

AN ORDINANCE

AMENDING THE CHARLESTON COUNTY PROCUREMENT ORDINANCE, AS AMENDED, DIVISION 1 – GENERAL; DIVISION 2 – ORGANIZATION; DIVISION 3 – SOURCE SELECTION AND CONTRACT FORMATION; DIVISION 5 – CONSTRUCTION, ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES; DIVISION – 7 LEGAL AND CONTRACTUAL REMEDIES; DIVISION – 8 INTERGOVERNMENTAL RELATIONS; DIVISION 9 – SMALL BUSINESS ENTERPRISE (SBE) PROGRAM; AND DIVISION – 11 LOCAL PREFERENCE OPTION.

WHEREAS, Charleston County Council (“County Council”) has adopted and previously amended from time to time the Charleston County Procurement Ordinance that is identified as Article VI, Procurement Ordinance, pursuant to authority provided by the laws of the State of South Carolina; and

WHEREAS, County Council wishes to amend Division 1 – General, Section 2-153, to revise and clarify the list of definitions; and

WHEREAS, County Council wishes to amend Division 1 – General, Section 2-156, to remove references to specific sections in the S.C. Code of Laws; and

WHEREAS, County Council wishes to amend Division 2 – Organization, Sections 2-168 and 2-174, to add language to clarify the authority to contract for certain services; and

WHEREAS, County Council wishes to amend Division 3 – Source Selection and Contract Formation, Sections 2-184 and 2-185, to allow submission of offers of bids and proposals by electronic commerce and other means of public notice; and

WHEREAS, County Council wishes to amend Division 3 – Source Selection and Contract Formation, Section 2-187, to adjust the sole source procurement/non-competitive procurement threshold amount; and

WHEREAS, County Council wishes to amend Division 5 – Construction, Architect-Engineer, and Land Surveying Services, Sections 2-224 and 2-229, to delete language unrelated to bid security; and

WHEREAS, County Council wishes to amend Division 5 – Construction, Architect-Engineer, and Land Surveying Services, Section 2-230, to clarify the definition of Indefinite Delivery Contracts; and

WHEREAS, County Council wishes to amend Division 7 – Legal and Contractual Remedies, Section 2-252, to clarify the procedure of debarment or suspension when the Contracts and Procurement Director determines a contractor has failed to perform according to contract; and

WHEREAS, County Council wishes to amend Division 7 – Legal and Contractual Remedies, Section 2-255, to revise the term of office for members of the procurement appeals board; and

WHEREAS, County Council wishes to amend Division – 8 Intergovernmental Relations, Section 2-266, to remove references to specific sections in the S.C. Code of Laws; and

WHEREAS, County Council wishes to amend Division 9 – Small Business Enterprise (SBE) Program, Section 2-273, to add a list of definitions specific to this Division; and

WHEREAS, County Council wishes to amend Division 9 – Small Business Enterprise (SBE) Program, Sections 2-278, 2-279, 2-280, and 2-281, to revise the Section titles, amend the methods of source selection, and revise the SBE Program goals; and

WHEREAS, County Council wishes to amend Division 11 – Local Preference Option, Section 2-290, to delete in its entirety; and

NOW, THEREFORE, BE IT ORDAINED by County Council of Charleston County, South Carolina, in meeting duly assembled, finds as follows:

SECTION I. FINDINGS INCORPORATED

The above recitals and findings are incorporated herein by reference and made a part of this Ordinance.

