



Lumpkin County, Georgia

Finance Department

Date: November 23, 2015

Agenda Item: Lumpkin County Purchasing Card Resolution, Ordinance, and User agreement for elected officials

Item Description: New resolution, ordinance and user agreement which includes the language as require by HB 192 passed in 2015

Facts & Historical Information:

During the 2015 legislative session, the General Assembly passed HB 192 which changed the use of county issued purchasing cards (p-cards) and credit cards by county elected officials. Effective January 1, 2016, if any county elected officials use a county purchasing card or credit card, then the board of commissioners needs to make sure that it has adopted a policy that meets the new law, has publicly voted to authorize the elected officials to use the county p-card or credit card and has entered into a user agreement with each authorized elected official.

Potential Courses Of Action:

1. Adopt the proposed Resolution, Ordinance, and user agreement which allows the County to be in compliance with State law. Continuing to utilize purchasing/credit cards allows the County to be efficient and allows officials to travel with ease and attend meetings and pay for those charges without having to have a county issued check or get reimbursed.
2. Reject the proposed Resolution, Ordinance, and user agreement which will mean the County will be out of compliance with State law.
3. Choose to no longer utilize credit/purchasing cards for Elected Officials and revert to issuing checks or be on a reimbursement basis. This is a less favorable option than number one because many hotel require a card to hold a room and the use of personal cards to pay for travel will result in the County paying unnecessary taxes.

Budget Impact: There is no impact to the operating budget.

LUMPKIN COUNTY RESOLUTION NO. 2015 - 62

**RESOLUTION OF THE LUMPKIN COUNTY BOARD OF COMMISSIONERS REGARDING
COUNTY ISSUED PURCHASING AND/OR CREDIT CARDS**

WHEREAS, Georgia law prohibits counties from issuing purchasing cards and credit cards to elected officials unless the governing authority of the county has authorized such issuance and has promulgated policies regarding their use as provided by law; and

WHEREAS, such purchasing cards and credit cards shall only be issued to elected officials designated by the governing authority; and

WHEREAS, in order to comply with O.C.G.A. § 36-80-24, the Lumpkin County Board of Commissioners desires to authorize certain elected officials to be issued a county purchasing and/or credit card, to adopt the attached ordinance containing the County's policy on purchasing cards and credit cards and to adopt the attached user agreement.

Now, Therefore, Be It Resolved that the Lumpkin County Board of Commissioners adopts the attached Exhibit A "Purchasing Card and Credit Card Ordinance for Lumpkin County Elected Officials".

Be It Further Resolved that the Board of Commissioners, by public vote, designates the following Lumpkin County Elected Officials to receive a county issued purchasing and/or credit card and approves the attached Exhibit B "Purchasing Card and/or Credit Card User Agreement" for the following elected officials:

- (Certain Elected Officials, by Position)

Resolved, adopted and effective this 15th day of December, 2015.

Chris Dockery, Chairman
Lumpkin County Board of
Commissioners

Attest:

Kathleen C. Walker
Clerk, Lumpkin County

**Purchasing Card and Credit Card Ordinance for Lumpkin
County Elected Officials**

WHEREAS, effective January 1, 2016, O.C.G.A. § 36-80-24 prohibits county elected officials from using government purchasing cards and government credit cards unless the county governing authority authorizes the issuance of such cards by public vote and has promulgated specific policies regarding the use of such cards;

WHEREAS, the Lumpkin County Board of Commissioners promulgates this ordinance as the official policy of Lumpkin County.

NOW, THEREFORE, BE IT ORDAINED that the following ordinance be adopted by the Lumpkin County Board of Commissioners to be effective December 15, 2015.¹

I. Intent and Scope

This ordinance is intended to comply with the policy requirements of O.C.G.A. § 36-80-24 regarding the use of County issued government purchasing cards and credit cards.

