

**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 and 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 Business Technology Services department.

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

*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 Officer* means one (1) or more of the following: Clerk of Circuit Court, Property Appraiser, Sheriff, Supervisor of Elections, and Tax Collector.

*County* means Pinellas County, Florida, a political subdivision of the State of Florida.

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

*Director* means the Pinellas County Purchasing Director.

*Evaluation 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.

*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 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 Vendors for a reasonable period of time, as determined by the Director, which shall, at a minimum, include: (i) direct notice to Vendors by the Pinellas County Purchasing Department (Purchasing Department); (ii) posting 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.

*Responsible with respect to bidder or proposer* means a 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 give reasonable assurance of good-faith performance, which includes, but is not limited to those specified in Sec. 2-161(a)(1)a.-j.

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

*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 County, 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 the procurement of goods and/or services entered into by the County. This division shall apply to every expenditure of public funds by the County for public purchasing, irrespective of the source of the funds. Nothing in this division shall prevent the County from complying with all laws and the terms and conditions of any grant.
- (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.

Sec. 2-159. - Principal Public Purchasing Official.

- (a) Except as otherwise provided in this division, the Director, or the designated official within the Purchasing Department, when authorized by the Director in writing, shall serve as the principal public purchasing official for the County, shall be responsible to the Board and shall be responsible for the procurement of goods and services in accordance with this division. Additionally, the Purchasing Department shall serve as a servicing agency for the Constitutional Officers and Agencies, as directed by the Board.
- (b) In accordance with this division and any other applicable laws, the Director, or the designated official within the Purchasing Department, when authorized by the Director in writing, shall:
  - (1) Procure or supervise all goods and/or services needed by the County;
  - (2) Approve all Purchase Orders, regardless of amount, for all goods and/or services procured as authorized in this division;
  - (3) Provide assistance to Agencies in the sale, trade, or disposal of surplus supplies and tangible personal property;
  - (4) With the exception of contract review policies approved by the Board, 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 Board ("Purchasing Manual"). Once developed, and as amended, the administrative procedures implementing this division and purchasing policies adopted by the Board shall be approved by the county administrator.
- (c) The Director may not delegate procurement authority to other County officials, except as authorized herein, or except as authorized pursuant to rules and regulations adopted by the Board.

Sec. 2-160. - Waiver of Provisions.

The Board may waive any provision of this division by resolution.

Sec. 2-161. - Bidder Qualifications and Prequalifications; Suspension and Debarment.

(a) *Qualifications.*

- (1) *Responsible and Responsive Bidder Who Submits the Lowest Bid.* In determining the Responsible and Responsive bidder who submits the lowest bid, in addition to price, due diligence will be conducted and the following factors, shall be considered, as a minimum:
  - a. The ability, capacity and skill of the bidder to perform the contract;
  - b. Whether the bidder can perform the contract 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;
  - e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
  - f. The sufficiency of the financial resources and ability of the bidder to perform the contract;
  - 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 Vendors for Construction.* Vendors wishing to bid on the 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. 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 the county administrator.
  - 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:
    - Tampa Bay Builders Association
    - Pinellas Chapter of the Florida Engineering Society
    - American Institute of Architects – Tampa Bay
    - West Coast Chapter of the Florida Institute of C.P.A.'s
    - 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) *Suspension 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 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 County is a privilege, not a right, this privilege should be denied to 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 County for the benefit of the public. In those instances, it is in the best interests of the public to disqualify Vendors by suspension or debarment from consideration for award of contracts, or work on existing contracts, based upon documentation that the grounds for suspension or debarment exist, as provided herein.
- (1) *Suspension.* A 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 Director based upon the following:
- a. The County has formally declared the Vendor in breach of a contract that has resulted in the termination of the contract by the County for failure to comply with the conditions, specifications or terms of a contract with the County; or
  - b. The County has formally disqualified or declared a Vendor's bid, quotation, or proposal non-responsive, based on the Vendor's fraud or misrepresentation; or
  - c. The 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 County government contractor; or
  - d. The Vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or has a receiver or trustee appointed over its property; or
  - e. The Vendor has three (3) or more violations of the Code as defined in section 1-8 of the Code in any two (2) year period arising from or related to Vendor's business activities, as determined in a court or administrative proceeding, including by plea; or
  - f. The Vendor and the County are engaged in proceedings (i.e., court proceedings, arbitration, or administrative proceeding) arising from or related to the Vendor's performance of a contract with the 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 Vendor is suspended by another government entity.

