th day of April, 1898.

Parcel Thirteen

All that lot or parcel of land on the East side of South Church Street in the City of Spartanburg, Spartanburg County, South Carolina, shown on a plat of property of Hartness Bottling Works dated February 3, 1954, by W.N. Willis, Engineers, recorded in Plat Book 37 at pages 454 and 455 in the R.M.C. office for Spartanburg County as being the lot of P.S. Lowry at 721 South Church Street, and being more particularly described on said plat as follows: Beginning at an iron pin on the East side of South Church Street and running thence S. 66-10 E. 42 feet to an iron pin; thence S. 76-59 E. 171 feet to an iron pin; thence S. 17-17 W. 54 feet to an iron pin; thence N. 83-10 W. 225.5 feet to an iron pin on South Church Street; thence with South Church Street, 88 feet to the beginning corner.

Parcel Fourteen

All that lot or parcel of land in the City of Spartanburg, State of South Carolina, on the East side of South Church Street, beginning at an iron pin at corner of Caldwell's lot and running thence N. 24 E. 50 feet to stake corner of lot now or formerly of I.T. Williams; thence with I.T. Williams lot S. 63 E. 150 to a stake, Williams' back corner; thence S. 24 W. 50 feet to a stake, Caldwell's back corner; thence with Caldwell's line N. 63 W. 150 feet to the beginning corner, as shown on plat made by W.N. Willis, C.E., November 15, 1922.

Parcel Fifteen

All that certain lot or parcel of land located on the south side of Amos Street in the City of Spartanburg, State and County aforesaid, and being shown on survey prepared for Atlantic Bottling Corporation by J. R. Smith, R.L.S. on March 12, 1976.

Parcel Sixteen

All that lot of parcel of land in the City of Spartanburg, State and County aforesaid, on South Church, beginning at an iron pin at the corner of South Church Street and Amos Street just inside the sidewalk paving, and running thence with Amos Street 150 feet to an iron pin; thence with west line of an alley to be opened through this property, forty five (45) feet to and iron pin; thence

in a westerly direction 150 feet to an iron pin on South Church Street, thence with South Church Street in a northerly direction 50 feet to the beginning corner.

Parcel Seventeen

All that lot or parcel of land, lying and being in the City of Spartanburg State and county aforesaid and more particularly described as follows: BEGINNING at a stake at the corner of Amos Street and a new street and running S. 8-30 W. 91.5 feet to a stake on the West side of the new street; thence N. 81.30 W. 51.7 feet to a stake; thence N. 8-30 E. 110.8 feet to a stake on the south side of Amos Street; thence with Amos Street S. 61 _ 55 feet to a stake at the beginning corner.

ALSO, all that lot or parcel of land, lying and being in the City of Spartanburg State and County aforesaid, adjoining the property described above and more particularly described as follows: BEGINNING at a stake on the West side of a new street leading south from Amos Street and beginning at an iron pin on said new street, rear corner of Dora Norris lot, and running thence S. 81 W. 110 feet to an iron pin; thence S. 2-30 E. 104.5 feet to an iron pin; thence S. 88-30 W. 85.3 feet to an iron pin; thence with new street N. 12-50 E. 86.5 feet to an iron pin at the beginning corner.

Parcel Eighteen

Also, all that piece, parcel or lot of land situated, lying and being in the City and County of Spartanburg, South Carolina known as 151 Amos Street and being shown on plat of Property of Hartness Bottling Works, Inc. by W. N. Willis, Eng., dated December 3, 1954, revised February 15, 1966, and being more particularly described as follows: BEGINNING at a stake on Amos Street approximately 457 feet from South Church Street and running thence S. 10-10 W. 130 feet to a stake; thence S. 82.44 E. 59 feet to a stake, thence N. 7-40 E. 110 feet to a stake on Amos Street thence with Amos Street N. 61.20 W. 53.3 feet to beginning corner.

Parcel Nineteen

All that certain piece, parcel or lot of land, with all improvements thereon, or to be constructed thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, City of Spartanburg, on the east side of South Church Street, beginning at an iron pin, corner of lot sold by me to _ W. Brockman, and running thence S. 63 E. 150 feet to a rear corner of Brockman lot; thence S. 24 W. 44 feet to a corner; thence with a fence 150 feet to South Church Street; thence with said street N. 24 E. 56 feet to the beginning, being the southern portion of lot conveyed to me by T. E. Gibson by deed recorded in Book 6-B at page 160, R.M.C. for Spartanburg County.

Parcel Twenty

All that certain lot or parcel of land the City of Spartanburg, County and State aforesaid, on the South Side of Palisade Street, fronting thereon fifty (50) feet, beginning at an iron pin on said street (said pin being located one hundred fifty-eight feet five inches (158' 5") from the inner edge of concrete sidewalk on South Church Street, and running thence in a Southwesterly direction

indicated by fence, one hundred eighty three feet nine inches (183' 9") to pin on line of D. M. Miles, (said pin being one hundred ninety six (196') feet from inside edge of sidewalk on South Church Street, thence with Miles line S 84½ E fifty feet nine inches (50' 9") to iron pin; thence in a Northeasterly direction one hundred seventy four feet five inches (174' 5") to iron pin on Palisade Street; and thence with Palisade Street fifty (50) feet to the beginning corner.

The aforesaid described properties being more recently described as all those lots, parcels and tracts located in the City of Spartanburg, County of Spartanburg, State of South Carolina, being shown on ALTA/NSPS Land Title Survey for Bottle Works South, LLC, prepared by Arrow North Surveying, LLC, dated February 27, 2023, and having the following metes and bounds to-wit:

BEGINNING at an iron pin old nail at the intersection of South Church Street and Amos Street, said point being the Point Of Beginning (P.O.B.) labeled thereon: thence S 61°09'46" E for a distance of 548.48 feet to an iron pin old railroad spike; thence S 14°03'49" W for a distance of 177.39 feet to an iron pin set 5/8 rebar; thence S 88°23'18" W for a distance of 275.00 feet to an iron pin set magnail; thence S 04°00'00" W for a distance of 199.30 feet to an iron pin old bolt; thence N 84°36'43" W for a distance of 169.91 feet to an iron pin old ½ rebar (bent); thence N 74°29'57" W for a distance of 250.64 feet to an iron pin set magnail; thence back to the point of beginning (P.O.B.) N 25°04'26" E for a distance of 618.52 feet; said parcel contains 5.91 acres or 257,629 square feet.

AND:

BEGINNING at an iron pint old 5/8 solid rod (bent), said point being the Point Of Beginning (P.O.B.2) labeled thereon; thence S 75°10'03" E for a distance of 99.99 feet to an iron pin old ½ solid rod (bent); thence S 13°40'00" W for a distance of 165.57 feet to an iron pin old ½ solid rod; thence N 84°17'13" W for a distance of 107.36 feet to an iron pin old ½ rebar; thence back to the Point Of Beginning (P.O.B.2) N 15°39'39" E for a distance of 182.57 feet; said parcel contains 0.41 acres or 17,929 square feet.

