

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF MARLBORO )

**ORDINANCE # 710**

**AN ORDINANCE AMENDING THE PURCHASING POLICIES FOR MARLBORO COUNTY AND REPEALING ORDINANCE #650A.**

**Whereas,** the Marlboro County Council has determined that it is in the interest of Marlboro County to update it's Purchasing Policies and Procedures; and

**Whereas,** Ordinance # 650A was adopted on October 11, 2011, an Ordinance providing for Purchasing Policies; and

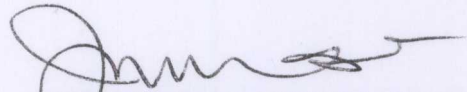
**Whereas,** Based on the objective of procuring necessary supplies and equipment and services at reasonable prices, in adequate quantities, of satisfactory quality; and on schedule form reliable suppliers, Marlboro County's purchasing will be accomplished by the procedures as listed in the attached "Exhibit A".

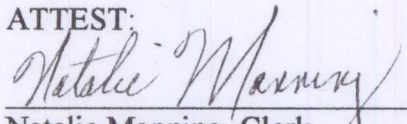
**NOW, THEREFORE, BE IT RESOLVED** by Marlboro County Council:

1. That the aforesaid Purchasing Policies and Procedures are to be implemented by the County.
2. Ordinance # 650A is hereby repealed.
3. The attached Policies and Procedures are to be administered by the County Administrator upon adoption of this Ordinance.

Adopted this 14<sup>th</sup> day of August, 2012.

(SEAL)

  
 \_\_\_\_\_  
 J. Ronald Munnerlyn, Chair  
 Marlboro County Council

ATTEST:  
  
 \_\_\_\_\_  
 Natalie Manning, Clerk  
 Marlboro County Council

First Reading:             June 19, 2012  
 Second Reading:         July 10, 2012  
 Third Reading:           August 14, 2012

**Exhibit A**  
**Purchasing Policies & Procedures**

**SECTION 1. IN GENERAL**

All county officials, employees, agencies, boards, and commissions expending funds budgeted by the County Council shall submit requisitions for services, supplies, equipment, and materials to the office of the County Administrator or the County Purchasing Specialist. All such requisitions shall be signed by the Department Head or Supervisory Official of the Office, Agency, Board, or Commission submitting such requisition. The County Administrator, Purchasing Specialist, or some person designated by the County Administrator shall conduct all negotiations affecting purchases, prices, terms, and delivery for the rendition of services or purchase of goods, supplies, equipment, and materials for all offices, agencies, boards, and commissions of the county, after consultation with the department head or managing official of the office, department, agency, board, or commission requiring such goods, services, supplies, equipment, or materials. Requisitions will not be required for water, telephone, faxes, gas, electricity and copier fees after the original contract has been approved or any service provided as a result of a written agreement or contract. The Purchasing Specialist may ask the Department Head, Finance Director and/or Administrator for approval. Items of less than \$100.00 total may be purchased without a requisition. However, the Department Head or Designee must call and request a Purchase Order. After items are received, the Department Head must sign invoice and/or Purchase Order and give appropriate account number.

A. **Inclusion and Identification of Minority Owned Businesses.** The Purchasing Specialist shall be responsible for including and identifying minority owned businesses to include woman-owned businesses on the referred to up-to-date list of qualified suppliers and shall include and identify minority businesses on the County's bidders' list and shall ensure that these firms are solicited on an equal basis with nonminority firms.

**SECTION 2. BLANKET PURCHASE ORDERS**

Repetitive and like or similar items of supply and service may be procured by issuance of a blanket purchase order. The supplies and services to be obtained in this manner will be determined by the requesting department in conjunction with the Purchasing Specialist. The amount will be as determined by the department head and the Finance Department.