- (2) *Debarment.* A Vendor shall be permanently debarred by the Director based on the following:
  - a. The County obtains a judgment in an adversarial proceeding between the County and the Vendor (i.e., court proceeding, arbitration, or administrative proceeding) arising from the Vendor's performance of a contract with the 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 Vendor's business activities stated in subsection (b)(1)c. above; or
  - c. Vendor is debarred by another government entity.
- (3) *Public Entity Crime.* Notwithstanding any other provision herein, any 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 County to the extent specified in the statute.
- (4) *Notification to Suspend or Debar.* The Director shall issue 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 stated in the notification. The notification shall state the basis for the action taken and the period of the suspension, or that the Vendor has been debarred. Prior to issuance of written notification, the Director may schedule an informational meeting with the 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.
- (5) *Effects of Suspension and Debarment.*
  - a. Suspended or debarred Vendors are not eligible for award of contracts or additional work on existing contracts during the period of suspension or during debarment; from having any bids, proposals, quotations or qualifications considered by the County or responding to other solicitations of the County; and from conducting business with the County as a subcontractor, representative, or joint venturer of other Vendors.
  - b. Any business entity controlled by or affiliated with any suspended or debarred Vendor may also be prohibited from contracting with the County if the relationship or affiliation is such that the person or business entity by reason of the relationship with the ineligible 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 Vendor is not eligible to contract or be awarded work with the County until reinstated by the Director. To be considered for reinstatement, the 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 Vendor is found not guilty, the suspension shall be lifted automatically upon written notification

and proof of final court disposition provided by the Vendor to the County. 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 provided by the Vendor to the County. As a condition of reinstatement, and with approval of the county administrator, the Director may limit the nature and scope of contractual undertakings that must be satisfactorily completed before seeking additional contracts from the County. Nothing herein prevents the County from granting reinstatement prior to the end of the suspension period or debarment where, in the Director's judgment, the County's interests have been addressed and the Vendor to be reinstated is not likely to engage in similar conduct again.

Sec. 2-162. - Protest Procedure.

- (a) *Right to Protest.* A Vendor who is aggrieved by the contents of the bid or proposal package, or a Vendor who is aggrieved in connection with the recommended award on a bid or proposal solicitation, may file a written protest to the Director, 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, negotiations, qualifications 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 Purchasing Department shall post the recommended award on or through the departmental website.
- (c) *Requirements to Protest.*
  - (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 Business Day 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 Business Day 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 County when the Purchasing Department receives it. Accordingly, a protest is not timely filed unless it is received within the time specified above by the Purchasing Department. 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) *Sole Remedy.* These procedures shall be the sole remedy for challenging the content of the bid or proposal package or the recommended award.

- (e) *Lobbying.* Protestors 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 County official, employee, advisory board member, or representative to discuss any matter relating in any way to the solicitation being protested, other than the Purchasing Department's or county attorney's office 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.
- (f) *Time Limits.* The time limits in which protests must be filed as specified herein may be altered by specific provisions in the bid or proposal.
- (g) *Authority to Resolve.* The Director 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 Business Day after the filing thereof.
- (h) *Review of Director's Decision.*
  - (1) The protesting party may request a review of the Director's decision to the county administrator by delivering written request for review of the decision to the Director by 5:00 p.m. EST on the fifth full Business 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 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 Business Day after receipt of the request for review. The decision shall be final and conclusive as to the County unless a party commences action in a court of competent jurisdiction.
- (i) *Stay of Procurement During Protests.* There shall be no stay of procurement during protests.

Sec. 2-163. - Bid and Contract Security.

- (a) *Bid Security.*
  - (1) *Requirement for Bid Security.* Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the Director 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 Bid 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 Director determines that the nature of the industry is such that the bid security requirement would work a hardship on most potential bidders.
- (b) *Contract 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.



- (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 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 Additional Security.* Nothing in this section shall be construed to limit the authority of the County to require additional security.

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 Authority for Contracts of \$250,000.00 or Less.* Approval of contracts for cooperative purchasing and acquisition or use of goods under this section which are \$100,000.00 or less in a fiscal or calendar year shall be granted to the Director, 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.
- (c) *Acquisition or Use of Goods by a Public Procurement Unit.* The Purchasing Department may acquire from, or use any 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 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 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.
- (b) *Invitation to Bid.* An invitation to bid shall be issued and shall include specifications and conditions applicable to the procurement and shall indicate the deadline for bid submittal and the time of bid opening.
- (c) *Bidders List.* 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.
- (d) *Bid 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 Receipt and Bid Evaluation.* Bids shall be received and evaluated in accordance with the requirements established in the bid documents.
- (f) *Award.* The County will enter into a contract with the Responsible and Responsive bidder who submits the lowest bid in accordance with Sec. 2-188 of this code.
- (g) *Tie 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 by drawing lots in public.

Sec. 2-177. - Competitive Sealed Proposals.

- (a) *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 County, a contract may be entered into by use of the competitive sealed proposals method and Public Notice shall be given.
- (b) *Receipt of Proposals.* No proposals shall be opened until the time designated in the Public Notice of the request for proposals.
- (c) *Evaluation Factors.* The request for proposals shall state the Evaluation Criteria, including, but not limited to, price, Vendor approach and methodology, capability and experience.
- (d) *Evaluation of Proposals.* Proposals shall be evaluated and awarded as provided in the terms of the request for proposal.
- (e) *Award.* The County will enter into a contract with the Responsible and Responsive proposer who submits the proposal which best meets the Evaluation Criteria. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

Sec. 2-178. - Contracting for Designated Professional 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 Director and the Purchasing Department.

- (b) *Design-Build and Construction Management 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, unless the County, through the Director, 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 price is considered in the award process.
- (c) *CCNA 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.
- (d) *Evaluator Pool.* The Director shall be responsible for developing and maintaining a pool of qualified evaluators to participate in CCNA evaluation committees, who may consist of representatives from County departments, professional organizations, and internal and external subject matter experts.
- (e) *Evaluation 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 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.
- (f) *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.
- (g) *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).
- (h) *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.

- (i) *Contract Negotiations.* Staff shall negotiate a contract with the 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 County to establish the scope of the project and the exact services to be performed by the firm. Should the County 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 contract, 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 contract in which the certificate is required shall contain a provision that the contract price shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the contract.

- (j) *Professional Services 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 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 Board, the Clerk of the Circuit Court or his/her designee, the Director of the Office of Management and Budget or his/her designee, the Supervisor of Elections or his/her designee, the Tax Collector or his/her designee, the Property Appraiser or his/her designee, and the Sheriff 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.

Sec. 2-179. - Small 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 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.
- (c) *Small Purchases under \$5,000.00.* The Director 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 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.

Sec. 2-180. - Noncompetitive Purchases.

In addition to any other provision of law providing for noncompetitive selection of Vendors, Noncompetitive Purchases may be used as a procurement method when it is determined by the Director 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.

Sec. 2-181. - Emergency Procurements.

(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 Vendor shall be 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 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 Board 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 Board.
- (2) Emergency purchases of a value less than or equal to \$100,000.00 shall be authorized by the Director, as applicable.

Sec. 2-182. - 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.

Sec. 2-183. - Reserved.

Sec. 2-184. - 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.

Sec. 2-185. - State Bid or Negotiated Contracts and Required Purchases.

- (a) *State Bid or Negotiated 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 contracts and the Director is authorized to award

contracts for purchase of goods and/or services of \$100,000.00 or less under state bid or negotiated contracts.

- (b) *Purchases of Goods Required to be Made from Qualified Nonprofit Agencies for the Blind or Severely 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 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 Board at the end of each fiscal quarter.

Sec. 2-186. - Reserved.

Sec. 2-187. - 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 Authority.

- (a) *Approval Authority Generally.* The county administrator or his/her designee and the Director 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 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 Purchasing 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, 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 Board, 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, County government employee, elected/appointed official, or advisory board member who has been lobbied shall immediately report the lobbying activity to the Director.

Secs. 2-190—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.**

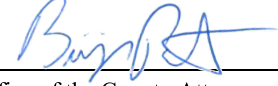
Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the



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