STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 2020-1677
COUNTY OF LANCASTER)

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AN ORDINANCE

TO AMEND THE LANCASTER COUNTY PROCUREMENT CODE, SO AS TO INCLUDE ADDITIONAL LEGAL CONSTRUCTION PROJECT DELIVERY METHODS, ADD COOPERATIVE PURCHASING AS AN ALLOWED PROCUREMENT METHOD, AND PROVIDE CLARITY ON EXISTING PROCUREMENT PROCEDURES

WHEREAS, the Lancaster County Council wishes to amend the ordinance which organized and set forth the rules and regulations for the ethical expenditure of public funds and disposal of surplus property.

NOW, THEREFORE, BE IT ORDAINED by the Council of Lancaster County, South Carolina:

Section 1. Chapter 2, Article VI, Section 2-251 through Section 2-296 of the Lancaster County Code are hereby deleted and replaced and amended as follows:

Section 2-251. - Citation.

This article may be cited as the "Lancaster County Procurement Code."

Section 2-252. - Purpose.

The purpose of the Lancaster County Procurement Code is to:

(a) Establish policies and procedures for the Lancaster County government that embody sound principles of competitive procurement as required by Section 11-35-50 of the Code of Laws of South Carolina 1976, as amended (the South Carolina Consolidated Procurement Code);
(a) Develop an efficient and effective means of delegating roles and responsibilities to departments, elected officials, boards, and component units;
(b) Ensure fair and equitable treatment of all persons who do business with the county;
(c) Provide a mechanism of controlling all purchases of supplies, materials, equipment and services required by the county;
(d) Prescribe the manner in which the county shall dispose of surplus real and personal properties in an effective manner; and
(e) Provide safeguards to ensure ethical behavior on the part of all persons engaged in the public procurement process.

Section 2-253. - Application of procurement code.

The Lancaster County Procurement Code applies to:

(b) All procurements solicited after December 31, 2010;
(c) All expenditure of funds by the county for public procurement irrespective of the source of the funds;

(d) Procurement involving the expenditure of federal or state funds, except that the county shall comply with federal or state law that is mandatorily applicable to the procurement; and
(e) All county departments, agencies, commissions, boards, or officials appropriated funds by the county.

Section 2-254. - Ethical conduct.

The county is committed to upholding the highest level of integrity and ethical conduct. It is required that all Lancaster County employees and officials participate in the procurement process and follow the associated policies and procedures in regards to conflict of interest, personal purchases, gratuities, and prohibited relationships with vendors. Lancaster County requires those who do business within the County to follow strict ethical guidelines in accordance with Section 8-13-705 of the Code of Laws of SC, "Offering; giving, soliciting, or receiving anything of value to influence action of public employee, member or official, or to influence testimony of witness; exceptions; penalty for violation."

a. Conflict of interest.
Lancaster County employees must not make any attempt to influence any purchase if the employee has a financial stake in the outcome of the purchasing decision. Nor shall transactions be conducted with any fellow employee, relative, or near-relative unless there has been a documented determination by purchasing director or County Administrator that goods or services procured are not available through other sources or that contract was awarded via competitively sealed bid process.

b. Gratuities.
Lancaster County employees must not accept gifts, entertainment, favors, or services from present or potential vendors that could influence, or appear to influence, purchasing decisions.

Section 2-255. - Local vendor preference.

The lowest local responsible and responsive bidder who is within three (3) percent, with a cap of six thousand dollars ($6,000.00), of the lowest non-local responsible and responsive bidder, may match the bid submitted by the non-local responsible and responsive bidder and thereby be awarded the contract. The local preference as set forth in this section shall only be applied to responses to solicitations of written quotes and invitations to bid in excess of ten thousand dollars ($10,000.00). The local preference as set forth in this section shall only be given to local responsible and responsive bidders who have a physical business address located and operating within Lancaster County for a minimum of six (6) months prior to the solicitation of quotes and/or bids, and who have met all other requirements of the solicitations of written quotes or the invitation to bid, including, without limitation, payment of all duly assessed state and local taxes. If state or federal guidelines prohibit or otherwise limit local preference, then the county shall not use local preference in awarding the contract. If there are multiple responsible and responsive bidders who meet the local preference guidelines as set forth in the section, the county shall use standard procurement practice and procedure as set forth in the article to determine the priority of selection. The local preference as set forth in this section does not waive or otherwise abrogate the county's unqualified right to reject any and all bids or proposals or accept such bids or proposals, as appears in the county's own best interest. The local preference as set forth in this section does not apply to state or federally funded projects.

Section 2-256. - Right to reject.

In all solicitations made under the Lancaster County Procurement Code, the county shall reserve the

right to reject any and all responses to the solicitation. A solicitation may be cancelled, or any or all bids or proposals received may be rejected, in whole or in part as may be specified in the solicitation, when it is in the best interest of the county. The reasons for rejection must be documented and kept on file in accordance with South Carolina Archives and History General Records Retention Schedule for County Records. Each solicitation request by the County shall state this section of the code.

Section 2-257. – Definitions

Acceptance. The action of consenting by all parties to the contract agree to be bound by the terms of the contract. The assumption of a legal obligation by a party to a contract, and to the terms and conditions of that contract. Acceptance may also include approval of work performed.

Acquisition. The acquiring, by contract with appropriated funds, of supplies or services (including construction) by and for the use of the County through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated.

Addendum/Addenda. A written change, addition, alteration, correction, or revision to a bid, proposal, or contract document. Commonly, the name given to the document used to revise a solicitation. Addendum/addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope change to the project.

Advertise. To make a public announcement or legal notice of a solicitation with the goal of increasing the response and broadening the field of competition; often required by law or policy.

Agreement. An understanding between two or more parties in which they state a common understanding and intention regarding past or future intentions or facts, sometimes with a view to altering performance, rights, and obligations. When the additional elements of a contract are satisfied, e.g., mutual obligation (consideration), capacity, definiteness, and legal purpose, contracts may be formed. Then the terms agreements and contracts are sometimes used synonymously.

Apparent Low Bidder. The label used for a bidder that has been determined to have provided the lowest price in a bid or quote, prior to determination of whether the bid is responsive and from a responsible bidder.

A/E (Architect or Engineer) Professional Services. Services that require performance by a registered architect or engineer. Professional services of an architectural or engineering nature that are associated with research, planning, development, and design for construction, alteration, or repair.

Award. Process of formally notifying a tenderer that they have been selected as the supplier for a particular contract. The acceptance of a bid or proposal in order to grant a contract.

Award Protest. A written objection made against the selection methods employed or decisions made by a public agency leading to the award of a contract or purchase.

Bid Bond. An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

Bid Opening. The official process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the proposal. The amount of each bid is recorded and bids

are made available for public inspection. The bid opening may be open to the public.

Bid Security. A bond or deposit which guarantees that the bidder, if awarded the contract, will honor their bid as submitted.

Cardholder. An employee of the County of Lancaster ("county") or an elected official of the same, who is approved to use the procurement card ("P-Card") to execute credit transactions on behalf of the county.

Card issuer. Bank of America; whose services include the issuance of Visa P-Cards to Lancaster County employees, providing electronic transaction authorizations, and billing for all purchases made on county P-Cards.

Change Order. A mutually agreed upon written alteration that is issued to modify or amend a contract or purchase order. A request that directs the contractor to make changes to the contracted scope of work or specifications. In reference to construction contracts, it relates primarily to changes caused by unanticipated conditions encountered during construction not covered by the drawings, plans, or specifications of the project.

Collusion. When two or more parties act together secretly to achieve a fraudulent or unlawful act. May manifest itself in the form of bid collusion when bidders secretly agree to unlawful practices regarding competitive bidding. May inhibit free and open competition in violation of antitrust laws.

Competitive Bidding. The process of inviting and obtaining bids from competing suppliers, by which an award is made to the lowest responsive bid from a responsible bidder meeting written specifications. The process provides potential bidders with a reasonable opportunity to win that contract.

Construction Manager Agent Services. Those professional services associated with contract administration, project management and other specified services provided in connection with the administration of a project delivery method. Construction Management Services does not include construction.

Construction Manager at Risk (CMR/CMAR). A construction project delivery method in which the owner enters into separate contracts with the designer and builder, often at or about the same time. During design, the CMAR advises the owner and designer on constructability, value engineering, cost estimating, schedule, sequencing, selection of components and materials, and other matters. When the design is completed, the CMAR becomes the "builder," or general contractor, responsible or "at risk" for completing construction within the guaranteed maximum price

Contract. An obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and definiteness. A legally binding promise, enforceable by law. An agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other considerations.

Cooperative Procurement (Purchasing). A variety of arrangements, whereby two or more public procurement entities (or agencies) purchase from the same supplier or multiple suppliers using a single Invitation for Bids (IFB) or Request for Proposals (RFP).

Department Head. County official who must:

(1) Set internal controls for their department's usage of P-Cards;
(2) Approve issuance of an employee's P-Card and submit P-Card applications to Program Administrator;
(3) If applicable, assign a department proxy; and
(4) Electronically sign-off on all monthly department purchases made.

