

ORDINANCE NO: 93-16

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, TO BE ENTITLED "THE HERNANDO COUNTY PROCUREMENT ORDINANCE", REPEALING ORDINANCE 82-3; ESTABLISHING A CENTRALIZED PURCHASING SYSTEM; SETTING FORTH AUTHORITY AND GENERAL PURPOSE; PROVIDING FOR SUPPLEMENTARY GENERAL PRINCIPLES OF LAW AND REQUIREMENT OF GOOD FAITH; PROVIDING FOR APPLICATION; PROVIDING FOR DEFINITIONS; DESIGNATING DUTIES AND AUTHORITY OF THE CHIEF PURCHASING OFFICER; PROVIDING FOR DELEGATION OF AUTHORITY TO OTHER COUNTY STAFF; PROVIDING FOR COMPETITIVE SEALED BID AND COMPETITIVE SEALED PROPOSAL PROCESSES; PROVIDING FOR EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENTS; PROVIDING FOR PROCUREMENT OF PROFESSIONAL SERVICES; PROVIDING FOR APPROVAL AUTHORITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECRETARY OF STATE

JUL 16 9 28 AM '93

FILED

Whereas, Hernando County, hereinafter referred to as "County", wishes to provide for the purchase of the highest quality goods and services at the most reasonable cost; and,

Whereas, the County enacted Ordinance 82-3, providing for the purchase of goods, supplies, materials, equipment and machinery by County officials, boards, department heads and employees; and,

Whereas, the Board of County Commissioners, after review and upon study and recommendation of staff, finds and determines that modifications are necessary in the purchasing system to be reflected in a new Procurement Ordinance; and,

Now, therefore, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA that:

SECTION I. REPEAL OF PRIOR ORDINANCE

Hernando County Ordinance 82-3 is hereby repealed as contained in the Hernando County Code Article V, Sections 2-96 through 2-100.

SECTION II. GENERAL PROVISIONS

(A) AUTHORITY.

The provisions of this Ordinance are based upon the authority granted to the Board of County Commissioners of Hernando County, Florida, in Chapter 125, Florida Statutes.

(B) TITLE

The provisions of this Ordinance shall be known and cited as the "Hernando County Procurement Ordinance".

(C) GENERAL PURPOSE

The purpose of this Ordinance is to establish the County's purchasing function under a centralized system which will enable the County to:

1. establish uniform policies and procedures governing purchases and contracts by the County;
2. obtain goods and services of satisfactory quality and quantity at reasonable cost for Hernando County;
3. foster effective competition within the free enterprise system; and,
4. provide safeguards for the maintenance of a procurement system of quality and integrity.

(D) SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE

The County shall comply with all Federal and State laws applicable to County purchases, procurements and contracts.

The principles of law and equity, including the Uniform Commercial Code of this State, laws relative to ethics, and laws relative to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this Ordinance.

(E) REQUIREMENT OF GOOD FAITH

The provisions of this Ordinance require all parties involved in the development, performance, or administration of purchasing contracts of the Board of County Commissioners to act in good faith.

(F) APPLICATION AND EXCLUSIONS

The provisions of this Ordinance shall apply to purchases and procurements of the Board of County Commissioners and its various agencies, authorities, boards, bureaus, commissions, committees,

councils, departments, divisions, districts, institutions, legislative bodies, the Hernando County Aviation Authority, and the Hernando County Port Authority, "any other Ordinance or Special Act to the contrary notwithstanding", which are under the control of or derive their authority from the Hernando County Board of County Commissioners, irrespective of their funding source, including state and federal assistance monies, except as otherwise specified by law. They shall not apply to:

1. Purchase/procurement of goods, construction and/or services by:

a. Spring Hill Fire District, to the extent said District has adopted its own purchasing and procurement regulations pursuant to applicable law.

b. Constitutional Officers meaning the Sheriff, Clerk of the Circuit Court, Property Appraiser, Tax Collector and Supervisor of Elections.

2. Agreements between the Board of County Commissioners and non-profit organizations or governmental entities including the procurement, transfer, sale or exchange of goods and/or services.