AND ALSO:

BEGINNING at an iron pin set 5/8 rebar, said point being the Point Of Beginning (P.O.B.3) labeled thereon; thence N 63°39'34" W for a distance of 62.97 feet to an iron pin set 5/8 rebar; thence N 24°05'38" E for a distance of 72.75 feet to an iron pin old ½ rebar; thence N 24°05'38" E for a distance of 46.02 feet to an iron pin set 5/8 rebar; thence S 66°15'34" E for a distance of 61.48 feet to an iron pin set 5/8 rebar; thence back to the Point of Beginning (P.O.B.3) S 23°24'52" W for a distance of 121.62 feet; said parcel contains 0.17 acres or 7475 square feet.

This being the same property conveyed to Bottling Group, LLC, a Delaware limited liability company by Quit Claim Deed of Atlantic Soft Drink Company, Inc., a South Carolina corporation dated February 9, 1999 and recorded in Deed Book 70-A, Page 118 at 10:15 a.m., in the Register of Deeds for Spartanburg County, South Carolina.

Spartanburg County Tax Map Numbers: 7-16-06-208.00, 7-16-06-222.00, 7-16-06-238.00 and 7-16-06-271.00

Resolution No.: _____
Date Adopted: _____



REQUEST FOR COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Bob Coler, City Attorney

SUBJECT: An Ordinance to grant a franchise to Lumos Fiber of South Carolina, LLC to install and maintain fiber optic cable and accessories for the provision of telecommunications services in the streets and public rights of way in the City.

DATE: August 24, 2023

Lumos Fiber of South Carolina, LLC is an affiliate of Lumos Fiber, LLC. Lumos Fiber, LLC is a provider of 100% Fiber Optic Internet services. According to their website, they currently provide service to more than 200,000 homes and businesses in North Carolina and Virginia. In March of this year, Lumos announced it was expanding its services to Spartanburg County. The expansion into Spartanburg County follows their entry into Richland and Lexington Counties.

As part of their expansion into Spartanburg County, Lumos is seeking a franchise to install and maintain fiber optic cable and accessories in the City for the provision of service to City homes and businesses.

The attached Ordinance will grant Lumos a franchise to use City streets and rights of way to install fiber optic cable for the provision of internet service to City homes and businesses.

Staff recommends approval of the Ordinance.

I look forward to answering any questions Council may have.

AN ORDINANCE

TO ENTER INTO A FRANCHISE AGREEMENT WITH LUMOS FIBER OF SOUTH CAROLINA, LLC TO INSTALL FIBER OPTIC CABLE FOR THE PROVISION OF TELECOMMUNICATIONS SERVICE IN THE CITY OF SPARTANBURG, SOUTH CAROLINA

WHEREAS, Lumos Fiber of South Carolina, LLC, a South Carolina corporation, (hereinafter “Franchisee”) has requested consent of the City of Spartanburg to construct, install and maintain fiber optic cable network facilities for the provision of telecommunications service in the City; and

WHEREAS, pursuant to Section 5-7-30 and Section 58-9-2230 of the South Carolina Code of Laws, the City has the authority to grant franchises and other authorizations for the use and occupancy of the streets and public rights of way; and

WHEREAS, the City Council is agreeable to allowing Franchisee to use the streets and public rights of way, subject to the terms and conditions set forth in an executed franchise agreement to install and maintain fiber optic cable network facilities in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA:

Section 1. A franchise is hereby granted to Lumos Fiber of South Carolina, LLC (hereinafter the “Franchisee”) to install and maintain fiber optic cable network facilities within the City of Spartanburg, subject at all times to the terms and conditions of this Ordinance and a franchise agreement in substantially the same form as the franchise agreement attached hereto and made a part of this Ordinance as Exhibit 1 (hereinafter the “Agreement”).

Section 2. The City Manager is authorized to execute the Agreement on behalf of the City. The City Manager, in consultation with the City Attorney, may make or accept minor modifications to the wording and designations of the Agreement as may be necessary or appropriate, provided there is no compromise of the substantive purposes of this Council action. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by City Council, then the matter shall be presented to Council for further review before the final execution.

Section 3. That for the franchise or right granted by the Ordinance (the “Franchise”) to become effective, the Franchisee must submit an unconditional acceptance of the Franchise to the City Manager by executing the Agreement. If the Franchisee fails to so accept within 30 days of the effective date of this Ordinance, the City may revoke the Franchise.

Section 4. That the Mayor and City Council of the City of Spartanburg expressly reserve the right at all times to exercise, in the interest of the public, full municipal

superintendence, regulation, and control over and in respect to all matters connected with the Franchise and not inconsistent with the terms of this Ordinance and applicable law.

Section 5. That this Ordinance takes effect upon second and final reading, and the Franchise will become effective on the date last signed.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

**CITY OF SPARTANBURG, SOUTH CAROLINA NONEXCLUSIVE
FRANCHISE AGREEMENT WITH LUMOS FIBER LLC**

This Nonexclusive Franchise Agreement (hereinafter "Agreement") is made and entered into as of this ____ day of _____ 2023 ("Effective Date"), by and between the CITY OF SPARTANBURG, a South Carolina municipal corporation (hereinafter "City" or "Grantor") and LUMOS FIBER ~~OF SOUTH CAROLINA~~, LLC, a ~~Virginia~~South Carolina ~~corporation~~limited liability company, (hereinafter "LUMOS" or "GRANTEE"), having its principal office at ~~One Lumos Plaza, Waynesboro, Virginia~~ 22980.

WHEREAS, GRANTEE is a ~~limited liability company~~corporation duly organized and existing under the laws of the ~~Commonwealth of Virginia~~State of South Carolina; and

WHEREAS, GRANTEE desires to use and occupy the streets and public rights-of-way (as hereinafter defined) located within the City for the purposes of constructing, installing, and maintaining network facilities for telecommunications services within and through the City; and

WHEREAS, pursuant to Title V, Chapter 7, Section 30 of the South Carolina Code, and Title LVIII, Chapter 9, Section 2230 of the South Carolina Code, the City has the authority to grant franchises and other authorizations for the use and occupancy of the streets and public rights-of-way; and

WHEREAS, the City is agreeable to allowing GRANTEE to use the streets and public rights-of-way, subject to the terms and conditions hereinafter set forth and subject to any lawful telecommunications regulatory ordinance that may be adopted by the City in the future; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the City and GRANTEE agree as follows:

Section 1. Compensation.