SECTION II. AMENDMENTS TO PROCUREMENT ORDINANCE

The Charleston County Procurement Ordinance that is identified as Article VI, Procurement Ordinance, adopted December 20, 1983, and as subsequently amended, is further amended to include the text amendments of Division 1 – General, Section 2-153 and Section 2-156; and Division 2 – Organization, Section 2-168 and Section 2-174; and Division 3 – Source Selection and Contract Formation, Section 2-184, Section 2-185, and Section 2-187; and Division 5 – Procurement of Construction, Architect-Engineer, and Land Surveying Services, Section 2-224, Section 2-229, and Section 2-230; and Division 7 – Legal and Contractual Remedies, Section 2-252 and Section 2-555; and Division – 8 Intergovernmental Relations, Section 2-266; and Division 9 – Small Business Enterprise (SBE) Program, Section 2-273, Section 2-278, Section 2-279, Section 2-280, and Section 2-281; and Division 11 – Local Preference Option, Section 2-290 which are attached hereto as Exhibit “A” and made a part of this Ordinance by reference.

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately following third reading by the County Council.

ADOPTED and APPROVED in meeting duly assembled this 10th day of May 2022.

CHARLESTON COUNTY, SOUTH CAROLINA

By: _____
Teddie E. Pryor, Sr.
Chairman of Charleston County Council

ATTEST:

By: _____
Kristen L. Salisbury
Clerk to Charleston County Council

First Reading: April 5, 2022
Second Reading April 26, 2022
Third Reading: May 10, 2022

EXHIBIT "A"

TEXT AMENDMENTS OF THE
PROCUREMENT ORDINANCE,
NUMBER _____, AS AMENDED.

CODE OF ORDINANCES COUNTY OF CHARLESTON, SOUTH CAROLINA

CHAPTER 2 ADMINISTRATION

ARTICLE VI. - PROCUREMENT

1. Amend Section 2-153. - Definitions. Add wording to several definitions, correct references, and move several definitions pertaining primarily to the SBE program to a new section in Division 9 – Small Business Enterprise (SBE) program.

1.A. Revise definition for *Bidder* as follows:

Bidder shall mean a person or business enterprise that submits a bid in response to any county solicitation.

1.B. Delete definition for *Certification* from this section and move to new Section 2-273.1. in Division 9 – SBE program.

1.C. Revise definition for *Commercially Useful Function* in this section as follows, and also move entire definition to new Section 2-273.1. in Division 9 – SBE program.

Commercially Useful Function shall mean a function performed by a business enterprise when it is responsible for supplying goods or for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved.

1.D. Revise definition for *Conduit* in this section as follows, and also move entire definition to new Section 2-273.1. in Division 9 – SBE program.

Conduit shall mean a business that knowingly agrees to pass the scope of work, for which it is listed for participation and is scheduled to perform or supply on the contract, to another firm.

1.E. Revise definition for *Cost-Plus-A-Percentage-Of-Cost-Contract* as follows:

Cost-Plus-A-Percentage-Of-Cost-Contract shall mean a cost reimbursement contract that, prior to completion of the work, the parties agree that the profit fee will be a predetermined percentage of the total cost of the work. (Note: this type contract is prohibited by Sec. 2-195.)

1.F. Delete definition for *Eligible Owner* from this section and move to new Section 2-273.1. in Division 9 – SBE program.

1.G. Revise definition for *Good Faith Effort* in this section and also move to new Section 2-273.1. in Division 9 – SBE program.as follows:

Good Faith Effort shall mean the requirement that prime contractors make a documented effort, in "good faith," to provide contract opportunities to small, minority-owned, and woman-owned businesses in accordance with the policies of the county, requirements of this article, and applicable regulations.

1.H. Delete definition for *Mandatory Outreach* in this section and move to new Section 2-273.1. in Division 9 – SBE program.

1.I. Revise definition for *Offeror* as follows:

Offeror shall mean a person or business enterprise who submits a proposal in response to an RFP in competitive negotiation, or one who makes an offer in response to a solicitation.

1.J. Revise definition for *Service* as follows:

Service shall mean the furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. Service includes any professional or general service work performed that does not result in the delivery of goods or materials, e.g., repairs, training, surveys, consulting, etc. This term shall not include employment agreements or collective bargaining agreements.

