

ORDINANCE NO. 18-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATING TO PURCHASING; AMENDING SECTION 2-156, DEFINITIONS; AMENDING SECTION 2-158, APPLICABILITY; AMENDING SECTION 2-159, PRINCIPAL PUBLIC PURCHASING OFFICIAL; AMENDING SECTION 2-160, WAIVER OF PROVISIONS; AMENDING SECTION 2-161, BIDDER QUALIFICATIONS AND PREQUALIFICATIONS; SUSPENSION AND DEBARMENT; AMENDING SECTION 2-162, PROTEST PROCEDURE; AMENDING SECTION 2-163, BID AND CONTRACT SECURITY; AMENDING SECTION 2-164, INTERGOVERNMENTAL RELATIONS; AMENDING SECTION 2-165, AFFIRMATIVE ASSISTANCE TO SMALL AND DISADVANTAGED BUSINESSES; AMENDING SECTION 2-176, COMPETITIVE SEALED BIDDING; AMENDING SECTION 2-177, COMPETITIVE SEALED PROPOSALS; AMENDING SECTION 2-178, CONTRACTING FOR DESIGNATED PROFESSIONAL SERVICES; AMENDING SECTION 2-179, SMALL PURCHASES; AMENDING AND RENAMING SECTION 2-180, SOLE SOURCE/NONCOMPETITIVE PROCUREMENT; AMENDING SECTION 2-181, EMERGENCY PROCUREMENTS; AMENDING AND RENAMING SECTION 2-182, USED EQUIPMENT/SUPPLIES PROCUREMENT; AMENDING AND RENAMING SECTION 2-184, MASTER PURCHASE ORDERS; AMENDING SECTION 2-185, STATE BID OR NEGOTIATED CONTRACTS AND REQUIRED PURCHASES; DELETING SECTION 2-186, RETAIL GOLF MERCHANDISE PURCHASES FOR COUNTY OPERATED RETAIL GOLF COURSE SHOPS; ADDING AND TITLING SECTION 2-187, RIGHT TO AUDIT; AMENDING SECTION 2-188, APPROVAL AUTHORITY; AMENDING SECTION 2-189, LOBBYING; DELETING SECTION 2-190, SPONSORSHIPS; DELETING SECTION 2-191, MARINA SALES AND SERVICES; DELETING SECTION 2-192, CATERING SERVICES; AMENDING ALL SECTIONS FOR CLARITY, CONSISTENCY AND UNIFORMITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR THE AREA EMBRACED; AND PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY THAT:

DIVISION 2. - PURCHASING

Subdivision I. – In General

Section 2-156. – 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:

Agencies means the departments or offices under the ~~board of county commissioners~~ Board and ~~e~~County departments or offices created by special act or interlocal agreement, including but not limited to the Pinellas Planning Council, the Pinellas County Construction Licensing Board, and the ~~Management Information~~ Business Technology Services ~~D~~department.

~~*Bid criteria* means the bases upon which the county will rely to determine acceptability of a bid or proposal, as stated in the bid, the proposal, or this division, including, but not limited to, inspection, testing, quality, workmanship, delivery, price, 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.~~

Board means the Board of County Commissioners of Pinellas County, Florida.

~~*Bidders list* means the list of vendors, suppliers or contractors for an individual commodity or trade compiled through the contracting experience of the county or at the request of the vendors, suppliers or contractors.~~

Business Day means any calendar day from 7:00 A.M. to 5:00 P.M. EST, except a Saturday, Sunday or County observed holiday.

~~*Constitutional e*Officer means one (1) or more of the following: Clerk of ~~e~~Circuit ~~e~~Court, ~~p~~Property ~~a~~Appraiser, ~~s~~Sheriff, ~~s~~Supervisor of ~~e~~Elections, and ~~e~~county ~~t~~Tax ~~e~~Collector, collectively referred to in this division as the constitutional officers.~~

~~*County* means Pinellas County, Florida, a political subdivision of the State of Florida. ~~the board of county commissioners, the constitutional officers and the agencies of the county.~~~~

County Facilities shall mean any land, buildings or structures owned or controlled by the County.

Director means the Pinellas County Purchasing Director.

~~*Evaluation e*Criteria shall have the same meaning as the term bid criteria means the bases upon which the County will rely to determine acceptability of a response to a competitive solicitation, as stated in the solicitation document, or this division.~~

~~*Lowest and best bid/price* means the apparent lowest bidder or proposer whose bid or proposal best meets the needs of the county as stated in the invitation to bid, the request for proposal, or this division.~~

Noncompetitive Purchase means a purchase that is not required to be made pursuant to a formal County-initiated competitive solicitation because a justification exists demonstrating that competitive selection is unnecessary, inappropriate or otherwise not in the best interest of the County under the circumstances. Such purchases may be made with no competition or with such competition as is practical and appropriate under the circumstances, as determined by the Director.

Purchase Order means the County's document used to evidence the existence of a purchase or sales transaction with a Vendor. Acceptance of a Purchase Order by a Vendor shall constitute a contract, except in instances in which a Purchase Order is used only as an internal document.

~~*Public n*Notice means the required notification or advertisement of an invitation to bid, request for proposal, or other competitive solicitation provided for in this division, to be given to ~~prospective v~~Vendors for a reasonable period of time, as determined by the ~~d~~Director ~~of purchasing~~, which shall, at a minimum, include: (i) direct notice to ~~prospective v~~Vendors ~~on an~~~~

~~applicable bidders list maintained~~ by the Pinellas County Purchasing Department (Purchasing Department); (ii) posting ~~public notice~~ or a link (which contains notice) on the ~~Purchasing Department~~ website; and (iii) notice in a newspaper of general circulation, when required by applicable law. The ~~Public Notice~~ shall describe the goods and/or services sought, and state the date, time and place of the ~~bid proposal, or other~~ solicitation opening.

~~Purchase/procurement means the acquisition of goods and/or services.~~

~~Qualified bidder shall have the same meaning as the term responsible bidder.~~

Responsible with respect to bidder or proposer means a ~~bidder Vendor~~ who has submitted a bid or proposal, who has the capability, as determined by the County, in all respects to perform fully the contract requirements and who has the integrity and reliability which will ~~assure give~~ reasonable assurance of good-faith performance, which includes, but is not limited to those specified in Sec. 2-161(a)(1)a.-j.

~~Responsible proposer means a proposer who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.~~

~~Responsive bid means a bid submitted by a responsive and responsible bidder which conforms in all material respects to the invitation for bids.~~

Responsive with respect to bidder or proposer means a ~~bidder Vendor~~ who has submitted a bid or proposal, which conforms in all material respects, as determined by the County, to the ~~invitation for bids or proposal solicitation.~~

~~Responsive proposal means a proposal submitted by a responsive and responsible proposer which conforms in all material respects to the request for proposal.~~

~~Responsive proposer means a proposer who has submitted a proposal which at a minimum conforms in all material respects to the request for proposal.~~

Sole Source Purchase means research has determined there is only one (1) potential Vendor for an item.

Vendor means an actual or potential supplier of goods and/or services.

Sec. 2-157. - Purpose.

The purpose of this division is to provide for the fair and equitable treatment of all persons involved in public purchasing by the ~~eCounty~~, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Sec. 2-158. - Applicability.