Department proxy. An employee within department designated by Department Head to be responsible for transaction review, account allocation, and electronic submittal. Department proxy is to follow all internal controls as dictated by Department Head as well as program policy.

Design-Bid-Build. The traditional project delivery method, which customarily involves three sequential project phases: design, procurement, and construction, and two distinct contracts for the design and construction (build) phases.

Design-Build. A construction project delivery method that combines architectural and engineering design services with construction performance under one contract.

Emergency Purchase. A purchase made due to an unexpected and urgent request where health and safety or the conservation of public resources is at risk. Usually formal competitive bidding procedures are waived.

Evaluation. A process used to assess offers in determining the outcome for a solicitation. For bids and quotes, where price is the only factor, it is used to determine the lowest, responsive bid from a responsible bidder. For proposals, multiple criteria are used to determine the successful proposer based on the highest score received.

Evaluation Committee/Team. A committee established to conduct evaluation of proposals, interviews, and negotiations during the solicitation process for a specific product or service. Usually composed of representatives from the functional area identified in the Scope of Work and may include a procurement representation.

General Contractor (GC). A contractor with the entire responsibility for performing a construction contract. A contractor that bids for a construction contract and bears the entire risk if the contract cannot be performed at the contract price.

Gratuity. Money, also known as a tip, given to one who provides services and added to the cost of the service provided, generally as a reward for the service provided and as a supplement to the service provider's income.

Informalities/Minor Irregularities. A submission of a bid or proposal that contains minor defects or variations from the exact requirements of the solicitation that do not affect price or other mandatory requirements. A defect that is easily correctable. Generally a matter of form rather than substance. Following legal review may sometimes be corrected within a certain time period.

Invitation for Bids (IFB). A procurement method used to solicit competitive sealed bid responses, sometimes called a formal bid, when price is the basis for award.
Kickback. The payment of something of value to an individual with the goal of persuading or influencing his or her decision or performance in a certain situation. May be in the form of cash or favors and is usually unethical.

Minority-Owned Business Enterprise (MBE). A business which is owned or controlled by a member of a recognized minority group, as defined by requirements set forth by a State or Federal MBE program.

Negotiation. Conferring, discussing, or bargaining to reach agreement in business transactions. A bargaining process between two or more parties, each with its own agenda and objectives, seeking to reach a mutually satisfactory agreement on, or settlement of, a matter of common concern. A process of planning, reviewing, and analyzing used by a buyer and a seller to reach acceptable agreements or compromises.

Non-Responsible. A contractor, business entity, or individual that responds to a solicitation that does not have the ability or capability to fully perform the requirements of the solicitation. A business entity or individual who does not possess the integrity and reliability to assure contractual performance.

Non-Responsive. A response to a solicitation that does not conform to the mandatory or essential requirements contained in the solicitation.

Notice of Award. A written notification from the public entity to the successful bidder or proposer stating that there is an award of a contract in accordance with a bid or proposal previously submitted.

Notice of Intent to Award. A written notice publicly posted prior to announcing the award of a contract to notify interested parties of the intended award and signals that the procurement file is available for their review and that the time period for protests to be submitted has begun.

Organization. The County of Lancaster, South Carolina; the sole entity that arranges and approves to have P-Cards issued.

Payment Bond. A financial or contractual instrument, issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the contract. Acceptable forms of payment bonds may include cashier's check, certified check, a surety or blanket bond. Also known as Labor and Materials Bond.

Performance Bond. An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the contract as agreed. A risk mechanism that secures the fulfillment of all contract requirements. May be referred to as a completion bond.

Procurement. Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, receiving, inspection, salvage, and disposal operations.

Procurement Card (pCard). A payment method whereby internal customers are empowered to deal directly with suppliers for purchases using a credit card issued by a bank or major credit card provider. Generally, a pre-established credit limit is established for each card issued. The cards enable eProcurement and facilitate on-line ordering.

Procurement Code Exemptions. Public sector procurement codes that provide for the direct purchase of specific products or services without following the competitive requirements.

Procurement Methods. Methods by which goods, services, or material may be acquired by public

purchasers. The methods may include blanket orders, emergency purchases, purchase orders, transfers, competitive bidding, competitive negotiation, cooperative agreements, small purchase contracts, purchases via a credit card, etc.

Professional Services. Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance. Those services which involve extended analysis, the exercise of discretion and independent judgement in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field.

Program Administrator (As pertains to P-Card Program). The Procurement Director or designee, located in the Lancaster County Procurement Department, who coordinates the P-Card program for the organization. The Program Administrator will act as the intermediary in all correspondence between Lancaster County and card issuer.

Protest. A written objection by an interested party to a solicitation or award of a contract with the intention of receiving a remedial result.

Public Bid Opening. The process of opening and reading bids at the time and place specified in the solicitation and in the presence of anyone who wishes to attend. May take place in person or online.

Purchase Requisition (PR). A document created by a requestor authorizing the commencement of a purchasing transaction. Typically will include a description of the need and other information that is relative to the transaction.

Quotation. A statement of price, terms of sale, and description of goods or services offered by a supplier to a prospective purchaser; may be non-binding if solicited to obtain market information for planning purposes.

Real Property. Land and its permanently affixed buildings or structures. Any property which is not personal property.

Reasonable Cost. A cost that by its nature or amount does not exceed what would normally be incurred by an ordinarily prudent person in the conduct of competitive business. Often used in the context of "fair and reasonable" cost/price.

Request for Proposals (RFP). The document used to solicit proposals from potential providers for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step process.

Request for Qualifications (RFQ). A document, which is issued by a procurement entity to obtain statements of the qualifications of potential responders. An RFQ is a form of RFP.

Risk Management. The process of identification and analysis of risk; and the decision to either accept or mitigate the exposure to such risk when compared to the potential impact on the achievement of the entity's objectives.

Scope of Work. A scope of work is developed at the beginning of the procurement cycle and is a written description of the entity's needs and desired outcomes for the procurement and becomes the basis for any resulting solicitation.

Tabulation of Bids/Responses. The recording of responses to solicitations for the purposes of comparison, analysis, and record keeping.

Woman-Owned Business Enterprise (WBE). Denotes that a woman (or women) has majority ownership and control of a business. May also be entitled to minority classification by certain public entities.

Any definition omissions are unintentional. Any definition not contained in this document can be defined by the Model Procurement Code.

DIVISION 2. - PROCUREMENT OFFICER

Sec. 2-258. - Procurement Director.

(a) There is created the position of Procurement Director who shall be the county's Chief Procurement Officer for procurement and contract services. The Procurement Director shall report to the General Services division director.
(b) The Procurement Director shall not incur any obligation on behalf of the county if sufficient funds have not been appropriated by the county council.
(c) Responsibilities of the Procurement Director include, but are not limited to:
  (1) Directing the day-to-day operations of the procurement department, including the supervision of staff and the review of their work;
  (2) Ensuring compliance with applicable policies, laws, and regulations;
  (3) Administering and maintaining the procurement card program for the county;
  (4) Establishing standard contract clauses for use in contracts, solicitations, and purchase orders;
  (5) Conducting contract negotiations and contract administration;
  (6) Attending staff, committee, and council meetings as needed;
  (7) Coordinating the disposal of all surplus property and equipment;
  (8) Assisting grant recipients in ensuring proper procurement procedures are followed;
  (9) Maintaining a complete record of all purchasing transactions;
  (10) Conducting pre-bid conferences and bid openings;
  (11) Handling bid advertisements, logging bids, and posting notice of awards and rejection notices as needed;
  (12) Properly maintaining records of all bid information;
  (13) Establishing and updating a bidders list;
  (14) Assisting county government entities with writing bid specifications;
  (15) Developing, reviewing, and updating procurement and contract procedures to ensure effective and efficient operations;
  (16) Receiving and responding to inquiries from county government entities and vendors regarding procurement procedures; and
  (17) Providing instruction and guidance to county government entities and officials.
(d) The Procurement Director is authorized to develop, prepare and publish rules, regulations, manuals, guidelines, interpretations and other directives to aid in the implementation and use of the Lancaster County Procurement Code.

Section 2-259. - Legal counsel; contract review.

(a) The county attorney shall serve as legal counsel to the Procurement Officer.
(b) The county attorney shall review any proposed contract: (i) with a term that extends beyond June 30 of the fiscal year following the fiscal year in which the contract is proposed to be entered; or (ii) with an automatic renewal clause.

DIVISION 3. - SOURCE SELECTION

Section 2-260. - Methods of source selection.

Unless otherwise provided by law, all Lancaster County contracts shall be awarded by competitive sealed bidding, except as provided in:

(a) Purchases under $25,000;
(b) Sole source procurement;
(c) Emergency procurement;
(d) Architect-engineering, construction management, land surveying, and other professional services;
(e) Use of state contract and cooperative purchasing;
(f) Authority to contract auditing services;
(g) Competitive sealed proposals;
(h) Negotiations after unsuccessful Competitive Sealed Bidding.
(i) Competitive Fixed Price Bid;
(j) Competitive Best Value Bid;
(k) Competitive Online Bidding;
(l) Special/unusual procurements; and
(m) Procurement Exemptions

Section 2-261. - Procedures for procurements not exceeding twenty-five thousand dollars ($25,000.00).

