

ORDINANCE 93-05

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, ADDING A NEW ARTICLE 13 TO ORDINANCE 84-02, AS AMENDED (THE MANATEE COUNTY PROCUREMENT CODE), PROHIBITING AND/OR REGULATING CONTRACTS AS BETWEEN THE COUNTY OF MANATEE AND PERSONS, BUSINESS ENTITIES, OR AFFILIATES OF BUSINESS ENTITIES WHO HAVE BEEN CONVICTED OF BRIBERY, ATTEMPTED BRIBERY, COLLUSION, RESTRAINTS OF TRADE, PRICE FIXING, AND VIOLATIONS OF CERTAIN ENVIRONMENTAL LAWS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

SECRETARY OF STATE
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FILED FOR RECORD
R.B. SHORE
CLERK, CIRCUIT COURT
MANATEE COUNTY, FLORIDA

JUL 20 3 59 PM '93

WHEREAS, the Board of County Commissioners of Manatee County, Florida has previously adopted Ordinance 84-02, as amended (the Manatee County Procurement Code); and

WHEREAS, the preservation of the integrity of the public contracting process is of vital importance and is a matter of interest to all of the people of Manatee County; and

WHEREAS, the opportunity to bid on County contracts is a privilege, not a right; and

WHEREAS, the privilege of transacting business with the County should be denied to persons or firms involved in contract crime, in order to preserve the integrity of the public contracting process; and

WHEREAS, persons or firms involved in contract crimes should be denied both the privilege of transacting business with the County and the opportunity of obtaining economic benefit through the transaction of business with the County; and

WHEREAS, it is the intent of the Board of County Commissioners to provide a sufficiently broad authority to the various departments and agencies of the County to ensure the integrity of the public contracting process.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, that:

93-05

Procurement Code / Contract Regulations

A new Article 13 is hereby added to Ordinance 84-02, as amended, to provide as follows:

Section 13-101. Prohibition against award of County contracts to certain persons and entities.

No person or business entity shall be awarded a contract by the County of Manatee, for the provision of goods or services, if that person or business entity:

- (a) has been convicted of bribery or attempting to bribe a public officer or employee of the County of Manatee, the State of Florida, or any other public entity, including, but not limited to the Government of the United States, any state, or any local government authority in the United States, in that officer's or employee's official capacity; or
- (b) has been convicted of an agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise; or
- (c) has been convicted of a violation of an environmental law that, in the sole opinion of the County's Purchasing Director, reflects negatively upon the ability of the person or entity to conduct business in a responsible manner; or
- (d) has made an admission of guilt of such conduct described in subsections (a), (b) or (c) above, which is a matter of record, but has not been prosecuted for such conduct, or has made an admission of guilt of such conduct, which is a matter of record, pursuant to formal prosecution. An admission of guilt shall be construed to include a plea of nolo contendere.

Section 13-102. Period of ineligibility.

A person, business entity, officer or employee of a business entity, having been convicted of one or more of the crimes set forth in Section 13-101 above or having made an admission of guilt as set forth in Section 13-101 above, shall be ineligible for the awarding of a contract by the County of Manatee for a period of three (3) years following such conviction or admission.

Section 13-103. Business entities chargeable for the acts of officers, officials, agents, employees and affiliates.

For purposes of this Ordinance, where an officer, official, agent or employee of a business entity has been convicted of or has admitted guilt of any of the crimes set forth in Section 13-101 above on behalf of such an entity and pursuant to the direction or authorization of an official thereof (including the person committing the offense, if he is an official of the business entity), the business entity shall be chargeable with the conduct hereinabove set forth. A business entity shall be chargeable with the conduct of an affiliated entity, whether wholly owned, partially owned, or one which has common ownership or a common Board of Directors. For purposes of this Section, business entities are affiliated if, directly or indirectly, one business entity controls or has the power to control another business entity, or if an individual or group of individuals controls or has the power to control both entities. Indicia of control shall include, without limitation, interlocking management or ownership, identity of interests among family members, shared organization of a business entity following the ineligibility of a business entity under this Section, or using substantially the same management, ownership or principles as the ineligible entity.

Section 13-104. Proof of reversal of convictions.

Any person or entity who claims that this Ordinance is inapplicable to him/her/it because a conviction or judgment has been reversed by a court of competent jurisdiction, shall prove the same with documentation satisfactory to the County's Purchasing Director. Upon presentation of such satisfactory proof, the person or entity shall be allowed to contract with the County.

Section 13-105. Necessity for affidavits.

The County of Manatee shall not execute a contract with or purchase goods or services from any person or business entity, until such person or business entity has executed and filed with the County's Purchasing Director an affidavit, executed under the pain and penalties of perjury, that neither such person nor entity has been convicted of any violation described in Section 13-101 above, and has not made an admission of guilt or entered a plea of nolo contendere as described in Section 13-101 above. In the case of a business entity other than a partnership or a corporation, such affidavit shall be executed by an authorized agent of the entity. In the case of a partnership, such affidavit shall be executed by the general partner(s). In the case of a corporation, such affidavit shall be executed by the corporate president.

Section 13-106. Conflicting Ordinances.

All Manatee County Ordinances or parts of Manatee County Ordinances in conflict herewith are hereby repealed, but only to the extent of the conflict.

Section 13-107. Severability.

Should any provision or section of this Ordinance be held unconstitutional or invalid, such holding shall not be construed as

affecting the validity of any of the remaining provisions or sections, it being the intent of the Board of County Commissioners that this Ordinance shall remain effective notwithstanding the invalidity of any provision or section hereof.

Section 13-108. Effective date.

This Ordinance shall take effect immediately upon acknowledgement from the Secretary of State that the Ordinance has been duly filed. This Ordinance shall have prospective effect only, such that any conviction or admission which predates the effective date of this Ordinance shall not act to prohibit any person or entity from contracting with the County.

PASSED AND DULY ADOPTED, in open session, this 6th day of July, 1993.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

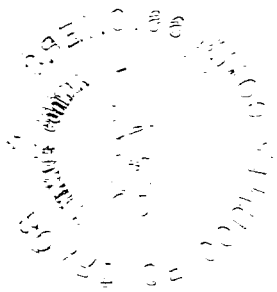
By: Lari O. Harris
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

Ordinance 93-05

STATE OF FLORIDA COUNTY OF MANATEE
I hereby certify that the foregoing is a true
copy of ORDINANCE NO. 93-05 adopted by the
Board of County Commissioners of said County on
the 6th day of July, 1993, this 8th day
of July, 1993, in Bradenton, Florida.

R. B. Shore
Clerk of Circuit Court
By: Jane Cook D.C.



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~~Purchasing~~
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Copy - Muni Code
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FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

DIVISION OF ELECTIONS

Room 2002, The Capitol, Tallahassee, Florida 32399-0250
(904) 488-8427

FILED FOR RECORD
R.B. SHORE
CLERK OF CIRCUIT COURT
MANATEE COUNTY
FLORIDA
JUL 20 3 59 PM '93

July 12, 1993

Honorable R. B. Shore
Clerk of the Circuit Court
Manatee County Courthouse
Post Office Box 1000
Bradenton, Florida 34206

Attention: Jane Roak, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of July 8, 1993 and certified copies of Manatee County Ordinance Numbers 93-05 and 93-24, which were received and filed in this office on July 12, 1993.

The duplicate copies showing the filing date are being returned for your records.

Sincerely,

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb

Enclosures (2)