(a) This division applies to ~~contracts for~~ the procurement of goods and/or services entered into by the ~~eCounty~~ after the effective date of the ordinance from which this division derives. This division shall apply to every expenditure of public funds by the ~~board of eCounty commissioners~~ for public purchasing, irrespective of the source of the funds. ~~When the procurement involves the expenditure of federal assistance of contract funds, the procurement shall be conducted in accordance with applicable federal law and regulations.~~ Nothing in this

division shall prevent the ~~e~~County from complying with all laws and ~~with~~ the terms and conditions of any grant, ~~gift or bequest that is otherwise consistent with law.~~

- (b) Any of the Constitutional Officers or Agencies may utilize all or part of the County's purchasing process without the obligation of complying with the full procedures. ~~Notwithstanding the general principles of application of this division expressed in this section, the clerk of circuit court, property appraiser, sheriff, supervisor of elections and tax collector (the "constitutional officers") may participate in all or part of the county's purchasing process without the obligation of complying with the full procedures outlined in this division. Authorized partial compliance includes, but is not limited to, the following:~~
- ~~(1) No contract to be entered into by any of the constitutional officers needs approval by the board of county commissioners for the constitutional officer's portion of the contract except as otherwise specifically required by state law;~~
 - ~~(2) A constitutional officer, either during or after the bidding or award procedures, may deviate from the strict criteria of this division and may award on the bid or proposal criteria, and as otherwise permitted by state law, or may reject all bids for the constitutional officer's portion of the contract;~~
 - ~~(3) No constitutional officer needs the authority from the board of county commissioners to exempt any bid, proposal or contract from the requirements of this division.~~

Sec. 2-159. - Principal ~~p~~Public ~~p~~Purchasing ~~e~~Official.

- (a) Except as otherwise provided in this division, the ~~d~~Director ~~of purchasing, and the assistant director of purchasing or the designated official within the Purchasing Department,~~ when authorized by the ~~d~~Director in writing, shall serve as the principal public purchasing official for the ~~e~~County, ~~and~~ shall be responsible to the ~~b~~Board of county commissioners and shall be responsible for the procurement of supplies goods and ~~services and construction~~ in accordance with this division. Additionally, the ~~p~~Purchasing ~~d~~Department shall serve as a servicing agency for the ~~e~~Constitutional ~~e~~Officers and ~~other nonboard county a~~Agencies, as directed by the Board, ~~and the director of purchasing shall provide such assistance and service as possible to the constitutional officers and other nonboard county agencies for the procurement of goods and services.~~
- (b) In accordance with this division and any other applicable laws, the ~~d~~Director, ~~and the assistant director or the designated official within the Purchasing Department,~~ when authorized by the ~~d~~Director in writing, shall:
- (1) Procure or supervise ~~the procurement of~~ all goods and or services needed by the ~~e~~County;
 - (2) Approve all ~~p~~Purchase ~~e~~Orders, regardless of amount, for all goods and or services procured as authorized in this division;
 - (3) Provide assistance to Agencies in the Sell sale, trade, or ~~otherwise disposal~~ of surplus supplies and tangible personal property ~~belonging to the county, pursuant to F.S. ch. 274;~~
 - (4) With the exception of contract review policies approved by the ~~b~~Board of county commissioners, have the authority and responsibility to establish and maintain written administrative procedures governing procurement of goods and or services, in accordance with this division and purchasing policies adopted by resolution of the ~~b~~Board

~~(“Purchasing Manual”) of county commissioners. These procedures shall include, but are not limited to, procedures for complaints against vendors, inspection and acceptance of delivered goods, prequalification of contractors, change orders, and consideration of single bids.~~ Once developed, and as amended, the administrative procedures implementing this division and purchasing policies adopted by the ~~b~~Board of county commissioners shall be approved by the county administrator.

- (c) The ~~e~~Director of purchasing may not delegate procurement authority to other ~~e~~County officials, except as authorized herein, or except as authorized pursuant to rules and regulations adopted by the ~~b~~Board of county commissioners. ~~Notwithstanding the general principles of application of this division expressed herein, any of the constitutional officers may utilize all or part of the county's purchasing process without the obligation of complying with the full procedure and without the obligation to obtain the lowest and best bid or price.~~

Sec. 2-160. - Waiver of ~~p~~Provisions.

The ~~b~~Board of county commissioners may waive any provision of this division by resolution.

Sec. 2-161. - Bidder ~~e~~Qualifications and ~~p~~Prequalifications; ~~s~~Suspension and ~~e~~Debarment.

(a) *Qualifications.*

- (1) *Responsible and ~~r~~Responsive ~~b~~Bidder ~~Who~~ ~~s~~Submits the ~~L~~Lowest ~~r~~responsive ~~b~~Bid.* In determining the ~~r~~Responsible and ~~r~~Responsive bidder who submits the lowest ~~r~~responsive bid, in addition to price, due diligence will be conducted and the following factors~~board of county commissioners or the constitutional officer, as applicable~~, shall be considered, as a minimum:

- a. The ability, capacity and skill of the bidder to perform the contract ~~or provide the service required~~;
- b. Whether the bidder can perform the contract ~~or provide the service~~ promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- d. The quality of performance of previous contracts ~~or services~~;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract ~~or services~~;
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract ~~or provide the service~~;
- g. The quality, availability and adaptability of the goods and/or services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service;
- i. The number and scope of conditions attached to the bid~~;~~
- j. The ability to meet insurance requirements.

(2) ~~Prequalification of general contractors~~Vendors for Construction. ~~General contractors~~Vendors wishing to bid on the ~~b~~Board's construction projects in excess of \$100,000.00 are required to be prequalified with the county administrator or his/her designee prior to bid opening, unless the solicitation includes a qualification process through multi-step bidding. Pursuant to F.S. § 255.20, a prequalified contractor considered eligible by the Florida Department of Transportation to bid to perform the type of work described under the contract is presumed to be qualified to perform the work described. ~~Types of construction requiring prequalification, include but are not limited to, road and street, building, water and sewer, marine, bridge, and well drilling.~~ The establishment, deletion and modification of the prequalification categories for specific types of construction and the dollar amounts of the subcategories may be accomplished by ~~resolution of the board~~the county administrator. ~~The primary criteria considered in determining qualification are financial capability and previous job experience and performance.~~

- a. Prequalification is recommended to the county administrator or his/her designee for final approval by a prequalification committee consisting of representatives from each of the following professional associations:

~~Associated Builder's and Contractors~~Tampa Bay Builders Association

Pinellas Chapter of the Florida Engineering Society

~~Florida Central Chapter of American Institute of Architects~~American Institute of Architects – Tampa Bay

West Coast Chapter of the Florida Institute of C.P.A.'s

~~Contractors' and Builders' Association of Pinellas County~~

Suncoast Utility Contractors Association

- b. Prequalification is not a conclusive determination of responsibility, and a prequalified bidder may be rejected as a non-#Responsible bidder on the basis of subsequently discovered information.

(b) ~~Integrity of public contracting; purchasing authority to s~~Suspension or and #Debarment. Maintaining the integrity of the public contracting and purchasing process is vital and a matter of great public interest. Selecting and contracting with highly qualified ~~persons or entities~~ (~~"v~~Vendors") that engage in ethical and responsible business practices protects the public and supports the integrity of the public contracting and procurement process. Because the opportunity to participate in competitive procurements or to supply goods and/or services to the ~~e~~County is a privilege, not a right, this privilege should be denied to ~~persons or entities~~Vendors that engage or are involved in activities or actions, as described herein, that adversely impact the quality of goods and/or services provided to the ~~e~~County for the benefit of the public. In those instances, it is in the best interests of the public to disqualify ~~v~~Vendors by suspension or debarment from ~~inclusion on future vendor lists or from~~ consideration for award of ~~new~~ contracts, or work, ~~or any work assignments~~ on existing contracts, based upon documentation that the grounds for suspension or debarment exist, as provided herein ~~exist~~.