II. Definitions

A. "Authorized elected official" means an elected official designated by public vote of the Board of Commissioners to receive a county issued government purchasing card or credit card.

B. "Card Administrator" means the purchasing card and credit card administrator designated by the Lumpkin Board of Commissioners.²

C. "County" means Lumpkin County and/or the Board of Commissioners

D. "County purchase card," "county p-card" or "county credit card" means a financial transaction card issued by any business organization, financial institution, or any duly authorized agent of such organization or institution, used by a County official to purchase goods, services and other things of value on behalf of the County.

E. "Financial transaction card" means an instrument or device as the term is defined in O.C.G.A. § 16-9-30(5).

F. "User agreement" means the required agreement between the Board of Commissioners and the authorized elected officials which restricts the use of a county purchasing card or credit card.³

¹ If elected officials currently use county purchasing or credit cards, this ordinance should be effective no later than January 1, 2016.

² The board of commissioners is required by O.C.G.A. § 36-80-24(c)(6) to designate a purchasing card or credit card administrator.

³ See, O.C.G.A. § 36-80-24(c)(2).

III. Designated Elected Officials

The Lumpkin County Board of Commissioners ("County"), in its discretion, may authorize specific county elected officials to use a county purchasing card or credit card by adoption of a resolution in a public meeting.⁴

No authorized elected official may use a county purchasing card or credit card until and unless he or she has executed the County's purchasing card and credit card user agreement.⁵

The County will not make payments to any business organization, financial institution, or any duly authorized agent of such organization or institution, for amounts charged by an elected official to any purchasing cards or credit cards that are not issued pursuant to this ordinance or for any purchases that are not authorized by this ordinance.

IV. Card Administrator

The Board of Commissioners shall designate a County purchasing card and credit card administrator. The responsibilities of the Card Administrator include:⁶

- a. Manage County issued purchasing cards and credit cards.
- b. Serve as the main point of contact for all County purchasing card and credit card issues.
- c. Serve as liaison to the elected officials authorized to use a purchasing card or credit card and their staff, as well as to the issuer of the purchasing card or credit card.
- d. Provide training on card policies and procedures to the elected officials authorized to use a purchasing card or credit card and their staff.
- e. Develop internal procedures to ensure timely payment of cards.
- f. Assist authorized elected officials to dispute transactions when necessary.
- g. Establish internal procedures to ensure compliance with this ordinance, County procurement ordinances and policies, County purchasing card and credit card user agreements, applicable agreements with the business organization, financial institution, or any duly authorized agent of such organization or institution, issuing card, and state law, specifically, O.C.G.A. §§ 16-9-37 and 36-80-24.
- h. Document internal controls, audits and other measures to prevent and detect misuse or abuse of the cards.
- i. Audit and reconcile transactions monthly.
- j. Maintain records for at least seven years or as otherwise provided by the County's record retention policy.⁷

⁴ O.C.G.A. § 36-80-24(c) requires that the board of commissioners designates the elected officials authorized to use a county purchasing or credit card through a public vote.

⁵ O.C.G.A. § 36-80-24(c)(2).

⁶ The board of commissioners is required to designate a card administrator, but the duties of the card administrator are not specified by law. These are sample duties of a card administrator. Each county should tailor the duties of their card administrator to fit within the structure of its government and the requirements of the organization or institution issuing the cards to the county.

⁷ Unless the county has adopted its own record retention schedule, it is subject to the [Retention Schedule for Local Government Paper and Electronic Records](#) adopted by the State Records Committee. The Retention Schedule for Local Government Paper and Electronic Records requires records documenting administration of credit cards to be kept for at least seven years.

V. Use of Cards

- A. **Authorized Purchases.**⁸ County purchase cards and credit cards may be used to purchase goods and services directly related to the public duties of the authorized elected official only. All purchases are subject to the terms of this ordinance, the County purchasing card and credit card user agreement, county procurement policies and ordinances, and the adopted budget.

Only authorized elected officials may use a County purchase card or credit card for purchases or payments. The cards, and use of the cards, are not transferrable to employees. The authorized elected official shall use care to ensure that others do not have access to the card account number, expiration date and security code.

Unless otherwise approved by the governing authority or established in the County purchasing card and credit card user agreement, the transaction limits⁹ are as follows:

Per Transaction: \$1,000
Per Month: \$5,000

- B. **Unauthorized Purchases.**¹⁰ County purchasing cards and credit cards shall not be used for goods and services not directly related to the official responsibilities of the authorized elected official. Additionally, cards shall not be used to avoid compliance with the County's purchasing ordinances and procedures, to purchase goods and services that are not approved in the County's budget, to purchase goods and services exceeding the per transaction or per month limit, or to make purchases not in compliance with the County purchasing card and credit card user agreement. Further, cards shall not be used to purchase items for personal use, for cash refunds or advances, items specifically restricted unless a special exemption is granted by the governing authority, or alcohol or liquor of any kind.

⁸ O.C.G.A. §§ 16-9-37(b) and 36-80-24(c)(4) requires that the county describe in writing the types of purchases that are "authorized." The law only proscribes that the purchases must be for items and services directly related to the elected officials public duties and that they comply with the county's policy and user agreement. O.C.G.A. § 36-80-24(a) and (c). This paragraph is a sample of what could be included as authorized purchases. Each county should tailor this provision to meet the needs of its government.

⁹ O.C.G.A. §§ 16-9-37(b) and 36-80-24(c)(3) require that the county adopt written transaction limits. The transaction limits could be a maximum dollar amount or a maximum number of transactions per day, per month, per year.

¹⁰ O.C.G.A. § 36-80-24(c)(5) requires that the county describe the types of purchases that are "not authorized." This paragraph is a sample of what could be included as unauthorized purchases. Each county should tailor this provision to meet the needs of its government. Specific consideration should be given to the county's travel policies, reimbursement policies, cash advances, entertainment, alcohol, tobacco, fuel, software, computers, apps, gift cards, etc.

C. **Receipts and Documentation.** Receipts, invoices and other supporting documentation of all purchases made with a county purchasing card or credit card shall be obtained and maintained by the authorized county elected official for five years or as otherwise provided by the County's record retention policy.¹¹ If an original or duplicate cannot be produced, a sworn affidavit of the authorized elected official may be substituted. The documentation must include the supplier or merchant information (i.e., name and location), quantity, description, unit price, total price, price paid without sales tax and an explanation of the purchase sufficient to show that the expense was in the performance of official County duties.

D. **Public Records.** All receipt and other documentation of purchases are public records and subject to the requirements of O.C.G.A. § 50-18-70 *et seq.*¹²

VI. **Review of Purchases and Audit.**¹³ Proper documentation of purchases, internal controls and other measures prevent and allow detection to misuse or abuse of County issued purchase cards and credit cards. Authorized elected officials and staff that process payments under this program shall cooperate and comply with the procedures established by the County.

A. **Review of Purchases.**¹⁴ All purchases shall be reviewed according to the following procedure: receipts shall be turned in within one (1) week to the card administrator. Receipts for meals should include the person or persons in attendance and the purpose of meeting. All receipts for purchases will be verified against the approved budget by the card administrator. All travel folios will be verified against the training records provided to the card administrator. Any lost receipts will cause the user to sign an affidavit stating what the purchase was, the amount, date and official course of business receipts was related to.

¹¹ Unless the county has adopted its own record retention schedule, it is subject to the [Retention Schedule for Local Government Paper and Electronic Records](#) adopted by the State Records Committee. Accounts payable files must be kept for five years.

¹² See, O.C.G.A. § 36-80-24(b). Any official that destroys records for the purpose of preventing their disclosure can be prosecuted for a felony punishable by two to ten years in a state prison. O.C.G.A. § 45-11-1.

