

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

ORDINANCE NO.: 2023-08

**AN ORDINANCE TO PROVIDE REGULATIONS RELATING TO THE
PROCUREMENT OF GOODS AND SERVICES BY Clarendon County AND TO
PROVIDE OTHER MATTERS RELATED THERETO.**

WHEREAS a survey and analysis of this government's purchasing practices has been conducted by the Council of Clarendon County; and

WHEREAS, the procurement of materials, supplies, equipment, services and construction requires the substantial outlay of public funds;

WHEREAS, systematic and economical accounting and procurement procedures are essential to the efficient operation of a modern governmental unit; and

NOW THEREFORE, BE IT RESOLVED by the County Council, that the responsibility, procedures, rules, and administration of the governmental purchasing system shall be as outlined in this manual and incorporated herein by reference.

ADOPTED this XX day of, 2024.



ATTEST:

Dorothy M. Levy
Dorothy M. Levy, Clerk to Council

Dwight L. Stewart, Jr.
Dwight L. Stewart, Jr., Council Chairman

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 4/5/24
Beulah B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

First Reading: 12-11-2023
Public Hearing: 01-08-2024
Second Reading: 01-08-2024
Third Reading and Adoption: 02-12-2024

Beulah Roberts, Clerk-Clarendon S.C.
2024 APR 5 PM 4:21

PROCUREMENT CODE REGULATIONS

Clarendon County



**Issued In Accordance With
Clarendon County Ordinance No.: 2023-08**

DIVISION 1

GENERAL PROVISIONS

These Regulations are issued under the authority of Clarendon County Ordinance Number 2023-08 known as the Procurement Regulations Code, and hereafter referred to as the Procurement Code. These regulations establish procedures and guidelines relating to the procurement, management, control, and disposal of supplies, services, and construction, as applicable for Clarendon County.

These Regulations apply to all contracts for procurement of supplies, services, and construction, entered by Clarendon County. Nothing contained in these Regulations shall be construed to waive any rights, remedies, or defenses the County might have under any of the laws of the State of South Carolina. Among the stated purposes and policies of the Clarendon County Procurement Code Regulations are:

To simplify, clarify, and modernize the purchasing procedures in order to:

- Reduce administrative costs.
- Promote efficiency and economy in purchasing and avoid unnecessary burdens for departments and contractors.
- To provide for increased public confidence in the procedures followed in public procurement.
- To ensure the fair and equitable treatment of all persons who deal with the Clarendon County procurement system.
- To provide greater transparency in county procurement activities and to fully maximize the value of public funds.
- To provide safeguard procurement practices and ensure quality and integrity.
- To obtain in a cost-effective and responsive manner the materials, services, equipment, and construction required by Clarendon County and agencies; so, citizens and area business receive better service.

Definitions.

The definitions contained in this Ordinance are acceptable definitions for all procurement actions initiated for Clarendon County.

Public Access to Procurement Information.

Procurement information shall be public record to the extent of Chapter 4 of Title 30 (The Freedom of Information Act), S.C. Code of Laws.

Compliance with Federal Requirements; Compliance with Disbursement and Management Requirements of Financing Documents

Procurement involving the expenditure of federal assistance funds shall be conducted in accordance with federal regulations as determined by the federal funding source which may apply to the procurement.

Standards of Conduct

The provision of Chapter 13 of Title 8 (State Ethic Act), S.C. Code of Laws shall govern the standards of conduct for all procurement actions for Clarendon County. It is crucial that all personnel involved in procurement (either as procurement staff, document reviewers, drafters of specifications, members of selection committees, or otherwise) be aware of, and fully comply with, all applicable ethics laws.

Requisition Processing

Department head/manager or designee will submit purchase requisitions to the Director of Procurement on

the approved requisition form. All requisitions shall include:

- A complete description of supplies/services needed.
- Product specifications and requirements
- Estimated cost
- Date needed
- Possible sources of supply--list suggested vendor(s)
- General Ledger account codes
- Signature of the department head/manager or designee. By signing the requisition, the authorized person verifies that the requested item(s), equipment, or services are approved in the budget, that sufficient funding is available, that the expenditure is necessary and in the best interests of the County and follows activities or projects under their/her purview.

For those purchases more than fifty thousand dollars (\$50,000), the Director of Procurement will forward the requisition to the Chief Finance Officer (CFO) or designee where he/she will review the requisition(s) to verify that the requesting department has the available funding and that the items to be purchased are authorized within the departmental budget. Approved requisitions will be signed by the CFO or designee and returned to the Director of Procurement for processing. If funds are not available in the requestor's budget and/or the item(s) requested are not approved in the department's budget, the requisition will be returned to the requesting department by the CFO or designee. Large purchases such as equipment, consultant services and construction should be itemized in the budget process and the CFO should return requisitions for such large purchases that have not been previously approved by County Council.

Only the Clarendon County Procurement Department is authorized to commit the County for goods or services through a purchase order. Individuals making unauthorized commitments risk personal liability for any incurred expenses as well as disciplinary action.

Nothing in this ordinance should prohibit the County Administrator and Director of Procurement from developing a Direct Purchase Order (DPO) system to allow certain departments with a 24 hour/7 day a week responsibility (i.e., First Responders) to directly procure small items- such as parts for maintenance, or additional food requirements for the Detention Center, if an emergency emerges. If it becomes necessary to implement a DPO on a limited basis, a policy will be written and presented to County Council for approval.

Application of Procurement Code

This Code applies to "every expenditure" of public funds irrespective of their source. This includes the disposal of County supplies (even though technically supply disposal does not generally result in expenditure of public funds, but rather the receipt of). However, the Code and Regulations do not apply to federal assistance monies and grants, or contracts between the County and other governments, except as provided in Article 10, Intergovernmental Relations, of the Code. The code and regulations do not prevent the county and its employees from complying with the terms or conditions of any grant, gift, bequest, or cooperative agreement.

There is a general exception in the code for certain "pass-through" grant situations—cases where the County acts as the recipient for a grant from another governmental or private entity for another governmental or private entity (the "third party beneficiary"). In those situations where the County acts only as a conduit for the grant funds on the third-party beneficiary's behalf, special rules apply, instead of the full requirements of the Code and regulations. Specifically, the third-party beneficiary has an obligation either to abide by the Code in its entirety or to operate under its own procurement/purchasing procedures.

DIVISION 2

SMALL PURCHASE PROCEDURES

Up to \$10,000 NO COMPETITION REQUIRED

Price must be “fair and reasonable” - Purchases must be distributed equally among qualified suppliers so that same vendor does not get all the business.