3. Procurement of dues and memberships in trade or professional organizations; subscriptions for periodicals; books and publications; advertisements; postage; medical and dental services; legal services; expert witnesses; abstracts of titles for real property; title insurance for real property; court reporter services; accounting services; financial advisory services; insurance, including property, casualty, health and automobile coverages; water, sewer, telephone and electrical utility services; copyrighted materials; patented materials; educational reimbursements and fees and costs of job-related seminars and training.

4. Real property

5. Goods and/or services given, or accepted by the County via grant, gift or bequest.

6. Goods purchased with petty cash in accordance with policies and procedures approved by the Board of County Commissioners.

(G) DEFINITIONS

When used in this article, the following terms are to be defined and construed as follows:

1. Administrator means the County Administrator, or designee.

2. Agreement means the same as and is fully synonymous with "Contract".

3. Bid or Bids means a formal written price offer by a Vendor to the County to furnish goods and/or services in response to a Solicitation for Bids or Request for Proposals.

4. Board means the Board of County Commissioners of Hernando County, Florida.

5. Chief Purchasing Officer means the person holding the position as the Director of Central Purchasing of Hernando County.

6. Consultant Services means any narrow discipline wherein a known practitioner has, through education and experience, developed expert advisory and programming skills as a vocation; any service performed primarily by vocational personnel which requires the analysis or certification of a professional before the services are acceptable to the user of the services; or any other advisory, study, or programming activity. For the purposes of this ordinance, the term Consultant Services does not include those services defined and prescribed under Florida Statute 287.055.

7. Construction means the process of building, altering, repairing, improving, or demolishing any structure, building, road, bridge, sidewalk, drainage facility, water distribution system, sewer collection system, water or sewer treatment plant, or other

improvements of any kind to any real property. It does not include the routine operation, repair or maintenance of existing structures, buildings or real property.

8. Contract is used in a legal sense and means a promissory agreement between two (2) or more parties that creates, modifies or destroys a legal relation. It includes all types of County agreements regardless of what they may be called, for the purchase or disposal of goods or services or performance of construction with the following exceptions: salaries/employee benefits, taxes, judgements, travel, dues, pensions, utilities, subscriptions, debt service requirements, and postage. It includes contracts for a fixed price, cost, cost plus a fixed fee, or incentive contracts, contracts providing for issuance of job or task orders, leases, letter contracts and purchase orders.

9. Contract Modification means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract or purchase order accomplished by mutual action of the parties to the contract.

10. Designee means a duly authorized representative of a person holding a superior position.

11. Emergency Purchase means a procurement of goods and/or services made in response to a requirement when the delay incident to complying with all governing rules, regulations, and/or procedures would be detrimental to the health, safety and welfare of the County and/or its citizens.

12. Goods means any tangible personal property other than services or real property.

13. Lease means a contract where one party (lessee) has use and possession of an asset owned by another party (lessor) for a specified period of time for a monetary payment. Under a straight lease contract title of the asset remains with the owner.

14. Lease/Purchase means a lease contract where, upon completion of the specified lease period, in consideration of the monies paid during the term of the lease agreement or an additional buyout payment, title to the leased asset passes to the lessee.

15. May denotes the permissive.

16. Must denotes the imperative.

17. Personal Property means all tangible property which is not real estate, land, buildings or fixtures on land or buildings. "Personal Property" includes, without limitation, all goods, materials, supplies, equipment and vehicles owned, leased or used by Hernando County.

18. Procurement means buying, purchasing, renting, leasing or otherwise acquiring any goods and/or services for public purposes in accordance with the laws, rules, regulations and procedures intended to provide for the economic expenditure of public funds. It includes, but is not limited to, all functions which pertain to the obtaining of any supplies, materials, equipment and/or services including Construction projects, as defined herein, required by any department or agency of County government regardless of the source of funds or for which payment is made from County funds.

19. Professional Services means architectural, engineering, landscape architectural, and registered land surveying services as defined and prescribed under Florida Statute 287.055.

20. Purchase Order means the County's contract document used to authorize the purchase of personal property or services.

21. Real Property means, generally, real estate, including land, the buildings and other fixed improvements on the land, all objects growing on the land, and all other objects which are reasonably considered to be affixed to the land.

22. Request for Proposal (RFP) means a solicitation of responses for a good and/or service for which the scope of work, specifications or contractual and conditions cannot reasonably be closely defined. Evaluation of a proposal is based on prior established criteria wherein the RFP shall state the relative importance of price and other evaluation factors.