1.K. Revise definition for *Signature* as follows:

Signature means any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the party using it to have the same force and effect as a manual signature, as provided in the "South Carolina Uniform Electronic Transactions Act", S.C. Code § 26-6-10 et seq.

2. Amend Section 2-156. - Standards Of Conduct to delete reference to specific sections in the SC Code of Laws as follows:

Sec. 2-156. - Standards of conduct.

In all actions involving the procurement of supplies, services, or construction for the county, the provisions of Chapter 13 of Title 8 (State Ethics Act) of the South Carolina Code of Laws, 1976, as it may be amended from time to time, shall be complied with.

3. Amend Section 2-168. - Authority To Contract For Certain Services to revise language to add other medical professionals and add approval in consultation with the Contracts and Procurement Department as follows:

Sec. 2-168. - Authority to contract for certain services.

Those departments utilizing services of clergy, physicians, dentists, nurses, pharmacists, and/or other medical professionals may contract on their own behalf for such services in accordance with this article. Contracts must be approved by the department head in consultation with the Contracts and Procurement Department and the legal department.

4. Amend Section 2-174. - Exemptions to add electronic materials to Exemption (15), and add Exemption (24) for Physician, nurses, pharmacist, dentist and other medical professional services as follows:

Sec. 2-174. - Exemptions.

The following supplies and services are exempt from the procurement procedures outlined in this article. Additions and deletions shall be made by regulation:

- (15) The procurement of copyrighted educational films, filmstrips, slides and transparencies, CD ROM documents, data bases, computer assisted instructional materials, interactive video programs and other related electronic materials made available by information technology that can only be obtained from the company providing the information or service.

- (24) Clergy, physicians, dentists, nurses, pharmacists, and/or other medical professional services.

5. Amend Section 2-184. - Competitive Sealed Bidding to revise language to allow submission by electronic commerce, to allow other means to provide public notice, and change language from “Bids shall be publicly opened...” to “Bids may be publicly opened...” as follows:

Sec. 2-184. - Competitive sealed bidding.

- (c) *Submission of Offers by Electronic Commerce.* Subject to all other applicable regulations, the Contracts and Procurement Director may authorize use of electronic commerce for submission of bids and proposals. If electronic submissions are authorized, the solicitation shall specify the electronic commerce method(s) that offerors may use. Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.
- (d) *Public notice.* Public notice of the invitation for bid shall be given not less than seven days prior to the date set forth therein for the opening of bids. Such notice may include distribution or dissemination of information using methods that are reasonably available to interested parties. Such methods may include publication in newspapers of general circulation, electronic or paper mailing lists, and web site(s) designated by the county and maintained for that purpose.
- (e) *Bid opening.* Bids may be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bid. The amount of each bid and other such relevant information as may be specified by regulation, together with the name of each bidder, shall be recorded. The record and each bid shall be open for public inspection after award. Late bids shall not be opened and considered for award, but the name of the late bidder(s) and the time of the attempted delivery shall be recorded in the bid file wherever possible.
- (f) *Bid acceptance and evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable such as discounts, transportation costs, and total or life cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bid.
- (g) *Correction or withdrawal of bids, cancellation of awards.* Corrections or withdrawal of inadvertently erroneous bids, before or after award or cancellation of awards or contracts based on such bid mistakes, may be permitted in accordance with regulations. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the county or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the contracts and procurement director.
- (h) *Award.* Except as hereinafter prescribed, all contracts shall be awarded with reasonable promptness by written notice to the lowest responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bid.