(a) *Purchases under $2,500.00.* Small purchases not exceeding two thousand five hundred dollars ($2,500.00) may be accomplished without securing competitive quotations if the prices are considered to be reasonable. The purchases must be distributed equitably among qualified suppliers. When practical, a quotation must be solicited from a supplier other than the previous supplier before placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchase "not in excess of" may more than offset potential savings in detecting instances of overpricing. Action to verify the reasonableness of the price need be taken only when the procurement director or department head suspects that the price may not be reasonable, there is a significant deviance from the previous price paid, or personal knowledge of the item involved indicates that the price is not reasonable.
(b) *Purchases from $2,500.01 to $25,000.00.* Purchases between two thousand five hundred dollars and one cent ($2,500.01) to twenty-five thousand dollars ($25,000.00) may be accomplished by solicitation of quotes from a minimum of three (3) qualified sources and documentation of the quotes submitted with the required purchase requisition.
(c) *Advertised Small Purchase.* Written solicitation of written quotes, bids, or proposals may be made for a small purchase, not in excess of twenty-five thousand dollars. The procurement must be advertised pursuant to this Code. A copy of the written solicitation and written quotes must be attached to the purchase requisition. The award must be made to the lowest responsive and responsible source or, when a request for proposal process is used, the highest ranking offeror.
(d) *Advertising Threshold.* All competitive procurements above twenty-five thousand dollars must be advertised pursuant to the requirements of this Code.
(e) *Technology purchases.* All purchases of technology and technology services must be approved by IT director, including, but not limited to: computer hardware, computer software, servers, printers, audio visual equipment, security systems, and networking.
(f) All documents must be obtained through the online portal on the County's website.

Section 2-262. - Sole source procurement.

(a) A contract may be awarded for a supply, service, or construction item by the Procurement Officer without competition, subject to the approval of the County Administrator/Deputy County Administrator or designee. Procurements made with grant funds must receive written approval from the grantor agency. Written documentation (sole source justification form) must include the determination and basis for the proposed sole source procurement. A sole source purchase must be based upon one or more of the following criteria: (i) there is a lack of competition for a product or service; (ii) it is a unique, one-of- a-kind service offer; or (iii) the product has patented or proprietary rights that provide superior capabilities that are not obtainable from similar products, and the product is not marketed through other wholesalers or distributors whose competition could be encouraged.

(b) Written documentation must include the determination and basis for the proposed sole source procurement. A delegation of authority by either the County Administrator or Deputy County Administrator with respect to sole source determinations must be submitted in writing to the Procurement Director. In cases of reasonable doubt, competition must be solicited. Any decision that a procurement be restricted to one potential vendor must be accompanied by a thorough, detailed explanation as to why no other will be suitable or acceptable to meet the need.

Section 2-263. - Emergency procurements.

Notwithstanding any other provision of this article, the County Administrator/Deputy County Administrator or designee may make or authorize emergency procurements of supplies, services or construction items when an emergency condition arises and the need cannot be met through normal procurement methods. An emergency condition is a situation which creates a threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions as may be proclaimed by either the County Administrator or Deputy County Administrator. The existence of emergency conditions must create an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten: (i) the functioning of county government; (ii) the preservation or protection of property; or (iii) the health or safety of any person. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination (Procurement Exemption Form) of the basis for the emergency and for the selection of the particular contractor or vendor shall be made and shall set forth the contractor's or vendor's name, amount, and a listing of the items procured under the contract.

Section 2-264. - Architecture, engineering, construction management, land surveying and other professional services.

(a) The Procurement Director, with approval of the County Administrator, may negotiate contracts for architect-engineer, construction management, land surveying and other professional services valued at fifty thousand dollars ($50,000.00) and below. Such negotiations must be accompanied by at least two (2) quotes from qualified vendors.

(b) It is the policy of Lancaster County to publicly solicit requirements for architect-engineer, construction management, land surveying and other professional services at fifty thousand dollars ($50,000.00) or more and to negotiate contracts for such services on the basis of demonstrated competence and qualification at fair and reasonable prices. The date for submission from interested persons or firms in response to an invitation shall not be less than twenty-one (21) business days after publication of the invitation. An evaluation panel, the Procurement Officer, and the County Administrator/Deputy County Administrator or designee shall conduct interviews with no less than two (2) firms regarding the proposed contract, provided that, if only one firm responds, that one firm

may be interviewed. The Procurement Officer and/or the County Administrator shall negotiate a contract with the highest qualified firm or person.

Section 2-265. - Use of state contract and cooperative purchasing.

(a) When it is advantageous to the county, purchases may be made through the State of South Carolina's Materials Management Office. Sections 2-260 and 2-261 are waived when purchasing from the state contract.

(b) The Procurement Officer may enter into an agreement, independent of sections 2-260 and 2-261, with any public procurement entity for the cooperative use of supplies or services under the terms agreed upon by the parties.

Section 2-266. - Competitive sealed proposals.

(a) *Conditions for use.* A contract may be entered into by competitive sealed proposals when the Procurement Officer or County Administrator determines in writing that the use of competitive sealed bidding is either impractical or not advantageous to the county.

(b) *Request for proposals.* (RFP) Proposals shall be solicited through a request for proposal. An RFP shall include evaluation factors for qualifications, and may include proposed price for goods or services.

(c) *Public notice.* Public notice for request for proposals shall be given in the same manner as provided in subsection 2-267(c) for competitive sealed bids.

(d) *Receipt and safeguarding of proposals.* All proposals (including modifications) received prior to the time of opening shall be kept secure and unopened. It is the responsibility of persons submitting proposals to make sure their proposal is delivered to the proper place and at the proper time. Proposals received after the time set in the request for proposals shall not be considered and shall be noted as "late."

(e) *Proposal opening.* Proposals shall be publicly opened in person or online. Questions on the contents of the proposals shall not be answered until after evaluations are completed.

(f) *Request for Qualifications (RFQ).*

(1) When soliciting professional services, the Procurement Officer may issue a request for qualifications from prospective offerors. The request must contain at a minimum a description of the scope of the work to be solicited by the request for proposals and must state the deadline for submission of information and how prospective offerors may apply for consideration.

(2) After receipt of the responses to the request for qualifications from prospective offerors, rank of the prospective offerors must be determined in writing through an evaluation panel. Evaluation of RFQ shall not be based on the cost of the proposed services. The County reserves the right to ask for proposals or hourly costs be placed in a sealed envelope to be opened only after the offerors have been ranked.

(3) An RFQ is a form of RFP. Therefore, all other provisions in this section apply to an RFQ, with the exception of pricing requirements as a part of the submission.

(g) *Evaluation factor.* Those factors specified in the RFP or RFQ that will be considered in determining to whom a contract will be awarded. The request for proposals must state the relative importance of factors to be considered in evaluating the proposals but may not require a numerical weighting for each factor. Price may, but need not, be an evaluation factor. A proposer is usually selected based on a combination of price and non-price factors. Examples of evaluation criteria include Qualifications and Experience, Technical Approach and Methods, Schedule, and Price.

(h) *Discussion with responsible offerors.* As provided in the request for proposals, discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness

to, the solicitation requirements. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussions. In conducting discussions, there must be no disclosure of confidential information derived from proposals submitted by competing offerors.

(i) *Selection and Ranking.* Proposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously. Once evaluation is complete, all responsive offerors must be ranked from most advantageous to least advantageous to the County, considering only the evaluation factors stated in the request for proposals.

(j) *Negotiations.* After proposals have been ranked pursuant to, the Procurement Officer, in his sole discretion and not subject to review, but in consultation with the affected County Department Head may proceed in any of the manners indicated below, except that in no case will confidential information derived from proposals and negotiations submitted by competing offerors be disclosed:

(1) Negotiate with the highest ranking offeror on price, on matters affecting the scope of the contract, so long as the changes are within the general scope of the request for proposals, or on both. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of the Procurement Officer, with each successively lower ranked offerors down to the level of ranking determined by the Procurement Officer in his sole discretion;

(2) during the negotiation process as outlined in item (1) above, if the Procurement Officer is unsuccessful in his first round of negotiations, he may reopen negotiations with any offeror with whom he previously negotiated; or

(3) Before or after negotiations, the Procurement Officer may make changes to the request for proposals within the general scope of the request for proposals and may provide all responsive offerors an opportunity to submit their best and final offers, which must be reevaluated and ranked pursuant to Section (g) above.

(k) *Award.* Award must be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the request for proposals, unless the Procurement Officer determines to utilize one of the options provided in Section (i) above. The award of the contract must be made on the basis of evaluation factors that must be stated in the Request for Proposal. The contract file must contain the basis on which the award is made and must be sufficient to satisfy external audit. Procedures and requirements for the notification of intent to award the contract must be the same as those provided in Section 2-267.

Section 2-267. - Competitive sealed bidding.

(a) *Conditions for use.* Contracts more than twenty-five thousand dollars ($25,000.00) shall be awarded by competitive sealed bidding except as otherwise provided in section 2-260.