Section 12. Grant of Authority. (a) Subject to the terms of this Agreement, the City hereby grants to GRANTEE the non-exclusive right to construct, install, maintain, locate, move, operate, place, protect, reconstruct, reinstall, relocate, remove, and replace fiber optic or other cable and related facilities for the provision of telecommunications service in the public streets and public rights-of-way in the City of Spartanburg. GRANTEE

shall be solely responsible for obtaining any required consents from State agencies or private parties to the extent that its operations affect State or private property. It is expressly agreed that this Agreement does not give GRANTEE the right to occupy any public rights-of-way with permanent aboveground cabinets, pads, and other similar structures, except pursuant to the express approval of the City pursuant to the applicable provisions of Chapter 2 of the City Code or any successor ordinance, and that nothing in this Agreement shall be construed as consent by the City for GRANTEE to provide cable service television service within the City.

(b) GRANTEE acknowledges that this grant of authority is for the benefit of GRANTEE only, and that GRANTEE is not authorized to lease, sublease, assign or otherwise allow other providers to use or occupy the public rights-of-way except in accordance with provisions of this Agreement.

(c) GRANTEE acknowledges that, to the extent allowed by State and Federal law, the City has the authority, to adopt ordinances regulating the use of the public rights-of-way, so long as such ordinances apply equally to all certificated providers of telecommunications services and are related to using the public streets and public rights-of-way in the City. GRANTEE agrees to be bound by all such future lawful ordinances so long as it operates telecommunication services or has property or equipment within the public streets or rights-of-way located in the City.

(d) This Agreement is not a grant by the City of any fee simple or other property interest except as expressly contemplated by this Agreement and is made subject and subordinate to the prior and continuing right of the City of Spartanburg to use the public streets and public rights-of-way occupied by GRANTEE for the purpose of laying, installing, maintaining, repairing, protecting, replacing, and removing sanitary sewers, water mains, storm drains, gas mains, poles and other equipment for municipal uses and with the right of ingress and egress, along, above, over, across and in said public streets and public rights-of-way.

(e) This Agreement shall be in full force and effect from and after the date of its approval by the City Council governing body; provided, however, that notwithstanding such approval, this Agreement shall not become effective until all required bonds, certificates of insurance and other instruments required by this Agreement have been filed with, and accepted and approved by the City, which acceptance and approval shall not be unreasonably delayed, conditioned, or withheld.

Section 23. Definitions. For the purpose of this Agreement, and the

interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

"Affiliate" means a person or entity that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person or entity.

"Cable service" shall have the same meaning as in the 47 U.S. Code § 522 and shall be synonymous with the term "cable television service."

"City" means the City of Spartanburg, South Carolina, and where appropriate to the context, its officers, agents, employees, and volunteers.

"City Attorney" means the City Attorney or his designee.

"City Council" means the City Council of the City of Spartanburg.

"City Engineer" means the City Engineer or his designee.

"City Manager" means the City Manager or his designee.

"City Property" means and includes all real property owned by the City, including all property held in a proprietary capacity by the City.

"Conduit" means any materials, such as metal or plastic pipe, that protects wire, cable, lines, fiber optic cable, or other technology for the provision of telecommunications service.

"Duct" means a pipe, tube, channel, or similar item for carrying wires, lines, cables, fiber optic cable, or other technology for the provision of telecommunications service.

"Fiber optic or other cable and related facilities" means fiber optic cables or other cables, facilities, conduits, converters, splice boxes, handholds, manholes, vaults, equipment, drains, surface location markers, appurtenances and related facilities located or to be located by GRANTEE in the public streets or rights-of-way of the City used or useful for the transmission of telecommunications services.

"GRANTEE" or *"Lumos"* means Lumos Fiber LLC.

"Grantor" means the City of Spartanburg.

"Public streets and public rights-of-way" or *"public ways"* include the surface of, and the space above and below, any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including unimproved surfaces, now or hereafter held by the City for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer service or other public use, whether present or future, to the extent of the City's right, title, interest or authority to grant a franchise to occupy and use such streets and easements for the purpose of providing telecommunications services.

"Public works project or public improvements" include, without limitation, the construction, realignment, paving or repaving, or other work on any public street or public right-of-way, change of grade or alignment of any public street or public right-of-way, the construction or reconstruction of any water, sanitary sewer, storm sewer, force main, drainage or communications facility of the City.

"Telecommunications facilities" means the plant, equipment, and property, including, but not limited to, the poles, pipes, mains, conduits, ducts, fiber optic and other cables, circuits, and wires, and any other equipment and property used by GRANTEE to provide telecommunications service.

"Telecommunications service" means the providing or offering for rent, sale, or lease, or in exchange for other value received, the transmittal of signals, including but not limited to, voice, data, image, graphic or video or other programming information, except cable television service, between or among points by wire, lines, cable, fiber optics, circuits, laser or infrared, microwave, radio, satellite, or other telecommunications facilities, but not including cable television service.

Section 34. Term of Agreement. The term of this Agreement shall be for an initial term of twenty years, commencing on the Effective Date ("Initial Term"). Unless either party gives ninety (90) days written notice of its intention to terminate the Agreement prior to the end of the Initial Term, the Agreement shall thereafter automatically renew for up to three (3) additional ten (10) year terms, for a maximum of fifty (50) years (each a "Renewal Term"); however, such renewal shall not automatically occur if a material, uncured breach has not been remedied and the non-breaching party provides ninety (90) days written notice prior to the end of a Renewal Term. Upon termination of this Agreement as herein provided, and unless the parties are in active good faith negotiation of a replacement

agreement or otherwise agree in writing to an extension, GRANTEE shall be prohibited from further access to the public rights-of-way in the City of Spartanburg.

Section 45. Compliance With Applicable Law. GRANTEE shall at all times during the term of this Agreement, including any renewal period, comply with all applicable federal, state, and local laws, ordinances, and regulations. Expressly reserved to the City is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

Section 56. Construction; Location or Relocation of Facilities. All GRANTEE facilities shall be constructed, installed, and located according to the terms and conditions contained herein, unless otherwise specified by the City.

56.1. Whenever all existing electric utilities, cable facilities or telecommunications facilities are located underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall also install its telecommunications facilities underground.

56.2. Whenever existing overhead electric utilities, cable facilities or telecommunications facilities are relocated underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall relocate its facilities underground within a reasonable amount of time after notification by the City that such facilities must be relocated. Absent extraordinary circumstances or undue hardship as reasonably determined by the City, such relocation shall be made concurrently to minimize the disruption of the public streets or public rights-of-way.