**SECTION 3. RESPONSIBILITIES IN PROCESSING OF BLANKET PURCHASE ORDERS**

A. **Requisitioner.** The requisitioner shall:

1. Consult with the Purchasing Specialist when the repetitiveness of ordering an item or service warrants considering establishment of a blanket order.
2. Blanket Purchase Orders are issued monthly after the Department Head, Finance Director, and Administrator have approved requisitions with a limit of three or less at

the discretion of the County Administrator.

#### **SECTION 4. JOINT/COOPERATIVE PURCHASING**

When the best interests of the County would be served, the Purchasing Specialist or designated employee, with the written approval of the County Administrator, may undertake programs involving joint or cooperative purchasing with other public jurisdictions.

#### **SECTION 5. SIGNATURE ON PURCHASE REQUISITIONS**

All purchase requisitions awarded by the county are to be signed by the department head or designee, Finance Director and the County Administrator.

#### **SECTION 6. INVOICE PAYMENTS**

All invoices are to be approved by the department head or designee if the Purchase Order amount is at least twenty percent (20%) greater than or twenty percent (20%) less than the invoice amount.

#### **SECTION 7. PROCUREMENT FOR PERSONAL USE PROHIBITED**

The facilities and services of the County will not be used to procure or receive any item or service for the personal use of employees.

#### **SECTION 8. PURCHASE REQUISITION FORMS**

The purchase requisition form is the notification to the Purchasing Specialist, Department Head, or designated official to place an order in accordance with established policies with an outside source. All requisitions must be initiated far enough in advance of need and the specifications shall be such that adequate time for processing is possible. Purchase requisition forms are available from the Purchasing Specialist.

#### **SECTION 9. PURCHASES OVER \$100 AND UP TO \$1000; DISCRETIONARY**

A. Purchases from \$100 up to and including \$1000 can be made without solicitation of quotes. The Department Head must issue a signed requisition for Finance Director and Administrator approval.

B. The Purchasing Specialist or Finance Director shall execute the purchase order form after a requisition is properly executed. The County Administrator may require additional quotes.

#### **SECTION 10. PURCHASES OVER \$1,000 AND UP TO \$5,000; SOLICITATION OF QUOTATIONS**

All purchases of supplies, materials, equipment, or contractual services, when the estimated cost thereof shall exceed \$1,000 but shall not exceed \$5,000 shall be made after solicitation of quotations by telephone or by request for written quotation by letter, by fax, over the internet, or

through catalog and a record kept of each quotation so obtained. The Purchasing Specialist or Department Head shall endeavor to contact at least 2 vendors and purchase the required goods or services from the lowest responsible and/or best quality, responsive vendor. Provided, however, that the County Administrator may require that vendors submit written bids or quotations when the procedure is deemed by him or her to be in the public interest. The Purchasing Specialist shall sign the purchase order form after a requisition is properly executed by Department Head, Finance Director and Administrator. The County reserves the right to reject any and all bids, and to waive informalities and technicalities, and to award any bid considered to be in the best interests of the County.

**SECTION 11. PURCHASES OVER \$5,000 AND UP TO \$10,000; OPEN MARKET PROCEDURE**

For all purchases of supplies, materials, equipment, or contractual services, when the estimated cost thereof shall exceed \$5,000 but shall not exceed \$10,000, the Purchasing Specialist, Department Head, or Designee of the County Administrator shall solicit written quotations from vendors which may be obtained by letter, by fax, over the internet, or through a catalog, and a record kept of all quotations obtained. The Purchasing Specialist, Department Head, or Designee shall endeavor to contact at least 2 vendors and purchase the required goods or services from the lowest responsible and/or best quality, responsive vendor. No public advertising of bids, proposals or qualifications shall be required; provided, however, that the County Administrator may require formal bidding procedures if such are determined in the sole discretion of the County Administrator to be in the public interest. The Purchasing Specialist shall sign the purchase order form after a requisition is properly executed by Department Head, Finance Director, and Administrator.