(b) *Invitation for bids.* An invitation for bids shall be issued and shall include a description of the purchase and all contractual terms and conditions applicable to the procurement. The invitation for bids must set forth the evaluation criteria to be used.

(c) *Notice.* The county shall give notice of the invitation for bids at least twenty-one (21) calendar days before the date set in it for the opening of bids. The notice shall be published on the County's website and in the South Carolina Business Opportunities (SCBO) publication.

(d) *Pre-bid conference.* A pre- bid conference may be held to clarify information or ask questions concerning the solicitation. Attendance at the pre-bid conference may or may not be mandatory. When mandatory attendance is required, only bids from those attending the conference will be accepted at final bid time.

(e) *Receipt and safeguarding of bids.* All bids (including modifications) received prior to the time of bid opening shall be kept secure and unopened. It is the responsibility of bidders to make sure all bids are delivered to the proper place and at the proper time. Bids received after the time set in the

Invitation for Bids shall not be considered and shall be noted as "late".

(f) *Bid opening.* Bids must be opened publicly in person or online in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The amount of each bid, and other relevant information as may be specified by regulation, together with the name of each bidder, must be tabulated. The tabulation must be open to public inspection at that time. Questions on the contents of the bids shall not be answered until after evaluations are completed. A bid tabulation must be posted online and shall be open for public inspection.

(g) *Bid acceptance and bid evaluation.* Bids must be accepted unconditionally without alteration or correction, except as otherwise authorized in this code. Bids must be evaluated based on the requirements in the invitation for bids and in accordance with this code.

(h) *Correction or Withdrawal of Bids; Cancellation of Awards.* Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation and re-award of awards or contracts, after award but before performance, may be permitted in accordance with this Code. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition must not be permitted. After opening, bids must not be corrected or withdrawn except in accordance with the provisions of this Code. Except as otherwise provided by the Code, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts, after award but before performance, must be supported by a written determination of appropriateness made by the Procurement Director.

(i) *Tie bids.* If two (2) or more bidders are tied in price while otherwise meeting all of the required conditions, awards shall be determined in the following order of priority:

(1) In-state vs. out-of-state firms. If there is a tie with a South Carolina and an out-of-state firm, the award shall be made to the South Carolina firm;

(2) Lancaster County firm vs. other South Carolina county firms. If there is a tie with a firm located in Lancaster County and a firm located in another county of South Carolina, the award shall be made to the Lancaster County firm; and

(3) In all other situations in which bids are tied, the award must be resolved by the flip of a coin by the Procurement Officer, with a witness.

(j) *Award.* Unless there is a compelling reason to reject bids as prescribed by this Code, notice of an award or an intended award of a contract to the lowest responsive and responsible bidder whose bid meets the requirements set forth in the invitation for bids must be given by posting the notice on the date and at the location prescribed by the Procurement Director. For contracts with a total or potential value in excess of one hundred thousand dollars, notice of an intended award of a contract must be given by posting the notice for ten (10) calendar days before entering into a contract and must be published electronically on the County's website on the same day that the notice is posted in accordance with this section. The posting date shall appear on the face of all these notices. If a change to the posting date is necessary, notice of the revised posting date must be given by posting the notice for three business days at the location identified in the solicitation. The invitation for bids and a notice of award or notice of intent to award must contain a statement of a bidder's right to protest pursuant to Section 2-294. When only one response is received, the notice of intent to award and the delay of award may be waived.

(k) *Minor Informalities and Irregularities in Bids.* A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids having no effect on total bid price, quality, quantity, or delivery of the supplies or performance of the contract, and the correction or waiver of which would not be prejudicial to bidders. The Procurement Officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive any such deficiency when it is to the advantage of the County. Such communication or determination shall be in writing.

Section 2-268. - Competitive Fixed Price Bidding.

(a) *Conditions for Use.* When the Procurement Officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the County, a contract may be entered into by competitive fixed price bidding subject to the provisions of Section 2-267 unless otherwise provided for in this section.

(b) *Fixed Price Bidding.* The purpose of fixed price bidding is to provide multiple sources of supply for specific goods and services, or information technology based on a preset maximum price which the County will pay for such goods and services, or information technology.

(c) *Public Notice.* Adequate public notice of the solicitation shall be given in the same manner as provided in Section 2-294.

(d) *Pricing.* The County shall establish, before issuance of the fixed price bid, a maximum amount the County will pay for the goods and services, or information technology desired.

(e) *Evaluation.* Vendors' responses to the fixed price bid will be reviewed to determine if they are responsive and responsible.

(f) *Award.* Award must be made to all responsive and responsible bidders to the County's request for competitive fixed price bidding. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.

(g) *Negotiations after unsuccessful competitive sealed bidding.* When bids received pursuant to an invitation for bids under Section 2-267 are considered unreasonable by the Procurement Officer, or are not independently reached in open competition, or the low bid exceeds available funds as certified by the appropriate fiscal officer, and it is determined in writing by the Procurement Director or the County Administrator/Deputy County Administrator or designee, that time or other circumstances will not permit the delay required to resolicit competitive sealed bids, a contract may be negotiated pursuant to this section, provided that:

(1) Each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate;

(2) The negotiated price is lower than the lowest rejected bid by any responsible and responsive bidder under the original solicitation;

(3) The negotiated price is the lowest negotiated price offered by any responsible and responsive offeror.

Section 2-269. - Competitive Best Value Bidding.

(a) *Conditions for Use.* When the Procurement Officer determines that the use of competitive sealed bidding is either not practicable or not advantageous to the County, a contract may be entered into by competitive best value bidding subject to the provisions of Section 2-267 and the ensuing regulations, unless otherwise provided for in this section.

(b) *Best Value Bidding.* The purpose of best value bidding is to allow factors other than price to be considered in the determination of award for specific supplies, services, or information technology based on pre-determined criteria identified by the County.

(c) *Public Notice.* Adequate public notice of the request for the solicitation shall be given in the same manner as provided in Section 2-267.

(d) *Bid Opening.* At bid opening, the only information that will be released is the names of the participating bidders. Price information will be provided after the ranking of bidders and the issuance of award.

(e) *Evaluation Factors.* The best value bid must state the factors to be used in determination of award and the numerical weighting for each factor. Price must be a factor in determination of award and cannot be weighted at less than sixty percent. Best value bid evaluation factors may include, but are not limited to, any of the following:

(1) operational costs the County would incur if the bid is accepted;

(2) quality of the product or service or its technical competency;

(3) reliability of delivery and implementation schedules;

(4) maximum facilitation of data exchange and systems integration;
(5) warranties, guarantees, and return policy;
(6) vendor financial stability;
(7) consistency of the proposed solution with the County's planning documents and announced strategic program direction;
(8) quality and effectiveness of business solution and approach;
(9) industry and program experience;
(10) prior record of vendor performance;
(11) vendor expertise with engagement of similar scope and complexity;
(12) extent and quality of the proposed participation and acceptance by all user groups;
(13) proven development methodologies and tools; and
(14) innovative use of current technologies and quality results.

(f) *Clarification of Responsive Bid.* The Procurement Officer may ask a responsive bidder to clarify an ambiguity in its bid; however, no material modification of the bid is allowed.

(g) *Selection and Ranking.* Bids shall be evaluated by using only the criteria and weightings stated in the invitation for best value bids. All evaluation factors, other than price, will be considered independent of and prior to determining the effect of price on the score for each participating bidder. Once the evaluation is complete, all responsive bidders must be ranked from most advantageous to least advantageous to the County, considering only the evaluation factors stated in the invitation for best value bids.

(h) *Award.* Award must be made to the responsive and responsible bidder whose bid is determined, in writing, to be most advantageous to the County, taking into consideration all evaluation factors set forth in the best value bid. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.

Section 2-270. - Competitive online bidding/Reverse Auction Bidding.

(a) *Conditions for Use.* When the Procurement Officer determines that on line bidding is more advantageous than competitive sealed bidding, a contract may be entered into by competitive online bidding, subject to the provisions of Section 2-267 and the ensuing regulations, unless otherwise provided in this section.

(b) *Public Notice.* Adequate public notice of the request for the solicitation must be given in the same manner as provided in Section 2-267.

(c) *Bidding Process.*
1. The solicitation must designate both an Opening Date and Time and a Closing Date and Time. At the Opening Date and Time, the County must begin accepting real time electronic bids. The solicitation must remain open until the Closing Date and Time.
2. Before the Opening Date and Time, the County shall require bidders to register, shall register only responsible bidders, and, as a part of that registration, require bidders to agree to any terms, conditions, or other requirements of the solicitation.
3. If less than two bidders are registered, the solicitation must be canceled.
4. Following receipt of the first bid after the Opening Date and Time, the lowest bid price must be posted electronically to the Internet and updated on a real time basis.
5. At any time before the Closing Date and Time, a bidder may lower the price of its bid, except that after Opening Date and Time, a bidder may not lower its price unless that price is below the then lowest bid. Bid prices may not be increased after Opening Date and Time.
6. Except for bid prices, bids may be modified only as otherwise allowed by this code. A bid may be withdrawn only in compliance with Section 2-267.