23. Responsible Bid/Bidder means an individual, partnership, firm, association, corporation or business which has submitted a bid, offer, proposal, quotation, or response, which has the capability, as determined by the County, in all respects to fully perform the Contract requirements, and the integrity and reliability which give reasonable assurance of good faith and performance.

24. Responsive Bid/Bidder means an individual, partnership, firm, association, corporation or business which has submitted a bid, offer, proposal, quotation, or response, which, as determined by the County, conforms in all material respects to a solicitation or request for proposals.

25. Services means the furnishing primarily of labor, time, and/or effort.

26. Shall denotes the imperative.

27. Sole Source means the only existing source of the required item which meets the needs of the County as determined by a reasonably thorough analysis of the marketplace.

28. Specification(s) means a concise statement of a set of requirements to be satisfied by a product, material, service or process used in a Solicitation for Bid or Request for Proposal to describe the goods and/or service to be purchased or otherwise acquired.

29. State of Florida Contract means a current, valid, continuing or term contract or agreement which has been publicly bid or negotiated by a department, division or agency of the State of Florida.

30. Supplies means all property including, but not limited to, equipment, materials, printing, insurance, and leases, but excluding land or permanent interest in land.

31. Vendor means an actual or potential supplier of a good and/or service.

SECTION III. ORGANIZATION

(A) CENTRAL PURCHASING DEPARTMENT

The Central Purchasing Department shall be the agency through which the County will conduct procurement and contracting for supplies, materials, equipment, contractual services, professional and consultant services, construction and/or combinations of goods and services governed by this ordinance.

(B) CHIEF PURCHASING OFFICER

Subject to the provisions of this Ordinance, the Director of Central Purchasing shall serve as the Chief Purchasing Officer for the contracting and/or purchase of goods and services.

(C) DUTIES OF THE CHIEF PURCHASING OFFICER

The Director of Central Purchasing shall:

1. administer the central purchasing and contracting system for the County;

2. upon request of any constitutional officer of the County, make available to such officer the services provided herein subject to the terms of this Ordinance and any administrative policies and internal procedures of the Central Purchasing Department;

3. provide for the establishment/promulgation of administrative policies and procedures of Central Purchasing which shall be recommended by the County Administrator and approved by the Board of County Commissioners;

4. standardize, to the extent possible, contract clauses, terms, conditions and documents; and,

5. perform other duties as directed by the Board of County Commissioners or the Administrator of the County.

(D) AUTHORITY OF THE CHIEF PURCHASING OFFICER

All rights, powers, duties and authority relating to the procurement and contracting of goods and/or services for the Board of County Commissioners, including the authority to approve purchases and sign those Agreements, Contracts, and Purchase Orders for the purchase of goods and/or services in accordance with the provisions of Section V. of this Ordinance, provided they are in conformance with the law and applicable rules and regulations, are vested in the Director of Central Purchasing.

(E) DELEGATION OF AUTHORITY BY THE CHIEF PURCHASING OFFICER

The Director of Central Purchasing may delegate rights, powers, and authority vested in him/her to subordinate Central Purchasing staff, or other County staff, when deemed necessary and prudent, provided such staff shall comply with all applicable laws, rules and procedures established by the County.

SECTION IV. BIDDING PROCEDURES

(A) SOLICITING BIDS FOR CONSTRUCTION, PURCHASE AND LEASING

By advertisement at least once in some newspaper of general circulation in the County no later than two (2) weeks prior to opening of bids, the Board of County Commissioners of Hernando County ("Board") shall solicit bids for the construction by non-County personnel of any road, street, sidewalk, drainage facility, water distribution system, sewer collection system, water or sewer treatment plant, or building, or the purchase and/or leasing of goods, supplies, materials or non-professional services for County use, when the amount to be paid for such construction, purchase or lease is reasonably expected to exceed seven thousand five hundred dollars (\$7,500.00), exclusive of freight or other delivery charges.