56.3. GRANTEE shall obtain all required permits for the construction or installation of its facilities as required in this Agreement, provided, however, that nothing in this Agreement shall prohibit the City and GRANTEE from agreeing to an alternative plan to review permit and construction procedures, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

56.4. In the performance and exercise of its rights and obligations under this Agreement, GRANTEE shall not interfere in any manner with the existence and operation of any public street and public or private right-of-way, sanitary sewer, water line, storm drain gas main, pole, overhead or underground electric and telephone wires, television cables, public works, facilities of other telecommunication providers, or City Property, without the prior approval of the City.

56.5. Except as may be expressly provided herein, nothing in this Agreement shall be construed to abrogate or limit the right of the City of Spartanburg to perform any public works or public improvements. If any facilities of GRANTEE interfere with the construction, operation, maintenance, repair or removal of such public works or public improvements, within ninety (90) days after written notice by the City of Spartanburg (or such other period of time set forth in Section 5.7 or as may be agreed upon in writing by the City of Spartanburg and GRANTEE), GRANTEE shall, at its own expense protect, alter, remove or relocate facilities, as directed by the City Manager or City Engineer. If GRANTEE fails to so protect, alter, remove, or relocate equipment within such period, the City may break through, remove, alter, or relocate the facilities of GRANTEE without any liability to City, and GRANTEE shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation. GRANTEE shall also reimburse the City for or bear any additional cost actually incurred by the City as a result of GRANTEE's failure to comply with the City's request to protect, alter or remove equipment under this Agreement. The City may collect such costs, and any reasonable expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing action in any court of competent jurisdiction or exercising the City's rights to draw on bonds or in any other lawful manner, individually or in combination.

56.6. The City retains the right and privilege to cut or move any telecommunications facilities located within the public ways or other areas of the City as the City may determine to be necessary, appropriate, or useful in response to any life-threatening emergency. The City will endeavor to provide prior notice to GRANTEE of such emergencies which may impact its telecommunications facilities. If City is unable to provide prior notice of the life-threatening emergency as described above, City shall be required to notify GRANTEE within twenty-four (24) hours of the occurrence of such emergency.

56.7. The facilities of GRANTEE shall be located so as not to interfere with public safety or, to the extent possible, with the convenience of persons using the public streets or rights-of-way. GRANTEE shall construct, maintain, and locate its telecommunications system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal, and fiber optic facilities of the City.

56.8. The City shall have the right to specifically designate the location of the facilities of GRANTEE with reference to sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, cable television facilities, and railway,

communication, and power lines, in such a manner as to protect the public safety and public and private property. Failure by the City to designate the location of GRANTEE's facilities shall not relieve GRANTEE of its responsibilities in matters of public safety, as provided in this Agreement.

56.9. Except in the cases of emergencies, GRANTEE shall not move, alter, change, or extend any of its telecommunications system in any public street or public right-of-way unless prior written notice of its intention to do so is given to the City Manager and permission in writing to do so is granted, or such requirement is waived, by the City Manager. The City Manager shall either approve or deny GRANTEE's request to relocate its facilities within five (5) days of receipt of GRANTEE's request. Such permission shall not be unreasonably withheld by the City Manager and shall be conditioned upon compliance with the terms and conditions of this Agreement, with such other terms and conditions as will preserve, protect and promote the safety of the public using the public ways, and as will prevent undue interference with or obstruction of the use of the public ways by the public, the City or by any other public utility, public service corporation or cable operator for their respective purposes and functions. Such work by GRANTEE shall also be coordinated with the City's annual paving program through the Office of the City Engineer.

56.10. GRANTEE shall not open, disturb or obstruct, at any time, any more of the public streets or public rights-of-way than is reasonably necessary to enable it to proceed in laying or repairing its telecommunications system. GRANTEE shall not permit any public street or public right-of-way so opened, disturbed, or obstructed by it to remain open, disturbed, or obstructed for a longer period of time than shall be reasonably necessary. In all cases where any public street or public right-of-way is excavated, disturbed, or obstructed by GRANTEE, GRANTEE shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to adequately give notice, protection, and warning to, the public of the existence of all actual conditions present.

56.11. After the installation, removal, relocation, construction, or maintenance of the fiber optic or other cable and related facilities is completed, GRANTEE shall, at its own cost, repair and return the public streets or public rights-of-way to a minimum of the same or similar condition existing before such installation, removal, relocation, construction, or maintenance, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City. GRANTEE shall be responsible for damage to City street pavements, existing utilities, curbs, gutters, and sidewalks due to

GRANTEE's installation, construction, maintenance, repair, or removal of its telecommunications facilities in the public streets, public rights-of-way, and shall repair, replace, and restore in kind, the said damaged property at its sole expense. Upon failure of GRANTEE to repair, replace and restore said damaged property, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City, after sixty (60) days' notice in writing shall have been given by the City, the City may cause such necessary repairs to be made and may collect the costs incurred from GRANTEE, including but not limited to, exercising the City's rights to draw on bonds. The City may collect such costs, and any expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing an action in any court of competent jurisdiction or in any manner allowed by law.

56.12. Neither GRANTEE, nor any person acting on GRANTEE's behalf, shall take any action or permit any action to be done which may impair or damage any City Property more than is reasonably necessary to enable it to install or repair its telecommunications system, including, but not limited to, any public street, public right-of-way or other property located in, on or adjacent thereto.

56.13. In the event of an unexpected repair or emergency, GRANTEE may commence such repair and emergency response work as required under the circumstances, provided GRANTEE shall notify the City as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

56.14. GRANTEE shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

56.15. GRANTEE shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public.

56.16. GRANTEE shall obtain all required permits from the City and any other governmental entity having jurisdiction prior to commencing work of any nature and shall comply with all terms and conditions of any such permit. GRANTEE shall furnish detailed plans of the work and other required information and shall pay all required fees prior to issuance of a permit in accordance with the rates in effect at the time of payment. GRANTEE shall comply with all applicable ordinances and permitting requirements.

A single permit may be issued for multiple excavations to be made in public streets and rights-of-way. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in a public street or public right-of-way without a permit, GRANTEE shall make a report of each such excavation to the City within two (2) working days. Any permit application and inspection related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay GRANTEE in efficiently discharging its public service obligation and in any event shall be granted or denied within thirty (30) days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

56.17. (a) Promptly after installation, repair or extension of the telecommunications system or any portion thereof or any pavement cut by GRANTEE in any public way of the City, the incidental trenches or excavations shall be refilled by GRANTEE in a manner acceptable to the City Manager. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition by GRANTEE at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve the former conditions, GRANTEE shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then GRANTEE at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, GRANTEE shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Engineer and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Engineer. GRANTEE shall maintain, repair, and keep in good condition for a period of one (1) year following such disturbance all portions of public ways disturbed by GRANTEE, provided such maintenance and repair shall be necessary because of defective workmanship or materials supplied by GRANTEE.