The County reserves the right to reject any and all bids, and to waive informalities and technicalities, and to award any bids considered to be in the best interests of the County.

**SECTION 12. PURCHASES IN EXCESS OF \$10,000; USE OF FORMAL BIDDING PROCEDURES**

A. **Generally.** All purchases of apparatus, supplies, materials, equipment, or contractual services, when the estimated cost thereof shall exceed \$10,000, shall be made according to procedures prescribed below from the lowest responsive, responsible bidder after due notice inviting bids, except as provided.

The County reserves the right to reject any and all bids, and to waive informalities and technicalities, and to award any bids considered to be in the best interests of the County.

B. **Notice Inviting Bids.** The Purchasing Specialist or Designee of County Administrator shall invite bids through the following methods:

1. Advertisement in a form prescribed by the County Administrator, including, but not limited, to one of the following: a newspaper of general circulation in the County, South Carolina Economic Business Opportunities, a state-wide or Pee Dee Area newspaper, the

official Marlboro County website, or any other method approved by Council. At least 10 days response time by vendors and/or contractors shall normally be required except in the case of emergencies as provided in Section 23.

2. Delivery to interested prospective bidders who specifically request an invitation to bid from the Purchasing Specialist or designee of County Administrator is authorized by any of the following methods: in person, by mail, by facsimile (fax), or via the internet. Bidders should review the Marlboro County website for bid opportunities.

C. **Submission of Bids.** All bids shall be on an official bid form or attached to a bid form provided by the Purchasing Specialist or County Administrator Designee and shall be sealed, marked "Sealed Bid", and mailed or otherwise delivered to the Purchasing Specialist or County Administrator Designee within the time specified in the invitation to bid.

D. **Opening of Bids.** All bids exceeding \$10,000 shall be opened publicly and tabulated. Under the Freedom of Information Act, person or persons can request in writing a tabulation sheet. Under the Freedom of Information Act, a list of bidders, amounts of bids, and the bid award may be placed on the Marlboro County website after the formal award by Marlboro County Council. Bids in excess of \$50,000 and requiring a contract shall have the contract approved by county council before execution. When the award is approved by Marlboro County Council, the Purchasing Specialist of Designated Official shall complete the purchase by signing the purchase order form after a requisition is properly executed by Department Head, Finance Director, and Administrator.

E. **References:** References shall be checked before execution.

F. **Procedure in case of Identical Low Bids.** In the event that two or more bids are found by the County to be qualified as the responsive and responsible low bid, the tie will be broken by submission to County Council for the drawing of lots in public.

G **Forfeiture of bid surety.** If the successful bidder does not enter into a contract within 20 days after mailing of notice of award of contract, then as liquidated damages, he or she shall forfeit his or her bid bond or other surety which accompanied his or her bid, unless the County is responsible for the delay. The successful bidder shall also be held liable for any cost in excess of his or her bid surety which the County incurs in awarding the bid to the next lowest bidder or in otherwise purchasing the goods or services elsewhere. In such an event, the bid may then be awarded to the next lowest responsive and responsible bidder.

H **Protested Solicitations and Awards.**

1. **Right to protest.** With regard to any goods or services values at over \$10,000 procured through the sealed bid method only, any actual or prospective bidder, offerer, contractor, or subcontractor who is aggrieved in connection with the solicitation or award of a contract may file a protest setting for the grievance to the Purchasing Specialist within the time specified. A protest based upon alleged improprieties in a solicitation that are apparent before bid opening or the closing date for receipt of initial proposals shall be

submitted in writing to the Purchasing Specialist before such bid opening or closing date for receipt of initial proposals. All other protests shall be submitted to the Purchasing Specialist in writing within five (5) working days of award date. **No protests shall be allowed for professional services or design build services.**

2. **Authority to resolve protests.** The County Administrator shall have authority to attempt to settle or resolve a protest of an aggrieved bidder, offerer, contractor, or subcontractor, actual or prospective, concerning the solicitation or award of a contract. This authority shall be utilized in a manner consistent with regulations or laws governing the procurement of supplies, services, and construction for the County.