(d) *Receipt and Safeguarding of Bids.* Other than price, any information provided to the County by a bidder must be safeguarded as required by Section 2-267.

(e) *Provisions Not to Apply.* Section 2-255 and paragraph (f) (Bid Opening) of Section 2-267 not

apply to solicitations issued pursuant to this section.

Section 2-271. - Special/Unusual Procurements.

A special/unusual procurement is the acquisition by Lancaster County of personal property, services and improvements to real property without competition, subject to the approval of the County Administrator/ Deputy County Administrator or designee in writing. Lancaster County is justified in utilizing a special/unusual procurement when it has a need that has a unique requirement that the use of the procurement methods would not responsibly satisfy or further the interests to Lancaster County.

Section 2-272. - Procurement procedures exemptions.

(a) *Supply/Service/Real Property Transaction Exemptions.* The following supplies and services are exempt from this article and need not be purchased through the standard procurement process:

(1) Published books, periodicals, pamphlets, DVDs and other media;
(2) Professional dues, membership fees and seminar registration fees;
(3) Utilities including gas, electricity, water, and sewer;
(4) Postage stamps and postal fees;
(5) Travel;
(6) Bank payments;
(7) Legal services, subject to the approval of the county administrator;
(8) The purchase of real property

(b) *Other Exemptions.* Procurements obtained under any of the following methods are exempt from Invitation for Bids/Request for Proposals procedures listed in this article. These items are not exempt from the standard procurement process and must be accompanied by an authorized Procurement Exemption form:

(1) Cooperative purchases
(2) Emergency procurement
(3) Sole Source procurement

(c) *Maintenance or service contracts.* Maintenance Agreements are used to contract with an outside vendor for the maintenance/repair of county-owned equipment are exempt from the standard procurement process. Examples are: software, computers, alarm systems, mechanical and other facility systems. This is not an all-encompassing list. Maintenance agreements require a valid contract/agreement on file with the Procurement Department before the Finance Department will process payment.

(d) Although the items listed in this section are exempt from the normal procurement procedures of this article, every effort should be made to ensure that the procurement made and/or contract negotiated is cost effective and is in the best interest of the County.

Section 2-273. - Construction Project Delivery Methods Authorized

The following project delivery methods are authorized for procurements relating to design and construction of infrastructure, including but not limited to facilities, roads, and raw land:

(a) Design-bid-build:
(1) Design. Architect-engineer, construction management, and land surveying services. The

qualifications contained in a written solicitation shall be used to procure architect-engineer, construction management, and land surveying services, unless those services are acquired in conjunction with construction using one of the project delivery methods provided in this Section.

(2) Construction. Competitive sealed bidding, as provided in Section 2-267, must be used to procure construction in design-bid-build procurements.

(b) Construction Management at-risk. Contracts for construction management at-risk must be procured as provided in either Section 2-266 or Section 2-267.

(c) Design-build. Contracts for design-build must be procured by competitive sealed proposals, as provided in Section 2-266.

Section 2-274. - Choice of project delivery method.

(a) Selection of Method. The project delivery method used for a County construction project must be that method which is most advantageous to the County and results in the most timely, economical, and successful completion of the construction project. The County shall select, in accordance with this code, the appropriate project delivery method for a particular project and shall state in writing the facts and considerations leading to the selection of that particular method.

DIVISION 4 – CONTRACT MANAGEMENT

Section 2-275. - Multiterm contracts.

(a) *Specified Period.* Unless otherwise provided by law, a contract for supplies, services, or information technology must not be entered into for any period of more than one year unless approved in a manner prescribed by the County. The term of the contract and conditions of renewal or extension must be included in the solicitation and funds must be available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods must be subject to the availability and appropriation of funds for them.

(b) Determination Prior to Use. Before the utilization of a multi-term contract, it must be determined in writing by the Procurement Director that:

(1) Estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(2) Such a contract serves the interest of the County by encouraging effective competition or otherwise promoting economies in County procurement.

(c) *Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(d) *Maximum Duration.* The maximum potential duration for a contract is five years. A maximum potential duration of up to seven years may be approved by the County Administrator.

(e) *Authority Approval.* Every type of contract with a maximum potential duration exceeding seven years must be approved by Council. For competitive procurements, approval of the maximum potential duration must be granted before solicitation.

(f) *Authority to contract auditing services.* County Council must approve all contracts for auditing services. Contracts for auditing services must be obtained through normal procurement procedures.

(g) The Procurement Director and Facilities Project Manager have authority to approve and sign change orders equal to or less than$25,000, with budgetary approval from the County Administrator. Any change orders exceeding $25,000 will be approved and signed by the County Administrator or Deputy County Administrator.

DIVISION 5. - PURCHASING CARD PROGRAM

Section 2-276. - P-Card program overview.

The P-Card is a charge card issued to a cardholder to make small value purchases of items such as approved supplies, materials, equipment, and services for Lancaster County use. The objective of the program is to streamline payments by eliminating the administrative burdens and costs associated with other methods of payment. The use of the P-Card is intended to eliminate the need for small dollar purchase orders. The P-Card program offers a simplified purchasing and payment process that allows for an expedited delivery of goods. The P-Card is issued under a contract awarded by the state materials management office which permits county participation in the program. Use of the P-Card is limited to the procurement procedures as established in this document, unless otherwise authorized.

Section 2-277. - Issuance of P-Card.

(a) The Program Administrator will issue P-Cards to authorized cardholders who have signed the mandatory cardholder responsibilities agreement that covers the program policies and procedures code of conduct outlining the terms and conditions of the program. The issuance of a P-Card to a cardholder is strictly prohibited if cardholder has not signed the agreement. The Program Administrator shall maintain a copy of the signed P-Card agreement. The Program Administrator must maintain the following information:
   (1) The name of the cardholder issued a P-Card;
   (2) The date of issue;
   (3) Card number details; and
   (4) Spend control limits.

(b) Access to the P-Card database is restricted to authorized personnel only. Any misuse is strictly prohibited and is subject to immediate termination and possible prosecution. The P-Card is the sole property of Lancaster County and must be maintained in a secure location at all times.

Section 2-278. - Spend control limits.

(a) The P-Card is to be used only for authorized Lancaster County purchases only. Lancaster County spending parameters are set at two thousand five hundred US dollars ($2,500.00) per single transaction, including all associated fees and taxes. As used in this section, "single transaction" means one (1) or more items purchased from the same vendor at the same time on the same day. Any intentional circumvention of the single transaction limit is strictly prohibited and may result in the immediate termination of employment. Monthly spending limits are designated by Program Administrator based on demonstrated need of cardholder; monthly spending limits may be adjusted at the discretion of Program Administrator based on demonstrated needs of cardholder.

(b) One-time transactions for purchases above individual transaction limit of two thousand five hundred US dollars ($2,500.00) may be requested in writing to Program Administrator who may, in sole discretion, adjust temporary spend control limits of cardholder until transaction is complete.

Section 2-279. - First purchasing option/competition.

The P-Card should be used as the first option before other methods to obtain and pay for authorized goods and services costing two thousand five hundred dollars ($2,500.00) or less, including taxes and fees. If the use of a P-Card is not possible, such as when a vendor will not accept P-Card and no other competitive vendor can be located, then a purchase order/claim for payment shall be issued. Cardholders are encouraged to complete purchases by obtaining more than one (1) quotation whenever possible.

Cardholders will be required to show justification that the price paid for any purchase is fair and reasonable.

Section 2-280. - Bona fide vendors.

(a) Any purchase made shall be from a vendor who is deemed established, reputable, and reliable, with appropriate licensing, insurance, etc., and not of questionable status. Do not make P-Card purchases from vendor sources including but not limited to:
   (1) Drop shipping E-commerce sites, e.g., Wish, Ali Express, etc.
   (2) Personal reseller sites, e.g., Craigslist, Let go, etc.
   (3) EBay (auctions).
   (4) Flea markets, estate sales, etc.
   (5) Relatives, friends, etc.

(b) The following vendors consistently offer fair and reasonable pricing and are sufficiently competitive with each other for similar types of purchases. These chains include but are not limited to:
   (1) Amazon Business (with account ID registered through Lancaster County).
   (2) Office Depot (with account ID registered through Lancaster County).
   (3) Wal-Mart.
   (4) Lowes.
   (5) Home Depot.

Section 2-281. - P-Card purchases.

(a) *Permitted purchases.*
   (1) Airline tickets for business travel
   (2) Hotel accommodations for business travel;
   (3) Car rental for business travel;
   (4) Conference and seminar registration fees;
   (5) Ground transportation for business travel;
   (6) Facsimile charges when traveling;
   (7) Non-travel related business meals (e.g., public meetings/hearings, commissions, etc.—must attach participant list and agenda/meeting minutes with receipt);
   (8) Authorized memberships and/or subscriptions;
   (9) Advertising;
   (10) Utilities;
   (11) Uniforms/authorized work clothing;
   (12) Books, periodicals, magazines and paper subscriptions with authorized vendors;
   (13) Registration expenses as pertaining to election days (e.g., supplies, election worker snacks, etc.);
   (14) Approved office supplies; and
   (15) Small dollar amount maintenance contracts/repair services on non-capital items may be paid for using P-Card as long as the vendor has a current certificate of insurance ("COI") in the appropriate amounts, including Worker's Compensation, and that the total cost of the transaction does not exceed the individual transaction limit of two thousand five hundred US dollars ($2,500.00).