(b) All trees, landscaping and grounds removed, damaged, or disturbed as a result of the construction, installation maintenance, repair or replacement of telecommunications facilities shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work. All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the City.

56.18. (a) GRANTEE shall promptly remove or correct any obstruction, damage, or defect in any public street or public right-of-way caused by GRANTEE in the installation, operation, maintenance, or extension of GRANTEE's telecommunications system. Any such obstruction, damage, or defect which is not promptly removed, repaired, or corrected by GRANTEE after thirty (30) days' notice to do so, given by the City to GRANTEE, may be removed or corrected by the City, and the cost thereof shall be charged against GRANTEE and payable on demand. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, telecommunication facilities or other property resulting from construction or maintenance of GRANTEE telecommunications system shall be borne by GRANTEE and any and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by GRANTEE to the City.

(b) If weather or other conditions do not permit the complete restoration required by this Section, GRANTEE shall temporarily restore the affected property. Such temporary restoration shall be at GRANTEE's sole expense and GRANTEE shall only be required to make reasonable, temporary restorations based on the conditions. GRANTEE shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(c) GRANTEE or other person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including, but not limited to, the flagging requirements of the South Carolina Department of Transportation.

56.19. Except in the case of the City's negligence or intentional or willful misconduct, the City, its officers, agents, or employees, shall not be liable for any damage to or loss of any of GRANTEE's telecommunications services or telecommunications facilities within the public ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City.

56.20. GRANTEE shall cooperate with the City in coordinating its construction activities as follows:

(a) GRANTEE shall provide the City with a schedule of its proposed construction activities prior to commencing any expansion of its backbone system;

(b) Upon request, GRANTEE shall meet with the City and other users of the public ways to coordinate construction in the public ways; and

(c) All construction locations, activities and schedules shall be coordinated, as directed by the City Engineer, to minimize public inconvenience, disruption, or damages. GRANTEE shall submit a written construction schedule to the City Engineer at least ten (10) working days before commencing any work in or about the public streets or public rights-of-way. GRANTEE shall further notify the City Engineer not less than five (5) working days in advance of such excavation or work and shall comply with the provisions of the South Carolina Underground Facility Damage Prevention Act, South Carolina Title 58, Chapter 36.

Section 67. Mapping. (a) GRANTEE shall maintain an accurate map of its telecommunications facilities in the City. GRANTEE shall provide the City with "as built" drawings and an accurate map or maps showing the location of its facilities, including pole lines and conduit lines and any other facilities requested by the City, to include a digitized map(s) in both printed and electronic form. GRANTEE shall, upon request, provide updated maps annually of telecommunications facilities in the City.

(b) If any of the requested information of GRANTEE in this Agreement is considered proprietary, confidential or a trade secret, GRANTEE will notify the City of this opinion and the City will keep such information confidential to the extent permitted by the South Carolina Freedom of Information Act (South Carolina Code Title 30 Chapter 4) or other any successor statute or law. As for new installations, after the effective date of this franchise, GRANTEE shall submit the proposed Mapping of its plans for new construction to the City prior to any construction. As-built drawings of any new construction of facilities shall be furnished to the City within sixty (60) days of completion of such construction. All as-built maps and drawings shall be drawn to scale and reference to a physical City benchmark to the extent the physical benchmark is in reasonable proximity to GRANTEE new installation. All mapping shall be provided in a format compatible to the City's present and future mapping systems. Alternatively, GRANTEE will pay for the cost of making the mapping compatible.

(c) Prior to its installation of any Telecommunications facilities in the public streets or public rights-of-way and after GRANTEE provides the City with its proposed plans for the Telecommunications facilities, the City may in its reasonable discretion designate certain locations to be excluded from use by GRANTEE for its Telecommunications facilities, including, but not limited to, ornamental or similar specially designed streets lights

or other facilities or locations which, in the reasonable judgment of the City Engineer, do not have electrical service adequate for or appropriate for GRANTEE's facilities or cannot safely bear the weight or wind loading thereof, or any other facility or location that in the reasonable judgment of the City Engineer is incompatible with the proposed Telecommunications facilities or would be rendered unsafe or unstable by the installation. The City Engineer may further exclude certain other facilities that have been designated or planned for other use or are not otherwise proprietary, legal, or other limitations or restrictions as may be reasonably determined by the City. In the event such exclusions conflict with reasonable requirements of GRANTEE, the City will cooperate in good faith with GRANTEE to attempt to find suitable alternatives, if available, provided that the City shall not be required to incur financial costs nor require the City to acquire new locations for GRANTEE. GRANTEE shall, prior to any excavation or installation within the public streets or public rights-of-way, provide sufficient notification and joint installation opportunity on a shared cost basis to potential users of the public streets or public rights-of-way as may be provided for by a separate City policy. Such notification and adopted policies shall be designed to maximize co-location of providers to minimize the disturbance to the public streets or public rights-of-way and maximize its useable capacity.

Section 78. Insurance Requirements. At all times during the term of this Agreement and any renewal period, GRANTEE shall, at its expense, maintain the following insurance policies. Any required insurance shall be in a form and with an insurance company authorized to do business in South Carolina and have a rating of no less than A- VII by A.M. Best Co.

(a) *Commercial General Liability.* Commercial General Liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense, or liability from loss of life or damage or injury to persons or property arising out of any of the work or activity under or by virtue of this Agreement. The minimum limit of liability for such coverage shall be Two Million Dollars (\$2,000,000) combined single limit for any one occurrence. However, the parties acknowledge that GRANTEE may meet the policy limit in this section by combination of GRANTEE's General Commercial Liability Policy and GRANTEE's Umbrella or Excess Liability Policy.

(b) *Contractual Liability.* Broad form Contractual Liability insurance, including the indemnification obligations of GRANTEE set forth in this Agreement.

(c) *Workers' Compensation.* Workers' Compensation insurance covering GRANTEE's statutory obligation under the laws of South Carolina and Employer's Liability insurance for all its employees engaged in work under this Agreement.

(d) *Automobile Liability.* Automobile Liability insurance having minimum limits of liability of One Million Dollars (\$1,000,000) combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

(e) *Pollution Liability Insurance.* GRANTEE shall maintain during the life of this Agreement Pollution Liability Insurance in the amount of One Million Dollars (\$1,000,000) for each occurrence. Coverage shall be provided for bodily injury and property damage resulting from pollutants which are discharged suddenly and accidentally. Such insurance shall also provide coverage for cleanup costs.

(f) *Umbrella Coverage.* The insurance coverages and amounts set forth in this Section may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of Five Million Dollars (\$5,000,000).