- (1) Bids exceeding \$100,000.00 on all single items of capital goods or construction projects (to be performed by outside contractors), shall be subject to review and approval by county council. These items shall be placed on the Finance Committee Consent Agenda.
 - (2) In other than construction projects, if all bids exceed available funds and no additional monies can be appropriated, then the bids will be rejected.
 - (3) In the event all bids for a construction project exceed available funds, and the lowest responsive and responsible bid does not exceed such funds by more than five percent, the contracts and procurement director is authorized in situations where time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment in the bid price including changes in the bid requirements with the lowest responsive and responsible bidder in order to bring the bid within the amount of available funds.
- (i) *Tie bids.* The contracts and procurement director is authorized in the case of tie bids to make awards on any reasonable basis subject to governing rules and regulations intended to prevent identical bidding, and in instances where that does not provide a solution, to reject all bids and either issue a new solicitation or if time and economic considerations do not allow, negotiate a more favorable purchase.
 - (j) *Disclosure of bid information* prior to bid opening for goods and services, excluding construction:
 - (1) All estimates of costs prepared, by or for the county, shall remain confidential prior to execution of a contract.
 - (2) The names of those persons who receive bid packages will not be revealed.
 - (3) The number of bidders will not be revealed.
 - (k) *Disclosure of bid information* for construction projects prior to award:
 - (1) A bid range based on estimated project costs may be disclosed.
 - (2) Names of potential bidders may be released to the extent known.

6.A. Amend Section 2-185. - Competitive Sealed Proposals to revise language to allow submission by electronic commerce, to allow other means to provide public notice, and change language from “Proposals shall be publicly opened...” to “Proposals may be publicly opened...” as follows:

Sec. 2-185. - Competitive sealed proposals.

- (c) *Submission of Offers by Electronic Commerce.* Subject to all other applicable regulations, the Contracts and Procurement Director may authorize use of electronic commerce for submission of bids and proposals. If electronic submissions are authorized, the solicitation shall specify the electronic commerce method(s) that offerors may use. Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.
- (d) *Public notice.* Public notice of the request for proposals shall be given in the same manner as provided in section 2-184(d).
- (e) *Proposal opening.* Proposals may be publicly opened and only the names of the offerors disclosed at the proposal opening. Contents of competing offerors shall not be disclosed during the process of review and discussions. Proposals shall be for public inspection after contract award. Proprietary or confidential information marked as such in each proposal

shall not be disclosed without written consent of the offeror as provided for in section 2-154 of this Code. Late proposals shall neither be opened nor considered for award; however, the name and address of the late offeror and the time of attempted delivery shall be recorded wherever practicable.

- (f) *Clarifications with responsible offerors and revisions to proposals prior to selection of preferred offeror/proposal.* As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors 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. In conducting such discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (g) *Evaluation factors.* The request for proposals shall state the evaluation factors in relative order of importance, unless otherwise noted.
- (h) *Discussions with preferred offeror.* After proposals have been evaluated, discussions may be held with the preferred offeror in an effort to reach terms advantageous to the county. Notwithstanding this provision, solicitations may incorporate contract terms to which all offerors shall be expected to adhere.

6.B. Amend Section 2-185. - Competitive Sealed Proposals to correct oversight by revising language in 2-185 to match threshold amount in 2-184 previously approved by County Council in 2012 as follows:

- (i) *Award.* Except as hereinafter prescribed, the award shall be made to the responsible offeror whose proposal is determined, in writing, to be most advantageous to the county taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. Proposed awards exceeding \$100,000.00 on all single items of capital goods or construction projects (to be performed by outside contractors), shall be subject to review and approval by county council. These items shall be placed on the finance committee consent agenda.

7. Amend Section 2-187. - Sole source procurement/non-competitive procurement to increase threshold amount as follows:

Sec. 2-187. - Sole source procurement/non-competitive procurement.

- (a) Any request by an agency or department head that a procurement be restricted to one potential source shall be accompanied by a justification form provided by the contracts and procurement director and signed by the department head stating why no other source will be suitable or acceptable to meet the needs. A contract of less than, or equal to \$1,000,000.00, may be awarded for a supply, service, or construction item without competition when the county administrator, or his designee, and the contracts and procurement director, or his designee, determine in writing that there is either only one source for the required supply, service, or construction item, or that the proposed award to a single source is a permitted, non-competitive procurement as set forth herein. After verification of a sole source vendor, or the justification of a sole source purchase is warranted, the contracts and procurement director, or his designee, has the authority to negotiate the price, terms, and conditions of the procurement. A sole source or noncompetitive contract award greater than \$1,000,000.00 for a supply, service, or construction item is subject to county council approval.