In addition to the goods and services listed above, the Program Administrator may, with proper documentation, designate other goods and services that may be authorized for purchase with P-Card.

(b) *Prohibited purchases:*
   (1) Personal purchases of any kind;

(2) Unauthorized food purchases (including office parties, retirements, holidays, etc.);
(3) Employee travel expenses such as meals and personal expenditures;
(4) Donations of gifts to charity, gifts to Lancaster County employees, political contributions;
(5) Cash advances;
(6) Gift cards, calling cards, or any pre-paid cards of similar type;
(7) Entertainment (including in-room services);
(8) Alcoholic beverages;
(9) Tobacco products;
(10) Weapons, side arms, ammunition, even if for training (does not apply to Sheriff's Office);
(11) Hazardous materials/chemicals;
(12) Fuel;
(13) IT purchases: hardware and installable software (unless approved by IT Director); and
(14) Professional services conducted on County property (unless permitted qualifications are met).

In addition to the goods and services listed above, the Program Administrator may, with proper documentation, designate other goods and services that may be listed as prohibited purchases with P-Card.

(c) *Additional prohibited uses:*

(1) a. *Employee travel expenses/meals.* Cardholders are not authorized for P-Card usage with meals or food expenses associated with internal business meetings or travel. Cardholders will be authorized for P-Card usage on any business meal expense, non-travel related, that comes accompanied by an approved meeting agenda and/or meeting minutes. Travel meals and other travel expensed items shall be reimbursed via Lancaster County's Travel Reimbursement Policy (Policy 8.1).

b. Travel Expenses—overnight stay:

1. Mileage;
2. Meals;
3. Additional Conference fees—County will pay base registration cost;
4. <u>Accommodations in addition to the dates identified on the accompanying agenda. Dependent upon agenda start times, accommodations may sometimes include the preceding night but not before receiving written approval of the Department Head.</u>

c. Travel expense(s)—not overnight stay:

1. Mileage;
2. Meals;

(2) *Flowers.* Cardholders are not authorized for flower arrangement purchases on P-Cards. The only departments authorized to purchase flower arrangements are as follows: County Council and the County Administrator's office. If a department would like to send flowers out to any group or individual, including funeral services or employees out on medical leave, then all arrangements must be paid for in another manner, i.e., personal funds.

(3) *Vendor reward/loyalty programs.* Cardholders are not authorized to use their P-card to gain credit towards any vendor reward/loyalty programs for personal gain. Cardholders must not present their reward/loyalty cards in connection with any authorized P-Card purchases. If cardholders are found to be engaging in this type of practice they may be subject to disciplinary actions in accordance with Lancaster County program policies and procedures, including termination for cause. In addition, the purchase may constitute fraud and criminal charges could be instituted against the cardholder.

(4) *Amazon Prime Membership.* Cardholders are not authorized to use their P-card to obtain an Amazon Prime Membership for any individual department's use. Any department interested in Amazon Prime ordering is required to register through Lancaster County's Amazon Business

account. No personal Amazon Prime Memberships shall be authorized to ship Lancaster County goods ordered with P-Cards, nor shall any Lancaster County prime membership be used to ship personal goods of any kind to any address. All purchases must be shipped to a Lancaster County address only; no goods shall be shipped to or received at personal domain or private residence for any reason.

(5) *Grocery items.* Requests for grocery items made at grocery / retail stores for any items, including those related to special meetings, events, retirements, or training purposes, are subject to review and must be submitted in writing by requesting Department Head and submitted to Program Administrator for documentation purposes; each request may be subject to additional approval by County Administrator.

Section 2-282. - Program documentation.

(a) The cardholder or department proxy will maintain all vendor receipts/charge slips. These receipts/charge slips are to be uploaded along with appropriated account information for each transaction, further, a brief explanatory description of each transaction should be noted in the "comments" column of Bank of America Works software. All receipts/charge slips are to include verification of sales tax as all credit transactions are subject to South Carolina Use Tax. If an itemized receipt is not provided, cardholder must contact vendor to determine whether or not sales tax was applied and provide verification to Lancaster County's finance department.

(b) In addition, the cardholder or department proxy may be requested to provide additional details of any purchase if deemed necessary for transparency and/or compulsory reasons with P-Card program policies and procedures. These details may include, but are not limited to, the following:

(1) Purchase justification;

(2) Program details (e.g. special projects);

(3) Event/training purposes; and

(4) Funding/budget information. This documentation may be requested via email memo for attachment with transaction.

(c) Lastly, all business meals must have accompanying attendance/meeting minutes and all business conferences/seminars must have associated agenda/itinerary attached. All documentation regarding the program policies and procedures will be maintained by the Program Administrator. Lancaster County's Finance Department will maintain the monthly master billing statements.

Section 2-283. - Sign-offs.

Any cardholder, Department Head, and/or department proxy must complete all transactional sign-offs, including uploading of appropriate backup documentation, by the first business day of each calendar month at noon (12:00 p.m.) EST; however, with suitable notification to Program Administrator, there may be an allowable three (3) business day grace period for justifiable circumstances of delayed sign-off, e.g., known out-of-office/vacation dates, etc. Repeated lack of timely sign-offs may result in P-Card termination for cardholder.

Section 2-284. - Missing receipt affidavit.

Cardholder is responsible for submitting itemized receipts with P-Card transactions. Notwithstanding, Lancaster County recognizes that cardholder may lose or inadvertently not have a receipt for a transaction. Cardholder is responsible for contacting Vendor to request duplicate copy. When a good faith effort to obtain copy is unsuccessful, a missing receipt affidavit may be used in conjunction with transaction reconciliation. All information must be completed on missing receipt affidavit. Cardholder must also contact vendor to determine if appropriate sales tax was charged as all credit

transactions are subject to South Carolina Use Tax. Both the cardholder and Program Administrator shall approve the affidavit. The missing receipt affidavit may not be used on a routine basis. Repeated use of missing receipt affidavit may result in P-Card termination for cardholder.

Section 2-285. - Cardholder liability.

The P-Card is a corporate charge card and will not affect personal credit rating levels. It is a cardholder's responsibility to ensure that the card is used within the stated guidelines of program policies and procedures. Failure to comply with program policies and procedures may result in permanent revocation of P-Card, notification of situation to Lancaster County officials, and punitive action in accordance with Lancaster County Policies and Procedures relating to disciplinary action and termination for cause. Misuse of P-Card may constitute fraud and criminal charges may be issued against any cardholder in violation.

Section 2-286. - Fraud; P-Card misuse/abuse.

(a) *Fraud.* This involves the unauthorized use of P-Card by the cardholder, someone other than the individual whose name is on the card, or individuals outside Lancaster County. This includes stolen cards, counterfeit cards, and/or identity theft. It could also involve non-organization employees or former Lancaster County employees working in collusion with current Lancaster County employees to commit fraudulent acts.

(b) *Merchant fraud.* This is an unauthorized activity and involves any cardholder charges for goods and/or services not provided by a vendor.

(c) *Misuse/abuse.* This is an unauthorized activity that involves the misuse and abuse of the purchasing activity by the cardholder. This includes poor asset management resulting from improper order quantities, regularly not practicing "best value" due diligence when making authorized purchases, or regularly buying from unauthorized Vendor sources.

(d) Usage of the P-Card for personal gain would represent serious abuse of the P-Card and could result in termination of employment and/or criminal charges filed against the cardholder.

Section 2-287. - Credits.

Under no circumstances should cardholder accept cash in lieu of a credit to their P-Card account. The vendor should always issue a credit to the account for any item/service agreed to process for a return.

Section 2-288. - P-Card termination.

(a) The Program Administrator may close a cardholder account if:

(1) Cardholder transfers to a different department that no longer requires P-Card;

(2) Cardholder is no longer employed with Lancaster County; or

(3) For any reason subjecting cardholder to disciplinary action in accordance with program policies and procedures relating to termination for cause, including the following:

a. Cardholder does not adhere to all P-Card program policies and procedures.

b. P-Card being used for personal gain or unauthorized purposes;

c. Continued or frequent misuse/abuse of P-Card;

d. P-Card usage for purchases of any substance(s), material(s), or service(s) that violates policy, law, or regulation relating to Lancaster County;

e. Cardholder allows card to be used by another individual for any reason;

f. Cardholder splits purchase to circumvent the established single transaction limit of two thousand five hundred dollars ($2,500.00); or

g. Cardholder fails to provide required receipts and / or documentation for P-Card purchases;

(b) In conjunction with P-Card termination, a request for closing a cardholder's account will be processed by Program Administrator. P-Card must also be returned to procurement department for immediate disposal.

Section 2-289. - Lost, misplaced or stolen P-Cards.

Cardholders must report any lost, misplaced, or stolen P-Cards immediately to Bank of America toll- free at 888-449-2273. Representatives are available to assist twenty-four-hours a day, seven-days a week, and three hundred sixty-five-days a year. Lost, misplaced, or stolen cards should also be immediately reported to the cardholder's immediate supervisor and the P-Card administrator.