- (1) *Suspension.* A ~~v~~Vendor shall be suspended for a period of two (2) years or until the conditions described herein have been rectified or resolved, whichever occurs first, as determined by the ~~pur~~chasing ~~e~~Director based upon the following:
- a. The ~~e~~County has formally declared the ~~v~~Vendor in breach of a contract that has resulted in the termination of the contract by the ~~e~~County for failure to comply with the conditions, specifications or terms of a contract with the ~~e~~County; or
 - b. The ~~e~~County has formally disqualified or declared a ~~v~~Vendor's bid, quotation, or proposal non-responsive, based on the ~~v~~Vendor's fraud or misrepresentation; or
 - c. The ~~v~~Vendor is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; or is charged by a court of competent jurisdiction with the following: embezzlement, theft, forgery, bribery, fraud, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a ~~e~~County government contractor; or
 - d. The ~~v~~Vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or has a receiver or trustee appointed over its property; or
 - e. The ~~v~~Vendor has three (3) or more violations of the ~~e~~Code as defined in section 1-8 of the Code in any two (2)-year period arising from or related to ~~v~~Vendor's business activities, as determined in a court or administrative proceeding, including by plea; or
 - f. The ~~v~~Vendor and the ~~e~~County are engaged in ~~adversarial~~ proceedings (i.e., court proceedings, arbitration, or administrative proceeding) arising from or related to the ~~v~~Vendor's performance of a contract with the ~~e~~County, in which the Vendor and the County have positions adverse to each other. To the extent that Vendor is indemnifying and defending the County, the positions are not considered adverse; or
 - g. The ~~v~~Vendor is suspended by another government entity.
- (2) *Debarment.* A ~~v~~Vendor shall be permanently debarred by the ~~pur~~chasing ~~e~~Director based on the following:
- a. The ~~e~~County obtains a judgment in an adversarial proceeding between the ~~e~~County and the ~~v~~Vendor (i.e., court proceeding, arbitration, or administrative proceeding) arising from the ~~v~~Vendor's performance of a contract with the ~~e~~County which remains unsatisfied for a period of thirty (30) days from the expiration of any appeal period or final resolution of any appeal; or
 - b. Vendor conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the ~~v~~Vendor's business activities stated in subsection (b)(1)c. above; ~~for~~
 - c. Vendor is debarred by another government entity.

- (3) *Public eEntity eCrime.* Notwithstanding any other provision herein, any ~~v~~Vendor who has been convicted of a public entity crime, as defined by F.S. § 287.133, shall not be able to transact business with the eCounty to the extent ~~as~~ specified in the statute.
- (4) *Decision Notification to Suspend or Debar.* The ~~purchasing d~~Director shall issue ~~a~~ written notification to suspend or debar the Vendor based on documentation of the existence of one (1) or more of the conditions described herein. The suspension or debarment shall take effect as of the date ~~of~~ stated in the notification. The notification shall state the basis for the action taken and the period of the suspension, or that the ~~v~~Vendor has been debarred. Prior to issuance of written notification, the ~~purchasing d~~Director may schedule an informational meeting with the ~~v~~Vendor to review the documentation supporting the suspension or debarment. The only issue that shall be considered at the informational meeting is whether the condition giving rise to the suspension or debarment has occurred ~~or taken place.~~
- (5) *Effects of sSuspension and dDebarment.*
- a. Suspended or debarred ~~v~~Vendors are not excluded from receiving eligible for award of contracts or additional work on existing any new contracts, awards or otherwise providing new goods or additional services during the period of suspension or during debarment; from having any bids, proposals, quotations or qualifications considered by the eCounty or responding to other solicitations of the eCounty; and from conducting business with the eCounty as a subcontractor, representative, or joint venturer of other ~~v~~Vendors. ~~For the purposes of this subsection (b)(5)a, "new goods or additional services" does not include goods or services provided by the vendor pursuant to a contract, purchase order or work assignment in effect as of the date of suspension.~~
 - b. Any business entity controlled by or affiliated with any suspended or debarred ~~v~~Vendor ~~ineligible for new business pursuant to subsection (b)(5)a~~ may also be prohibited from contracting with the eCounty if the relationship or affiliation is such that the person or business entity by reason of the relationship with the ineligible ~~person or entity~~Vendor could directly benefit from the contract. Such factors as ownership interest, one (1) or more members of the board of officials in common, control of one entity by the other, interlocking or shared management or principals, and limited management and ownership among family members shall be considered in determining ineligibility under this section of this article.
- (6) *Reinstatement.* After suspension or debarment, a ~~v~~Vendor is not eligible to contract or be awarded work with ~~Pinellas the~~ County until reinstated by the ~~purchasing d~~Director. To be considered for reinstatement, ~~T~~the ~~v~~Vendor must supply information and reasonable documentation indicating that the conditions causing the suspension or debarment have been rectified or resolved. If the charges referenced in subsection (b)(1)c, are dismissed or the ~~v~~Vendor is found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the ~~v~~Vendor to the eCounty. If the conviction or judgment referenced in subsection (b)(2)b, is reversed through the appellate process, the debarment shall be removed immediately upon written notification and proof of final court disposition ~~from~~ provided by the ~~v~~Vendor to the eCounty. As a condition of reinstatement, and with approval of the county administrator,

the ~~purchasing~~ eDirector may limit the nature and scope of contractual undertakings that must be satisfactorily completed before seeking additional contracts from the eCounty. Nothing herein prevents the eCounty from granting reinstatement prior to the end of the suspension period or debarment where, in the ~~purchasing~~ eDirector's judgment, the eCounty's interests have been addressed and the ~~v~~Vendor to be reinstated is not likely to engage in similar conduct again.

Sec. 2-162. - Protest pProcedure.

- (a) *Right to pProtest.* ~~Any prospective bidder or proposer~~ Vendor who is aggrieved by the contents of the bid or proposal package, or ~~any bidder or proposer~~ Vendor who is aggrieved in connection with the recommended award on a bid or proposal solicitation, may file a written protest to the eDirector, ~~of purchasing~~ as provided herein. This right to protest is strictly limited to those procurements of goods and/or services solicited through invitations to bid or requests for proposals, including solicitations pursuant to F.S. § 287.055, the "Consultants' Competitive Negotiation Act." No other actions or recommendations in connection with a solicitation can be protested, including: (i) requests for quotations, ~~or negotiations, requests for~~ or letters of interest; (ii) rejection of some, all or parts of bids or proposals; (iii) disqualification of bidders or proposers as non-responsive or non-responsible; or (iv) recommended awards less than the mandatory bid or proposal amount. Protests failing to comply with the provisions of this section shall not be reviewed.
- (b) *Posting.* The pPurchasing eDepartment shall post the recommended award on or through the departmental website ~~no less than five full business days after the decision to recommend the award is made.~~
- (c) *Requirements to pProtest.*
- (1) If the protest relates to the content of the bid ~~or~~ proposal package, a formal written protest must be filed no later than 5:00 p.m. EST on the fifth full bBusiness eDay after issuance of the bid ~~or~~ proposal package.
 - (2) If the protest relates to the recommended award of a bid or proposal, a formal written protest must be filed no later than 5:00 p.m. EST on the fifth full bBusiness eDay after posting of the award recommendation.
 - (3) The formal written protest shall identify the protesting party and the solicitation involved; include a statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances or other legal authorities which the protesting party deems applicable to such grounds; and specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds.
 - (4) A formal written protest is considered filed with the eCounty when the pPurchasing eDepartment receives it. Accordingly, a protest is not timely filed unless it is received within the time specified above by the pPurchasing eDepartment. Failure to file a formal written protest within the time period specified shall constitute a waiver of the right to protest and result in relinquishment of all rights to protest by the bidder ~~or~~ proposer.
- ~~(d) *Rights of interested parties.* Bidders or proposers, other than the protestor, which would be directly affected by the favorable resolution of a protest relating to a recommended award, shall have the right to provide written documentation related to the protested solicitation. Said~~

~~interested parties shall be solely responsible for determining whether a protest has been filed. Any documentation submitted by an interested party must be filed with the director of purchasing no later than 5:00 p.m. on the fifth full business day after the purchasing department posts notification that a protest has been filed. Any interested party submitting documentation shall bear all costs, including legal representation, relating to the submission.~~