8. Amend Section 2-224. - Bid Security for construction contracts to delete language that does not pertain to the reason for bid security as follows:

Sec. 2-224. - Bid security for construction contracts.

- (b) *Amount.* Bid security shall be in an amount equal to at least five percent of the amount of the bid, and the bid security will remain in place until posting of performance/payment bonds.

9.A. Amend Section 2-229. - Architect-Engineer and Land Surveying Services to revise language as follows:

Sec. 2-229. - Architect-engineer and land surveying services.

- (b) *Selection process.* A selection committee appointed by the contracts and procurement director may conduct discussions with qualified firm(s) regarding the contract and shall select the firm deemed most qualified to provide the required services. The selection shall be made in order of preference based on criteria established and published by the contracts and procurement director for the solicitation in question.

9.B. Amend Section 2-229. - Architect-Engineer and Land Surveying Services to revise language to match threshold amounts in SC Procurement Code, add reference the County procurement ordinance, delete specific references to SC Code of Laws, and add language for unsuccessful negotiations as follows:

Sec. 2-229. - Architect-engineer and land surveying services.

- (d) *Exception for small architectural, engineering, and land surveying services contracts.*
- (1) The county may secure architectural, engineering, or land surveying service which is estimated not to exceed \$50,000.00 by direct negotiation and selection, taking into account:
 - a. The nature of the project;
 - b. The proximity of the architectural, engineering, or land surveying services to the project;
 - c. The capability of the architect, engineer, or land surveyor to produce the required service within a reasonable time;
 - d. Past performance; and
 - e. Ability to meet project budget requirements.
 - (2) Maximum fees payable to one firm. Fees paid during the 24-month period immediately preceding negotiation of the contract for professional services performed by an architectural, engineering, or land surveying firm pursuant to section 2-229(d)(1) may not exceed \$150,000.00. Firms seeking to render professional services pursuant to this section shall furnish the county a list of any services and fees provided to the county during the fiscal year immediately preceding the current fiscal year in which the negotiations are occurring and during the fiscal year in which the negotiations are occurring.
 - (3) Splitting of larger projects prohibited. A governmental body may not break a project into smaller projects for the purpose of circumventing the provisions of the procurement ordinance.
 - (4) When negotiating a contract pursuant to this section, a governmental body may not negotiate with a firm unless any unsuccessful negotiations with a different firm have

been concluded in writing. Once negotiations with a firm have been concluded, negotiations may not be reopened.

10. Amend Section Sec. 2-230. - Indefinite Delivery Contracts to revise language to match the term in paragraph (c)(2) to be the same as the term in paragraphs (c) and (c)(1) as follows:

Sec. 2-230. - Indefinite delivery contracts.