\$10,001 - \$25,000 (3) THREE VERBAL QUOTES

Must provide written support, as prepared by Procurement Department staff, as to results of the verbal quotes and maintained on file for audit.

\$25,001 - \$50,000 (3) THREE WRITTEN QUOTES

Must provide copies of the written solicitation, quotes, and any drawings or documents provided to vendors with the requisition; or you can submit written specifications and procurement will advertise in South Carolina Business Opportunities (SCBO).

\$50,001 and Above FORMAL SOLICITATION REQUIRED

DIVISION 3

SOURCE SELECTION AND CONTRACT FORMATION

Definitions. Source Selection and Contract Approval by County Council.

Methods of Source Selection.

Upon the receipt of a requisition, procurement staff will check to see if the commodity or services requested are currently on a government contract; this will be inclusive of either the SC state contract and/or one of our other contract alliances i.e. (cooperative purchasing agreements, inclusive of GSA). As a county entity, we are eligible (but not mandated) to purchase on these pre-negotiated contracts and will opt to use what is most advantageous for Clarendon County.

All updated information regarding state contracts is contained on the state’s web page <https://procurement.sc.gov/contracts>. In an effort to assist with each departmental budget, Procurement staff diligently keeps up with the contract updates and shares changes/updates with applicable departments.

- ***Cooperative purchasing authorized.*** The Procurement Director may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of supplies, services, or construction with one or more public procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include but is not limited to joint or multiparty contracts between public procurement units.
- ***Sale, acquisition, or use of supplies.*** The Procurement Director may sell to, acquire from, or use any supplies belonging to another public procurement unit independent of the requirements of this division.
- ***Cooperative use of supplies or services.*** The Procurement Director may enter into an agreement, independent of the requirements of this division, with any public procurement unit for the cooperative use of supplies or services under the terms agreed upon between the parties.
- ***Joint use of facilities.*** The Procurement Director may enter into agreements for the common use or lease warehousing facilities, capital equipment and other facilities with another public procurement unit under the terms agreed upon between the parties.
- ***Usage of GSA or state contracts.*** As an alternative to the procedures described, the Procurement Director may purchase any supplies, materials, equipment or contractual services through the GSA contracts or central state purchasing office of the division of general services.
- All other county contracts shall be awarded by competitive sealed bidding, pursuant to Competitive

Sealed Bidding Guidelines, except as provided in:

- ✓ (Competitive Sealed Bids);
- ✓ (Competitive Sealed Proposals);
- ✓ (Request for Qualification Statements)
- ✓ (Small Purchases);
- ✓ (Sole Source/Non-Competitive Procurement) ;
- ✓ (Emergency Procurement)
- ✓ (Selection of method of Construction Contract Management)
- ✓ (Items and Professional Services Deemed Exempt).

Competitive Sealed Bidding.

Conditions for Use: Where the estimated cost of an individual item or service will exceed \$50,000.00, the procurement shall be based upon formal bid requirements for which bid specifications can be developed to assure adequate competition. An award shall be made to the lowest responsive and responsible bidder.

Invitation for Bids: The Invitation for bids shall include the following:

- instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the individual to whom the bid is to be submitted, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the County, and any other special information:
- the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description:
- the contract terms and conditions, including warranty and bonding or other security requirements, as applicable:
- instructions to bidders to visibly mark as confidential each part of their bid which they consider to be proprietary information.

Public Notice: Public notice of all Invitation for Bids may be made in a newspaper of general circulation. Bidding time will be set to provide bidders a reasonable time to prepare their bid. A minimum of seven (7) days shall be provided.

Bid Opening: The Procurement Director or designee shall publicly open the bids in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The bids shall be read aloud to those present. The amount of each bid and such other relevant information, together with the name of each bidder, shall be tabulated. The tabulation shall be open to public inspection.

- Postponement of Bid Opening: An addendum postponing the bid opening may be issued by the Procurement Director for causes beyond the control of bidders (e.g., flood, fire, accident, weather conditions) or when emergency or unanticipated events interrupt normal governmental operations.
- Disclosure of Bid Information: Only the information disclosed at the bid opening is considered to be public information under the Freedom of Information Act, Chapter 4 of Title 30, until award is made.

Bid Acceptance and Bid Evaluation: When necessary for the best interest of the County, bid criteria to determine acceptability may include inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and considered in evaluation for award shall be measurable costs to include, but not limited to, discounts, transportation costs, total or life cycle cost.

- Faxed or E-mailed Bids: As a general rule, facsimile bids will not be authorized for formal methods of source selection.

- Rejection of Bids: Unless there is a compelling reason to reject one or more bids, award will be made to the lowest responsible and responsive bidder. Every effort shall be made to anticipate changes in requirements prior to the date of opening and to notify all prospective bidders of any resulting modifications or cancellation, thereby permitting bidders to change their bids and preventing the unnecessary exposure of bid prices. As a general rule after opening, an Invitation for Bids should not be canceled and re-advertised due solely to increased requirements for the items being procured; award should be made on the initial Invitation for Bids and the additional quantity required should be treated as a new procurement.
- Cancellation of Bid Prior to Award: When it is determined prior to an award, but after opening, that the requirements relating to the availability and identification of specifications have not been met, the Invitation for Bids shall be canceled. Invitation for Bids may be canceled after opening, but prior to award when the Procurement Director determines that:
 - inadequate or ambiguous specifications were cited in the Invitation for Bids;
 - specifications have been revised;
 - the supplies or services being procured are no longer required;
 - bids received indicate that the needs of the county can be satisfied by a less expensive article differing from that on which the bids were requested;
 - all otherwise acceptable bids received are at unreasonable prices;
 - the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith;
 - for other reasons, cancellation is clearly in the best interest of the county.

Extension of Bid Acceptance Period: Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for re-advertisement.

Rejection of Individual Bid: Any bid which fails to conform to the essential requirements of the Invitation for Bids shall be rejected.

Alternate Bids: Any bid which does not conform to the specifications contained or referenced in the Invitation for Bids may be rejected unless the Invitation for Bids authorizes the submission of alternate bids and the alternate offered meets the requirements specified in the Invitation for Bids.

Non-responsive Bids: Any bid which fails to conform to the delivery schedule, or permissible alternates thereto stated in the Invitation for Bids may be rejected as non-responsive.

Modification of Requirements by Bidders: Ordinarily a bid should be rejected when the bidder attempts to impose conditions which would modify requirements of the Invitation for Bids or limit their liability to the county, since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids should be rejected in which the bidder:

- attempts to protect themselves against future changes in conditions such as increased costs, if total possible cost to the county cannot be determined;
- fails to state a price, in lieu of states that prices shall be prices in effect at time of delivery;
- states a price but qualifies such price as being subject to prices in effect at time of delivery;
- when not authorized by the Invitation for Bids, conditions, or qualifies their bid to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement;

- requires the County to determine that the bidder's product meets county specifications; or
- limits the rights of the County under any contract clause.