Section 2-290. - Cardholder responsibilities and Agreement.

(a) I, the undersigned, as an approved procurement card (P-Card) holder, fully understand and agree to the following terms and conditions regarding the usage and safekeeping of the P-Card entrusted to me.

(b) I, as cardholder, must use my P-Card for legitimate Lancaster County business and travel only. Misuse of my P-Card will be subject to disciplinary action in accordance with program policies and procedures. Any misuse of my P-Card may constitute fraud and, if necessary, criminal charges may be instituted against me.

(c) I, the cardholder, must:

(1) Maintain full knowledge and adherence to P-Card Program Policies and Procedures;

(2) Ensure the P-Card is used only for legitimate Lancaster County business expenses;

(3) Provide appropriate justification for all P-Card purchases, with documentation by 12:00 PM on the first business day of each month;

(4) Maintain the P-Card in a secure location at all times;

(5) Not allow for other individuals to use my issued P-Card;

(6) Obtain "best value" for all OrganizationLancaster County purchases made with P-Card;

(7) Adhere to all purchase limits of the P-Card and ensure total charges, including taxes, shipping, and fees for any single transaction does not exceed two-thousand five-hundred ($2,500) US dollars;

(8) Verify all charges on monthly statement and approve all monthly transactions using electronic software (i.e. Works) from Card Issuer;

(9) Obtain all sales slips, register receipts for proper transaction documentation, and provide the same to department proxy (if applicable) for proper reconciliation and allocation;

(10) Attempt to resolve any disputes or billing errors directly with Vendor;

(11) Not accept cash in lieu of a credit for P-Card account reconciliations;

(12) Return P-Card to Program Administrator, Department Head, or human resource department upon termination of employment with Lancaster County; and

(13) Immediately report lost/stolen cards to card issuer [Bank of America @ 888-449-2273, 24/7/365] and notify Program Administrator and direct supervisor at first opportunity during business hours.

(d) Any violation of P-Card program policies and procedures may result in disciplinary action(s) including termination of employment and, if necessary, criminal charges.

(e) As a cardholder, I hereby agree to the above terms and conditions and take full administrative responsibility pursuant to the P-Card program policies and procedures for the action(s) of a cardholder.

DIVISION 6. - RISK MANAGEMENT

Section 2-291. -Bid security.

(a) Bid security is required for all competitive sealed bidding for construction contracts in excess in excess of one hundred thousand dollars and other contracts as may be prescribed by the Procurement Officer. Bid security shall be a certified cashier's check or a bond provided by a surety company licensed in South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability," which company shows a financial strength rating of at least five (5) times that portion of the contract price that does not include operations, maintenance, and finance. Each bond shall be accompanied by a "power of attorney" authorizing the attorney in fact to bind the surety.

(b) Bid security must be in an amount equal to at least five (5) percent of the amount of the bid at a minimum.

(c) When the invitation for bids requires security, noncompliance requires that the bid be rejected except that a bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating must be given one working day from bid opening to cure the deficiencies. If the bidder is unable to cure these deficiencies within one working day of bid opening, the bid must be rejected.

(d) After the bids are opened, they must be irrevocable for the period specified in the invitation for bids. <u>If a bidder is permitted to withdraw its bid in accordance with regulations promulgated by the County, action must not be had against the bidder or the bid security.</u>

Section 2-292. - Contract performance payment bonds.

(a) The following bonds or security must be delivered to the county and become binding on the parties upon the execution of the contract for construction:-

(1) A performance bond satisfactory to the county, executed by a surety company meeting the criteria established in section 2-291, or otherwise secured in a manner satisfactory to the county, in an amount equal to one hundred percent of the portion of the contract price that does not include the cost of operation, maintenance, and finance;

(2) A payment bond satisfactory to the county, executed by a surety company meeting the criteria established in section 2-291, or otherwise secured in a manner satisfactory to the county, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the construction work provided for in the contract. The bond must be in an amount equal to one hundred percent of the portion of the contract price that does not include the cost of operation, maintenance, and finance; and

(3) in the case of a construction contract valued at <u>one hundred thousand dollars ($100,000.00)</u> or less, the county may waive the requirements of (1) and (2) above;

(4) <u>In the case of a construction manager at-risk contract, the solicitation may provide that bonds or security are not required during the project's preconstruction or design phase, if construction does not commence until the requirements of sub items (1) and (2) above have been satisfied. Additionally, the solicitation may provide that bonds or security as described in sub items (1) and (2) above may be furnished for one or more designated portions of the project, in an amount equal to one hundred percent of the value of the construction of each designated portion, and also may prescribe the time of delivery of the bonds or security. In no event may construction of any portion of the work commence until the appropriate bonds or security have been delivered to the governmental body; (in the case of a design-build) the solicitation may provide that bonds or security as described in sub items (1) and (2) above may be furnished for one or more designated portions of the project, in an amount equal to one hundred percent of the value of the design and construction of each designated portion, and also may prescribe the time of delivery of the bonds or security. In no event may design or construction of any portion of the work commence until the appropriate bonds or security have been delivered to the</u>

governmental body.

(b) The county may require other security in addition to the security listed in subsection (a).

Section 2-293. - Insurance requirements.

The county may require a vendor or contractor performing services under contract with the county to file with the Procurement Officer a certificate of insurance evidencing workers compensation coverage, general liability coverage, errors and omissions coverage or other types of insurance coverage as may be appropriate for the type of goods or services being procured by the county. The amount and scope of any insurance coverage for a specific contract shall be determined by the Procurement Officer after consultation with the county's Risk Management Director.

DIVISION 7. - LEGAL AND CONTRACTUAL REMEDIES

Section 2-294. - Right to protest; exclusive remedy.

(a) A prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest to the Procurement Officer in the manner stated in Section 2-295 within ten (10) calendar days of the date of issuance of the invitation for bids or requests for proposals or other solicitation documents, whichever is applicable, or any amendment to it, if the amendment is at issue. An invitation for bids or request for proposals or other solicitation document, not including an amendment to it, is considered to have been issued on the date it is posted.

(b) Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the Procurement Director within ten (10) calendar days of the posted date of award or notification of intent to award, whichever is earlier; except that a matter that could have been raised pursuant to sub item (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

(c) The rights and remedies granted in this division to bidders, offerors, contractors, or subcontractors, either actual or prospective, are to the exclusion of all other rights and remedies of the bidders, offerors, contractors, or subcontractors against the county.

(d) The rights and remedies granted by this section are not available for contracts with an actual or potential value less than twenty-five thousand dollars ($25,000.00).

Section 2-295. - Protest procedure.

(a) A protest pursuant to section 2-294 (a) must be in writing, filed with the Procurement Officer in person or through certified mail, and set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided. The protest must be received by the Procurement Officer within the time provided in subsection (a).

(b) A protest pursuant to subsection 2-294 (b) must be in writing and must be personally received by the Procurement Officer within the time limits established by subsection2-294 (b). At any time after filing a protest, but no later than ten (10) days after the date of award or notification of intent to award, is posted in accordance with this article, whichever is earlier, a protestant may amend a protest that was first submitted within the time limits established by subsection2-294 (b). A protest, including amendments, must set forth both the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

Section 2-296. - Attempt to settle.

Before commencement of an administrative review as provided in section 2-297, the Procurement

Officer or designee may attempt to settle by mutual agreement a protest of an aggrieved bidder, offeror, contractor, or subcontractor, actual or prospective, concerning the solicitation or award of the contract. The Procurement Officer or designee has the authority to approve any settlement reached by mutual agreement.

Section 2-297. - Administrative review; decision; and finality.

(a) If in the opinion of the Procurement Officer, after reasonable attempt, a protest cannot be settled by mutual agreement, the Procurement Officer shall immediately notify the County Administrator who shall conduct promptly an administrative review. The County Administrator or Deputy County Administrator shall commence the administrative review no later than fifteen (15) business days after the deadline for receipt of a protest has expired and shall issue a decision in writing within ten (10) days of completion of the review. The decision must state the reasons for the action taken.

(b) A copy of the decision under subsection (a) must be mailed or otherwise furnished immediately to the protestant and other party intervening. The Procurement Officer or designee shall post a copy of the decision at a date and place communicated to all parties participating in the administrative review, and the posted decision must indicate the date of posting on its face.

(c) A decision pursuant to subsection (a) is final and conclusive, unless fraudulent <u>or unless any person adversely affected by the decision appeals to the circuit court in accordance with the provisions of this Article.</u>

(d) <u>If a final order of a Procurement Director or the County Administrator is not appealed in accordance with the provisions of this code, upon request of a party to the proceedings, the Procurement Director or County Administrator may file a certified copy of the final ruling with a clerk of the circuit court, or a court of competent jurisdiction, as requested. After filing, the certified ruling has the same effect as a judgment of the court where filed and may be recorded, enforced, or satisfied in the same manner as a judgment of that court.</u>

(e) <u>This Section does not apply to disputes between the County and a vendor regarding the performance of a contract after a contract is awarded, executed, and there is no protest pending.</u>

Section 2-298. - Automatic stay.

