



FLORIDA DEPARTMENT OF STATE

Jim Smith, Secretary of State
DIVISION OF ELECTIONS
Bureau of Administrative Code
The Elliot Building
Tallahassee, Florida 32399-0250
(904) 488-8427

FILED FOR RECORD
1993 OCT 11 3 59 PM '93

October 7, 1993

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

Attention: Evelyn Lloyd, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of October 4, 1993 and certified copies of Manatee County Ordinance Numbers 93-30, 93-45 and 93-47, which were received and filed in this office on October 7, 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 (3)

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ORDINANCE 93-47

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SECRETARY OF STATE

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA AMENDING THE MANATEE COUNTY PROCUREMENT CODE (ORDINANCE 84-02, AS AMENDED); AMENDING SECTION 2-101(1) DEFINING THE POSITION OF PURCHASING DIRECTOR; AMENDING SECTION 2-102(1) DELEGATING AUTHORITY TO THE PURCHASING DIRECTOR TO EXECUTE CONTRACTS ON BEHALF OF THE COUNTY TOTALLING LESS THAN \$100,000; AMENDING SECTION 3-101(9) PROVIDING EXEMPTIONS FROM THE BIDDING PROCESS FOR NOT FOR PROFIT CORPORATIONS; AMENDING SECTION 3-103 PROVIDING AN INCREASE IN LIMITS FOR CONTRACTS FOR DESIGNATED PROFESSIONAL SERVICES TO \$10,000; AMENDING SECTION 3-104 DEFINING SMALL PURCHASES LESS THAN \$25,000, SMALL PURCHASES NOT EXCEEDING \$25,000 AND SMALL PURCHASES UNDER \$10,000; AMENDING SECTION 5-301 PROVIDING FISCAL RESPONSIBILITY TO AN AUTHORIZED DESIGNEE OR DESIGNEES TO EXERCISE OPTIONS AFFECTING THE CONTRACT PRICE NOT TO EXCEED TOTAL FUNDS AVAILABLE AND TO REQUIRE CHANGES IN EXCESS OF THE AUTHORIZED FUNDS AVAILABLE TO BE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS; ADDING A NEW SECTION 12-109 PROHIBITING LOBBYING WITH SANCTIONS TO BE IMPOSED FOR VIOLATIONS AS PROVIDED UNDER RENUMBERED SECTION 12-110; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Manatee County has previously adopted The Manatee County Procurement Code, Ordinance 84-02, as amended and supplemented; and

WHEREAS; in order to enhance efficiency, economy and accountability in procurement by Manatee County government it has been found to be necessary and in the best interest of the citizens of Manatee County to amend The Manatee County Procurement Code as provided herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA THAT:

SECTION 1: §2-101(1) of Ordinance 84-02 is amended to provide as follows:

§2-101 Establishment, Appointment, and Tenure

(1) Establishment of the Position of Purchasing Director. There is hereby created the position of Purchasing Director, who shall be the County's principal public purchasing official.

SECTION 2: §2-102(1) of Ordinance 84-02 is amended to provide as follows:

§2-102 Authority and Duties

(1) Principal Public Purchasing Official. Except as otherwise provided herein, the Purchasing Director shall serve as the principal public purchasing official for the County, and shall be responsible for the procurement of supplies, services, and construction, as well as the management and disposal of supplies in accordance with this Ordinance. The

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Procurement Code / Amendment

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Board of County Commissioners, may by resolution setting forth terms and conditions as deemed appropriate and required by law, delegate authority to the Purchasing Director to execute on behalf of the County, contracts totalling less than One Hundred Thousand (\$100,000) Dollars.

SECTION 3: §3-101(9) of Ordinance 84-02 is amended to provide as follows:

§3-101 Competitive Sealed Bidding

(9) Exemptions from Bidding Process. The following purchasing activities may be regulated by policies adopted by the Board of County Commissioners and procedures established by the Purchasing Director, but shall be exempt from any bidding or other requirements set forth in this Procurement Code:

(a) Artistic services or products including but not limited to photography, graphic arts, motion pictures, television, and radio or tape and sound recording.