(g) Prior to commencing construction pursuant to this Agreement or within ten (10) days after the granting of the franchise contemplated by this Agreement, whichever is sooner, GRANTEE shall provide the City with a memorandum certificate or certificates of insurance, showing the type, amount, effective dates, and date of expiration of the policies, and thereafter prior to the expiration of any such policy or change in the amount or conditions, of coverage. Such certificate or certificates and evidence of insurance shall include the City, its officers, agents, and employees as additional insureds. GRANTEE shall obtain a written obligation on the part of each insurance company to notify GRANTEE at least thirty (30) days before cancellation or a material change of any such insurance. Upon receipt of such notice from GRANTEE's insurance company, GRANTEE will immediately notify the City of Spartanburg of any of the required coverages that are not replaced.

Section 89. Surety.

(a) Within ten (10) days after the Effective Date of this Agreement, and prior to the commencement of any construction by GRANTEE, GRANTEE shall furnish and file with the City an irrevocable bond, in a form and by a surety authorized to do business in South Carolina, in the amount of Fifty Thousand Dollars (\$50,000) securing its faithful performance of the terms and conditions of this Agreement. GRANTEE shall maintain such bond for the duration of this Agreement, unless otherwise agreed to in writing by the City. Failure to maintain the bond shall be deemed a material default by GRANTEE of this Agreement.

The bond shall guarantee GRANTEE's faithful performance of the terms and conditions of this Agreement, including, but not limited to: (1) the timely completion of construction; (2) compliance with applicable plans, permits, technical codes and standards; (3) proper location of the facilities as specified by the City; (4) restoration of the public ways and other property affected by the construction as required by this Agreement; (5) the submission of "as-built" drawings after completion of the work as required by this Agreement; (6) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work; and (7) the payment by GRANTEE of all lawful liens, taxes, damages, claims, costs or expenses which the City has been compelled to pay or has incurred by reason of any act or default of GRANTEE under this Agreement and all other payments due the City from GRANTEE pursuant to this Agreement.

(b) Whenever the City determines that GRANTEE has violated one (1) or more terms, conditions, or provisions of this Agreement for which relief is available against the bond, a written notice shall be given to GRANTEE. The written notice shall describe in reasonable detail the violation so as to afford GRANTEE an opportunity to remedy the violation. GRANTEE shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may make demand upon the bond. Failure to maintain the bond shall be a martial default under this Agreement.

(c) Such bond shall be in addition to any performance, defect bond, or other surety required by the City in connection with the issuance of any construction or any successor ordinance.

Section 910. Indemnification. GRANTEE agrees to indemnify, defend and hold harmless the City, its officers, employees and agents from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of any breach by GRANTEE of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the City of Spartanburg, its officers, employees and agents. In addition, GRANTEE shall protect, indemnify, and hold harmless the City, its officers, agents, and employees, from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Telecommunication facilities or the provision of Telecommunication service, except to the extent proximately caused by the negligence or willful misconduct of the City of Spartanburg, its officers, employees or

agents.

City agrees to indemnify, defend and hold harmless the GRANTEE, along with all predecessors, successors, indirect and direct parents, indirect and direct subsidiary companies, affiliates, assigns, and all employees, directors, officers, and agents of such entities, from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of any breach by City of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the GRANTEE, its officers, employees and agents.

Section ~~1140~~. Hazardous Substances. In its performance of this Agreement, GRANTEE shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement, and in any event GRANTEE shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances, or waste. Regardless of the City's acquiescence, GRANTEE shall indemnify and hold the City, its officers, agents, employees, and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines, or penalties, including reasonable attorney's fees, resulting from GRANTEE's violation of this section and agrees to reimburse City for all costs and expenses incurred by the City in eliminating or remedying such violations. GRANTEE also agrees to reimburse the City and hold the City, its officers, agents, employees, and volunteers harmless from any and all costs, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of GRANTEE's use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon the City's premises. For purposes of this Section, the following definitions shall apply:

"Hazardous Substances" means asbestos and any and all pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials and hazardous substances as referenced or defined in, or pursuant to, any federal, state, local or other applicable environmental law, statute, ordinance, rule, order, regulation or standard in effect on the date hereof including, without limitation, the Resource Conservation and Recovery Act (42 U.S.C 6901, *et seq.*), as amended, the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, *et seq.*), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, *et seq.*), as amended, and the Toxic Substances Control Act (15 U.S.C. 2601, *et seq.*), as amended.

As used in this Section, "release" includes the placing, releasing, depositing,

spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of any substance.

Section ~~1211~~. General provisions.

(a) *Authority.* GRANTEE warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide all telecommunications facilities and services it intends to provide within the City, and upon request by the City will provide evidence of such authority.

(b) *Other remedies.* Nothing in this Agreement shall be construed as waiving or limiting any rights or remedies that the City or GRANTEE may have, at law or in equity, for enforcement of this Agreement.

(c) *Severability.* If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

(d) *Nonenforcement.* Neither party shall be excused from complying with any of the provisions of this Agreement by any failure of the other party, upon any one or more occasions, to insist upon strict performance of this Agreement or to seek the other party's compliance with any one or more of such terms or conditions of this Agreement.

(e) *Conflicts of law.* If there is a conflict between the provisions of this Agreement and any law, whether federal, state, or City, including all future laws and ordinances, the law and conflicting Agreement provision will, to the extent reasonably possible, be construed so as to be consistent with each other and if such construction is not reasonably possible, the conflicting provision of this Agreement shall be deemed superseded by such law and have no effect, notwithstanding the contract clause of the United States Constitution.

(f) *Controlling law and venue.* By virtue of entering into this Agreement, GRANTEE agrees and submits itself to a court of competent jurisdiction in the City of Spartanburg, South Carolina or in the United States District Court for the District of South Carolina, and further agrees that this Agreement is controlled by the laws of South Carolina or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of South Carolina or any applicable federal laws or

by any regulatory body with jurisdiction, including the Federal Communications Commission.

(g) *Captions.* The section captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) *Nondiscrimination.* During the performance of this Agreement, GRANTEE agrees that it will not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, handicap, or national origin. GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. GRANTEE, in all solicitations or advertisements for employees placed by or on behalf of GRANTEE, will state that GRANTEE is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(i) *Notices.* (a) Notices given pursuant to this Agreement shall be in writing and addressed as follows:

To the City:	City Manager

With a Copy to:	City Attorney

To GRANTEE:	Chief Network Officer
	One Lumos Plaza
	Waynesboro, Virginia 22980
With a Copy to:	General Counsel
	One Lumos Plaza
	Waynesboro, Virginia 22980

(b) Either party may change the address at which it will receive notices by providing written notice of the change to the other party.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

LUMOS FIBER OF SOUTH CAROLINA, LLC
~~A limited liability company~~

By: _____

Name: _____

Title: _____

State of _____

City/County of _____, TO WIT;

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, of Lumos Fiber LLC, a _____ company.