If a protest is not resolved by mutual agreement, the County Administrator shall promptly issue a decision in writing but in no event later than thirty (30) days after the protest is filed. The decision shall state the reasons for the action taken and shall be furnished to the protestant and to any other person affected by the decision.

3. **Finality of decision.** The protestant or any other person adversely affected by the decision may, within five (5) working days from date an adverse decision is issued, request a review by the County Council. County Council, as soon thereafter as practicable, may review the file and make its decision based solely on the review or it may hold a hearing to review the file and/or to receive the testimony of witnesses, in its sole discretion. The burden of proof in the review by County Council is on the protestant. Council shall determine the particular procedures it wishes to follow in making the review. The decision of the Council on all matters shall be final.

### **SECTION 13. SOLE SOURCE PROCUREMENT**

A contract may be awarded for a supply, service, or construction item without competition when the County Administrator determines that there is only one source for the required supply, equipment, service, or construction item. A written explanation shall be filed explaining the justification for the use of sole source procurement.

### **SECTION 14. LOCAL PREFERENCE**

For the purpose of determining the low vendor, the County Council may grant local vendors (those vendors maintaining and/or operating a place of business in Marlboro County) a 10% preference on the amount of their quotation or bid up to a maximum total of \$50,000. Provided,

however, that in the event the procurement is to be made pursuant to state or federal guidelines which prohibit or restrict local preferences, there shall be no local preference. For bids less than \$10,000, the County Administrator may, in his or her sole discretion, apply the local preference.

Local Vendor Preference

Less than 10,000	= 10%
10,000 to 25,000	= 7.5%
25,001 to 50,000	= 5.0%
Above 50,000	= 2.0%

**\*With a maximum amount of \$10,000 to be granted for local preference. The local preference will not apply where State, Local or other policy requirements prevents a local preference from being given.**

**SECTION 15. PERFORMANCE, PAYMENT, AND BID BONDS AND PROOF OF INSURANCE COVERAGE**

A. **Performance bonds.** The awarding authority shall require at least a 100% performance bond issued by a commercial surety company for every construction contract expected to cost \$100,000 or over. Any commercial surety company issuing a performance bond shall have an "A" minimum rating of performance as stated in the most current publication of Best Key Rating Guide, Property Liability. For any construction contract estimated to cost less than \$100,000, the awarding authority may, in its discretion, require a performance bond in a form satisfactory to it. If no bidder has the required rating, County Council will determine the requirements.

B. **Payment bonds.** Whenever the awarding authority, acting in the name of Marlboro County or through any of its elected officials, departments, or agencies, awards or enters into a contract for the improvement of real property for a sum in excess of \$40,000, a labor and material bond shall be supplied by the contractor for the full amount of the contract, with the bond secured by cash or by a commercial surety with an "A" minimum rating of performance as stated in the most current publication of Best Key Rating Guide, Property Liability. If a contract is less than \$100,000, the awarding authority may permit the use of a "B+" rated bond, if it justifies the use in writing.

C. **Bid bonds.** Awards pursuant to the procedures set forth in any construction contracts for the improvement of real property in excess of \$25,000, the bid or proposal shall be accompanied by a bid bond in the form of a cashier's check in the amount of 5% of the contract amount. The disposition of the bid bonds for purchases in excess of \$25,000 will be as set forth in Section 15. In the case of construction contracts, the bid bonds will be returned to the unsuccessful bidders shortly after bids are opened and the successful bidder determined. The bid bond of the

successful bidder will be returned to that bidder when the bidder timely enters into the contract with the County and when any required performance and payment bonds are submitted to and accepted by the County. Bid bonds are forfeited to the County as liquidated damages when the entity to whom the contract is awarded fails to enter into the contract or otherwise fails to commence performance of its contractual obligations within the times required by its bid or in the bid specifications, or in the proposal submitted and accepted, or in the negotiated agreement, as the case may be.