In the event of a timely protest pursuant to section 2-294, the county shall not proceed further with the solicitation or award of the contract until ten (10) days after a decision is posted by the Procurement Officer except that solicitation or award of a protested contract is not stayed if the Procurement Officer, after consultation with the head of the using department or agency, makes a written determination that the solicitation or award of the contract without further delay is necessary to protect the best interests of the county.

Section 2-299. - Procurement Officer Address.

Notice of the address of the Procurement Officer must be included in every notice of an intended award and in every invitation for bids, request for proposals, or other type solicitation.

<u>Section 2-300. - Frivolous protests.</u>

(a) <u>Signature on Protest Constitutes Certificate. The signature of an attorney or party on a request for review, protest, motion, or other document constitutes a certificate by the signer that the signer has read the document, to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and it is not interposed for an improper purpose,</u>

such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation.

(b) Sanctions for Violations. If a request for review, protest, pleading, motion, or other document that is filed with the Procurement Director is signed in violation of this subsection, the County Administrator/Deputy County Administrator, upon motion or upon his/her own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction that may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the protest, pleading, motion, or other paper, including a reasonable attorney's fee.

(c) Filing. A motion for sanctions pursuant to this section must be filed with the County Administrator/Deputy County Administrator no later than fifteen days after the later of either the filing of a request for review, protest, motion, or other document signed in violation of this section, or the issuance of an order that addresses the request for review, protest, motion, or other document that is the subject of the motion for sanctions.

DIVISION 8. – SMALL, MINORITY, AND WOMEN-OWNED BUSINESS ENTERPRISES

Section 2-301. - Participation in procurements—Small, minority, and women-owned business enterprises.

(a) Non-discrimination.

(1) It is a continuing public policy of the county to achieve the full and equitable participation of small business, and businesses owned by minorities and women in Lancaster County's procurement process as both prime contractors and subcontractors.

(2) The county is committed to a policy of preventing and reducing discrimination in the award of or participation in county contracts and eliminating arbitrary barriers to full participation in such contracts by all persons regardless of race, ethnicity, or sex.

(b) Classifications.

Certified classification – A Certified firm is a firm that has been accepted by Lancaster County as certified. The business or business owner must be able to show evidence of:

(1) Existence as a "for profit" business;

(2) Operations for at least one (1) year;

(3) U.S. citizenship or legal resident alien status; and either:

a. Be determined as an eligible SBE/MBE/WBE in accordance with this subchapter, subject to the provisions of "small business enterprise (SBE), minority business enterprise (MBE)" and "woman-owned business enterprise (WBE)" as defined in this subsection; or

b. The business holds current registration of SBE/MBE/WBE status with a reciprocal agency deemed acceptable to the county.

Small business enterprise (SBE) classification is a business:

(1) Which is at least fifty-one (51) percent owned by a US Citizen.

(2) Qualifying individual(s) must unconditionally and directly own and control at least 51% of the business. Control means that both the long-term decision making and the day-to-day management of the business are controlled by qualifying individual(s).

(3) The 51% ownership may not be through another business entity.

(4) Which is a for-profit entity which performs a commercially useful function; and

(5) Which is a certified firm through a State or Federal program.

Minority business enterprise (MBE) classification is a business:

(1) Which is at least fifty-one (51) percent owned by one (1) or more minority individuals, or in the case of a publicly owned business, at least fifty-one (51) percent of all classes of the stock of which is owned by one (1) or more such minority individuals;
(2) Whose management, policies, major decisions, and daily business operations are independently managed and controlled by one (1) or more minority individuals;
(3) Which performs a commercially useful function; and
(4) Which is a certified firm through a State or Federal program.

Minority individual is classified as a natural person of at least twenty-five (25) percent minimum (documentation may be required) in one (1) of the following groups:
(1) African-Americans/Black;
(2) Hispanic-Americans, which includes persons who are Mexican, Puerto Rican, Cuban, Caribbean, Dominican, Central or South American, regardless of race;
(3) Native-Americans, which includes persons who are American-Indians, Eskimos, Aleuts, or Native-Hawaiians;
(4) Asian-Americans, which includes persons who are individuals of Far East Asia, Southeast Asia, the islands of the Pacific, or the Indian subcontinent;
(5) Arab-Americans.

Woman-owned business enterprise (WBE) classification is a business:
Which is at least fifty-one (51) percent owned by one (1) or more women, or in the case of a publicly owned business, at least fifty-one (51) percent of all classes of the stock of which is owned by one (1) or more such women;

(1) Whose management, policies, major decisions, and daily business operations are independently managed and controlled by one (1) or more such women;
(2) Which performs a commercially useful function; and
(3) Which is a certified firm through a Federal or State program.

(c) *Non-discriminatory efforts.* In furtherance of the county's non-discrimination process, Lancaster County Procurement shall:
(1) Compose and maintain a list of small business, minority and women-owned vendors who are eligible to contract with the county;
(2) Seek and locate SBE/MBE/WBEs to be involved in the procurement process of county goods and services;
(3) Ensure no barriers in procurement procedures that will prohibit full participation of SBE/MBE/WBEs from doing business within the county;
(4) Maintain regular reporting of such activities to be available to all county management.

(d) *SBE/MBE/WBE utilization.* Lancaster County wishes to ensure that all duly certified small business enterprises (SBE), minority business enterprises (MBE), and woman-owned business enterprises (WBE) are afforded the opportunity to fully participate in the procurement process. In addition to any requirements set forth in state or federal mandates, the County Administrator/Deputy County Administrator or Procurement Officer may include qualified MBEs and WBEs on solicitation lists.

DIVISION 9. - SURPLUS PROPERTY

Section 2-302. -Disposal of personal property.

(a) All items of personal property belonging to the county may be declared surplus property to be sold, transferred, traded, or placed in storage by the county. Each department shall report all surplus property to the Procurement Officer on an annual basis.

(b) Surplus personal property shall be disposed of in the following manner:
   (1) County personal property may be sold by public auction or by competitive sealed bidding to the highest bidder. The sale of property not in actual public use shall be conducted by the Procurement Officer. Sales may be held on an as needed basis. The Procurement Officer shall deposit the proceeds from the sales, less the expense of the sales, in the fund from which the item was originally paid from.
   (2) Surplus supplies, inventory, or capital assets may be transferred between departments, other government agencies, or certain non-profits approved by the County. The Procurement Officer must document all transfers of assets and give proper documentation to the accounting office.
   (3) Certain personal property may be held in storage until an appropriate time for disposal in accordance with this article.
   (4) Certain property deemed by the Procurement Officer and the using department to be of no value and not suitable for disposal through the above methods, may be dismantled and disposed of permanently and in an appropriate fashion.

Section 2-303. - Disposal of real property.

(a) Surplus real property is property owned by the county and declared surplus by the county council. The County Administrator may make recommendations to the county council. Disposal of property declared surplus by the county council shall be disposed of in accordance with this section.
(b) All surplus real property must be appraised to determine its fair market value.
(c) The sale of any surplus real property must be approved by county council by passage of an ordinance and with a public hearing held prior to final approval of the ordinance.
(d) County council shall determine the method of disposal of the surplus real property in the ordinance authorizing the sale of the property.
(e) The grant on an easement that will encumber real property owned by Lancaster County must be approved by County Council by passage of an ordinance and a public hearing held prior to final approval of the ordinance. The County Administrator may make recommendations to the County Council. The opinion of the Assessor as to the valuation of a proposed easement grant may be used in lieu of an appraisal.
(f) The relinquishment of easement rights held by Lancaster County must be approved by County Council upon recommendation by the County Administrator. A relinquishment of easement rights held by Lancaster County is exempt for the appraisal and sale process set forth in above subsections (b),(c), and (d), but must be accomplished by passage of an ordinance and a public hearing held prior to final approval of the ordinance. Absent unusual circumstances or a statutory mandate to the contrary, the relinquishment of easement rights, once approved by County Council, may be effectuated by execution of a quit claim deed to the owner of the real property encumbered by the easement.

DIVISION 10. - REAL PROPERTY ACQUISITION

Section 2-304. - Acquisition of real property.

All transactions involving real property, made for or by the county, must be approved by county council by passage of a resolution or ordinance to that effect. If the transaction is for the purchase of real property the resolution or ordinance must include the purchase price. Prior to acting on the resolution or ordinance, county council shall be provided a phase I environmental assessment and an appraisal completed by an MAI certified appraiser. For right-of-ways and easements, a phase I environmental assessment is not required and a valuation by the county tax assessor's office may be provided to county council in lieu of an MAI appraisal.

Section 2. **Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 3. **Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 4. **Effective Date.**

This ordinance is effective upon Third Reading.

AND IT IS SO ORDAINED

Dated this 14th day of September, 2020.

LANCASTER, SOUTH CAROLINA

Steve Harper, Chair, County Council

Larry Honeycutt, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading:	August 10, 2020
Second Reading:	August 24, 2020
Public Hearing:	August 24, 2020
Third Reading:	September 14, 2020

Approved as to form:

for John DuBose

John DuBose, County Attorney