Notary Public

My commission expires: _____

My registration number: _____

CITY OF SPARTANBURG

a South Carolina municipal corporation

By: _____

City Manager/Authorized

Designee of the City Manager

(SEAL)

ATTEST: _____
_____, City Clerk

STATE OF SOUTH CAROLINA

CITY OF SPARTANBURG, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, City Manager/Authorized Designee of the City Manager of the City of Spartanburg, on its behalf. He/She is personally known to me.

Notary Public

My commission expires: _____

My registration number: _____

STATE OF SOUTH CAROLINA

CITY OF SPARTANBURG, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, City Clerk of the City of Spartanburg, on its behalf. She is personally known to me.

Notary Public

My commission expires: _____

My registration number: _____

Approved as to Content:

Information Technology
Department

Approved as to Legal Sufficiency:

City Attorney's Office

Approved as to Risk Management:

Risk Manager



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Dennis R. Locke, Finance Director & Budget Director
Kensley Aiken, Community & Minority Relations Specialist

SUBJECT: Title VI Plan

DATE: August 23, 2023

BACKGROUND:

The Federal Transit Administration (FTA) requires all funded agencies to have a plan to ensure compliance with Title VI of the Civil Rights Act. Every three years the City is required to update its Title VI Plan since we are recipients of Federal Transit Administration (FTA) funds. The Title VI Plan outlines how SPARTA shall provide information to the public regarding its Title VI obligations and apprise members of the public of the protections against discrimination, language assistance, and special meetings afforded to them by Title VI. This will be accomplished by publishing a notice in the transfer center and on the website.

The contents of the notice shall include:

1. A statement that the agency operates programs without regard to race, color, and national origin.
2. A description of the procedures that members of the public should follow in order to request additional information about SPARTA'S Title VI obligations.
3. A description of the procedures that members of the public should follow in order to file a discrimination complaint against SPARTA.

ACTION REQUESTED:

Staff is recommending the approval of our updated plan that complies with FTA regulations.

BUDGET AND FINANCIAL DATA: none

Title VI Plan

SPARTA

City of Spartanburg, South Carolina

Submitted to:

U. S. Department of Transportation

Federal Transit Administration

Office of Civil Rights

Region IV

Recipient Information

Recipient: City of Spartanburg
Submittal Date: August 2023
Expiration Year: 2026
Grantee No: 5509

Contact Information

Luis R. Gonzalez

General Manager
SPARTA
150 Airflow Dr.
P.O. Box 1607
Spartanburg, SC 29306
lgonzalez@cityofspartanburg.org
Phone: 864-595-2710
Fax: 864-595-2722

Kensley Aiken

Community and Minority
Relations Specialist
City of Spartanburg
P.O. Box 1749
Spartanburg, SC 29304
kaiken@cityofspartanburg.org
Phone: 864-591-4349
Fax: 864-562-4419

Dennis R. Locke

Finance Director
City of Spartanburg
P.O. Box 1749
Spartanburg SC, 29304
dlocke@cityofspartanburg.org
Phone: 864-596-2119
Fax: 864-596-2424

Title VI Plan Policy Statement

The City of Spartanburg assures that no person shall, on the grounds of race, color, sex, age, disability, or national origin, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L.100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City of Spartanburg further assures that every effort will be made to ensure nondiscrimination in all of its programs or activities, whether these programs and activities are federally funded or not. In the event that the City of Spartanburg contracts to distribute federal aid funds to another entity, Title VI language will be included in all written agreements and the recipient will be monitored for compliance. The Title VI Coordinator designated in the Plan is responsible for initiating and monitoring Title VI activities, preparing required reports and other responsibilities required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.

Chris Story, City Manager

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General Requirements

Public Notification

SPARTA shall provide information to the public regarding its Title VI obligations and apprise members of the public of the protections against discrimination, language assistance and special meetings afforded to them by Title VI. This will be accomplished by publishing a notice in the local newspaper, flyers in the transfer center and on the website. The contents of the notice shall include:

1. A statement that the agency operates programs without regard to race, color, and national origin.
2. A description of the procedures that members of the public should follow in order to request additional information about SPARTA's Title VI obligations.
3. A description of the procedures that members of the public should follow in order to file a discrimination complaint against SPARTA

Complaints

In compliance with 49 CFR Section 21.9(b), SPARTA has developed procedures for investigating and tracking Title VI complaints filed against them. Such procedures shall be made available to the public upon request. SPARTA's complaint procedures and complaint form are contained within the body of context.

These procedures do not deny the right of the complainant to file formal complaints with other State or Federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

Every effort will be made to obtain early resolution of complaints at the lowest possible level. The option of informal mediation meeting(s) between the affected parties and the investigator may be utilized for resolution, at any stage of the process.

SPARTA will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will include requests for information regarding specific relief and settlement options.

Procedure

Any person who believes they have been discriminated against on the basis of race, color, or national origin by SPARTA may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form. SPARTA investigates complaints received no more than 180 days after the alleged incident. SPARTA will process complaints that are complete.

Once the complaint is received, SPARTA will review it to determine if our office has jurisdiction. The complainant will receive an acknowledgement letter informing the complainant whether the complaint will be investigated by our office.

SPARTA has 30 days to investigate the complaint. If more information is needed to resolve the case, the Authority may contact the complainant. The complainant has 10 business days from the date of the letter to send requested information to the investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within 10 business days, SPARTA can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

After the investigator reviews the complaint, they will issue one of two letters to the complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegations and the interviews regarding the

alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur. To be accepted, a complaint must meet the following criteria:

- a. The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.
- b. The allegation(s) must involve a covered basis such as race, color, or national origin.
- c. The allegation(s) must involve a program or activity that receives federal financial assistance.

SPARTA will assume responsibility for investigating complaints against any of its sub-recipients. Complaints in which SPARTA is named as the Respondent, shall be forwarded to SCDOT or the appropriate federal agency for proper disposition, in accordance with their procedures. If the complainant wishes to appeal the decision, they have 10 business days after the date of the letter or the LOF to do so. A person may also file a complaint directly with the Federal Transit Administration, at FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590.

Active Complaints

During this Title VI Compliance review of SPARTA, there were no active lawsuits or complaints naming SPARTA alleging discrimination on the basis of race, color, or national origin with respect to service or other transit benefits.

Public Participation Plan

SPARTA shall seek out and consider viewpoints of minority, low-income and LEP populations in the course of conducting public outreach and involvement activities in regards to proposed transportation decisions. SPARTA shall make every effort to include the following practices:

1. Coordination with individuals, institutions, or organizations and

- implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities;
2. Utilization of locations, facilities and meeting times that are convenient and accessible to low-income and minority communities

In order to reach minority, low-income and LEP populations SPARTA will partner with local organizations such as: Hispanic Alliance, Spartanburg Housing Authority, Urban League of the Upstate and local churches.