- (a) *Conditions for use.* Any agency or department head may request in writing that the contracts and procurement director utilize an indefinite delivery contract to procure construction or professional services when the exact time and/or the exact quantity of future deliverables are unknown at the time of contract award.
- (b) *Indefinite delivery contracts (IDC).* If the contracts and procurement director determines that the use of an IDC is appropriate, the IDC shall be solicited using one of the methods prescribed in section 2-184, 2-185, 2-222, or 2-229. At any given time, the county may enter into one or more IDC's in accordance with the provisions contained in the procurement regulations, for IDC's for each of the following categories: architectural services, professional engineering services, land surveying services, and each licensing classification and subclassification for construction services.
- (c) *Awards.* IDC's may be awarded on an as needed basis for up to a two-year term. Where applicable, vendors that are awarded contracts under the IDC method may be awarded delivery orders on a rotational basis to ensure funds are allocated fairly and equitably amongst all companies.
 - (1) *Construction services.* Contracts shall be made to one or more responsive and responsible contractors that meet the requirements and criteria set forth in the solicitation. When construction services contracts are awarded, each IDC must be limited to a total expenditure of \$750,000.00 for a two-year period. No delivery order, including the value of all amendments, may exceed \$250,000.00.
 - (2) *Architectural-engineering and land-surveying services.* When architectural, engineering, and land surveying services contracts are awarded, each IDC must be limited to a total expenditure of \$400,000.00 for a two-year period. The county may secure architectural, engineering, or land surveying services, which are estimated not to exceed \$200,000.00 by direct negotiation and selection, taking into account:
 - a. The nature of the project;
 - b. The proximity of the architectural, engineering, or land surveying services to the project;
 - c. The capability of the architect, engineer, or land surveyor to produce the required service within a reasonable time;
 - d. Past performance; and
 - e. Ability to meet project budget requirements.

11. Amend Section 2-252. - Debarment or Suspension to delete ambiguous language as follows:

Sec. 2-252. - Debarment or suspension.

- (b) *Causes.* The causes for debarment or suspension include, but are not limited to, the following:
- (4) Violation of contract provisions, as set forth below, of a character which is regarded by the contracts and procurement director to justify debarment action:
 - a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract, or
 - b. A recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts provided that failure to perform, or unsatisfactory performance caused solely by acts beyond the control of the contractor, shall not be considered to be a basis for debarment.
 - (5) Any other cause the contracts and procurement director determines affects responsibility as a county contractor, including debarment by another governmental entity for cause.
 - (6) For violation of the ethical standards set forth in the State Ethics Act.
 - (7) Failure to pay un-contested or un-appealed, but delinquent, real or personal property taxes. These taxes are meant to include those taxes, assessments and penalties for which the county treasurer has issued his tax execution to the delinquent tax department. However, this is not deemed to include tax assessments that are actually under formal appeal, or in litigation, at the time the debarment or suspension decision is made.

12. Amend Section 2-266. - Use Of State Contracts to revise language as follows:

Sec. 2-266. - Use of state contracts.

The contracts and procurement director may, independent of the requirements of division 3 of this article, procure supplies, services or construction items through the contracts established by the purchasing division of the state as provided in Chapter 35 of Title II (State Consolidated Procurement Code) of the South Carolina Code of Laws, 1976, as amended.

13. Amend DIVISION 9. - SMALL BUSINESS ENTERPRISE (SBE) PROGRAM to add new Section 2-273.1 – Definitions as follows: (Definitions moved from Section 2-153.)

DIVISION 9. - SMALL BUSINESS ENTERPRISE (SBE) PROGRAM

Sec. 2-273.1. – Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercially useful function shall mean a function performed by a business enterprise when it is responsible for supplying goods or for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether an SBE is performing a commercially useful function, the amount of work subcontracted, industry practices, and other relevant factors shall be evaluated. Commercially useful function is measured for purposes of determining participation on a contract, not for determination of certification eligibility.

Conduit shall mean a small business enterprise (SBE) that knowingly agrees to pass the scope of work, for which it is listed for participation and is scheduled to perform or supply on the contract, to a non-SBE firm.

Eligible owner shall mean an individual that must be involved in the daily management and operations of the business concerned and is:

- (1) An individual who owns at least 51 percent of the equity of a business enterprise, or
- (2) An individual who owns at least 51 percent of all classes of voting stock of a corporation, or
- (3) An individual who owns at least 51 percent of a partnership interest.

Good faith effort shall mean the requirement that prime contractors make a documented effort, in "good faith," to provide contract opportunities to small, minority-owned, and woman-owned businesses in accordance with the policies of the county, requirements of this division, and applicable regulations.

Mandatory outreach shall mean the requirement that county contract and/or procurement opportunities be inclusive of small business enterprises (SBEs).