(b) Expert witnesses required for preparing for or appearing in legal or administrative proceedings.

(c) All purchases of services from a utility whose rates are determined and controlled by the Public Service Commission of the State or other governmental authority.

(d) All supplies, materials, equipment, or services purchased at a price established by the State of Florida purchasing agency, or at price equal to or less than the price established by the State agency.

(e) All supplies, materials, equipment, construction, or services purchased from another unit of government.

(f) All purchases of perishable items such as fresh vegetables, fruit, fish, meat, eggs, and milk.

(g) All purchases of real property.

(h) All purchases of used equipment.

(i) Supplies and materials purchased by County directly from vendors, contractors or subcontractors who have been awarded work as part of a contract providing delegated purchasing authority.

(j) Agreements with not for profit corporations arising out of grant programs or based upon paying a portion of the cost of providing goods, facilities or services.

(k) All procurements complying with the requirements of other sections of this Ordinance.

SECTION 4: §3-103 of Ordinance 84-02 is amended to provide as follows:

§3-103 Contracting for Designated Professional Services

(1) General Authority. Procurement of professional services of accountants, dentists, lawyers, physicians, psychologists, and veterinarians, licensed to practice in Florida, shall be by the use of the competitive sealed proposals method set forth in Section 3-102 (Competitive Sealed Proposals), except as authorized by Section 3-105 (Sole Source Procurement) or

Section 3-106 (Emergency Procurement), or except when the fee for professional services is limited to \$10,000 or less per fiscal year of the County, procurement of professional services may be authorized by Section 3-104 (Small Purchases).

(2) Contracts for Legal Services. Notwithstanding the foregoing, the Board of County Commissioners may authorize the procurement of legal service by negotiating with a lawyer or lawyers selected or recommended by the County Attorney on the basis of experience and skill.

(3) Contracts for Medical Services. Notwithstanding the foregoing, the Board of County Commissioners may authorize the procurement of medical services by negotiating with a medical doctor or doctors selected or recommended by the County Administrator or his designee on the basis of experience and skill.

(4) Contracts for Audit by an Independent Certified Public Accountant. Notwithstanding the foregoing, the Board of County Commissioners shall be responsible for selecting an independent certified public accountant to audit the County agencies of the County according to Section 11.45, Florida Statutes.

(5) Contract for Other Services. Notwithstanding the foregoing, the Board of County Commissioners may authorize the procurement of other services by negotiating with organizations selected or recommended by the County Administrator or his designee on the basis of experience and skill.

SECTION 5: §3-104 of Ordinance 84-02 is amended to provide as follows:

§3-104 Small Purchases

(1) Definition. Any contract in an amount less than Twenty Five Thousand (\$25,000) Dollars is a small purchase and may be made in accordance with the small purchase procedures authorized in this Section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this Section.

(2) Small Purchases Not Exceeding \$25,000. Other than as provided in Subsection (3) of this provision, for small purchases not exceeding Twenty Five Thousand (\$25,000) Dollars, no less than three (3) businesses shall be solicited to submit written quotations. Award shall be made to the business offering the lowest acceptable quotation. The names of the business submitting quotations and copies of each quotation shall be filed with the Purchasing Director and maintained as a public record.

(3) Small Purchases Under \$10,000. The Purchasing Director shall adopt operational procedures consistent with policies of the Board of County Commissioners as may from time to time be adopted for making small purchases of less than Ten Thousand (\$10,000) Dollars. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service or construction being purchased. Further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchase made. The Purchasing Director's procedures may provide for circumstances under which competition may be waived for purchases of single items which do not exceed One Hundred (\$100.00) Dollars.