Price Unreasonableness: Any bid may be rejected if the Procurement Director determines that it is unreasonable as to the price.

Bid Guarantee Requirement: When a bid guarantee is required and a bidder fails to furnish it in accordance with the requirements of the Invitation for Bids, the bid shall be rejected.

Unsigned Bids; Unsigned bids shall be rejected unless deemed to be a minor informality.

Exceptions to Rejection Procedures: Any bid received after the Procurement Director has determined that the time set for bid opening has arrived, shall be rejected unless the bid was in the possession of the procurement office and was misplaced by a county employee in that office. In this event, the Procurement Director shall annotate the bid tabulation and consider the misplaced bid along with the other previously received bids.

All or None Qualifications: Unless the Invitation for Bids so provides, a bid is not rendered non-responsive by the fact that the bidder specifies that award will be accepted only on all, or a specified group, of items included in the Invitation for Bids. However, bidders shall not be permitted to withdraw or modify all or none qualifications after bid opening since such qualification is substantive and affects the rights of the other bidders.

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 or merely a trivial or negligible effect on price, quality, quantity, or delivery of the supplies or performance of services being procured, and the correction or waiver of which would not affect the relative standing of, or otherwise be prejudicial to bidders. The Procurement Director 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 where it is to the advantage of the county. Examples of minor informalities or irregularities include, but are not limited to:

- failure of bidder to return the number of copies of signed bids required in the Invitation for Bids;
- failure to furnish the required information concerning the number of bidder's employees or failure to make a representation concerning the company size status;
- failure of a bidder to sign their bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned document such as the submission of a bid guarantee with bid, or a letter signed by the bidder with the bid referring to and clearly identifying the bid itself;
- failure of a bidder to acknowledge receipt of an addendum to an Invitation for Bids, but only if:
 - the bid received clearly indicates that the bidder received the addendum, such as where the addendum added another item to the Invitation for Bids and the bidder submitted a bid thereon; or,
 - the addendum clearly would have no effect or merely a trivial or negligible effect on price, quality, quantity, delivery, or the relative standing of bidders, such as an addendum correcting a typographical mistake in the name of the county;
- failure to furnish an affidavit concerning affiliates, if required; or
- failure to execute the certification with respect to Equal Opportunity and Affirmative Action Programs, or Non-Collusion Oaths.

Correction or Withdrawal of Bids; Cancellation of Awards: A bidder or offeror must submit in writing a

request to withdraw or correct a bid. Each written request must document the fact that the bidder's or offeror's mistake is clearly an error that will cause them substantial loss.

- Correction Creates Low Bid: To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake in the judgement of the Procurement Director is clearly evident from examining the bid document; for example, extension of unit price or errors in addition.

Award: The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids.

- Time of Award: The contract award shall be made within sixty (60) days from the date of bid opening unless the Procurement Director determines that a longer review time is necessary.

Competitive Sealed Proposals.

Conditions for Use: Procurements can be made by competitive sealed proposals above \$50,000.00 that are highly technical, complex in nature, and do not lend themselves to formal competitive sealed bidding.

Requests for Proposals: Competitive sealed proposals should include, but not be limited to, the general scope of the proposal, criteria for selection, information required to be submitted, activities to be performed, and relevant costs. An award shall be made to the offeror whose proposal is considered to be most advantageous to the county. Cost shall not exceed 50% of the weighted criteria for evaluation purposes.

Public Notice: Public notice of all Request for Proposals may be made in a newspaper of general circulation. Bidding time will be set to provide bidders a reasonable time to prepare their bid. A minimum of seven (7) days shall be provided.

Proposal Opening: Proposals shall be opened publicly by the Procurement Director or their designee in the presence of one or more witnesses at the time and place designated in the Request for Proposals. A tabulation of those offering a proposal shall be made a public record. Contents of competing offers shall not be disclosed during the process of negotiation. All offerors must visibly mark as confidential each part of their proposal which they consider to be proprietary information.

Discussion with Responsible Offerors and Revisions to Proposals: Use of a Request for Proposals permits discussion after the proposals have been opened to allow clarification to ensure full understanding of, and responsiveness to, the solicitation requirements. All offerors shall be accorded fair and equal treatment with respect to any opportunity for submissions and prior to award for the purpose of obtaining best and final offers. The objective is to obtain a contract agreement which is most advantageous to the county in terms of factors such as period of performance, type of contract, quality of the items or services being purchased, and price. Proposals submitted by competing firms are not disclosed to the public or to competitors prior to award. However, after a contract is awarded, its terms and conditions will become public record.

Evaluation of Proposals: The provisions of R3-2-184.5. shall apply to implement the requirements of evaluation of proposals.

Other Applicable Provisions: The provisions of the following rules associated with Competitive Sealed Bidding shall apply to Competitive Sealed Proposals:

- Faxed or e-mailed Bids;
- Rejection of Bids;
- Rejection of Individual Bids;

- All or None Qualifications;
- Minor Informalities and Irregularities in Bids;
- Correction or Withdrawal of Bids; Cancellation of Awards.

Competitive Selection Procedures for Specified Services.

Statement of Qualifications: Persons engaged in providing the types of specified services identified may submit to the department statements of qualifications and expressions of interest in providing such services. People may amend these statements at any time by filing a new statement.

Public Announcement and Form of Request for Proposals: Adequate notice of the need for such services shall be given by the department requiring such services through a Request for Proposals. The Request for Proposals shall describe the services required of each offeror and state the relative importance of particular qualifications.

Discussions: The department head may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

Award: Award shall be made to the offeror determined in writing by the department head to be best qualified based on evaluation factors set forth in the Request for Proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will formally terminate with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

Items and Professional Services Deemed Exempt.

The following items and services are deemed to be exempt from the provisions of this Ordinance.

- Livestock, feed, and veterinary supplies.
- Articles for commercial sale by Clarendon County.
- Postage
- Invoices for utility services provided by public utilities subject to rate regulation by the Public Service Commission.
- U.S. Post Office box rentals.
- Copyrighted films, filmstrips, slides, and transparencies.
- Oil company credit card purchase for gas, oil, and jet fuel charges only.
- Professional dues and registration and membership fees.
- Legal services/Attorneys
- Certified public accountants and public accountants.
- Hospital and medical clinic services.
- Medical doctors.
- Optometrists.
- Dentists.
- Registered nurses.
- Licensed practical nurses.
- Psychiatrists.
- Investment counselors.
- Clergy.