(B) ACCEPTANCE AND REJECTION OF BIDS AND PROPOSALS

The Board shall accept the best and lowest responsible and responsive bid, but the Board may, at its discretion, reject all bids or accept bids covering less than the entire solicitation if the items bid upon are reasonably severable from the remainder of the contract. The Board may reject any bidder found by the Board not to be responsible or otherwise unable to perform satisfactorily all provisions of the contract. Where the Board rejects any bidder, such finding is presumed to have been made by the Board prior to the rejection.

(C) EXCEPTIONS TO BIDDING REQUIREMENTS

Solicitation of bids is not required in the following instances:

1. Where the Board declares by a majority vote of the Board of County Commissioners that an emergency exists.

2. The purchase and/or leasing of goods, supplies, materials or services for County use from a valid current continuing State of Florida Contract or from other valid current continuing Florida Governmental Entity Contracts.

3. Where the Board finds that there is a reasonable certainty that bids for the contemplated construction or purchase will be offered by only one (1) bidder. The Board may use as a basis for this finding a recommendation of the County Administrator through the consent agenda, or otherwise as may be determined, that the particular contract is expected to draw bids from only one (1) bidder.

4. Where, in the business judgement of the Board as declared by majority vote plus one of the Board of County Commissioners, the particular circumstances or time constraints surrounding the construction or purchase make it impractical or inadvisable to solicit bids.

5. Where the contract to be bid upon is one for the purposes authorized by Section 336.41, Florida Statutes, as amended from time to time. Such contracts to be bid upon shall be subject to any bidding requirements imposed by general law.

6. Where the Board by majority vote plus one of the Board of County Commissioners has by resolution waived competitive bidding when it finds this to be in the best interest of the County.

7. Where there has previously been a request for bids and no responsive, responsible bids have been received.

(D) PROFESSIONAL SERVICES

The Board of County Commissioners of Hernando County ("Board") shall solicit and award Professional Service contracts under the provisions of the "Consultants' Competitive Negotiation Act", Section 287.055 Florida Statutes, when the professional services are required for a project where the amount of the proposed construction and/or professional service fee is reasonably expected to exceed the dollar limits imposed by law.

SECTION V. APPROVAL AND EXECUTION OF CONTRACTS

(A) All contracts for the construction by non-County personnel of any road, street, sidewalk, drainage facility, water distribution system, sewer collection system, water or sewer treatment plant, or building, or the purchase, lease or lease-purchase of goods, supplies, materials or non-professional services in an amount exceeding seven thousand five hundred dollars (\$7,500.00), and all contracts for professional services equal to or exceeding the limits imposed by the "Consultants' Competitive Negotiation Act", Section 287.055 Florida Statutes, shall be approved by the Board at a public meeting. Any contract approved by the Board may be executed by the Chairman of the Board of County Commissioners or by any other County Official, Department Head, or employee so designated by resolution of the Board to execute the contract approved by the Board.

(B) The Director of Central Purchasing is hereby authorized to approve and execute contracts for the construction by non-County personnel of any road, street, sidewalk, drainage facility, water distribution system, sewer collection system, water or sewer treatment plant, or building, or the purchase and/or leasing of goods, supplies, materials or non-professional services in an amount equal to or less than seven thousand five hundred dollars (\$7,500.00), and all contracts for professional services in an amount less than the limits imposed by the "Consultants' Competitive Negotiation Act", Section 287.055 Florida Statutes.

SECTION VI. REPEAL OF LAWS IN CONFLICT

(A) All purchases of goods, supplies, materials, equipment, machinery, construction or services by the County, any County official, board, department head or employee made during the period of time from the repeal of Ordinance 82-3, until the effective date of this Ordinance, be and the same hereby are, ratified, validated and confirmed.

(B) All resolutions, ordinance and special acts of the Legislature pertaining to Hernando County, contrary to the provisions of this Ordinance, are hereby repealed.

SECTION VII. SEVERABILITY

Should any section, paragraph, sentence, phrase, clause, or other part or provision of this Ordinance be declared by any court to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION VIII. EFFECTIVE DATE

This Ordinance shall become effective as provided by law.

APPROVED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of
Hernando County, Florida, in Regular Session this 13th day of
July, 1993, A.D.

(SEAL)

Attest:


Karen Nicolai
KAREN NICOLAI
Clerk

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

By:

Anthony C. Mosca, Jr.
ANTHONY C. MOSCA, JR.
Chairman

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