SECTION 6: §5-301 of Ordinance 84-02 is amended to provide as follows:

§5-301 Fiscal Responsibility

(1) Delegation of Authority. Each contract shall establish an agreed-to-price, and may provide a maximum limit of total funds available over the agreed-to-price and delegate authority to an authorized designee or designees to exercise options within the contract affecting the contract price but not to exceed the total funds available.

(2) Approval by the Board of County Commissioners. Any changes in excess of the authorized funds available as authorized under the contract shall only be effective when approved by a written contract amendment signed by the Board of County Commissioners.

SECTION 7: §12-109 of Ordinance 84-02 is renumbered as Section 12-110 and a new Section 12-109 is provided as follows:

§12-109 Lobbying.

(1) Lobbying. After the issuance of any request for proposals or invitation for bids, prospective bidders or proposers shall direct any and all inquiries to the Purchasing Director or as directed in the request for proposals or invitation for bids. Prospective bidders, proposers or any agent, representative or person acting at the request of such bidder or proposer shall not contact, communicate with or discuss any matter relating in any way to the request for proposals or invitation for bids with any officer, agent or employee of Manatee County, other than the Purchasing Director or as provided for in the request for proposals or invitation for bids. For a violation of this section, sanctions may be imposed as provided for under Section 12-110. This prohibition ends upon execution of the final contract or when the invitation or request has been cancelled.

§12-110 Sanctions.

(1) Employees. Consistent with established Personnel Rules and Regulations, the County Administrator may impose any one or more of the following sanctions on a County employee for violations of the ethical standards in this Article:

- (a) oral or written warnings or reprimands;
- (b) suspension with or without pay for specified periods of time; or
- (c) termination of employment.

(2) Non-employees. The Board of County Commissioners may impose any one or more of the following sanctions on a non-employee for violations of the ethical standards:

- (a) written warnings or reprimands;
- (b) termination of contracts; or
- (c) debarment or suspension as provided in Section 6-101 (Authority to Debar or Suspend).

SECTION 8: §12-110 of Ordinance 84-02 is renumbered as Section 12-111 to provide as follows:

§12-111 Recovery of Value Transferred or Received in Breach of the Ethical Standards.

(1) **General Provisions.** The value of anything transferred or received in breach of the ethical standards of this Ordinance by a County employee or a non-employee may be recovered from both County employee and non-employee.

(2) **Recovery of Kickbacks by the County.** Upon a showing that a subcontractor makes a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the County and will be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

SECTION 9: This Ordinance shall be effective immediately upon receipt of the official acknowledgement from the Office of the Secretary of State in Tallahassee, Florida, that the Ordinance has been duly filed.

ADOPTED, with a quorum voting and present, this 28th **day**
of September, 1993.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: *Ravi Ram Naris*
Chairman

ATTEST:

R. B. "Chips" Shore
Clerk of the Circuit Court

By: _____

STATE OF FLORIDA, COUNTY OF MANATEE

This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

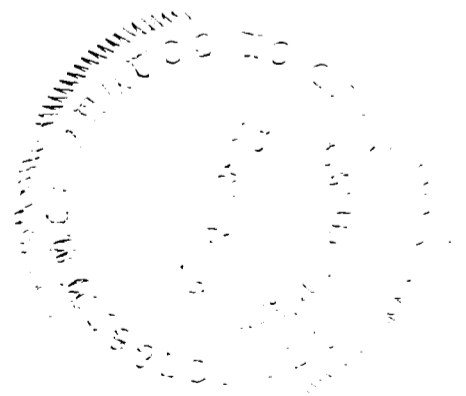
Witness my hand and official seal this 5th day of

October 19 93

R. B. SHORE
Clerk of Circuit Court

By: *Evelyn M. Lloyd* D.C.

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COPIES TO:

Barb Lake - BCC
Pat McVoy - C/Atty

Copy - Mem Code
12/2/93
gml

DATE 10/11/93
BY gml