- Court reporters.
- Expert witness services.
- Title abstractors.
- Land-Surveyors.
- Appraisers.
- Expenditure of funds by the Clarendon County Recreation Department derived wholly from its registration and canteen operations.
- Expenditure of funds related in the issuance of bonds to include printing costs and any fees associated with any bond issuance.
- Fuel oil and diesel oil.
- Contracts between insurers and reinsurers for primary and reinsurance coverage.
- Doctors of osteopathy.
- Instructional training seminars offered by governmental bodies to county employees on a registration fee basis and those contractual consultant services necessary to provide the professional instruction for the seminars.
- Physical therapists and physical therapy assistance.
- Speech pathologists.
- Occupational therapists.
- Veterinary services.
- Advertisements in professional journals or publications.
- Advertising time or space or notices in newspapers, radio, or television.
- The purchase of goods from the South Carolina Department of Corrections, Division of Prison Industries.
- An exemption to allow the Clarendon County Sheriff's Office to procure law enforcement equipment and supplies to be used specifically for undercover drug enforcement or interdiction activities, subject to state and federal laws governing the procurement of such equipment and supplies.

Small Purchases

Low-cost repetitive type items less than \$50,000 are considered small purchases and can be procured on an informal basis, addressing competition at certain dollar limits.

No purchase may be artificially divided by price so as to utilize these small purchase procedures. All competitive procurements above \$50,000 must be advertised at least once in "South Carolina Business Opportunities" or other media or newspaper with circulation appropriate for expenditure. The county may charge vendors for any cost incurred for copying and mailing bid or proposal documents requested in response to an advertised solicitation.

Threshold	Competition Required
Under \$10,000	No competition required
\$10,001 - \$25,000	Three (3) oral or written quotes
\$25,001-\$50,000	Three (3) written quotes
\$50,001 & Above	Formal solicitation required

Competition and Price Reasonableness: Purchase of items or services with a base cost not in excess of \$10,000 may be accomplished without securing competitive quotations if the prices are considered to be reasonable. For purchases over \$10,000, but not exceeding \$25,000, solicitations of verbal or written quotes shall be obtained from three (3) (if possible) qualified sources of supply when such sources are available.

For purchases over \$25,000, but under \$50,000, solicitations of written quotes shall be obtained from three (3) (if possible) qualified sources of supply when sources are available. For purchases over \$50,000, formal solicitations are required.

Blanket Purchase Agreements. (BPA)

- General: A Blanket Purchase Agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing a charge account with qualified sources of supply. Blanket Purchase Agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.
- Time Limit: Blanket Purchase Agreements shall not be for any period in excess of one (1) year.

Sole Source Procurement/Non-Competitive Procurement.

- Sole Source Procurement: A sole-source procurement is when a justification can be written stating that any good, service, supply, or construction item can only be purchased from one source. If the department submitting requisition has reason to believe that goods or services would be a potential “sole source” procurement, a written justification must be submitted along with the requisition.
- Non-Competitive Procurement: A non-competitive procurement is where the County Administrator, or their designee, has deemed the compatibility of equipment, accessories, services, systems, software, or replacement parts is to be of paramount importance.

Examples include public utilities, equipment maintenance, used equipment, and trial uses of a product. See used equipment appraisal form.

- General: A procurement can be made from a sole source based upon a determination of the County Administrator or designee and upon the recommendation of the Procurement Director.
- Application: The provisions of their regulation shall apply to all sole source procurements unless emergency conditions exist.
- Exceptions: Sole source procurement is not permitted unless there is only a single supplier. The following are examples of circumstances which could necessitate sole source procurement:
 - where the compatibility of equipment, accessories, or replacement parts is the paramount consideration;
 - where the sole supplier’s item is needed for the trial use or testing;
 - where a sole supplier’s item is to be procured for resale;
 - where public utility services are to be procured;
 - where the item is one of a kind.
- Written Determination: The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Director or designee. Such determination and the basis therefore shall be in writing and shall specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. Any request by a department head that a procurement be restricted to one potential source shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

Emergency Procurement.

The Procurement Director may make or authorize emergency procurements as provided in the ordinance and these regulations.

- Application: The provisions of their regulation apply to every procurement made under emergency

conditions that will not permit other source selection methods to be used.

- Definition: An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, fire loss, or such other reasons as may be proclaimed by either the Procurement Director or County Administrator or designee of either office.
- The existence for such 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;
 - the functioning of county government;
 - the preservation or protection of property;
 - the health or safety of any person.

The Procurement Director may make or authorize others to make emergency procurements when a threat exists which is determined to negatively impact normal county operations.

- Limitations: Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency.
- Conditions: Any department head may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided that whenever practical, approval by either the County Administrator or the Procurement Director shall be obtained prior to the procurement.
- Special Procurement: In unique or unusual situations, the Procurement Director or County Administrator may initiate a special procurement, where no other source selection method is applicable. Special procurements must be given prior public notice and must be used only where the circumstances make the application of competitive sealed bidding or proposals “contrary to the public interest”.
- Selection of Method of Procurement: The procedure used shall be selected to assure that the required supplies, services, or construction items are procured in time to meet the emergency. Given their constraint, such competition as is practicable shall be obtained.
- General Procedure: Competitive sealed bidding is unsuccessful when bids received pursuant to an Invitation for Bids are unreasonable, noncompetitive, or the low bid exceeds available funds, and time or other circumstances will not permit the delay required to re-solicit competitive sealed bids. If emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.
- Written Determination: The department head requiring the emergency procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the contractor.

Cancellation of Invitation for Bids or Requests for Proposals.

Each solicitation issued by the county shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the county. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, state a brief reason for cancellation, and where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items or services.

Responsibility of Bidders and Offerors.

- County Standards of Responsibility: Factors to be considered in determining whether the county standards of responsibility have been met include whether a prospective contractor has:
 - available the appropriate financial, material, equipment, facility, personnel resources, and expertise;
 - workers compensation and liability insurance, or ability to obtain them;
 - a satisfactory record of performance and integrity;
 - qualified legally to contract with the county; and
 - supplied all necessary information in connection with the inquiry concerning responsibility.
- Duty of Contractor to Supply Information: The prospective contractor shall supply information requested by the Procurement Director concerning the responsibility of the contractor. If the contractor fails to supply the requested information, the Procurement Director shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if such failure is unreasonable.
- Determination of Responsibility: The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:
 - evidence that the contractor possesses the necessary items;
 - acceptable plan to subcontract for necessary items; or
 - a documented commitment form, or explicit arrangement with a satisfactory source to provide the necessary items.
- Justification for Contract Award: Before awarding a contract, the Procurement Director must be satisfied that the prospective contractor is responsible.
- Written Determination of Non-responsibility: If a bidder or offeror who otherwise would have been awarded a contract is found not responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the Procurement Director. The final determination shall be made a part of the procurement file.