¹³ A process for auditing and review must be developed. O.C.G.A. § 36-80-24(c)(7).

¹⁴ O.C.G.A. § 36-80-24(c)(7) requires the county to establish a procedure where purchases are reviewed. To ensure timely and proper payment by the county of the charges each month, the county needs to establish a procedure for the elected officials to turn in documentation to the card program administrator or other person processing accounts payable for the county.

- B. **Audits.** The Card Administrator¹⁵ shall perform an annual review of the card program to ensure adequacy of internal policies and procedures, cardholder spending limits, monthly reconciliation procedures and documentation for transactions. Elected officials and staff shall cooperate with such review.

VII. Violations.¹⁶

- a. An elected official shall reimburse the County for any purchases made with a County issued purchase card or credit card in violation of this ordinance or the user agreement.
- b. In the discretion of the county governing authority, failure to comply with the procedures outlined in this ordinance may result in:
 - i. A warning;
 - ii. Suspension of the elected official's authority to use a County purchase card or credit card; or
 - iii. Revocation of the elected official's authority to use a County i purchase card or credit card.
- c. Nothing in this ordinance shall preclude the county governing authority from referring misuse of a purchase card or credit card for prosecution to the appropriate authorities.

¹⁵ The law requires an audit and review of purchases made with a p-card or credit card. The law does not specify who performs the audit. Depending upon whether the card program administrator has a card, the county may wish to appoint another person or outside auditor to audit the program.

¹⁶ O.C.G.A. § 36-80-24(c)(8) requires the county to establish a procedure to deal with purchase card and credit card policy violations, including revoking card privileges. Some policies allow for small infractions to result in a warning, while larger or multiple infractions to result in suspension or termination of p-card or credit card privileges.

**Purchasing Card and/or Credit Card User Agreement between
Lumpkin County and Lumpkin County Elected Officials**

This Purchasing Card and/or Credit Card User Agreement is between the Board of Commissioners of Lumpkin County (hereinafter "County") and _____ (hereinafter "Elected Official"), an elected official of Lumpkin County for use of Lumpkin County Purchasing and/or Credit Card (hereinafter "card"), issued by Bank of America (hereinafter "Bank"), in accordance with O.C.G.A. § 36-80-24(c)(2).

In exchange for the privilege of being issued a card for the purpose of purchasing goods and services directly related to the public duties of the authorized elected official of the County, Elected Official agrees as follows:

I. Authorized and Unauthorized Use.

- a. Elected Official agrees to use the card for goods and services directly related to Elected Official's public duties.
- b. Elected Official agrees to use the card for the purchase of goods and services authorized by the budget adopted by the Board of Commissioners.
- c. Elected Official shall not use the card for personal use or any use other than goods and service directly related to the official responsibilities of Elected Official.
- d. Elected Official shall not exceed the following transaction limit for the card:¹ \$1,000 a day or \$5,000 a month.
- e. Elected Official shall not subdivide a purchase in an effort to circumvent the transaction limit for the card.
- f. Elected Official shall not request or receive cash from suppliers or vendors as a result of exchanges or returns. All refunds or exchanges must be credited to the card account.

II. Obligations of Elected Official. Elected Official agrees to use the card in accordance with the terms and conditions of this Agreement, the Purchasing Card and Credit Card Ordinance for Lumpkin County Elected Officials ("Ordinance"), incorporated herein by reference, as it may be amended from time to time, and any procedures developed in relation to the use of the card.

- a. Elected Official agrees to cooperate with the Card Administrator in relation to the use of the card, including participation in training, submission of receipts and documentation, notification of lost or stolen cards, etc.

¹ Insert the limitations included in the ordinance adopted by the board of commissioners.