Program manager shall mean the manager of Procurement's small business enterprise (SBE) program or his or her designee.

SBE Certification shall mean completion, by a business enterprise, of the application process and subsequent approval by the small business enterprise (SBE) program manager for participation of the business enterprise in the SBE program. Additionally, certification through the South Carolina Department of Transportation will be accepted by the SBE program.

Small business enterprise (SBE) shall mean a business enterprise that is verified by the SBE program manager, or his or her designee, as meeting all of the requirements for certification under the SBE program. These requirements shall include, but are not limited to, the financial ability, skill levels, experience levels, and access to necessary staff, facilities, and equipment needed to complete or fulfill a particular contract, subcontract, or procurement.

14. Amend Section 2-278 to revise title as follows:

Sec. 2-278. - Mandatory outreach requirements.

- (a) *Establishment of annual goals.* The SBE program manager will recommend annual SBE aspirational goals to the contracts and procurement director. As a basis for the establishment of the annual goals, the SBE program manager shall determine the present availability of SBEs certified with the county or with the S.C. Department of Transportation (categorized by profession and trade groupings). The goals will be established in consideration of the projects and purchases approved in the annual budget of the county.
- (b) *Sub-contract policy.* The vendor to whom the contract is awarded shall be required to subcontract a specified percentage of the total contract to one or more SBEs.
- (c) *Waiver clause.* The county shall not establish an SBE aspirational goal for contracts where there are no SBEs certified to perform the scopes of work that the county regards as realistic opportunities for subcontracting.

15. Amend Section 2-279 to revise title and language as follows:

Sec. 2-279. - Methods of source selection to include mandatory outreach requirements.

- (a) The methods of source selection established in Sec. 2-182, if appropriate, shall include provisions for the mandatory outreach requirements established in this section and by regulations promulgated by the contracts and procurement director.

- (b) *Small Purchase Quote requirement.* The SBE program requires, if available, at least one of the three quotes be obtained from an SBE.

16. Amend Section 2-280. - Aspirational Goals For Contracts And Procurements to revise language as follows:

Sec. 2-280. - Aspirational goals for contracts and procurements.

- (a) *Setting of aspirational goals.* For each contract or procurement in excess of \$100,000.00 the SBE program manager shall assign an aspirational goal for the utilization of SBEs based upon a percentage of the estimated dollar value of the project and the availability of SBEs at the time the contract is-solicited. No goals shall be set for contracts where there are no SBEs certified for that business category or a sub-category thereof. For the purposes of the SBE program, there are five business categories:
- Construction.
 - Architecture and engineering.
 - Professional services (i.e., medical, legal, financial).
 - Other services (i.e., janitorial, landscape maintenance, communications, automotive, towing, security).
 - Goods and supplies.
- (b) *Oversight of goals.* In the event that a contract is issued that does not agree with the aspirational goals established for that contract, the matter shall be resolved by the contracts and procurement director.

17. Amend Section 2-281 to revise title and delete language as follows:

Sec. 2-281. - Procurement Card (P-card) purchases.

The SBE program manager will ensure that all departments within the county are made aware of the goals of the SBE program, and will encourage utilization of SBEs for purchases via P-cards. Department heads will ensure the use of SBEs for P-card purchases whenever an SBE is available.

18. Amend Section 2-290. - Local Preference Option to delete entirely.

19. Amend Section 2-255. - Procurement appeals board to change the term from two years to four years.

- (b) *Term.* The term of office of the chairperson and each member of the procurement appeals board shall be four years. Except that in making the initial appointments, three members shall be appointed for a term of one year, and two members and the chairperson shall be appointed for a term of two years, so that half of the terms of office shall expire every year. Thereafter, their successors shall be appointed for terms of four years, or for the balance of any unexpired term. Members may be reappointed for succeeding terms. County Council may terminate for just cause any board member's term of office.