- (~~e~~) *Sole ~~r~~Remedy.* These procedures shall be the sole remedy for challenging the content of the bid or proposal package or the recommended award.
- (~~f~~) *Lobbying.* Protestors, ~~and interested parties as defined subsection (d),~~ and anyone acting on their behalf, are prohibited from attempts to influence, persuade, or promote a bid or proposal protest through any other channels or means, and contacting any ~~e~~CCounty official, employee, advisory board member, or representative to discuss any matter relating in any way to the solicitation being protested, other than the ~~p~~Purchasing ~~d~~Department's or county attorney's office ~~employees to address situations such as clarification and/or pose questions related to the procurement process.~~ The prohibitions provided for herein shall begin with the filing of the protest and end upon the final disposition of the protest; provided, however, at all times protestors shall be subject to the procurement lobbying prohibitions in section 2-189 of this Code. Failure to adhere to the prohibitions herein shall result in the rejection of the protest without further consideration.
- (~~g~~) *Time ~~L~~imits.* The time limits in which protests must be filed as specified herein may be altered by specific provisions in the bid ~~or request for proposal.~~
- (~~h~~) *Authority to ~~r~~Resolve.* The ~~d~~Director ~~of purchasing~~ shall resolve the protest in accordance with the documentation and applicable legal authorities and shall issue a written decision to the protestor no later than 5:00 p.m. ~~EST~~ on the tenth full ~~b~~Business ~~d~~Day after the filing thereof.
- (~~i~~) *Review of ~~purchasing d~~Director's ~~d~~Decision.*
- (1) The protesting party may request a review of the ~~purchasing d~~Director's decision to the county administrator by delivering written request for review of the decision to the ~~d~~Director ~~of purchasing~~ by 5:00 p.m. ~~EST~~ on the fifth full ~~b~~Business ~~d~~Day after the date of the written decision. The written notice shall include any materials, statements, and arguments which the bidder ~~or proposer~~ deems relevant to the issues raised in the request to review the decision of the ~~purchasing d~~Director.
 - (2) The county administrator shall issue a decision in writing stating the reason for the action with a copy furnished to the protesting party no later than 5:00 p.m. ~~EST~~ on the seventh full ~~b~~Business ~~d~~Day after receipt of the request for review. The decision shall be final and conclusive as to the ~~e~~CCounty unless a party commences action in a court of competent jurisdiction.
- (~~j~~) *Stay of ~~p~~Procurement ~~d~~uring ~~p~~rotests.* There shall be no stay of procurement during protests.

Sec. 2-163. - Bid and ~~e~~CContract ~~s~~Security.

- (a) *Bid ~~s~~Security.*

- (1) *Requirement for ~~b~~Bid ~~s~~Security.* Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the ~~d~~Director of ~~of purchasing~~ to exceed \$100,000.00. Bid security shall be in a form satisfactory to the county attorney. Nothing herein shall prevent the requirement of such security on other contracts when the circumstances warrant.
 - (2) *Amount of ~~b~~Bid ~~s~~Security.* Bid security for all other competitive sealed bids and proposals shall be in an amount equal to at least five (5) percent of the amount of the bid, unless the ~~D~~irector of ~~of purchasing~~ determines that the nature of the industry is such that the bid security requirement would work a hardship on most potential bidders.
 - ~~(3) *Rejection of bids for noncompliance with bid security requirements. When the invitation for bids requires bid security, a bid shall be rejected in the event of noncompliance unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.*~~
- (b) *Contract ~~s~~Security.* When a construction contract is awarded in excess of \$100,000.00, security shall be provided in conformance with the minimum requirements of F.S. § 255.05; ~~and shall become binding upon the execution of the contract.~~
- (1) A performance bond satisfactory to the county attorney, executed by a surety insurer authorized to do business in the state as a surety, in an amount equal to 100 percent of the price specified in the contract, conditioned that the contractor perform the contract in the time and manner prescribed in the contract; and
 - (2) A payment bond satisfactory to the county attorney, executed by a surety insurer authorized to do business in the state as a surety, in an amount equal to 100 percent of the price specified in the contract, conditioned that the contractor promptly make payments to all persons supplying labor, materials or ~~supplies~~ services used directly or indirectly in the performance of the work provided for in the contract, and who are claimants as defined in F.S. § 255.05(1).
- (3) In lieu of the bonds required herein, a contractor may file an alternative form of security, in accordance with F.S. § 255.05(7).
- (c) *Authority to ~~#~~Require ~~a~~Additional ~~s~~Security.* Nothing in this section shall be construed to limit the authority of the ~~e~~County to require ~~a performance bond or other~~ additional security ~~in addition to those bonds, or in circumstances other than, as specified in subsection (b) of this section.~~

Sec. 2-164. - Intergovernmental ~~#~~Relations.

- (a) Cooperative Purchasing Authorized. The Purchasing Department may either participate in, sponsor, conduct or administer a cooperative purchasing contract for the procurement of any goods, services or construction with one or more public procurement units. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state or federal public procurement unit contracts which are made available to local public procurement units.
- (b) Approval ~~a~~Authority for ~~e~~Contracts of \$250,000.00 or ~~!L~~ess. Approval of contracts for cooperative purchasing and acquisition or use of supplies ~~goods~~ under this section which are \$100,000.00 or less in a fiscal or calendar year shall be granted to the ~~d~~Director ~~of purchasing~~,

and which are more than \$100,000.00 and do not exceed \$250,000.00 in a fiscal or calendar year shall be granted to the county administrator or his/her designee.

- ~~(b) Cooperative purchasing authorized. The county's purchasing department may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one or more public procurement units. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open ended state or federal public procurement unit contracts which are made available to local public procurement units.~~
- (c) Acquisition or ~~Use~~ of ~~supplies~~Goods by a ~~Public~~ Procurement ~~Unit~~. The county's ~~Purchasing~~ Department may acquire from, or use any ~~supplies~~ goods belonging to, another public procurement unit independent of the requirements of subdivision II of this division, pertaining to ~~Source~~ Selection and ~~Contract~~ Formation, unless prohibited by law.

Sec. 2-165. - Affirmative ~~Assistance~~ to ~~Small~~ and ~~Disadvantaged~~ Businesses.

The ~~board of county commissioners~~Board recognizes that the ~~County's~~ growth and prosperity depends on the full participation of all its citizens, and is firmly committed to the principles of equal opportunity, recognizes the need and is desirous of improving the opportunities and participation of minority and female-owned businesses. The ~~County~~ endorses the utilization of minority and female-owned businesses in the purchasing of goods and services for the ~~County~~ whenever possible and shall establish, through an affirmative program, procedures fostering utilization.

Secs. 2-166—2-175. - Reserved.

Subdivision II. - Source Selection and Contract ~~Formulation~~Formation

Sec. 2-176. - Competitive ~~Sealed~~ Bidding.

- (a) ~~Conditions for Use. Unless procured pursuant to another process authorized by law or this Code, All~~ contracts of the ~~County~~ for the purchase of goods and/or services valued in excess of \$100,000.00 shall be awarded by competitive bidding, ~~except as otherwise provided in section 2-177, pertaining to competitive sealed proposals, section 2-178, pertaining to contracting for designated professional services, section 2-180, pertaining to noncompetitive procurement, section 2-181, pertaining to emergency procurement, section 2-182, pertaining to used equipment/supplies procurement or purchases made pursuant to section 2-185 allowing for purchases under F.S. §§ 413.032—413.037 (1999), pertaining to qualified nonprofit agencies for the blind or the severely handicapped, or state bid or negotiated contracts.~~
- (b) ~~Invitation to Bid.~~ An invitation to bid shall be issued and shall include specifications and conditions applicable to the procurement and shall ~~set forth the time for preparation of bids prior to the date set forth in the public notice for the opening of bids~~indicate the deadline for bid submittal and the time of bid opening.
- (c) ~~Bidders List.~~ Bids shall be invited from all responsible prospective vendors who have requested their names to be added to a bidders list, which the director of purchasing shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase. The Director shall develop and implement

procedures to promote competition among Vendors by posting Public Notice of the bid and notifying Vendors of the opportunity. ~~Vendor invitations to bid shall be limited to goods and services that are similar in character and ordinarily handled by the trade group to which the invitations are sent.~~

- (d) ~~Bid *e*Opening.~~ Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation to bid. The name of each bidder and other relevant information deemed appropriate to properly identify each bid shall be recorded.
- (e) ~~Bid *r*Receipt and *b*Bid *e*Evaluation.~~ Bids shall be received and evaluated ~~without alteration or correction, except as authorized in this division~~ in accordance with the requirements established in the bid documents. ~~Bids shall be evaluated based on the criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.~~
- (f) ~~Award.~~ The County will enter into a ~~contract shall be awarded with reasonable promptness by appropriate written notice to~~ with the ~~r~~Responsible and ~~r~~Responsive bidder who submits the lowest and best responsive bid ~~in accordance with Sec. 2-188 of this code.~~ ~~The bid must meet the requirements and criteria set forth in the invitation for bids. Any board contract, which has a value of \$100,000.00 or less in a fiscal or calendar year may be awarded and subsequently extended by the director of purchasing, or if the director is unavailable, his/her designee; a bid to be awarded which is more than \$100,000.00 and does not exceed \$250,000.00 in a fiscal or calendar year may be awarded and subsequently extended by the county administrator or his/her designee; a bid to be awarded which exceeds \$250,000.00 in a fiscal or calendar year may be awarded only by the board of county commissioners. Awards made by the board of county commissioners will include authority for all subsequent contract extension. The aforementioned contract extension shall be approved at the option of the county administrator if, after review of past performance under the contract, the county administrator determines in his/her sole discretion that contract extension is in the best interests of the county. The county administrator shall thereafter place a receipt and file a report that the contract has been extended on the consent agenda of the board of county commissioners at least quarterly.~~
- (g) ~~Rejection of bids.~~ The respective constitutional officer, county administrator on behalf of the board of county commissioners or within his/her delegated financial approval authority, or director of purchasing within his/her delegated financial approval authority shall have the authority, when the public interest will be served thereby, to reject all bids or parts of bids at any stage of the procurement process through the award of a contract.
- (h) ~~Multi-step sealed bidding.~~ When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers, or information relating to the experience and capabilities of the prospective bidders, to be followed by an invitation for bids limited to those bidders whose offers or experience and capabilities have been determined to be acceptable under the criteria set forth in the first solicitation.
- (ig) ~~Tie *b*Bids.~~ If two (2) or more bids received are for the same total amount or unit price, or in the case of proposals, the qualifications, quality and service are equal, the contract shall be awarded to the local bidder/proposer. ~~A local firm is defined as a firm with headquarters in geographical Pinellas County. Headquarters shall mean the office location that serves as the administrative center and principal place of business. If two or more bids received are for the~~

same total amount or unit price or in the case of proposals, the qualifications, quality and service are equal and no firms are deemed local, then the contract shall be awarded by drawing lots in public.

~~(j) *Right to audit.* This division establishes the authority to audit contract and pricing documents of vendors and contractors. The right to audit would apply to those agreements which the board of county commissioners determines to be of a nature to justify this provision. All vendors and contractors may be required to retain contract and pricing documents for audit purposes for a minimum time period specified in the invitation for bids, request for proposals, request for quotations, contract, or other agreement with the county, which time period shall be computed beginning after the completion or termination of the purchase, contract or agreement.~~

Sec. 2-177. - Competitive ~~s~~Sealed ~~p~~Proposals.

(a) ~~*Conditions for use*~~*Request for Proposals.* When the goods ~~and~~/or services to be acquired dictate that the use of competitive sealed bidding is not practicable, reasonable or advantageous to the ~~e~~County, a contract may be entered into by use of the competitive sealed proposals method ~~and Public Notice shall be given.~~

~~(b) *Request for proposals.* Proposals shall be solicited through a request for proposals (RFP), and public notice of the RFP shall be given.~~

~~(e)b) *Receipt of p*~~*Proposals.* No proposals shall be opened until the time designated in the ~~p~~Public ~~n~~Notice of the request for proposals. ~~A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered.~~

~~(d)c) *Evaluation f*~~*Factors.* The request for proposals shall state the ~~e~~Evaluation ~~factors~~Criteria, including, but not limited to, price, ~~v~~Vendor approach and methodology, capability and experience.

~~(e)d) *Discussion with responsible offerors and revisions to proposals*~~*Evaluation of Proposals.* ~~Discussions may be conducted with responsible proposers who submit proposals for the purpose of clarification to assure full understanding of the solicitation requirements. Proposers shall be accorded fair and equal treatment and notice with respect to any opportunity for discussion and correction of proposals and such corrections may be permitted prior to award.~~Proposals shall be evaluated and awarded as provided in the terms of the request for proposal.

~~(f)e) *Award.* Award of the contract shall be made by the board of county commissioners, constitutional officer, county administrator or director of purchasing, as applicable, to~~The ~~County will enter into a contract with~~ the ~~r~~Responsible and ~~r~~Responsive proposer who submits the proposal which best meets the ~~e~~Evaluation ~~e~~Criteria ~~described in the RFP.~~ No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. ~~For any board contract, a proposal to be awarded which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a proposal to be awarded which is \$250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator or his/her designee; a proposal to be awarded which exceeds \$250,000.00 in a fiscal or calendar year may be awarded only by the board of county commissioners.~~

~~(g) *Rejection of proposals.* The respective constitutional officer, county administrator on behalf of the board of county commissioners or within his/her delegated financial approval authority, or director of purchasing within his/her delegated financial approval authority shall have the authority, when the public interest will be served thereby, to reject all or any parts of proposals at any stage of the procurement process through the award of a contract.~~

Sec. 2-178. - Contracting for ~~d~~Designated ~~p~~Professional ~~s~~Services.

(a) *Consultants' Competitive Negotiation Act.* Contracts for architectural, professional engineering, landscape architectural and registered land surveying and mapping services shall be procured in accordance with F.S. § 287.055, referred to as the Consultants Competitive Negotiation Act (CCNA). All contracts for CCNA services shall be procured under the supervision of the ~~d~~Director ~~of purchasing~~ and ~~the p~~Purchasing ~~d~~Department.

(b) *Design-~~b~~Build and ~~e~~Construction ~~m~~Management ~~s~~Services.* Design-build and construction management services, as defined in F.S. § ~~287.055 and § 255.103, respectively,~~ shall be procured pursuant to the process defined in the CCNA, ~~or unless the e~~County, through ~~its the~~ ~~d~~Director ~~of purchasing~~, elects to bid construction management and design-~~build~~ contracts through an invitation to bid or request for proposal process, as provided in F.S. § 255.20(1), where ~~cost~~ ~~price~~ is considered in the award process.

~~(c) *Continuing contract.* The county is authorized to enter into a continuing contract for CCNA services in accordance with F.S. § 287.055, whereby the firm provides professional services to the county for projects in which construction costs do not exceed \$2,000,000.00, for study activity if the fee for each individual study under the contract does not exceed \$200,000.00; or for work of a specified nature as outlined in the contract required by the county, with the contract being for a fixed term or no time limitation, except that the contract must provide a termination clause.~~

~~(d)~~ *CCNA ~~e~~Oversight.* The county administrator shall appoint a minimum of three (3) members of his/her executive management team to provide oversight for the CCNA process. Such oversight will include, but not be limited to, composition of evaluation committees, evaluator pool members, the evaluation process, and any other matters deemed appropriate by the county administrator.

~~(e)~~ *Evaluator ~~p~~Pool.* The ~~d~~Director ~~of purchasing~~ shall be responsible for developing and maintaining a pool of qualified evaluators to participate in CCNA evaluation committees, who may ~~consisting of, but not limited to,~~ representatives from ~~e~~County departments, professional organizations, and internal and external subject matter experts.

~~(f)~~ *Evaluation ~~e~~Committee.* The CCNA evaluation committee shall consist of at least three (3) but typically not more than seven (7) members (unless deemed to be in the best interest of the ~~e~~County) selected based upon their expertise and/or association with the project. The evaluation committee must consist of at least one (1) person from the requesting department (or the requesting division within a multi-divisional requesting department). The requesting department (or the requesting division within a multi-divisional requesting department) cannot have majority representation on the evaluation committee. The committee shall also include non-requesting department representatives, internal/external subject matter experts and local professional organization representatives (if deemed appropriate or necessary). Final

composition and qualifications of evaluation committees shall be subject to the subsection titled "CCNA Oversight", above as provided in subsection (d) herein.

- (g) Evaluation Criteria. Pursuant to the CCNA, the Evaluation Criteria for ranking shall include, but shall not be limited to, ability of the firm and its professional personnel; firm experience with projects of a similar size and type; firm's willingness and ability to meet the schedule and budget requirements; volume of work previously awarded by the county; effect of the firms recent/current and projected workload; minority business status; location; past performance; and when required, the public presentation.

~~Ranking of firms. The county, through the competitive proposal process, shall make a finding that the firm or individual to be employed is duly qualified to render the required service. The evaluation committee shall review statements of qualifications and performance data submitted in response to the public solicitation and shall select, in order of preference, no fewer than three firms deemed to be the most highly qualified, if at least three firms respond to the solicitation. If less than three firms respond, and after meeting due diligence, it is decided by the director of purchasing that every effort was made to comply with F.S. § 287.055, requirements, the county will interview all respondents and proceed with the evaluation process. The evaluation committee may conduct public presentations with a minimum of three firms (if three firms submitted).~~

- (h) Evaluation criteria. Pursuant to the CCNA, the evaluation criteria for ranking shall include: ability of firm and its professional personnel; firm experience with projects of a similar size and type; firm's willingness and ability to meet the schedule and budget requirements; volume of work previously awarded by the county; effect of the firms recent/current and projected workload; minority business status; location; past performance and when required, the public presentation. For continuing contracts, ranking and award shall be based on the criteria as stated above. For non continuing contracts or project specific contracts, public presentation may be required. That requirement shall be stated in the RFP document. Ranking of Firms. The County, through the competitive proposal process, shall make a finding that the firm or individual to be employed is duly qualified to render the required services. The evaluation committee shall review submittals in response to the public solicitation and shall select, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified, if at least three (3) firms respond to the solicitation. If less than three (3) firms respond, and after meeting due diligence, it is decided by the Director that every effort was made to comply with F.S. § 287.055 requirements, the County will interview the firms and proceed with the evaluation process. The evaluation committee may conduct public presentations with a minimum of three (3) firms (if three (3) firms submitted).

- (i) Public Presentation. The Evaluation Criteria for public presentation shall include, but shall not be limited to, the firm's understanding of the project, ability to provide required services within the schedule and budget, qualifications and approach to the project.

- ~~(j) Due diligence. The director of purchasing shall be responsible for conducting due diligence of the firm approved for contract negotiations with an estimated contract value exceeding \$100,000.00, when the county has not awarded a contract to the specific number one ranked firm within the last 12 month period prior to the ranking approval by the board of county commissioners.~~

~~(k)~~ *Contract nNegotiations.* ~~The ranking of firms for all CCNA contracts shall be presented to the board of county commissioners for consideration. Upon board of county commissioners' approval of firm rankings, s~~Staff shall negotiate a contract with the ~~most qualified firm (number one ranked firm)~~ for professional services for compensation which is deemed to be fair and reasonable. Detailed discussions must be held by the firm and the eCounty to establish the scope of the project and the exact services to be performed by the firm. Should the eCounty and the firm fail to agree upon the terms of an acceptable contract, negotiations with the top firm shall be terminated and negotiations with the second ranked firm shall commence. If again unsuccessful, the process is repeated with the next ranked firm. This process is continued until ~~the parties enter into a mutually agreeable contract, is concluded or~~ the project is abandoned; or the procurement process is otherwise terminated.

The firm awarded the contract must execute a truth-in-negotiation certificate stating that the wage rates and other unit costs are accurate, complete and current at the time of contracting. Any professional service agreement contract in which the certificate is required shall contain a provision that the agreement contract price shall be adjusted to exclude any significant sums where the eCounty determines the agreement contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such agreement contract adjustments shall be made within one (1) year following the end of the agreement contract.

~~(l) Award. Based upon the final negotiated contract, a contract which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a contract which is \$250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator and all contracts exceeding \$250,000.00 in a fiscal or calendar year shall only be awarded by the board.~~

~~(m)~~ *Contracts for pProfessional sServices Not Subject to CCNA.* Notwithstanding the foregoing provision of this section, the noncompetitive procurement of contracts for legal, medical, independent certified public accounting, expert witnesses, catering services (as defined by the State of Florida) or other professional services is hereby authorized by negotiation with organizations or persons on the basis of experience, skill, and financial capacity to perform and shall be approved as provided in ~~subsection (o) herein~~ Sec. 2-188. Notwithstanding the foregoing, selection of an independent financial auditor to perform a "financial audit" as defined by F.S. § 11.45(1)(c) and other audit functions as may be requested shall be by the following described procedure, as permitted by the Pinellas County Home Rule Charter and F.S. § 218.391. A selection committee shall be established consisting of a designee of the ~~b~~Board of county commissioners, the eClerk of the eCircuit eCourt or his/her designee, the dDirector of the oOffice of mManagement and bBudget or his/her designee, the sSupervisor of eElections or his/her designee, the tTax eCollector or his/her designee, the pProperty aAppraiser or his/her designee, and the sSheriff or his/her designee. The selection committee shall prepare or cause to be prepared a request for proposal for independent financial auditor services, and the auditor shall be selected by competitive sealed proposal pursuant to Pinellas County Code, section 2-177.

~~(n) Contracts for expert witnesses. Expert witnesses are exempt from the purview of this division.~~

~~(o) Award of professional service contracts.~~

- ~~(1) Contracts for services of a value greater than \$250,000.00 in a fiscal or calendar year shall be authorized by the board of county commissioners or the constitutional officer, as applicable.~~
- ~~(2) Contracts for services of a value greater than \$100,000.00 and less than or equal to \$250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer, or by the county administrator or his/her designee, as applicable.~~
- ~~(3) Contracts for services of a value less than or equal to \$100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.~~

Sec. 2-179. - Small ~~p~~Purchases.

- (a) *Generally.* Any contract for \$100,000.00 in a fiscal or calendar year or less may be made in accordance with the small purchase procedures authorized in this section. A purchase shall not be artificially divided so as to constitute a small purchase under this section.
- (b) *Small ~~p~~Purchases of \$5,000.00 or ~~#~~More.* Insofar as it is practical for small purchases of \$5,000.00 or more, no less than two ~~(2)~~ quotations shall be solicited. Award shall be made on the basis of lowest and best quotation. ~~The names of the vendors submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.~~
- (c) *Small ~~p~~Purchases under \$5,000.00.* The ~~d~~Director ~~of purchasing~~ shall adopt operational procedures for making small purchases of less than \$5,000.00. Such procedures may provide for obtaining adequate and reasonable competition when deemed to be in the best interest of the ~~e~~County for the goods ~~and~~/or services being purchased and shall require the maintenance of adequate written records to document the purchasing decision. Purchases below \$5,000.00 are not subject to competitive quotation.

~~(d) Award.~~

- ~~(1) Small purchases of a value up to \$100,000.00 in a fiscal or calendar year may be authorized by the purchasing director or his/her designee responsible for the administrative oversight of the purchasing department, or the constitutional officer, as applicable.~~
- ~~(2) Small purchases of a value determined by the county administrator to be reasonable may be purchased by an operating department through the use of field purchase orders or procurement cards.~~

Sec. 2-180. - ~~Sole source/~~nNoncompetitive ~~p~~Procurementrurchases.

(a) *Definitions:*

- ~~(1) "Sole source" purchase. A sole source purchase exists when research has determined there is only one potential provider for an item.~~
- ~~(2) Noncompetitive purchase. A noncompetitive purchase exists when it is advantageous to the county to declare a purchase noncompetitive because it will result in verifiable financial savings to the county, is a trial program, or utilizing a competitive process will be detrimental to timely securing the goods or services. More than one potential supplier may exist for a good or service; however, written documentation must be forwarded to the~~

~~director of purchasing, clearly documenting the advantages of declaring the purchase noncompetitive on the basis that only one reasonable and practicable source exists to supply a particular good or service. Such advantages may be based upon, but not be limited to, uniqueness, vendor qualifications, and timeliness of the purchase.~~

~~(b) Sole source and~~ n~~In addition to any other provision of law providing for noncompetitive selection of Vendors, Noncompetitive~~ p~~Purchases may be used as a procurement method for purchases of products or services when available from a sole source or when it is determined by the~~ d~~Director of purchasing that no condition exists, for example a conflict of interest, which would make the purchase inappropriate, and one (1) of the following justifications exists:~~

- (1) the purchase constitutes a Sole Source Purchase;
- (2) there is only one (1) practicable and reasonable source for the purchase;
- (3) a noncompetitive purchase will result in verifiable financial savings to the County;
- (4) the purchase is intended as a trial program;
- (5) utilizing a competitive process will be detrimental to timely securing the goods or services;
- (6) the purchase is of used goods, materials, or supplies;
- (7) the purchase is for goods and/or services for resale to the public at public marinas, as defined in Sec. 90-3 of the Pinellas County Code;
- (8) the purchase pertains to a sponsorship, in which case it shall be conducted in accordance with the Sponsorship Policy established by the Board; or
- (9) the purchase is related to statutorily authorized tourism promotion services and/or activities.

~~wherein competitive bidding is not feasible or not advantageous to the county justifying a noncompetitive purchase. A request for proprietary item does not justify a sole source purchase if there is more than one potential bidder for the item. However, a noncompetitive purchase may be justified if there is more than one potential bidder for an item.~~

~~(c) Award:~~

- ~~(1) Sole source/noncompetitive procurements of a value greater than \$250,000.00 in a fiscal or calendar year shall be authorized by the board of county commissioners or the constitutional officer, as applicable.~~
- ~~(2) Sole Source/noncompetitive procurements of a value greater than \$100,000.00 in a fiscal or calendar year and less than or equal to \$250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer, or by the county administrator or his/her designee, as applicable.~~
- ~~(3) Sole source/noncompetitive procurements of a value less than or equal to \$100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.~~

Sec. 2-181. - Emergency p~~P~~rocurements.

- (a) *Generally.* Notwithstanding any other provisions of this division, emergency purchases of goods and/or services may be made in the event of a disruption of essential operations, or when there exists a threat to public health, welfare or safety, or when the protection or preservation of public property would not be possible through normal purchasing procedures; provided that such emergency purchases shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular ~~contractor~~ Vendor shall be ~~included in~~ forwarded to the Purchasing Department for the contract file.
- (b) *Award.*
- (1) Emergency purchases in excess of \$100,000.00 shall be authorized by ~~the constitutional officer, or~~ the county administrator, as applicable. The county administrator shall place a receipt and file a report as to those emergency purchases in excess of \$100,000.00 and which do not exceed \$250,000.00 to the ~~bBoard of county commissioners~~ at the end of each fiscal quarter, and in addition, a written explanation of the circumstances of an emergency purchase in excess of \$250,000.00 shall be filed by the county administrator and entered in the minutes of the ~~bBoard of county commissioners and shall be open to public inspection.~~
 - (2) Emergency purchases of a value less than or equal to \$100,000.00 shall be authorized by the ~~constitutional officer or the d~~Director ~~of purchasing~~, as applicable.

Sec. 2-182. - ~~Used equipment/supplies procurement.~~ Other Solicitations.

- (a) The source selection methods described above should be appropriate for most procurements; however, in some circumstances there may be a need for a modified or alternative selection process. Accordingly, the Director may define such alternative solicitation processes in the Purchasing Manual, and choose such methods when appropriate and in the best interest of the County in the discretion of the Director, as follows:
- (1) Multi-Step Sealed Bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, a solicitation may be issued requesting the submission of unpriced offers, or information relating to the experience and capabilities of the prospective bidders, to be followed by bids limited to those bidders whose offers or experience and capabilities have been determined to be acceptable under the criteria set forth in the first solicitation.
 - (2) When the needs of the County are not sufficiently defined to pursue a request for proposal as described herein, the Director may choose to solicit by means of alternative methods, including but not limited to, a Request for Qualifications (RFQ), Request for Negotiations (RFN), Request for Information (RFI), or a solicitation for Letters of Interest (LOI), provided that the solicitation, to the extent possible under the circumstances, promotes the objectives stated in Sec. 2-157 of this code.

~~(a) — Generally. Notwithstanding any other provisions of this division and any other applicable laws, the purchase of used equipment or supplies shall be made with such competition as is practicable under the circumstances.~~

~~(b) — Award.~~

~~(1) The purchase of used equipment or supplies of a value less than or equal to \$250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the county administrator, as applicable. The purchase of used equipment or supplies of a value in excess of \$250,000.00 shall be approved by the board of county commissioners.~~

~~(2) Purchases of used equipment or supplies of a value less than or equal to \$100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.~~

Sec. 2-183. - Reserved.

Sec. 2-184. - ~~Master purchase orders.~~ Purchases of Maintenance, Repair and Operating Supplies and Services.

(a) Routine County operations require the on-going purchase of maintenance, repair, and operating supplies and services (“MRO”), and therefore when exclusively used for the procurement of MRO requirements, contracts may be procured and increased in accordance with this section. MRO purchases include preventative or scheduled maintenance supplies and/or services such as hardware, tools, chemicals, paints, paper products, office products and other consumables and associated services utilized for routine operation. MRO purchases specifically exclude capital improvement projects or consulting services.

(b) Contracts for MRO requirements may be put in place to secure competitively procured pricing, and should establish the applicable pricing, unit costs, terms and conditions, and estimated quantities and total expenditures. Such contracts may be entered into in accordance with the authorities set out in Section 2-188 herein, however when increases to MRO contracts are needed, the county administrator is authorized, when such increase would otherwise exceed existing delegated authority, to increase estimated and authorized expenditures on any MRO contract in an amount not-to-exceed fifty percent (50%) of the initial award, which amount shall be cumulative over the term of the contract. Any increase beyond fifty percent (50%) of the initial award will require approval by the Board, or re-solicitation of the contract. All increases to contracts in excess of \$100,000.00 will be placed in a report and filed with the Board each fiscal quarter. The Director may increase estimated and authorized expenditures on any MRO contract in an amount not-to-exceed \$100,000.00 cumulatively over the term of the contract. Increases in accordance with this Section must be made in compliance with the provisions of F.S. ch. 129, relating to the county budget.

~~(a) Annual requirement purchases of goods and/or services. When exclusively used for the procurement of annual requirements of goods and/or services of any kind, and upon award~~

of a contract for the purchase of such goods and/or services by the entity required pursuant to sections 2-176(f), 2-179, or 2-180(b) the director of purchasing may issue a master purchase order for the full amount approved for the contract.

~~(b) *Increases to the master purchase order.* The county administrator (for any previously approved board contract), or the director of purchasing within the limits of his/her delegated financial approval authority, or the appropriate constitutional officer, as applicable, shall be authorized to increase master purchase orders. The increases to master purchase orders beyond the amounts previously approved may be authorized in accordance with the best interests of the county. Before any increase may be made by the county administrator, director of purchasing, or a constitutional officer whose budget is approved by the board of county commissioners, compliance with the provisions of F.S. ch. 129, relating to the county budget shall be verified. The county administrator will place a receipt and file a report as to all increases to master purchase orders in excess of \$250,000.00 to the board of county commissioners, at the end of each fiscal quarter.~~

Sec. 2-185. - State ~~b~~**B**id or ~~n~~**N**egotiated ~~e~~**C**ontracts and ~~r~~**R**equired ~~p~~**P**urchases.

- (a) ~~State *b*Bid or *n*Negotiated *agreements*Contracts.~~ The county administrator is authorized to award contracts for purchases of goods and/or services in any amount within the budget of the using department under state bid or negotiated agreements~~contracts~~ and the ~~d~~**D**irector ~~of purchasing~~ is authorized to award contracts for purchase of goods and/or services of \$100,000.00 or less under state bid or negotiated agreements~~contracts~~.
- (b) ~~Purchases of *g*Goods *r*Required to be *m*Made from *q*Qualified *n*Nonprofit *a*Agencies for the *b*Blind or *s*Severely *d*Disabled.~~ Purchases of goods required to be made from qualified nonprofit agencies for the blind or severely disabled pursuant to state law may be authorized by the county administrator in any amount within the budget of the using department.
- (c) ~~Reports to the *b*Board.~~ For purchases in excess of \$250,000.00 made pursuant to this section, the county administrator shall place a receipt and file a report to the ~~b~~**B**oard ~~of county commissioners~~ at the end of each fiscal quarter.

Sec. 2-186. - ~~Retail golf merchandise purchases for county operated retail golf course shops~~**Reserved**.

~~The provisions of this division regarding competitive bidding shall not apply to the purchase of retail golf accessories, apparel, equipment, and/or any other golf related merchandise (hereinafter referred to as "retail golf merchandise") for resale by any county operated golf course retail shop(s). All retail golf merchandise, other than merchandise purchased within 30 days of the initial opening of the golf course, shall be purchased from vendors listed on the county's qualified retail golf merchandise vendor list. The qualified retail golf merchandise vendor list shall be comprised of vendors and subcontractors approved by the purchasing director and manager of golf operations or their designees in accordance with established purchasing procedures and criteria. Said list shall be updated by those persons designated under this section~~

~~as prospective qualified vendors become available. Purchases of retail golf merchandise shall be made pursuant to policies and procedures specifically adopted for such purchases, from the qualified retail golf merchandise vendor list in order to ensure competition among the vendors regarding competitive pricing, quality of merchandise and brand recognition for products sold by each vendor.~~

Sec. 2-187. - ~~Reserved.~~ Right to Audit.

This division establishes the authority to audit contract and pricing documents of Vendors. The right to audit would apply to those contracts which the Board determines to be of a nature to justify this provision. All Vendors may be required to retain contract and pricing documents for audit purposes for a minimum time period specified in the invitation to bids, request for proposals, request for quotations, contract, or other agreement with the County, which time period shall be computed beginning after the completion or termination of the contract.

Sec. 2-188. - Approval ~~a~~Authority.

- (a) *Approval Authority Generally.* The county administrator or his/her designee and the ~~e~~Director ~~of purchasing,~~ or his/her designee, shall have authority to approve procurement related documents and instruments articulated in section 2-62 in accordance with the specified delegated financial authority limits under this division.
- (b) *Award of Contracts.* Any Board contract, which has a value of \$100,000.00 or less in a fiscal or calendar year may be awarded and subsequently extended by the Director, or if the Director is unavailable, his/her designee; a contract to be awarded which does not exceed \$250,000.00 in a fiscal or calendar year may be awarded and subsequently extended by the county administrator or his/her designee; a contract to be awarded which exceeds \$250,000.00 in a fiscal or calendar year may be awarded only by the Board.
- (c) *Rejection of Bids/Proposals:* The county administrator may reject any or all bids/proposals or parts of bids/proposals, at any stage of the procurement process, when the public interest will be served. The Director, within his/her delegated financial approval authority, may reject any or all bids/proposals or parts of bids/proposals, at any stage of the procurement process, when the public interest will be served.
- (d) *Contract Extensions.* Awards made by the Board will include authority for all subsequent contract extensions. The aforementioned contract extension shall be approved at the option of the county administrator if, after review of past performance under the contract, the county administrator determines in his/her sole discretion that contract extension is in the best interests of the County. The county administrator shall thereafter place a receipt and file a report that the contract has been extended on the consent agenda of the Board at least quarterly.

Sec. 2-189. - Lobbying.

Lobbying shall be prohibited on all ~~e~~County competitive selection processes and purchasing contract awards pursuant to this division, including, but not limited to, requests for proposals, requests for quotations, requests for qualifications, bids or the award of purchasing contracts of

any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it from undue influences prior to the contract award, or the competitive selection process is otherwise concluded. However, nothing herein shall prohibit a prospective bidder/proposer/protestor from contacting the ~~p~~Purchasing ~~d~~Department or the county attorney's office to address situations such as clarification and/or pose questions related to the procurement process.

Lobbying of evaluation committee members, ~~e~~County government employees, elected/appointed officials, or advisory board members regarding requests for proposals, requests for quotations, requests for qualifications, bids, or purchasing contracts, by the bidder/proposer, any member of the bidder's/proposer's staff, any agent or representative of the bidder/proposer, or any person employed by any legal entity affiliated with or representing a bidder/proposer/protestor, is strictly prohibited from the date of the advertisement, or on a date otherwise established by the ~~b~~Board of county commissioners, until either an award is final, or the competitive selection process is otherwise concluded. Any lobbying activities in violation of this section by or on behalf of a bidder/proposer shall result in the disqualification or rejection of the proposal, quotation, statement of qualification, bid or contract.

For purposes of this provision, "lobbying" shall mean influencing or attempting to influence action or non-action, and/or attempting to obtain the goodwill of persons specified herein relating to the selection, ranking, or contract award in connection with any request for proposal, request for quotation, request for qualification, bid or purchasing contract through direct or indirect oral or written communication. The final award of a purchasing contract shall be the effective date of the purchasing contract.

Any evaluation committee member, ~~e~~County government employee, elected/appointed official, or advisory board member who has been lobbied shall immediately report the lobbying activity to the ~~d~~Director of purchasing.

~~Sec. 2-190. Sponsorships.~~

~~(a) As used in this section, the following terms shall have the meaning ascribed to them herein, except where the context clearly indicates a different meaning:~~

~~*Naming rights* means a sponsorship in which a third party purchases the exclusive right to name a whole asset or venue.~~

~~*Sponsorship* means a mutually beneficial business arrangement between the county and a third party, wherein the third party provides cash and/or in-kind services to the county in return for access to the commercial and/or marketing potential associated with the county and includes naming rights. Sponsorships may include sponsorship of one or more of the county's services, projects, events, facilities or activities.~~

~~(b) The provisions of this division regarding competitive bidding shall not apply to sponsorships. The board of county commissioners may establish policies, procedures and criteria for securing and approving sponsorships by resolution. The county administrator, his/her designees and/or department heads shall have the authority to approve and execute agreements relating to sponsorships as provided in any resolution approved by the board of county commissioners relating to sponsorships.~~

~~Sec. 2-191. Marina sales and services.~~

~~The provisions of this division regarding competitive bidding shall not apply to the acquisition of any goods or services for resale to the public at public marinas as defined in section 90-2 of this Code.~~

~~Sec. 2-192. —Catering services.~~

~~(a) As used in this subsection, the following words, terms, and phrases shall have the meaning ascribed to them therein, except where the context clearly indicates a different meaning:~~

~~*Caterer* shall mean public food service establishments licensed by the State of Florida Department of Business Regulation where food or drink is prepared for service elsewhere.~~

~~*County facilities* shall mean any land, buildings or structures owned or controlled by the county.~~

~~*Catering services* shall mean any food service for which a guarantee in the number of meals or persons to be served has been made by caterer's customer at an established price per person or meal, whereby the caterer agrees to provide these services in such a manner as to serve sufficient quantities of food and beverages, including alcohol or alcohol-related beverages, mixers and setups, and to meet its obligation established by the guarantee as previously described.~~

~~(b) The provisions of this division regarding competitive bidding shall not apply to catering services provided to private parties renting county facilities. The county administrator shall establish procedures and criteria for qualifying caterers to provide catering services to private parties at county facilities.~~

~~Secs. 2-193—2-195. - Reserved.~~

Subdivision III - Inclusion in the Pinellas County Code.

The provisions of this subdivision shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Subdivision IV – Areas Embraced.

This Ordinance shall be effective in the incorporated as well as unincorporated areas of the County.

Subdivision V - Severability.

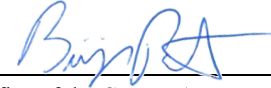
In the event that any court having jurisdiction over any case arising under this section determines that any subsection or other provision of this section is invalid for any reason, the remaining subsections or other provisions shall continue to be in full force and effect.

Subdivision VI - Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM

By:



Office of the County Attorney