- b. Elected Official shall comply with the County's budget, purchasing policies and procedures when making purchases with the card.
- c. Elected Official shall notify the Card Administrator, if Elected Official's name or contact information changes, within thirty days of such change
- d. Elected Official shall protect the card at all times to prevent unauthorized use.
- e. Elected official shall immediately notify the Bank and Card Administrator if the card is lost or stolen.
- f. Elected Official shall surrender the card immediately upon request, expiration, resignation or removal from office.
- g. Elected Officials acknowledges that he or she is the only individual authorized to use the card.
- h. Elected Officials acknowledges that purchases by the County are exempt from Georgia sales tax. Elected Official shall provide any supplier or vendor with the County's tax exempt number (58-6000857).²

III. Receipts and Documentation. Receipts are required for all Card transactions. Elected Official shall provide receipts, invoices and other supporting documentation of all purchases made with the card as required by the Card Administrator. Substantiating documentation shall include the supplier or merchant information, quantity, description, unit price, total price, price paid without sales tax and an explanation of the purchase sufficient to demonstrate that the expense was in the performance of official County duties.

IV. Violations. In the discretion of the Board of Commissioners, failure to comply with the terms of this agreement or the ordinance may result in one or more of the following:

- a. Warning;
- b. Suspension of card privileges;
- c. Termination of card privileges;
- d. Collection of an amount equal to the total of any improper purchases, including but not limited to declaring such purchases as an advance on salary to the extent allowed by law; and/or

² Insert County's Tax Exempt Number.

- e. Prosecution. Official understands and acknowledges that misuse of the card may be considered a crime. Suspected misuse of the card may be reported to the proper authorities for prosecution.

V. **Term.** This agreement shall be for effective for a period of one (1) calendar year effective the 15th day of December, 2015.³ Provided the Elected Official remains eligible for a county issued card, this agreement may be renewed for successive terms. Either party may terminate the agreement with a 10 day notice. The card shall be promptly returned to the Card Administrator in the event of such termination. The Elected Official's obligations of this agreement shall survive the termination of this agreement.

COUNTY:

ELECTED OFFICIAL:

 Chris Dockery, Chairman

 , Title

DATE:

DATE:

³ Insert the desired term of the agreement, as well as renewal terms.

Association County Commissioners of Georgia Model County Purchasing and Credit Card Resolution, Ordinance and User Agreement

During the 2015 legislative session, the General Assembly adopted HB 192, which changes how county elected officials may use county issued purchasing cards and credit cards. Effective January 1, 2016, no county elected official may use a county purchasing or credit card unless:

- (1) The board of commissioners has publicly voted to authorize the elected official to use a county purchasing or credit card;
- (2) The county has adopted a policy regarding the use of the county purchasing or credit card; and
- (3) The county and the elected official enter into a contract regarding the use of the county purchasing or credit card.

ACCG has prepared a sample resolution, ordinance and user agreement for use by counties to govern the use of purchase cards and credit cards by elected officials.¹ State law requires that policy (which is contained in the attached ordinance) and user agreement contain certain provisions. All of the attached documents are intended for general information purposes and should not be treated as legal advice. The documents should be reviewed and modified to fit the particular needs of your county and its elected officials. Please consult your county attorney for issues specific to your county.

Also note that the Georgia Department of Administrative Services (“DOAS”) allows counties to issue purchasing cards through the [DOAS Purchasing Card Program](#). For more information on the State’s program, please contact John Thomason, State Cards Program Manager at [404-656-5344](tel:404-656-5344) or John.Thomason@doas.ga.gov. Even if the State’s program is used, the board of commissioners will be required to designate which elected officials may have a purchasing or credit card, to adopt a policy, and to sign a user agreement with each authorized elected official. Commissioners should consult with their county attorneys to ensure that procuring a service “off of the state contract” is consistent with the county’s local legislation, ordinances and/or procurement policies.

¹ The attached documents only apply to elected officials – not to staff. If the county does not already have policies or ordinances in place for county employees, the board may want to consider enacting appropriate regulations for use of purchasing and credit cards by non-elected officials and employees.