Bid Security and Bonds.

Reserved

Pre-qualification of Suppliers.

Reserved

Cost or Price Data.

- Cost data is factual information concerning the cost of labor, material, overhead, and other cost components which are expected to be incurred or which have been actually incurred by the contractor in performing the contract. Cost data should include sufficient information to evaluate:
 - specific elements of costs;
 - the necessity for certain costs;
 - the reasonableness of amounts estimated for the necessary costs; the reasonableness of allowances for contingencies;
 - the basis used for allocation of indirect costs;

- the appropriateness of allocations of particular indirect costs to the proposed contract; the reasonableness of the total cost or price.
- Price data is factual information concerning the price of goods, services, or construction substantially identical to those being procured. Examples of price analysis criteria include, but are not limited to:
 - price submission of prospective bidders or offerors in the current procurement;
 - prior price quotations and contract prices charged by the bidder, offeror, or contractor;
 - prices published in catalogs or price lists;
 - prices available on the open market; and
 - in-house estimates of cost.

Types of Contracts.

- Fixed-Price Contracts. Firm (FFP): An agreement to pay a definite amount, for which the contractor agrees to perform the work. No price adjustment is made for the original work after award. The contractor thus assumes all financial risk and their profit depends entirely on their ability to manage the performance of the contract. Such a contract depends upon the availability of a reasonably definite specification and full agreement at the outset as to a fair and reasonable price. The FFP contract is the preferred type in most instances.
- Fixed-Price with Escalation (FPE): An agreement to provide for the upward or downward revision of the stated price upon the occurrence of specified contingencies. The escalation is tied to recognized indexes, such as the price index of basic commodities, or of labor hourly rates. Usually there is a limit, a ceiling, on upward adjustment.
- Fixed-Price with Incentive with Firm Targets (FPIF): An agreement to pay a dollar incentive based upon reduced costs, early delivery, or improved end-item performance. Targets are established and formulas are agreed upon by which profits will be adjusted and overruns (or underruns) will be shared, on a formula, between the county and the vendor. A price ceiling and a floor are set. This type of contract is used when exact pricing at the outset is impossible but estimated (target) prices could be agreed upon.
- Fixed-Price Incentive with Successive Targets (FPIS): Similar to the FPIF, except that a series of targets and formulas apply at different stages of performance on the contract. The last target and formula, prior to final delivery, is seen as either a FFP or FPIF. This type of contract is used only in the most uncertain pricing situation.
- Fixed-Price with Prospective Price Redetermination (FPRP): An agreement that at certain stated times during the performance of the contract, the price will be redetermined. A supplier may be willing to place a price on only the first of many increments of a large order with a long lead time. A firm price would be stated for the initial quantity, and as the time for second increment approaches, a new price would reflect the experience gained on the initial increment supplied.
- Fixed-Price with Retroactive Price Redetermination (FPRR): An agreement to re-price the contract after completion. A ceiling price would be established at time of award. The repricing would be based upon audited final cost data.

Cost-Reimbursement Contracts. Cost-reimbursement contracts are used when the information available is not adequate to support a mutually acceptable fixed-price arrangement. Since any item of cost might be challenged, allowable costs, reasonable, and allocable to the contract must be specified. It is also necessary to specify the size of the fee (profit) that will be allowed on top of the allocated costs. This is usually stated as a percentage of a target cost.

- Cost Reimbursement (CR). An agreement to reimburse the contractor only for the allowable and allocable costs of the job. There is no ceiling on costs, and no fee is paid as such; instead, payment

is made only to what the contractor's accounting system can justify. This type of contract is used when the uncertainties of performance are of great magnitude and reasonable cost estimates are impossible.

- Cost-Sharing (CS). An agreement that the supplier will assume part of the cost of performance. Presumably the supplier would expect to receive some side benefits of the contract - perhaps using the capability or skill developed in performance of the contract in connection with a related commercial venture.
- Cost-Plus-A-Percentage of Cost (CPPC). An agreement that the supplier will receive payment for the costs of performance plus a specified percentage of such cost as a fee. The profit increases automatically as the cost increases, thus providing an incentive to run up costs as high as possible. Use of federally funded contracts is prohibited.
- Cost-Plus-Incentive-Fee (CPIF). An agreement providing for the reimbursement of costs plus a variable fee. As with fixed-price incentive contracts, cost and fee targets and ceilings and floor would be negotiated for the various elements, but there would be no set total-price ceiling. Performance objectives would have to be well established for this to be used.
- Cost-Plus-Award-Fee (CPAF). An agreement that the contractor's final fee (profit) will vary depending upon the government's after the fact evaluation of the quality of performance. A base cost and fee are negotiated and a schedule of award fees is established. The base fee covers minimum performance, and the award fee is added onto that. This type of contract is used only where the quality and quantity of work performed cannot be measured until after performance.
- Cost-Plus-Fixed-Fee (CPFF). An agreement that the contractor will be reimbursed for all allowable costs plus a limited fixed fee. One form of such a contract requires a complete job; another form merely calls for a level of effort during a stated time period. Under such a contract the costs would vary, but the fee would not.

Other Contractual Devices.

- Time-and-Material Contract. This type of contract is usually used in procuring service, maintenance, overhaul, or emergency repairs. The rate per labor hour includes the price of supervision, and the prices of materials are covered by a schedule. The contractor is paid for work actually performed. Similar to this is the labor-hour contract, except, here the materials are county-furnished. The contractor provides only the labor and supervision.
- A Definite-Quantity, Indefinite-Delivery Contract. This type of contract is used when purchasing a prescribed quantity of an item during a definite period but allowing for delivery or performance at designated locations on order. In one sense, this is an inventory-management device because it requires the vendor to carry an inventory ready for the county's call; thus, it is often referred to as a call contract. Requirements contracts are similar except that they do not specify quantity (they may set a floor and ceiling on quantity, however). The county expects the vendor to deliver whatever quantities are needed. This device is used for consumable supplies or services that are common to many users in the proximity of the supplier. Ordinarily the county obligates itself to obtain all its needs in an area from the single contractor. The contractor assumes inventory management and the related costs.
- Indefinite-Quantity, Indefinite-Delivery Contract. This type of contract is used for obtaining a vendor commitment to meet recurring needs for supplies or services when the county itself wishes to make only a minimum commitment. It is similar to a requirement contract except that minimum order quantities are specified; delivery is scheduled by the using activities.

Multi-Term Contracts.

General: A multi-term contract is appropriate when it is in the best interest of the county to obtain uninterrupted services extending over one fiscal period, where the performance of such services involving

high start-up costs, or when a changeover of service contracts involving high phase- in/phase-out costs during a transition period. The multi-term method of contracting is also appropriate when special production of definite quantities of supplies for more than one fiscal period is necessary to best meet the needs of the county, but funds are available for only the initial fiscal period. Special production refers to production for contract performance when it requires alteration in the contractors' facilities or operations involving high start-up costs. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds thereof. The contract shall provide that, in the event the funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled.

Objective: The objective of the multi-term contract is to promote economy and efficiency in procurement by obtaining the benefits of sustained volume production and consequent low prices, and by increasing competitive participation in procurements which involve special production with consequent high start-up costs and in the procurement of services which involve high start-up costs or high phase-in/phase-out costs during changeover of service contracts.

Conditions for Use: The maximum time for any multi-term contract is five (5) years unless otherwise approved by County Council. A multi-term contract may be used when it is determined by the Procurement Director that:

- special production of definite quantities or the furnishing of long- term services are required to meet County needs; or
- a multi-term contract will serve the best interest of the county by encouraging effective competition or otherwise promoting economies in county procurement.

The following factors are among those relevant to such a determination:

- firms which are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
- lower production costs because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
- stabilization of the subcontractors work force over a longer period of time may promote economy and consistent quality;
- the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

Solicitation: The solicitation shall state:

- the estimated amount of supplies or services required for the proposed contract period;
- that a unit price shall be given for each supply or service, and that such unit prices shall be the same throughout the contract, except to the extent price adjustments may be provided in the solicitation and resulting contract;
- that the multi-term contract will be canceled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first; however, this does not affect either the county's right or the contractor's rights under any termination clause in the contract;
- that the Procurement Director must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period.
- whether bidders or offerors may submit prices for:
 - the first fiscal period only;
 - the entire time of performance only; or

- both the first fiscal period and the entire time of performance.
- that a multi-term contract may be awarded and how the award will be determined, including if prices for the first fiscal period and entire time of performance are submitted, how such prices will be compared; and awarded. The award shall be made as stated in the solicitation and permitted under the source selection method utilized. Care should be taken when evaluating multi-term prices against prices for the first fiscal period that award on the basis of prices for the first period does not permit the successful bidder or offeror to buy in, that is, give such bidder or offeror an undue competitive advantage in subsequent procurements.

Leases of Business Personal Property.

Reserved.

Maintenance Contracts.

Reserved.

Right of Inspection.

- All contracts with the county may contain the following clause: “Clarendon County may, at reasonable times, inspect the part of the plant or place of business of the contractor or any subcontractor which is related to the performance of this contract.”.

Auditing.

All contracts with the County may contain the following clauses or similar verbiage:

- Audit of Cost or Pricing Data. ‘Clarendon County may, at reasonable times and places, audit the books and records of any person who has submitted cost or pricing data to the extent that such books and records relate to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost, or pricing data is required, shall maintain such books and records that relate to such cost or pricing data for three (3) years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing.’.
- Contract Audit. ‘Clarendon County shall be entitled to audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing.’

DIVISION 3

SPECIFICATIONS

Definitions.

- Brand Name Specifications. A specification limited to one or more items by manufacturer's name or catalog number.
- Brand Name or Equal Specification. A specification which uses one or more manufacturer's names or catalogue numbers to describe the standards of quality, performance, and other characteristics needed to meet County requirements, and which provides for the submission of equivalent products.
- Specification. Any description of the physical, functional, or performance characteristics, or the nature of a supply, service, or construction item. A specification includes, as appropriate, requirements for inspection, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the term "specification" and "purchase description" are used interchangeably throughout the regulation.
- Specification for a Common or General Use Item. A specification which has been developed and approved for repeated use in procurements.

Duties of the Procurement Director

The purpose of a specification is to serve as a basis for obtaining a supply, service, or construction item adequate and suitable for the extent practicable, the cost of ownership and operation as well as initial acquisition cost.

- General Authority of the Contracts and Procurement Director: The Procurement Director may prepare and issue specifications for supplies, services, and construction items required by the county. The Procurement Director may obtain expert advice and assistance from personnel of using departments in the development of specifications and may delegate to a using department the authority and duty to prepare its own specifications.
- Use of Functional or Performance Descriptions: Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the county. To facilitate the use of such criteria, using departments shall endeavor to include as a part of their purchase requisition the principal functional or performance needs to be met. It is recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of supplies and services. Such preference is often not practicable in construction, apart from the procurement of supply type items for a construction project.
- Preference for Commercially Available Products: It is the general policy of the county to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

Specifications.

- Brand Name Specifications.
 - Use: Since use of a brand name specification is restrictive of product competition, it may be used only when the Procurement Director decides that only the identified brand name item or items will satisfy the county's needs.
 - Competition: The Procurement Director shall seek to identify sources from which the

designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under the Sole Source Procurement / Non-Competitive Procurement section of this code.

- Brand Name or Equal Specifications.
 - Use: Brand name or equal specifications may be used when the Procurement Director determines that: no other design or performance specification or qualified products list is available; time does not permit the preparation of another form of purchase description, not including a brand name specification; the nature of the product or the nature of the county's requirements make use of a brand name or equal specification suitable for the procurement; or use of a brand name or equal specification is the county's best interest.
 - Designation of Several Brand Names: Brand name or equal specifications shall seek to designate two, or as many different brand names as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
 - Required Characteristics: Unless the Procurement Director determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, function, or performance characteristics which are required.
 - Non-Restrictive Use of Brand Name or Equal Specifications: Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

Maximum Practicable Competition.

It is the policy of the county that specifications permit maximum practicable competition. Specifications shall be drafted with the objective of clearly describing the County's requirements. The drafting of specifications is to clearly describe the county's requirements, to obtain goods or services in a cost-effective manner, considering not only price but also the costs of ownership and operation, where practical. County policy is to achieve maximum practicable competition through specifications.

- As much as possible, specifications should emphasize function and performance criteria, while limiting design or other detailed physical descriptions to those that are necessary to meet the county's needs. Whenever possible, the specifications should use accepted commercial standards, and thus avoid unique requirements and/or brand specificity.
- Strive to designate three or as many different brands as are practicable as your "or equal" references. Specifications must state that substantially equivalent products will be considered.
- Include a description of the particular design, functional, or performance characteristics that are required. Exception: when Procurement Director verifies that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade.
- Include language stating that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired, and is not intended to limit or restrict competition.
- If only one source exists for the brand, the procurement should proceed under sole source rules. Otherwise, the Procurement Director should solicit as many sources as practicable so as to achieve maximum competition.
 - Specifications for Construction. Specifications for construction shall be prepared on a project-by-project basis.

DIVISION 4 PROCUREMENT OF CONSTRUCTION SERVICES

Definitions.

- Change Order: A written order signed by an authorized individual, directing the contractor to make changes which the contract authorizes without the consent of the contractor.
- Contract Modification: A written alteration in specifications, construction, period of performance, price, quantity, or other provisions of any contract accomplished by written supplemental agreement of the parties to the contract.
- Prime Contractor: A person who has a contract with the county to build, alter, repair, improve, or demolish any public structure or building, or other real property improvements of any kind to any public real property.

Selection Method of Construction Contract Management.

- General: The Procurement Director shall select the contracting method which is most advantageous to the county and will result in the most timely, economical, and otherwise successful completion of the construction project.
- Selecting the Method of Construction Contracting: In selecting the construction contracting method, results achieved on similar projects in the past and the methods used should be considered. The Procurement Director shall have sufficient flexibility in formulating the project delivery approach for a particular project to fulfill the county's needs.
- Construction Procurement: The Invitation for Bids requirements set forth in DIVISION 2 applies when implementing these requirements.

Bid Security for Construction Contracts.

- Requirement for Bid Security: Bid security shall be required for all competitive sealed bidding when determined by the Procurement Director to be in the best interest of the county.
 - Type of Security: Bid security shall be a bond provided by a surety company authorized to do business in South Carolina, or the equivalent in cash, or a certified or cashier's check. The bid security shall be made payable to the County of Clarendon.
- Amount of Bid Security: Bid security shall be an amount equal to at least 5% of the total amount of the bid and shall serve as a guaranteed deposit that the bid will be carried out to the complete satisfaction of the county.
- Rejection of Bid for Non-Compliance with Bid Security Requirements: When the Invitation for Bids requires a bid security, non-compliance requires that the bid be rejected.
- Withdrawal of Bids: After the bids are opened, they shall be irrevocable for the period specified in the Invitation for bids. If a bidder is permitted to withdraw its bid before award, no action shall be taken against the bidder or the bid security.

Construction Contract Performance and Payment Bonds - General.

- Required Amounts: Procurement Director decides that this requirement is necessary.

Contract Clauses.

The following contract clauses are promulgated for use by the Procurement Director. Alternative clauses

are provided in some instances to permit the accommodation of differing contract situations.

- Change Orders.
 - The Procurement Director may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract or changes in the time for performance of the contract without altering the scope of the contract.
 - If the contractor intends to assert a claim for an adjustment under this clause, they must, within 30 days after receipt of a written change order under (a) above, submit to the Procurement Director a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Procurement Director.
 - No claim by the contractor for an adjustment hereunder shall be allowed after final payment under this contract.
- Suspension of Work.
 - The Procurement Director may order the contractor in writing to suspend, or interrupt all or any part of the work for such period as they may determine to be appropriate for the convenience of Clarendon County.
 - If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Procurement Director in the administration of this contract, or by their failure to act within the time specified in the contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been suspended, delayed, or interrupted by other caused including the fault or negligence of the Contractor, or (2) for which an adjustment is provided for or excluded under any other provision of this contract.
 - No claim under this contract shall be allowed (1) for any costs incurred more than 20 days before the contractor shall have notified the Procurement Director in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.
- Quantity Variations.
 - Where the quantity of work shown for an item in the bid schedule, including any modification thereof, is estimated, no adjustment of the contract price nor of the performance time shall be made for overruns or underruns which are 25% of the estimated quantity of any such item.
 - For overruns of more than 25%, the Procurement Director shall re-estimate the quantity for the item, establish an equitable contract price for the overrun of more than 25%, adjust contract performance time equitably, and modify the contract in writing; accordingly, this clause to thereafter be applicable to the total re-estimated item quantity.
 - For underruns of more than 25%, the Procurement Director shall determine the quantity for the item, establish an equitable contract price thereof, adjust contract performance time equitably, and modify the contract in writing accordingly.

- Price Adjustments.

Any adjustment in contract price pursuant to clauses in this contract shall be computed in one or more of the following ways:

- by agreement on a fixed-price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- by unit prices specified in the contract or subsequently agreed upon;
- by the cost attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
- in such other manner as the contracting parties may mutually agree; or
- in the absence of agreement by the parties, by unilateral determination by the county of the reasonable costs allocable, either directly or indirectly, to the events or situations under such clauses as accounted for in accordance with generally accepted accounting principles, and with adjustment of profit or fee, as appropriate.

A contractor shall be required to submit cost or pricing data if any adjustment in contract price is expected to exceed \$10,000.

Liquidated Damages.

The Contractor agrees that, if the work, or any part thereof, is not completed within the time agreed upon in this contract or any extension thereof, the contractor shall be liable to the County of Clarendon in an amount determined by the county for each and every calendar day the completion of the work is delayed beyond the time provided in the contract, as fixed and agreed liquidated damages and not as a penalty; and Clarendon County shall have the right to deduct from and retain out of moneys which may be then due or which may become due and payable to the contractor, the amount of such liquidated damages; and if the amount so retained by Clarendon County is insufficient to pay in full such liquidated damages, the Contractor shall pay to Clarendon County the amount necessary to effect payment in full of such liquidated damages.

Termination of Convenience by Clarendon County.

The Procurement Director, by written notice, may terminate this contract in whole or in part, when it is in the best interest of Clarendon County. If this contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the work accomplished. In addition, the Contractor shall be paid 10% for overhead expenses based on said direct costs, and 5% for profit based on the total direct costs and overhead costs. From this will be deducted any payments or reimbursements previously paid and salvage value of materials paid for by Clarendon County, but not used. Provided however, no profit shall be paid if the Contractor would have incurred a loss had the entire contract been completed.

Differing Site Conditions.

- The Contractor shall promptly, and before such conditions are disturbed, notify the Procurement Director in writing of: (1) sub-surface or latent physical conditions at the site differing materially from those indicated in the contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Procurement Director shall investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase and decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed because of such conditions, an adjustment shall be made, and the contract modified in writing accordingly.

- No claim from the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above; provided, however, the time prescribed therefore may be extended by the Procurement Director.
- No claim by the Contractor for an adjustment hereunder shall be allowed if asserted after final payment under this contract.
- The Contractor accepts the conditions at the construction site as they eventually may be found to exist and warrants and represents that the contract can and will be performed under such conditions, and that all materials, equipment, labor, and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at the contractor's own cost and expense, anything in this contract to the contrary notwithstanding.

Termination for default/Damages for delay-time extensions.

- If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Clarendon County may, by written notice to the Contractor, terminate their right to proceed with the work or such part of the work as to which there has been delay. In such event, the Clarendon County may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary, therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and their sureties shall be liable for any damage to Clarendon County resulting from their refusal or failure to complete the work within the specified time.
- If fixed and agreed liquidated damages are provided in the contract, and if Clarendon County so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned Clarendon County in completing the work.
- If fixed and agreed liquidated damages are provided in the contract, and if Clarendon County does not terminate the Contractor's right to proceed, the resulting damages will consist of such liquidated damages until the work is completed or accepted.
- The Contractor's right to proceed shall not be terminated nor the Contractor charged with resulting damage if:
 - The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of Clarendon County in its contractual capacity, fires, floods, epidemics, and quarantine restrictions; and
 - The Contractor, within 10 days from the beginning of any such delay (unless the Procurement Director grants a further period of time before the date of final payment under the contract), notifies the Procurement Director, in writing, of the causes of delay. The Procurement Director shall ascertain the facts and the extent of the delay and extend the time for time for completing the work when, in their judgement, such extension is justified.
- The rights and remedies of Clarendon County provided in their clause are in addition to any other rights and remedies provided by law or under their contract.

Approval of Construction Contract Modifications, Change Orders or Price Adjustments.

Reserved.

Architect and Engineer Services

Reserved.

DIVISION 6

SMALL AND DISADVANTAGED BUSINESSES

Definitions.

- Minority person means a United States citizen who is economically and socially disadvantaged.
- Socially disadvantaged individual means those individuals who have been subject to gender, racial or ethnic prejudice or cultural bias because of their identification as members of a certain group, without regard to their individual qualities. Such groups include, but are not limited to, Black Americans, Hispanic Americans, native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian Pacific Americans, Women, and other minorities to be designated by the County.
- Economically disadvantaged individuals mean those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.
- A socially and economically disadvantaged small business means any small business concern which:
 - At a minimum is fifty-one percent (51%) owned by one or more citizens of the United States who are determined to be socially and economically disadvantaged.
 - In the case of a corporation, at a minimum, fifty-one percent (51%) of all classes of voting stock of such corporation must be owned by an individual determined to be socially and economically disadvantaged.
 - In the case of a partnership, at a minimum, fifty-one percent (51%) of the partnership interest must be owned by an individual or individuals determined to be socially and economically disadvantaged and whose management and daily business operations are controlled by individuals determined to be socially and economically disadvantaged. Such individuals and operations of the business concerned.
 - The minority businesses listed in the Minority Business Director of South Carolina as published by the Office of Small and Minority Business Assistance of the Office of the Governor shall constitute the official vendors list of minority vendors for the County.

DIVISION 7

PREFERENCE FOR LOCAL BUSINESS/VENDOR

- Clarendon County has established a local vendor preference. All informal Request for Quotes, formal Invitations for Bid and Request for Proposals for contracts will be evaluated with a 10% preference for local vendors. Local vendors must be approved for local vendor status to be considered. The form is provided within the formal solicitation packet and will be applicable unless procurement is being funded by state or federal funds; in which case, local preference will not apply.
- A “local” vendor will be approved as such when, 1) it conducts business in an office with a physical location within Clarendon County; 2) each business holds a valid business license (if applicable) and must provide the name of the Local Agency which issued the license, 3) business has been conducted in such a manner for not less than six (6) months prior to being able to receive the 10% preference, 4) each business must show proof of address and how many years the business has been at that location, and 5) business must be current on all local taxes and fees owed to or collected by Clarendon County.

DIVISION 8

REAL AND PERSONAL PROPERTY

- Real Property Transactions.
 - The sale or lease of real property owned by Clarendon County shall be conducted in accordance with the laws of the State of South Carolina.
 - The purchase or lease of real property by Clarendon County shall be conducted in accordance with the laws of the State of South Carolina.
- Personal Property Transactions.
 - Clarendon County may procure personal property, new and used, at public auction, licensed dealership or retailer, or other government entity. The department proposing to make such procurement must present satisfactory information to illustrate that the procurement of said personal property is reasonably necessary to the ongoing operation of the organization.
 - The used personal property must be inspected by a qualified mechanic on behalf of the County, who shall have made a detailed inspection of each major working or major functional part and certified the working condition of each.
 - The Procurement Department will verify that all evaluation procedures were followed, and the price comparison/value is a fair market reasonable amount; and the used personal property has been cost compared with other like equipment on the basis of age, condition, and comparable sales.

DIVISION 9

METHOD OF PAYMENT

- Credit Card Purchasing
 - The use of the Credit Card as a method of payment will be at the discretion of the Procurement Director and/or the County Administrator.
 - The credit card system is a payment method designed to maintain control, while reducing the administrative costs associated with authorizing, purchasing, tracking, paying and reconciling purchases.
 - Maintain Budget Control
 - Comprehensive usage reports will provide the CFO with consistent control over spending for the entire county.
 - Enable the CFO to monitor each cardholder's spending and to ensure compliance with county policy.
 - Identify frequently used suppliers to help negotiate prices more effectively. i.e.: blanket purchase agreement
 - Assigned spending limits for each account.
 - Allows flexibility to set authorization parameters, yet manage restrictions on card usage.
 - Purchasing card parameters can be set to exclude certain transactions identified by Merchant Category Codes (MCC) With established restrictions, purchases for merchandise and services that are not within approved merchant types or are from specifically excluded merchant types will be declined at the point of sale.

For more information, please refer to the Clarendon County Procurement Card Policy and Procedure Manual. Said manual is incorporated herein and made apart thereof by reference.

DIVISION 10

PROTEST PROCEDURE

- Protest - Any protest must be addressed to the Procurement Director and submitted in writing. Email is acceptable and may be sent to: procurement@clarendoncountygov.org
Any offeror, contractor or vendor who is aggrieved in connection with a specific procurement, whether it pertains to a solicitation or an intent to award a contract, or the award of a contract, the aggrieved must submit protest in writing, to the Procurement Director. Written Protest must clearly state whether or not it pertains to the issuance of solicitation documents or an intent to award a contract (whichever is applicable). Protest letter must be received within ten (10) days from date of published document, and the letter must clearly state the grounds of protest and relief requested. The authority to resolve a protest rest with the County Administrator or County Attorney.