Consequently, within the last three years SPARTA has not had any increases in the fare structure or any other changes warranting public input, therefore no public meetings or hearings were conducted during this time. Since there were no meetings or hearings there was no outreach to minority, low-income and LEP populations.

LEP Language Assistance Plan

SPARTA shall take steps to ensure meaningful access to the benefits, services, information and other important portions of programs and activities for individuals who are Limited English Proficient (LEP). Currently SPARTA utilizes Language Line Personal Interpreter Service for interpretation services via phone with passengers at the transfer center upon request. If we need translation services, we will contact a local company or a local college. These services will cover all applicable languages.

Our largest and fastest growing population of LEP persons speaks Spanish. We will communicate with them by creating media in Spanish as well as engaging the Hispanic Alliance. As other languages become more prevalent, we will address them in a similar manner. We will continue to monitor our population estimates using Census data as well as be attentive to obvious changes in the participation of LEP persons with SPARTA. SPARTA has not had any requests for interpretation (Spanish) in the past three years.

As more requests for language services come in, we will evaluate the effectiveness of our existing protocols and update them as necessary. All employees and staff are trained to assist LEP persons. Per policy, if an employee encounters someone who needs language assistance, the employee will figure out what language the person speaks by using the “I Speak” cards. They then will contact, Language Line Personal Interpreter Service to find a translator.

Planning and Advisory Bodies

SPARTA currently has no nonelected or appointed bodies that advise or govern it.

Title VI Equity Analysis

No Equity Analyses were conducted, as there were no activities performed by SPARTA that warranted such.

Chapter IV Requirements

Service Standards

FTA requires all fixed route transit providers of public transportation to develop *quantitative* standards for the following indicators. Individual public transportation providers will set these standards; therefore, these standards will apply to each individual agency rather than across the entire transit industry.

- a. *Vehicle load for each mode:* Vehicles shall not exceed 150 percent of seating capacity.
- b. *Vehicle headways for each mode:* Regular transit routes shall operate a minimum of once each hour.
- c. *On-time performance for each mode:* Buses shall operate within zero minutes early to 5 minutes late at least 95 percent of the time.
- d. *Service availability for each mode:* The preferred distance between bus stops is every three blocks where practical.

Service Policies

FTA requires that all providers of fixed route public transportation develop *qualitative* policies for the following procedures. These policies are to be set by individual transit providers; therefore, these policies will apply to individual agencies rather than across the entire transit industry.

Vehicle Assignment Policy

It is SPARTA's policy that all buses are rotated on all of the fixed routes regardless of age. All vehicles are equipped with air conditioning and automated stop announcement systems.

Transit Amenities Policy

While existing locations shall be grandfathered, new shelter locations shall require a minimum of 15 daily boardings.

Appendix A – Title VI Notice to the Public

NOTICE TO BENEFICIARIES OF PROTECTION UNDER TITLE VI

Non-discrimination Notice

SPARTA provides services and operates programs without regard to race, color, or national origin in compliance with Title VI of the Civil Rights Act. Any person who believes they have been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with SPARTA.

Request for Information

SPARTA shall post this notice on its website, in the passenger center and on all buses. To request additional information about SPARTA's non-discrimination obligations, send your written request to:

Kensley Aiken
Community and Minority Relations Specialist
City of Spartanburg
P.O. Box 1749
Spartanburg, SC 29304
kaiken@cityofspartanburg.org

Complaint Process

As a member of the general public if you desire to file a discrimination complaint under Title VI, you may file a written complaint with the City of Spartanburg's Minority Business Development Coordinator or the Federal Transit Administration Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.

Appendix B – Title VI Complaint Form

SPARTA TITLE VI COMPLAINT FORM

Section I:				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
Section II:				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party:				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
Section III:				
I believe the discrimination I experienced was based on (check all that apply):				
☐ Race ☐ Color ☐ National Origin				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.				
_____ _____				
Section IV				
Have you previously filed a Title VI complaint with this agency?			Yes	No
Section V				
Have you filed this complaint with any other Federal, State, or local agency, or with any				

Federal or State court?	
☐ Yes	☐ No
If yes, check all that apply:	
☐ Federal Agency: _____	
☐ Federal Court _____	☐ State Agency _____
☐ State Court _____	☐ Local Agency _____
Please provide information about a contact person at the agency/court where the complaint was filed.	
Name:	
Title:	
Agency:	
Address:	
Telephone:	
Section VI	
Name of agency complaint is against:	
Contact person:	
Title:	
Telephone number:	

You may attach any written materials or other information that you think is relevant to your complaint. Signature and date required below

Signature

Date

Please submit this form in person at the address below, or mail this form to:

Kensley Aiken
Community and Minority Relations Specialist City of
Spartanburg
P.O. Pox 1749 Spartanburg, SC
29304
kaiken@cityofspartanburg.org

Appendix C – Four Factor Analysis

1. SPARTA examined the US Census 2021 American Community Survey 5 Year Estimates and was able to determine that approximately 6.9% (2,420 residents) of people spoke a language other than English. Of the 6.9% of people reporting they speak other languages than English, 877 residents of respondents speak English “less than very well”.

Subject	Total	Percent of specified language speakers	
		Speak English "very well"	Speak English less than "very well"
	Estimate	Estimate	Estimate
Population 5 years and over	35,034	97.5%	2.5%
Speak only English	32,614	(X)	(X)
Speak a language other than English	2,420	63.8%	36.2%
Spanish or Spanish Creole	1,031	59.3%	40.7%
Other Indo-European languages	778	79.5%	20.5%
Asian and Pacific Island languages	447	42.8%	57.2%
Other languages	164	75%	25%

Source: American Community Survey 5-Year Estimates: LANGUAGE SPOKEN AT HOME 2021

2. SPARTA has assessed the frequency at which staff and drivers have or could possibly have contact with LEP persons. This includes analyzing Census bureau documentation, population, and the service area routes. In addition, SPARTA examined phone inquiries and staff feedback. SPARTA has not had any request in the past three years for an interpreter (Spanish) and zero requests for translated documents.
3. There is no large geographic concentration of any one type of LEP individuals in the SPARTA’s service area. The overwhelming majority of the population, 97.5%, speaks only English. However, we are mindful of our growing Spanish speaking population and are prepared to assist them.

4. SPARTA assessed its available resources that could be used for providing LEP assistance. This included utilizing Language Line Interpreter Services for professional interpreters, available “[I Speak Cards](#)” and translated documents upon request. Language Line Interpreter Services is the company that is used when needed for SPARTA on behalf of the City of Spartanburg, provides interpretation services via phone. This service is available at the Passenger Center. When we are in need of translation services, we will reach out Language Line Interpreter Services.