D. **Form of cash surety.** Any requirement for the submission of cash or a cashier's check in connection with providing of a bid bond or other surety under this chapter may be satisfied by the submission of a bank check payable to the County of Marlboro issued by a commercial bank from one of its offices in South Carolina in a form satisfactory to the county, or by the deposit of cash in the required amount, or by an unconditional letter of credit in favor of Marlboro County issued by a commercial bank from one of its offices in South Carolina in a form satisfactory to the county.

E. **Proof of Insurance.** The County Administrator is authorized to obtain from a successful bidder or offer or who is to be awarded a contract proof of current Workers Compensation coverage and of general liability or automobile liability or other insurance coverage, as may be required by the bid specifications or by the request for proposals, before issuing a Notice to Proceed or finally awarding the bid or entering into a contract to carry out a proposal, if the vendor is reasonably expected to have any of its servants or employees performing work on County property, on County equipment or on a County funded project, wherever located.

#### **SECTION 16. CHARGES FOR PLANS**

When contractors require plans and specifications in order to submit a bid, the county may supply same and make charges for them. The county may, at its option, sell specific sheets of plans to contractors or subcontractors as may be required; however, specifications must be treated as a whole and charges made for them.

#### **SECTION 17. RETAINAGE**

A 10% retainage shall be retained by the county for every construction project, with the retainage to be payable, less any deductions allowed by contract, when the punch list is completed and the completed project accepted by the County Administrator, or as otherwise authorized or directed by County Council.

#### **SECTION 18. PERSONAL INTERESTS**

A. **Conflicts of interest.** Any purchase or contract within the purview of this chapter in which the County Administrator or any officer or employee of the County is financially interested, directly or indirectly, or which is, in any other manner, in conflict with state or local ethics laws, as they may be amended from time to time, shall be void if the other party knew or should have known of the interest or conflict; provided, however, that, before the execution of a purchase or contract, the County Administrator shall have the authority to waive compliance



with this section when he or she finds such interest to be so remote or indirect as to be inconsequential and not in violation of law.

1. No employee or elected official of the County may bid on a County contract if that individual is authorized to exercise decision making authority or responsibility with regard to that contract for the County, and any such person is declared to have a conflict of interest;
2. It is further declared that any person, corporation or other legal entity which is involved in active or threatened litigation with the County, or any of its officials or agencies, over a contractual or other matter (other than the contesting of a tax assessment or contesting a minor traffic violation or minor code violation), has a conflict of interest for purposes of the Competitive Purchasing procedures.

**B. Gratuities.**

1. **Acceptance prohibited.** The acceptance of any gratuity in the form of cash, merchandise, or any other thing of value by an employee of the County from any person, firm, or corporation to which any purchase or contract is or might be awarded, in violation of state ethics laws, shall be deemed a violation of this chapter and may be cause for removal or other disciplinary action. State and local ethics laws govern fully in this regard.
2. **Other prohibited.** The offer of any gratuity in violation of state ethics laws by any actual or prospective vendor or contractor shall be cause for canceling any contract involved and/or for declaring the vendor or contractor a nonresponsible bidder and/or for removing the vendor from the County's vendor files and bidders' list for a period of time to be determined by County Council.

**SECTION 19. PURCHASE OF SURPLUS EQUIPMENT**

Purchase of surplus equipment from the State will be by the Department Head with the advice and consent of the County Administrator. The Purchasing Specialist will work with the using departments in obtaining supplies from surplus property.

**SECTION 20. TIME LIMITS**

A. For every contract the county enters into, time is of the essence; accordingly, a time frame for delivery or completion shall be established and incorporated into the contract between the County and the contractor. This time limit shall set the completion date of work provided by the contractor. In the event that the contractor fails to perform the stated work within the required time frame, liquidated damages may be assessed by the County as indicated in the contract.

B. In solicitation for bids, proposals, or qualifications, the County shall specify that the contractor shall provide in his or her bid document a time frame for completing the project, and

that time is of the essence in completing the contract. The County may specify in its requests for proposals, requests for qualifications, or in its invitations for bids that time is of the essence and shall specify a time frame for the completion of the work. Any agreements reached between the contractor and the County shall be so stipulated in the contract agreement between the parties.

**SECTION 21. CHANGE ORDERS**

Any changes in the scope of work, or in the time for completion, for a construction contract, must be set forth in a written change order, agreed to and signed by the parties to the contract.

**SECTION 22. EXCEPTIONS**

Provisions as to advertising and bidding shall not apply to the following classes of purchases or others as the County Council may from time to time adopt:

- A. Lease/rental of real property.
- B. Purchase of patented or manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer.
- C. Contracts involving policies of insurance or surety company bonds.
- D. Purchases made from state or federal purchase contracts, or state surplus. The County Administrator may award purchases that County Council have included in the budget.
- E. Contracts with public utility service companies under tariffs on file with the Public Utility Commission, contracts made with another political subdivision of the State of South Carolina, the Federal Government and any agency of the State of South Carolina or any municipal authority.
- F. Contracts involving the services of members of the medical (does not include the Detention Center Medical) or legal profession, architects, engineers, accountants, or other personal services involving professional expert advice.
- G. Purchase of supplies and equipment required for parts or components being procured as replacement parts in support of equipment specially designed by a manufacturer, where data available is not adequate to assure that the part or component is identical with the part it is to replace or where contemplated procurement is to match or contemplated equipment or components previously purchased.
- H. Design Build Construction.

**SECTION 23. EMERGENCY ORDERS**

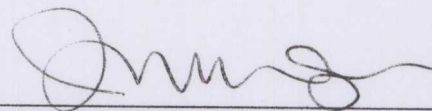
A. Any employee experiencing an emergency can arrange to have the Purchasing Specialist issue a purchase order number over the phone. At no time may an employee place an order unless a purchase order number and permission are first obtained from the Purchasing Specialist. It shall be considered an emergency when supplies, equipment or services are necessary to prevent delays in the work of the requiring department which may vitally affect the life, health or general welfare of the citizens of Marlboro County (for example: failure of heating/air units).

B. If an emergency occurs at a time other than during regular business hours, the requiring department shall, whenever possible, secure competitive telephone quotations before placing an order. No later than the next regular county business day after the emergency purchase is made the requiring department shall submit to the Purchasing Specialist a purchase requisition and a statement from the department head justifying the necessity for the emergency purchase. Failure to observe these constraints will result in the employee being held personally liable for the items ordered. If the emergency purchase is more than \$10,000, then notice of the emergency procurement shall be provided to County Council as soon as practicable after the purchase.

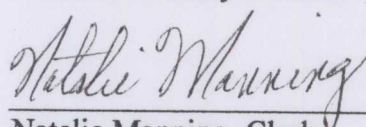
**SECTION 24. SALE OR TRANSFER OF SURPLUS COUNTY PROPERTY**

Any items of personal property belonging to the County, which are declared by the County Administrator to be obsolete or surplus, may be sold to the highest responsible bidder by advertising for sealed bids, by public auction, or on line bid service. Surplus property, in the discretion of the Administrator, may be transferred to other county agencies or transferred to or loaned to entities supported by County funds. In addition, at the discretion of the County Administrator, surplus property may also be traded in or exchanged for other property needed by the County. In connection with the sale of surplus property, the Department Head and County Administrator shall ensure that the procedures described in this section are followed, according to the estimated dollar salvage value of the goods to be sold.

(SEAL)



J. Ronald Munnerlyn, Chairman  
Marlboro County Council



Natalie Manning, Clerk  
Marlboro County Council

ATTEST: