

Recommended by: John Barrett 12/16/14
Department Director Date

Approved by: [Signature] 12/22/14
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes ☐ No ☐
Budget Account No.: Fund _____ Dept _____ Unit _____ Object _____
Program N/A

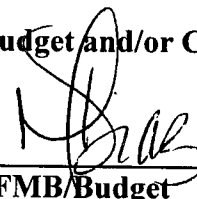
B. Recommended Sources of Funds/Summary of Fiscal Impact:

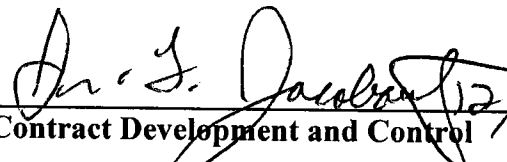
The savings to the operating budget associated with increasing the protest bond from \$1,000 to \$1,500 depends upon the number of requested protest hearings. The proposed increase of the protest bond will assist in meeting the cost of the Special Master presiding over the hearing. The average cost for a Special Master to prepare for and conduct a protest hearing is approximately \$2,000. Other than the above, the changes included in this Ordinance Amendment will further the efficiency of the Purchasing Department and the User Departments.

C. Departmental Fiscal Review:

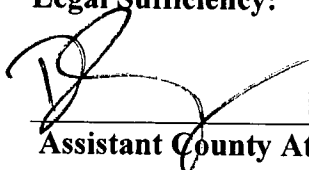
III. REVIEW COMMENTS

A. OFMB Budget and/or Contract Dev. and Control Comments:


12/18 OFMB/Budget
AK 12/18/14


Contract Development and Control 12/19/14

B. Legal Sufficiency:


Assistant County Attorney 12/22/14

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

**SUMMARY OF SUBSTANTIVE RECOMMENDED
CHANGES TO THE PURCHASING CODE**

<u>Section</u>	<u>Page</u>	<u>Change and Rationale</u>
2(c)(2)	2	This paragraph was added to the General Purpose of the Purchasing Code to clarify the intent of said Code.
2(f)(1)g. and h.	4	The exemption for " <i>food service and retail leases and concessions</i> " is deleted and the exemption for " <i>real property interests</i> " is expanded to include acquisitions, disposition or leases covered by the Palm Beach County Real Property Acquisition, Disposition, and Leasing Ordinance, applicable law, or Federal rule/regulation.
2(f)(1)k.	4	The title " <i>Decentralized Purchase Orders</i> " is added to this paragraph and the amount of a Decentralized Purchase Order is increased from \$1,000 to \$5,000. These are purchases made by User County Departments, which are monitored by the Purchasing Department.
2(f)(1)k. and throughout Code	4	The addition of " <i>any Minority/Women Business Enterprise Ordinance ("M/WBE"), if adopted</i> " is added throughout the revised Purchasing Code in case an M/WBE Ordinance is adopted by the Board in the future.
2(f)(1) l., p., q., r., s., t., and u.	5	<i>Labor negotiations</i> ", " <i>fireworks</i> ", " <i>County sponsorships</i> ", " <i>golf tee time advertising and sales services</i> ", " <i>bond underwriters</i> ", " <i>grant funded training, events, activities, and grant payments to recipients and sub-recipients</i> ", and " <i>codification of County ordinances</i> " are added to the list of goods and services that are exempt from the Purchasing Code. This does not mean that these items are exempt from competition; it means that the competition of these goods may be done by a process implemented by the County Department requiring said goods.
2(f)(2)	5	This provision requires County Departments to have an internal policy and procedure for the procurement of exempt goods and services.
3	7	The definition of " <i>Glades Utility Authority ("GUA")</i> " is deleted.
3 and throughout Code	8	" <i>Mandatory Bid or Proposal Amount</i> " is increased from \$50,000 to \$100,000 per annum. Purchases at or above this amount are made through a formal competitive process (i.e., the Request for Proposals or the Invitation for Bid). Purchases at or below this amount are made through an informal competitive process (i.e., the Request for Quote or the Request for Submittal).
3	9	The definition of " <i>Responsible Bidder, Quoter, Proposer, or Respondent</i> " is added.
3	10	The definition of " <i>Vendor</i> " is amended to include wording from the Palm Beach County Ethics Ordinance.
4(d) and (e)	11	The " <i>Assistant Director of Purchasing</i> " is added as a designee of the Director of Purchasing.
5(b)	14	This provision provides authority to the Board to extend contracts beyond twelve (12) months upon good cause <i>and</i> a determination that the extension provides a cost savings that would not result if an extension were not granted.

PAGE TWO
SUMMARY OF SUBSTANTIVE RECOMMENDED
CHANGES TO THE PURCHASING CODE

5(c)(5)	15	This provision provides for the cancellation or postponement of a bid when it is in the best interest of the County.
5(c)(7)	16	This provision deletes general factors to consider when determining whether a bidder is responsible. Specific, and sometimes unique, factors that determine the responsibility of a bidder are set forth in each in each and every solicitation.
5(c)(9)	19	This provision provides clarification that the Director of Purchasing may extend additional delivery dates or additional performance time of contractors subsequent to Board approval of same. It also states that Director of Purchasing may approve non-material changes to a contract.
5(d)(6)	20	This provision clarifies the role of the Purchasing Department in determining the responsiveness of proposals.
5(e)(3)	22	This provision gives Construction Departments and County Departments the authority to utilize the " <i>Request for Information</i> " process for those purchases exempt from the Purchasing Code.
5(f)(1)	22	This provision clarifies that a " <i>small purchase</i> " is any purchase valued in excess of the designated amount for a Decentralized Purchase Order and less than the Mandatory Bid or Proposal Amount. These purchases are made through the Request for Quote ("RFQ") or the Request for Submittal ("RFS") processes. This provision also gives authority to the Director of Purchasing to utilize the Invitation for Bid process for complex RFQs, and the Request for Proposal process for complex RFSs.
5(f)(4)	23	This provision codifies the practice of having the Board ratify " <i>emergency purchases</i> " that equal \$200,000 or more that are made by the Director of Purchasing in exigent circumstances. Historically, an exigent circumstance has been one where a purchase was an immediate necessity (i.e., during a disaster) and approval by the Board could not be obtained in a timely manner.
5(f)(5)	23	This provision clarifies " <i>piggyback purchases</i> " and defines a process to be utilized by User County Departments when utilizing other government related contracts. It also allows for the piggybacking off all State of Florida contracts.
5(f)(11)	26	The " <i>Glades Utility Authority ("GUA")</i> " is deleted as an Alternate Source Selection procurement process.
6(c)(4)	28	This provision increases the protest bond from \$1,000 to \$1,500.
7(b)(3)	31	This provision gives the Director of Purchasing authority to impose a suspension or debarment upon a vendor following the dismissal of charges, or if a vendor, contractor or subcontractor is found not guilty of a criminal offense pertaining to a public or private contract.

ORDINANCE NO. 2015 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE ENTITLED "THE PALM BEACH COUNTY PURCHASING CODE," REPEALING AND REPLACING SECTIONS 2-51 THROUGH 2-58 OF THE PALM BEACH COUNTY CODE, WHICH CODIFIED ORDINANCE NO. 2005-062, ORDINANCE NO. 2008-009, AND ORDINANCE NO. 2010-010, ESTABLISHING A CENTRALIZED PURCHASING SYSTEM; PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR APPLICATION/EXEMPTIONS; PROVIDING FOR DEFINITIONS; PROVIDING FOR DESIGNATION, DUTIES AND AUTHORITY OF THE DIRECTOR OF PURCHASING; PROVIDING FOR DELEGATION OF AUTHORITY TO SUBORDINATE STAFF AND AUTHORITY OF DEPARTMENTS OF ENGINEERING, AIRPORTS, WATER UTILITIES, FACILITIES DEVELOPMENT AND OPERATIONS, AND ENVIRONMENTAL RESOURCES MANAGEMENT; PROVIDING FOR A MANDATORY BID AND PROPOSAL AMOUNT; ESTABLISHING REQUIREMENTS FOR COMPETITIVE SOURCE SELECTION; PROVIDING FOR ALTERNATE SOURCE SELECTION; PROVIDING FOR WAIVER OF REQUIREMENTS FOR COMPETITIVE SELECTION FOR PROFESSIONAL AND CONSULTANT SERVICES; PROVIDING FOR PROTESTED AWARDS; PROVIDING FOR SUSPENSION AND DEBARMENT; PROVIDING FOR VENDOR PREFERENCES; PROHIBITING CONFLICTS OF INTEREST; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 20, 2005, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance No. 2005-062 which repealed all prior Purchasing Ordinances and established a centralized purchasing system to govern the procurement of goods and services; and

WHEREAS, on April 15, 2008, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance No. 2008-009, thereby amending the Palm Beach County Purchasing Code in order to facilitate and enhance the efficiency of the County's procurement process; and

WHEREAS, on April 20, 2010, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance No. 2010-010 thereby amending the Palm Beach County Purchasing Code to include a process for purchases made for the Glades Utility Authority and for implementation of the Inspector General Fee; and

1 **WHEREAS**, the Board of County Commissioners has deemed it necessary to repeal
2 Ordinance No. 2005-062, as amended by Ordinance No. 2008-009 and Ordinance No. 2010-010,
3 in order to further streamline and enhance the efficiency of the County's procurement process.

4 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
5 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

6 **Section 1. Repeal of Prior Ordinances.**

7 Palm Beach County Ordinance No. 2005-062, as amended by Ordinance No.
8 2008-009 and Ordinance No. 2010-010 (collectively Sections 2-51 through 2-58 of
9 the Palm Beach County Code), is hereby repealed in its entirety and replaced with
10 the following.

11 **Section 2. Sec. 2-51. General Provisions.**

12 (a) *Authority.* The provisions of Sections 2-51 through 2-58 are based upon
13 the authority granted to the Board of County Commissioners ("Board"), and
14 the County Administrator ("Administrator"), in Article VIII, Section 1, of
15 the Florida Constitution; Chapter 125, Part IV, Florida Statutes; and, the
16 Palm Beach County Charter.

17 (b) *Short Title.* The provisions of Sections 2-51 through 2-58 shall be known
18 and cited as the "Palm Beach County Purchasing Code" ("Purchasing
19 Code").

20 (c) *General Purpose.* The purpose of the Purchasing Code is to place the
21 County's purchasing function under a centralized system which will enable
22 the County and the County's Purchasing Department to:

23 (1) Establish policies and procedures governing the purchase of goods
24 and services, including those goods and services that are revenue
25 generating;

26 (2) Provide fair and open competition among all persons desiring to do
27 business with the County in a manner that reduces the appearance
28 and opportunity for favoritism, and inspires public confidence that
29 contracts are awarded in an equitable manner;

30 ~~(2)~~(3) Provide, encourage, and promote fair and equitable treatment for all
31 persons desiring to do business and who currently do business with
32 the County; and

(3)(4) Obtain goods and services of satisfactory quality and quantity at a reasonable cost.

(d) *Policy Decision.* The authority granted hereunder shall not include fundamental policy decisions regarding the County's purchasing functions and procedures. These powers, including the determination of the total funds to be spent pursuant to the Purchasing Code by ~~User~~ County Departments and the setting aside of those funds, shall remain solely with the Board and are not and shall not be delegated. ~~User~~ County Departments may not request procurements that are not budgeted or that are beyond the limitations imposed in the County's budgetary process, and shall make annual accountings to the Board of their expenditure of these funds.

(e) *Requirements of Good Faith.* The Purchasing Code requires all parties involved in procuring goods or services, or in administering the contracts for procured goods or services, to act in good faith.

(f) *Application/Exemptions.* Except as otherwise specified herein or by law, the Purchasing Code shall apply to every purchase by the Board to be paid from County funds, including those purchases made by the County with state moneys, and federal moneys, and grant assistance moneys from any source.

(1) The Purchasing Code shall not apply to:

a. Agreements between the Board and nonprofit organizations or other governments that provide for the transfer, sale or exchange of goods or services.

b. Procurement of dues and memberships in trade or professional organizations; subscriptions to periodicals; advertisements; postage; utility services; copyrighted materials; professional medical services; authorized hospitality expenses; fees and costs of job-related seminars and training, including materials provided with, or as an integral part of, that training; and, admission fees for amusement parks and entertainment activities included in County recreational programs for youth, teens, adults, seniors, and persons with disabilities.

c. Presenters, and lecturers, and facilitators for County ~~library~~

sponsored programs.

- d. Recreational instructors and sports officials.
- e. Procurements for Constitutional officers, specifically the Clerk and Comptroller, Sheriff, Supervisor of Elections, Property Appraiser, State Attorney, Public Defender, and Tax Collector.
- f. Selection of professional services that are governed by the provisions of the "Consultants Competitive Negotiations Act" ("CCNA"), Section 287.055, Florida Statutes, and by County policies and procedures. Selection of professional services that are exempt from the requirements of Section 287.055, Florida Statutes, shall be made in accordance with the Purchasing Code.
- g. Real property interests or any acquisition, disposition or lease made pursuant to the Palm Beach County Real Property Acquisition, Disposition, and Leasing Ordinance, applicable law, or Federal rule/regulation.
- ~~h. Food service and retail leases and e~~ Concessions as defined by 49 CFR Part 23.
- ~~h.i.~~ Vending machines.
- ~~i.j.~~ Goods or services purchased with donations, gifts or bequests containing restrictions that would interfere with or prevent the application of the requirements of the Purchasing Code.
- ~~j.k.~~ Goods purchased with petty cash in accordance with established County procedures.
- ~~k.l.~~ Decentralized Purchase Orders; however, Any purchase of value less than One Thousand Dollars (\$1,000.00); however, the total dollar amount of such said purchases shall not be exempt from the County's Small Business Enterprise Ordinance or any Minority/Women Business Enterprise Ordinance, if adopted, or from Resource Manager approval. These goods or services are not exempt in and of themselves but for the dollar value being less than ~~One~~ Five Thousand Dollars (\$15,000). No purchase shall be artificially divided

1 so as to constitute a decentralized purchase under this
2 Section.

3 l.m. Labor negotiation services, Llegal services, expert witnesses,
4 court reporter services, and other expenses pertaining to
5 claims, negotiations, or litigation.

6 m.n. Insurance policies costing less than the Mandatory Bid or
7 Proposal Amount.

8 n.o. Artwork as defined by applicable County policy and
9 procedure.

10 o.p. Full or part-time contractual employees of the Board.

11 p.q. Event specific stage production or programming including,
12 but not limited to, fireworks or individuals or groups
13 providing musical or theatrical performances or lectures.

14 q.r. County sponsorships or the Ssolicitation of sponsorships.

15 r. Golf tee time advertising and sales services for County golf
16 courses.

17 s. Bond underwriters.

18 t. Grant funded training, events, activities, and grant payments
19 to recipients and sub-recipients.

20 u. Codification of County Ordinances

21 (2) *Procurement of Exempt Purchases.* Exempt purchases shall,
22 where possible, be competitively procured by the ~~User~~ County
23 Department. The procurement of exempt purchases shall be made
24 by written contract between the vendor and the Board or authorized
25 designee; by direct payment in accordance with applicable policy
26 and procedure; or, by purchase order. County Departments shall
27 maintain an internal policy and procedure for procurement of all
28 exempt purchases.

29 **Section 3.** **Sec. 2-52. Definitions.**

30 *Administrator* means the County Administrator.

31 *Best and Final Offer* means the process used in competitive proposal
32 evaluation whereby final proposals containing the vendor's most favorable terms
33 for price and services or goods to be delivered are requested and considered prior to
34 proposal award.

1 *Bid* means a formal price offer by a vendor to furnish specific goods or
2 services in response to an Invitation for Bid or a multistep bidding procedure.

3 *Board* means the Board of County Commissioners.

4 *Business* means any corporation, partnership, individual, sole
5 proprietorship, joint stock company, joint venture, or any other private legal entity.

6 *Capital Improvement Project* means any public improvement which the
7 County undertakes, including the construction or reconstruction in whole or in part
8 of any building, road, highway, street improvements, plant, structure, or facility
9 necessary in carrying out the functions of the County government.

10 *Change Order* means a written document executed to direct a contractor to
11 make changes or additions to a purchase order or contract, including monetary,
12 time and specified changes.

13 *Construction* means the process of building, altering, improving,
14 demolishing, or major repairing or renovating of any structure or building, or other
15 improvements of any kind to any real property, or other activity specifically related
16 to, or part of, these processes, as determined by the Director of Purchasing.

17 *Construction Departments* collectively means the Departments of
18 Engineering, Water Utilities, Airports, Facilities Development and Operations, and
19 Environmental Resources Management.

20 *Contract* means a binding written agreement, enforceable by law, between
21 two (2) or more parties for the purchase or sale of goods or services. A purchase
22 order is a contract.

23 *Contractor* means any awardee having a contract with the Board of County
24 Commissioners.

25 *County* means the Palm Beach County Board of County Commissioners or
26 any of its authorized representatives pursuant to ordinance, resolution, Board
27 authorization, or administrative Code.

28 *County Department* means any department under the direction of the Board.

29 *Debarment* means the exclusion for cause of a vendor or contractor from
30 responding to any County solicitation or from doing business with the County
31 directly or indirectly.

32 *Decentralized Purchase Orders* means any purchase of value less than Five
33 Thousand Dollars (\$5,000).

34 *Designee* means a duly authorized representative of the Board, the County

1 Administrator, ~~Purchasing~~ Director of Purchasing, or a Director of a Construction
2 Department, as applicable.

3 *Emergency Purchase* means a procurement made in response to a need
4 when the delay incident to complying with all governing rules, regulations, or
5 procedures would be detrimental to the interests, health, safety, or welfare of the
6 County.

7 *Glades* means the area from the Broward County line north along Canal
8 L-36 to the Loxahatchee National Wildlife Refuge, thence north to Southern
9 Boulevard along Canal L-40, thence west along Southern Boulevard to a
10 north-south 1½ miles west of Canal L-8, which coincides with a private agricultural
11 road heading north from Southern Boulevard at the point where State Road 880
12 intersects Southern Boulevard from the South, thence north along the line of this
13 north-south road to the boundary of the J.W. Corbett Wildlife Management Area,
14 thence east and north along the boundary of the J.W. Corbett Wildlife Management
15 Area to the Martin County line.

16 *Glades Business* means a bidder or proposer which has a permanent place
17 of business within the Glades and which holds a business tax receipt issued by the
18 County that authorizes the bidder or proposer to provide the goods, services, or
19 construction to be built and which is issued prior to the issuance of the Invitation for
20 Bids/Request for Proposals for which a preference is sought. If the Business is a
21 joint venture/partnership, it is sufficient for qualification as a Glades Business if at
22 least one (1) of the joint venturers/partners meets the requirements set forth in this
23 Section.

24 ~~*Glades Utility Authority ("GUA")* means that Authority that has been~~
25 ~~created pursuant to Part 1 of Chapter 163, Florida Statutes (the Florida Interlocal~~
26 ~~Cooperation Act of 1969) for the purpose of providing water, wastewater and~~
27 ~~reclaimed water service to the residents of the cities of Belle Glade, Pahokee, South~~
28 ~~Bay and surrounding areas in an efficient and fiscally responsible manner, and that~~
29 ~~is governed by its Board of Directors.~~

30 *Goods* mean any tangible personal property other than services or real
31 property.

32 *Inspector General Fee* means the fee that is or may be imposed by the
33 Board pursuant to the Palm Beach County's Inspector General Ordinance.

34 *Invitation for Bid ("IFB")*, means a solicitation used in the formal

1 competitive bid process to solicit sealed bids for the purchase of goods or services
2 that are equal to or greater than the Mandatory Bid or Proposal Amount.

3 *Living Wage Ordinance* means an ordinance adopted by the Board that
4 requires construction or transit contractors and subcontractors as defined in Chapter
5 2, Article IV, Division 3, of the County Code, to pay a living wage and provide
6 minimal health benefits to employees directly providing construction-related
7 services or transit services to the County pursuant to a contract.

8 *Local Preference Ordinance* means an Ordinance adopted by the Board that
9 applies a local preference to ~~bids or proposals~~ responses submitted by local
10 vendors; to solicitations for construction and non-construction goods and services
11 as defined in ~~Chapter 2, Article III, Division 2, Part D~~ Sections 2-80.51 through
12 2-80.58 of the Palm Beach County Code; ~~in response to a solicitation of goods and~~
13 ~~services.~~

14 *Mandatory Bid or Proposal Amount* means the threshold dollar amount
15 established by the Board whereby the formal competitive bid or proposal process
16 must be used, except as otherwise provided herein. The Mandatory Bid or Proposal
17 Amount shall be ~~Fifty~~ One-Hundred Thousand Dollars (\$~~5100,000~~) per annum.

18 *May* denotes the permissive.

19 *Minority Women Business Enterprise ("M/WBE"), means a business*
20 *defined by an M/WBE Ordinance, as may be adopted by the Board.*

21 *Posting* means an act whereby the County publicly notices, in a designated
22 location(s), the recommended awardee of an Invitation for Bid or a Request for
23 Proposal.

24 *Professional Services* mean those services as defined in Section 2-80.21 of
25 the Palm Beach County Code.

26 *Proposal* means a formal offer by a vendor to furnish goods or services in
27 response to a Request for Proposal.

28 *Proprietary* means there is only one (1) item that meets the need of the ~~User~~
29 County Department as determined by a reasonably thorough analysis of the
30 marketplace; however, the item may be obtained through more than one vendor.

31 *Purchase Order* means a contract used to authorize a purchase from a
32 vendor that includes specific goods or services ordered, applicable terms as to
33 payment, discounts, date of performance and transportation; and other factors
34 pertinent to the transaction. A Purchase Order is referred to herein as a Contract.

1 *Quotation* means a written informal offer by a vendor to furnish specific
2 goods or services in response to a Request for Quotation.

3 *Request for Information ("RFI")*, means a solicitation that will satisfy a
4 need or that will determine available sources rather than provide a firm
5 specification; thereby giving the respondent latitude to develop a good or service
6 that will fulfill the need, or thereby provide available sources for the good or
7 service.

8 *Request for Proposal ("RFP")*, means a solicitation used in the formal
9 competitive proposal process to solicit sealed proposals for a good or service that is
10 equal to or greater than the Mandatory Bid or Proposal Amount; where the scope of
11 work or specifications may not be closely defined; and, where the evaluation is
12 based on established criteria which may include, but is not limited to, price.

13 *Request for Quotation ("RFQ")*, means a solicitation used in the informal
14 competitive bid process to solicit quotations for a specific good or service that is
15 less than the Mandatory Bid or Proposal Amount.

16 *Request For Submittal ("RFS")*, means a solicitation used in the informal
17 competitive proposal process to solicit submittals for a good or service that is less
18 than the Mandatory Bid or Proposal Amount; where the scope of work or
19 specifications may not be closely defined; and, where the evaluation is based on
20 criteria which may include, but is not limited to, price.

21 *Resource Manager* means the Director of a County Department or
22 Designee, who has been given the responsibility of monitoring and approving the
23 County's procurements of specific commodity groups as specified in the
24 Purchasing Department's policies and procedures.

25 *Responsible Bidder, Quoter, Proposer, or Respondent* means a bidder,
26 quoter, proposer, or respondent who is fully capable of meeting all the
27 requirements contained in the solicitation.

28 ~~*Responsive Bidder, Quoter, Proposer, Submittal, or Respondent*~~ means
29 ~~a vendor who has submitted~~ a bid, proposal, submittal, quotation, or response that
30 conforms in all material respects to the solicitation. Responsive also applies, where
31 applicable, to compliance with specified SBE requirements, ~~or~~ Local Preference
32 requirements, or M/WBE requirements that may be adopted by the Board. A
33 vendor can be responsive to a solicitation but may be deemed non-responsive to
34 SBE requirements, ~~or to~~ Local Preference requirements, or M/WBE requirements

1 that may be adopted by the Board.

2 *Services* mean the furnishing of labor, time, or effort by a Contractor
3 wherein the provisions of goods or other specific end products (other than reports,
4 studies, plans, advisories, contractual documents, or other documents relating to the
5 required performance) is incidental or secondary. This term shall not include
6 construction, employment agreements, or collective bargaining agreements.

7 *Shall* denotes mandatory.

8 *Small Business Enterprise* ("SBE"), means a business as defined in Chapter
9 2, Article III, Division 2, Part C of the Palm Beach County Code.

10 *Sole Source* means there is only one (1) good or service that meets the need
11 of the User County Department and that good or service is available through only
12 one (1) source as determined by a reasonably thorough analysis of the marketplace.

13 *Specification* means the description within a solicitation or contract for the
14 good or service to be provided by a Contractor.

15 *Suspension* means the suspending for cause of a Vendor or Contractor from
16 responding to any County solicitation, or from doing any new business with the
17 County, for up to a two (2) year period.

18 *Vendor* means an actual or potential supplier of a good or service. A
19 Vendor includes an owner, director, manager or employee of the supplier and can
20 be a quoter, bidder, respondent, or proposer, or a successful quoter, bidder,
21 respondent, or proposer; however, upon execution of a Contract with the Board or
22 Designee, the Vendor is referenced herein as a "Contractor".

23 **Section 4. Sec. 2-53. Organization.**

24 (a) *Purchasing Department.* Except as provided otherwise in the Purchasing
25 Code, the Purchasing Department shall purchase all goods and services on
26 behalf of the Board, and shall procure and manage any inventory necessary
27 to stock the County warehouse.

28 (b) *Director of Purchasing.* Under the direction of the Administrator, the
29 Director of Purchasing shall serve as the principal officer for the purchase
30 and sale of goods and services for the County.

31 (c) *Duties of the Director of Purchasing.* The Director of Purchasing shall:

32 (1) Administer the central purchasing function for the County.

33 (2) Maintain a warehouse stock of commonly used items and a catalog

1 system for use by User County Departments and agencies.

2 (3) Maintain a current list of Vendors that supply goods and services
3 purchased by the County.

4 (4) Establish and implement policies and procedures with regard to the
5 procurement of goods and services.

6 (5) Take all necessary action to further the objectives of all County
7 ordinances, resolutions, policies and procedures that pertain to the
8 procurement of goods and services by the County.

9 (6) Perform other duties as directed by the Board or the Administrator.

10 (d) *Authority of the Director of Purchasing.* Subject to the direction of the
11 Board or the Administrator, the Director of Purchasing is delegated all
12 powers, duties and authority relating to the procurement of goods and
13 services for the Board, including the authority to execute contracts to
14 expend, reimburse, or to receive in revenues an amount less than Two
15 Hundred Thousand Dollars (\$200,000) per annum, subject to the same
16 limitations specified in Section (h) hereinbelow. ~~Upon direction by the~~
17 ~~Administrator, the~~ The Director of Purchasing may also execute contracts for
18 the purchase of goods or services that are exempt from the Purchasing
19 Code, subject to the same limitations as specified herein. The authority
20 granted in the Purchasing Code is specifically limited by the provisions
21 herein and any award must be made in strict compliance herewith. The
22 Director of Purchasing shall have no independent discretion in the award
23 process except as specifically granted herein. In the absence of the
24 Director of Purchasing, the Assistant Director of Purchasing, or the
25 Administrator or his Designee, may assume the powers, duties, and
26 authority vested in the Purchasing Code.

27 (e) *Delegation of Authority.* Delegation of authority by the Director of
28 Purchasing may be made to the Assistant Director of Purchasing and to
29 subordinate staff as designated in writing by the Director of Purchasing.
30 Purchasing Department employees designated in writing by the Director of
31 Purchasing may execute any contract to expend, reimburse, or to receive in
32 revenues an amount less than Two Hundred Thousand Dollars (\$200,000)

per annum, subject to the same limitations specified in Section (h) hereinbelow. All further references in the Purchasing Code to the Director of Purchasing shall include the Assistant Director of Purchasing or Designee.

(f) *Authority of the Construction Departments.* ~~Departments of engineering, water utilities, airports, facilities development and operations, and environmental resources management (hereinafter collectively referred to as the "construction departments").~~ In addition to specific authority provided herein, the Directors of each of the Construction Departments may individually: Approve source selection via a formal or informal competitive solicitation process; provide for the solicitation, cancellation or postponement of a procurement; approve procurement award or award recommendation as applicable; execute amendment/changes after award; and approve ~~alternative~~ alternate source selection for construction related contracts, including but not limited to, design-build contracts and all architectural, professional engineering, landscaping architectural or registered land surveying services. Award of any Construction Contract to expend, reimburse, or to receive in revenues an amount equal to or greater than Two Hundred Thousand Dollars (\$200,000) per annum, shall be approved by the Board. This authority shall be subject to the provisions of the Purchasing Code and shall be limited to the same powers, duties, and authorities granted to the Director of Purchasing as set forth herein.

(g) The authority to purchase goods or services on behalf of the Board shall not be delegated unless provided for herein or otherwise delegated by the Board.

(h) *Board Approval.*

(l) The Board hereby approves every contract executed by the Director of Purchasing entered into and every award made in accordance with the Purchasing Code in an amount less than Two Hundred Thousand Dollars (\$200,000) per annum, and for a duration not to exceed five (5) years. No purchase shall be artificially divided so as to not require Board approval. The Clerk and Comptroller as

1 ex-officio Clerk and Accountant of the Board and as auditor,
2 recorder, and custodian of all County funds, is authorized to accept
3 and process all such contracts made on behalf of the Board pursuant
4 to the Purchasing Code as the act and deed of the Board.

5 (2) All awards in which the County is contracting to expend, to
6 reimburse, or to receive in revenues in an amount equal to or greater
7 than Two Hundred Thousand Dollars (\$200,000) per annum shall be
8 effective upon Board approval.

9 (3) All purchases of goods and services recommended to the Board for
10 approval shall be reviewed by the Director of Purchasing or by a
11 director of a Construction Department prior to Board approval.

12 **Section 5.** **Sec. 2-54. Source Selection.**

13 (a) The procurement of all goods or services, including those transactions
14 through which the Board shall receive revenue in an amount equal to or
15 greater than the Mandatory Bid or Proposal Amount of One Hundred Fifty
16 Thousand Dollars (\$5100,000), shall be awarded by a formal competitive
17 bid or proposal process or as set forth herein, unless otherwise provided by
18 state or federal law. As applicable, the provisions of the County's SBE
19 Ordinance and the Local Preference Ordinance shall apply to all source
20 selections, including alternate source selections, and awards which are
21 subject to the provisions of the Purchasing Code. In the event that the
22 County adopts an M/WBE Ordinance, such Ordinance shall also apply to
23 all source selections, including alternate source selections, and awards
24 which are subject to the provisions of the Purchasing Code.

25 (b) Nothing in the foregoing shall prohibit the Board from renewing contracts
26 entered into as a result of a competitive selection process, an alternate
27 source selection process, or from purchasing goods or services for inclusion
28 in a Capital Improvement Project, whose price has been incorporated as part
29 of a bid or proposal selected in a competitive or alternate source ~~solicitation~~
30 selection process provided for herein. Further, nothing in the foregoing
31 shall prohibit the Board from extending contracts, entered into as a result of

1 a competitive or alternate source selection process, beyond the specified
2 term or renewal period when the Board determines that such an extension of
3 the term or renewal period is beneficial to the interest, health, safety or
4 welfare of the County. However, any such extension of the term or
5 renewal period by the Board shall not exceed twelve (12) months, unless the
6 Director of the Purchasing Department or a Director of a Construction
7 Department, deem said extension to be an emergency as set forth
8 hereinbelow or the Board, upon good cause, deems that the extension
9 provides a cost savings to the County that would not result if an extension
10 were not granted.

11 (c) *Formal Competitive Bid Process.*

12 (1) *Invitation for Bid.* An Invitation for Bid shall be issued which
13 shall include the scope of work and specifications for the purchase
14 of the goods or services sought. Terms and conditions may
15 include, but not be limited to, the requirement of insurance or
16 surety.

17 (2) *Public Notice.* Public notice of the Invitation for Bid shall be
18 published in a newspaper of general circulation for a reasonable
19 period prior to bid opening or in accordance with applicable federal
20 or state law.

21 (3) *Bid Submission.* Bids should state the name and address of the
22 bidder on the outside of the envelope, package or container, and
23 must be received no later than the time and date and at the location
24 specified for bid opening in the Invitation for Bid. No bids shall be
25 accepted after such time and date or at any location other than
26 specified, and any bids received later or at any location other than
27 specified shall be returned unopened to the bidder.

28 (4) *Bid Opening.* All bids timely received shall be opened internally by
29 the Director of Purchasing or Designee. A list of bidders that have
30 submitted bids in response to an Invitation for Bid shall be recorded.
31 ~~Bids shall be opened publicly at the date, time, and location~~

1 specified in the invitation for bid. The name of each bidder and such
2 other relevant information shall be recorded.

3 (5) *Bid Cancellation or Postponement.* The Director of Purchasing
4 may, prior to Bid Opening, elect to cancel a bid or postpone the date
5 or time of Bid Submission or opening. After Bid Opening, the
6 Director of Purchasing may cancel a bid if no or only one (1)
7 responsive, responsible bid is received, or if the lowest responsive,
8 responsible bid is in excess of the funding limits established by the
9 County for that bid. In the event of discovery after bid opening of a
10 patent irregularity or procedural flaw which is so severe as to render
11 the process invalid, or in the event that the County determines that
12 the need for the procurement no longer exists and will not exist in
13 the immediate future, or in the event the cancellation or
14 postponement is in the best interest of the County, the Administrator
15 or Designee may cancel the bid.

16 (6) *Corrections, Additions To and Withdrawal of Bids.*

17 a. The following shall govern the correction of information
18 submitted in a bid when that information is a determinant of
19 the responsiveness of the bid:

20 1. Errors in the extension, addition or multiplication of
21 unit prices stated in a bid or in multiplication,
22 division, addition, or subtraction in a bid shall be
23 corrected by the Director of Purchasing or designee
24 prior to award recommendation. However, actual
25 unit prices included in the bid shall not be changed
26 under this or any other circumstance.

27 2. No bidder shall be permitted to correct a bid mistake
28 after bid opening.

29 3. Nothing herein is intended to prohibit the acceptance
30 of a voluntary reduction in price from the lowest
31 responsive, responsible bidder after bid opening,
32 provided such reduction is not conditioned on, or
33 does not result in, the modification or deletion of any
34 specifications or conditions contained in the

1 Invitation for Bid or alter the determination of which
2 bidder is to be awarded the bid or portion thereof.

- 3 b. A bidder who has made a clearly evident mistake of fact
4 may be permitted to withdraw ~~its his/her~~ bid only when it is
5 determined by the Director of Purchasing that there is
6 reasonable proof that such a mistake was made. However, if
7 a bidder unilaterally withdraws ~~its his/her~~ bid without
8 permission after bid opening, the Director of Purchasing
9 may suspend the bidder for up to two (2) years from the date
10 of the unilateral withdrawal. Further, if the apparent lowest
11 responsive, responsible bidder has made a mistake of any
12 kind in a lump sum construction-related bid, the bid bond
13 ~~shall~~ may not be returned.

14 (7) *Bid Evaluation.*

- 15 a. The County reserves the right to accept or reject any and all
16 bids and to make award to the lowest responsive and
17 responsible bidder whose bid meets the requirements and
18 criteria set forth in the Invitation for Bid and whose award
19 will, in the opinion of the County, be in the best interest of
20 and most advantageous to the County.
- 21 b. A bid shall be considered responsive only if it conforms
22 to the requirements of the Invitation for Bid.
- 23 c. Information in a bid that concerns the responsibility of the
24 bidder shall not necessarily be considered conclusive at the
25 time of bid opening, except when the Invitation for Bid
26 unequivocally states that the bid shall not be considered
27 responsive unless the particular information is provided in
28 the bid at the time of submittal.

29 ~~(1) Factors to be considered in determining whether the~~
30 ~~standard of responsibility has been met may~~
31 ~~include, but not be limited to, whether a bidder has:~~
32 ~~The appropriate financial, material, equipment,~~
33 ~~facility, and personnel resources and expertise, or the~~
34 ~~ability to obtain them, necessary to indicate its~~

1 capability to meet all contractual requirements;

2 ~~(b) — A satisfactory record of performance and~~
3 ~~experience;~~

4 ~~(e) — A satisfactory record of integrity;~~

5 ~~(d) — The capacity to legally contract with the~~
6 ~~County; and~~

7 ~~(e) — Supplied all necessary information in~~
8 ~~connection with the inquiry concerning~~
9 ~~responsibility, including but not limited to~~
10 ~~any licenses, permits, or organization papers~~
11 ~~required.~~

12 ~~(2)~~1. The bidder shall supply information requested by the
13 County concerning the responsibility of such bidder.
14 If such bidder fails to supply the requested
15 information, the County shall base the determination
16 of responsibility upon available information and may
17 find the bidder non-responsible and reject the bid.

18 ~~(3)~~2. The Director of Purchasing may determine the
19 information submitted concerning the responsibility
20 of the bidder is so inadequate as to warrant a
21 recommendation of rejection of the bid based upon a
22 lack of demonstrated responsibility on the part of the
23 bidder.

24 ~~(4)~~3. Pursuant to the particular solicitation, the Director of
25 Purchasing, after bid opening, may request
26 additional information of the bidder concerning his
27 responsibility to perform. The Director of
28 Purchasing shall consider this and all other
29 information gained prior to award recommendation.

30 d. Notwithstanding Sections 2-54(c)(7)b. and c. 5-(e)(7)b. and
31 ~~e. above~~, a lack of conformity as to an issue(s) of
32 responsiveness or responsibility that is non-substantive in
33 nature may be considered a technicality or irregularity that
34 may be waived by the Director of Purchasing.

- (8) *Bid Award.* Awards in which the County is contracting to expend, reimburse, or receive in revenue an amount less than Two Hundred Thousand Dollars (\$200,000) per annum shall be made to the lowest responsive, responsible bidder and shall be effective upon issuance of a Contract by the Director of Purchasing. Awards in which the County is contracting to expend, reimburse, or receive revenues in an amount equal to or greater than Two Hundred Thousand Dollars (\$200,000) per annum shall be made to the lowest responsive, responsible bidder and shall be effective upon Board approval. The Board may reject any bid prior to issuance of an award. Recommended awards equal to or greater than the Mandatory Bid or Proposal Amount shall be posted at a designated location(s) for a period of five (5) business days. In the event only one (1) responsive, responsible bid is received, an award may be made ~~that bid may be awarded~~ to the sole bidder or rebid or canceled as provided herein. ~~The Director of Purchasing is authorized and delegated the authority to execute contracts on behalf of the Board. Contracts executed by the Director of Purchasing in which the County is contracting to expend, to reimburse, or to receive in revenues an amount of Two Hundred Thousand Dollars (\$200,000) or more per annum shall not be effective until approved by the Board of County Commissioners.~~
- (9) *Changes After Award.* The Director of Purchasing may authorize decreases or increases to the authorized revenue or expenditure amount(s) of a contract, except that increases of more than ten (10) percent to authorized expenditure amounts which have reached or exceeded Two Hundred Thousand Dollars (\$200,000) per annum must be approved by the Board. After Board approval of an increased authorized expenditure amount, the Director of Purchasing may authorize additional increases of up to ten (10) percent of the increased authorized expenditure amount. Authority to increase any authorized expenditure amount is predicated on the condition that all provisions of the original award, including the level of SBE participation, or M/WBE participation if the Board

adopts an M/WBE Ordinance, remain intact and unchanged. The Director of Purchasing may approve extensions of delivery dates or performance time on all contracts to a maximum of three (3) months provided that any changes to the existing authorized expenditure amount comply with the provisions of the Purchasing Code. After Board approval of an extension of delivery dates or performance time, the Director of Purchasing may authorize additional delivery dates or performance time extensions up to three (3) months. Further, changes to the Contract may be made by the Director of Purchasing if considered minor or non-material in nature.

(d) *Formal Competitive Proposal Process.* If it is neither practical nor in the best interest of the County to procure a good or service by a formal competitive bidding process, the Director of Purchasing may determine that the use of a competitive proposal process may be used.

(1) *Requests for Proposals.* A Request for Proposal shall be issued which shall include a scope of work and specifications for the purchase of goods or services sought, and shall also include evaluation criteria to be used in evaluating proposals. Terms and conditions included in a Request for Proposal may include, but not be limited to, the requirement of insurance or surety.

(2) Requests for Proposals shall be noticed, and cancelled or postponed, in accordance with Section 2-54.(c)(2) and (5) ~~5-(e)(2) and (5)~~ hereinabove.

(3) *Proposal Submission.* Proposals should state the name and address of the proposer on the outside of the envelope, package or container, and must be received no later than the time and date and at the location specified in the Request for Proposal. No proposal shall be accepted after such time and date or at any location other than specified. Any proposals received later or at any location other than specified shall be returned unopened to the proposer, if requested, at the proposer's sole expense. The proposer shall be notified by the Purchasing Department that the proposal was late and the proposer shall be given ten (10) business days from the date of notification to request the return of the unopened proposal. If no

1 such request is received from the proposer within the designated
2 time frame, the Purchasing Department shall discard the unopened
3 and untimely proposal.

4 (4) *Proposal Opening.* All proposals timely received shall be opened
5 internally by the Director of Purchasing or Designee. A list of
6 proposers that have submitted proposals in response to a Request for
7 Proposal shall be recorded.

8 (5) Corrections, additions to, and withdrawal of proposals shall be
9 addressed in accordance with Section 2-54.(c)(6) ~~5.(e)(6)~~
10 hereinabove.

11 (6) *Proposal Evaluation.* The County reserves the right to accept or
12 reject any and all proposals. The County further reserves the right
13 to award to the responsive, responsible proposer whose proposal
14 conforms to the solicitation and is determined to be the most
15 advantageous to the County taking into consideration the evaluation
16 ~~factors~~ criteria set forth in the Request for Proposal.

17 a. Evaluation of the responsiveness of proposals shall be
18 performed by the Purchasing Department. Evaluation of
19 the responsibility of a proposer proposals shall be made by a
20 selection committee and shall be based upon the evaluation
21 criteria as set forth in the Request for Proposal and upon any
22 other relevant information obtained through the evaluations
23 process.

24 b. ~~Proposal evaluation as to i~~Issues of responsiveness and
25 responsibility shall be addressed in accordance with
26 Sections 2-54.(c)(7)b., c. and d. ~~5.(e)(7)b., e., and d.~~
27 hereinabove.

28 c. Upon concurrence by the Director of Purchasing, the
29 selection committee may determine that it is not in the best
30 interest of the County to award solely on the basis of initial
31 proposals and may utilize a "Best and Final Offer" process to
32 further evaluate the proposals.

33 (7) *Proposal Award.* Upon recommendation by the selection
34 committee, award shall be made to the responsive, responsible

1 proposer whose proposal is in the best interest of the County, and
2 shall be effective upon issuance of a contract by the Director of
3 Purchasing. ~~However, all aAwards~~ in which the County is
4 contracting to expend, ~~to~~ reimburse, or ~~to~~ receive ~~in~~ revenues in an
5 amount ~~of~~ equal to or greater than Two Hundred Thousand Dollars
6 (\$200,000) ~~or more~~ per annum shall be effective upon Board
7 approval. The Board may reject any proposal prior to ~~the~~ issuance of
8 an award. ~~Award recommendations~~ Recommended awards equal to
9 or greater than the Mandatory Bid or Proposal Amount shall be
10 posted at a designated location(s) for a period of five (5) business
11 days. In the event only one (1) responsive, responsible proposal is
12 received, an award may be made to the sole proposer or re-solicited
13 or canceled as provided herein ~~in the Purchasing Code~~. Where
14 consultants, contractors, or special masters are selected through a
15 formal competitive proposal process and more than one (1) award
16 and contract are issued, individual orders for projects may be
17 assigned or awarded upon justification of availability, cost to
18 perform the project, conflict of interest, and/or specific and
19 necessary expertise of the required consultant, Contractor, or
20 Special Master.

21 (8) *Amendments/Changes After Award.*

22 Amendments or changes after award of the proposal shall be made
23 in the same manner and in accordance with Section 2-54.(c)(9)
24 ~~5-(e)(9)~~ hereinabove. Amendments to the contract may be made by
25 the Director of Purchasing if considered minor or non-material in
26 nature.

27 (e) *Request for Information.*

- 28 (1) A Request for Information may be used to satisfy a need or to
29 determine available sources for goods or services. The Request for
30 Information shall specify a need or provide a description of the
31 goods or services, and shall provide vendors the latitude to develop
32 goods or services that will fulfill the County's need.
- 33 (2) ~~Notiee~~Public notice of the Request for Information may be
34 published in a newspaper of general circulation or may be mailed

1 directly to potential vendors.

2 (3) Based upon the statements of interest received from vendors
3 responding to the Request for Information, the ~~User~~ County
4 Department, upon approval from the Director of Purchasing, may
5 request a trial use of two (2) or more of the products for a limited
6 period of time. Upon receipt of the statements of interest or at the
7 end of the trial period for approved goods, the Purchasing
8 Department may initiate a competitive process for the goods or
9 services. A Request for Information shall not result in a purchase
10 without a competitive or alternate source selection process
11 conducted by the Purchasing Department. If goods or services are
12 exempt, the Request for Information may be conducted by a
13 Construction Department or by a County Department, as applicable.

14 (4) The Purchasing Department shall have unlimited use of the
15 information included within the statements of interest submitted in
16 response to a Request for Information. The County is required to
17 comply with ~~F.S. ch.~~ Chapter 119, Florida Statutes, Public Records
18 Act, and therefore accepts no responsibility for the protection of the
19 information submitted unless the vendor requests that privileged or
20 confidential information be protected in the manner prescribed by
21 law. The County shall have no further obligation to any vendor
22 who furnishes information.

23 (f) *~~Alternate~~ive Source Selection.*

24 (1) *Small Purchases.* Any purchase for an amount over the
25 Decentralized Purchase Order Amount and less than the
26 Mandatory Bid or Proposal Amount ~~may~~ shall be made in
27 accordance with policies and procedures promulgated by the
28 Purchasing Department utilizing a Request for Quote or a Request
29 for Submittal or other such procurement method authorized herein
30 or in said policies and procedures. ~~; however, no purchase shall be~~
31 ~~artificially divided so as to constitute a small purchase under this~~
32 ~~Section.~~ However, the Director of Purchasing has the sole
33 discretion to utilize the Invitation for Bid process or the Request
34 for Proposal process if the procurement is complex, or for other

1 sound reason, even though the specific good or service is budgeted
2 less than the Mandatory Bid or Proposal Amount.

3 (2) *Sole Source Purchases.* The Director of Purchasing may make or
4 authorize the purchase of goods or services without competitive
5 solicitation when the Director of the ~~User~~ County Department, or
6 designee has documented in writing and has provided information
7 supporting the fact, that the good or service requested is the only
8 item that meets their need and that the good or service is available
9 through only one (1) source.

10 (3) *Proprietary Purchases.* The Director of Purchasing may make or
11 authorize the purchase of goods or services via a competitive
12 solicitation when the Director of the ~~User~~ County Department, or
13 Designee, has documented in writing that the good or service is the
14 only item that meets their need and that the good or service is
15 available through more than one (1) source.

16 (4) *Emergency Purchases.* The Director of Purchasing, upon receipt of
17 written verification of the emergency circumstance by the Director
18 of the ~~User~~ County Department or Designee, may authorize
19 emergency purchases. Emergency purchases must meet the
20 definition provided for in Section 3 above. ~~However, all~~
21 ~~e~~Emergency purchases in which the County is to expend or to
22 reimburse an amount of Two Hundred Thousand Dollars
23 (\$200,000) or more per annum shall be approved by the Board.
24 ~~This authority shall not be delegated.~~ However, in emergency
25 circumstances where approval by the Board cannot be obtained in a
26 timely manner, the Director of Purchasing may authorize a
27 purchase(es) of Two Hundred Thousand Dollars (\$200,000) or
28 more provided that said purchase(es) and expenditure(s) of funds
29 shall be presented to the Board for ratification as soon as possible
30 following signature or approval by the Director of Purchasing.

31 (5) *Purchases Off Contracts of Other Entities* ("piggyback purchases").
32 Notwithstanding any requirements of the Purchasing Code, the
33 purchase of goods or services under contract with a federal, state or
34 municipal government or any other governmental agency, political

subdivision, or government-related association, may be piggybacked or purchased off contracts of other entities ~~made~~ providing that:

- a. the County Department, in its sole discretion, has determined that the piggyback purchase is deemed advantageous to the County; and, providing that
- b. the contractor extends the terms and conditions specified in the originating contract to the County and the CCounty accepts the terms and conditions specified. within the originating contract; and providing that the contractor extends the terms and conditions of the contract to the County.
- c. the goods or services available under the originating contract meet the County's needs and specifications;
- d. the quantity and specifications of the goods or services being purchased from the originating contract do not substantially change the terms and conditions specified in the originating contract, and unsubstantial increases or decreases in quantity requested or rendered shall not invalidate any contract;
- e. the County does not currently have a contract that can be utilized for the good or service being requested by the County Department;
- f. the County Department determines and documents with processing expense estimates, pricing data and schedule implications that the utilization of the piggyback purchase would likely result in a financial advantage to the County;
- g. the County Department determines and documents that the impact to local vendors is minimally negative or is a benefit to the County that positively outweighs any negative impact to local vendors;
- h. there are no certified SBE vendors, or M/WBE vendors if an M/WBE Ordinance is adopted by the Board, that can provide the service as required and to the extent required by the County Department; and

i. the originating entity utilized a competitive process similar to the County's, as determined by the Director of Purchasing. However, this provision (i) is not applicable to contracts procured or solicited by the State of Florida.

~~In the event that the Inspector General Fee is not included in the original contract, the County may impose the Inspector General Fee on piggyback purchases where the contractor is in agreement with said Fee.~~

(6) *Cooperative Purchases.* The County may participate in, sponsor, conduct, or administer a cooperative purchase with other government entities for the procurement of goods or services.

(7) *Direct Purchases.* Notwithstanding the provisions of the Purchasing Code, in the event that no bids, proposals, quotes, responses or submittals are received, or that no responsive, responsible bids, proposals, quotes, responses or submittals are received, and the Director of Purchasing documents that no significant alteration in the specifications, qualifications, or terms and conditions can be made to encourage competition, the Administrator or Designee may authorize the Director of Purchasing to make a direct purchase of the goods or services from any vendor identified as being qualified and capable of meeting the original specifications. A direct purchase may be made for items for resale, that, subsequent to a market analysis, meet the definition of a sole source.

(8) *Prequalification of Vendors.* Prospective vendors may be prequalified for specified types of goods or services when deemed advantageous to the County and when the amount of each order for a good or service is less than the County's Mandatory Bid or Proposal Amount. The method for submitting prequalification information and the information required in order to be prequalified shall be set forth in the applicable solicitation for prequalified vendors. All vendors deemed responsive and responsible shall be ~~placed on a prequalification list~~ considered prequalified for the specific good or service. Once ~~on the list, prequalified contractors~~

1 shall a vendor is prequalified, they are permitted to submit price
2 offers or qualifications ~~issue quotes~~ for each individual order for a
3 good or service, or take turns via rotation, depending upon the
4 language within the applicable solicitation.

5 (9) *Items for Resale.* All applicable ~~User~~ County Departments shall
6 implement policies and procedures regarding the procurement of
7 items for resale. The ~~User~~ County Department shall conduct a
8 thorough market research analysis of the available items for resale
9 in order to determine the specific types of goods to be procured. A
10 marketing analysis shall not result in the purchase of goods without
11 a competitive or alternate source selection process conducted by the
12 Purchasing Department.

13 (10) *Sales Tax Recovery Program for Construction-Related Purchases.*
14 Purchase orders for the purchase of goods, materials, or equipment
15 in any dollar amount, additive or deductive, included in a Capital
16 Improvement Project, and the corresponding change order required
17 to implement those purchases, may be approved by the Director of
18 Purchasing or by the Director of the appropriate Construction
19 Department in accordance with the County's sales tax recovery
20 program.

21 ~~(11) Glades Utility Authority (“GUA”) purchases under \$100,000. Any~~
22 ~~GUA purchase for goods or services in an amount less than~~
23 ~~\$100,000 shall be made in accordance with this Ordinance and the~~
24 ~~policies and procedures promulgated by the Purchasing~~
25 ~~Department; however, the pool of responding vendors shall be~~
26 ~~limited to those located in the Glades unless there are no Glades~~
27 ~~vendors providing that good or service. In the event that purchases~~
28 ~~are made through this alternative source selection, the Palm Beach~~
29 ~~County Local Preference Ordinance shall not apply. The GUA~~
30 ~~Board may determine that there are no Glades vendors providing~~
31 ~~that good or service, or that it is in the best interests of the GUA not~~
32 ~~to limit the pool of potential vendors to only Glades vendors via this~~
33 ~~alternative source selection.~~

(g) *Informal Competitive Solicitation Process.* Solicitations for goods or services valued at less than the Mandatory Bid or Proposal Amount shall be made in accordance with policies and procedures established by the Purchasing Department for Requests for Quotes and Requests for Submittals.

(h) *Waiver of Requirements for Competitive Selection for Professional and Consultant Services.* The Board may waive the requirements for competitive selection and approve professional or consulting services upon recommendation of the Administrator.

Section 6. Sec. 2-55. Protested Solicitations and Awards.

(a) *Right to Protest.* After posting of the recommended awardee, any bidder or proposer who is aggrieved in connection with the recommended award may protest in writing to the Director of Purchasing. The right to protest is limited to those procurements of goods or services solicited through an Invitation for Bid or a Request for Proposal. Recommended awards less than the Mandatory Bid or Proposal Amount cannot be protested. Notwithstanding the above, the Director of Purchasing may, in his or her sole discretion, include the right to protest in any solicitation process if in the best interests of the County.

(b) *Notice of Protest.* The protest shall be submitted within five (5) business days after posting of the award recommendation. The protest shall be in writing and shall identify the protestor and the solicitation, and shall include a factual summary of the basis of the protest. Such protest is considered filed when it is received and date/time stamped by the Department of Purchasing. Neither the Director of Purchasing nor a special master shall consider any issue not submitted in writing within the time frame specified for the notice of protest.

(c) *Authority to Resolve.* Protests filed in accordance with Section 2-55.(b) ~~6-(b)~~ hereinabove shall be resolved under the provisions of this Section.

(1) The Director of Purchasing shall have the authority to:

- a. Uphold the Protest. The protest may be upheld based upon a violation of the provisions of this Purchasing Code or of any other County Ordinance, resolution, policy, or procedure, or upon discovery of an irregularity or procedural

1 flaw that is so severe as to render the process invalid. If the
2 upholding of the protest will result in a change of the
3 recommended awardee, a new recommended award shall be
4 posted in accordance with Section 2-54.(c)(8) and 2-54.(d)
5 ~~(7) 5.(c)(8) and 5.(d)(7)~~ hereinabove. If the upholding of
6 the protest will result in a cancellation of the protested
7 solicitation, a recommendation to uphold the protest and
8 cancel the solicitation will be made to the Administrator,
9 who may then direct the cancellation of the solicitation.

10 b. Deny the Protest. If the protest is denied, the protestor has
11 the right to request that the protest be referred to a special
12 master in accordance with Section 2-55.(c)(4) ~~6.(e)(4)~~
13 hereinbelow.

14 c. Refer the protest directly to a special master with no
15 determination made by the Director of Purchasing, in
16 accordance with Section 2-55.(c)(4) ~~6.(e)(4)~~ hereinbelow.

17 (2) When a protest is filed by a certified SBE contractor or where the
18 protest involves a small business issue, the Director of the Office of
19 Small Business Assistance will act in conjunction with, and with
20 authority equal to, the Director of Purchasing in arriving at the
21 determination to be made in this step of the process. After reviewing
22 the facts surrounding the issues raised in the written protest, the
23 Director of Purchasing, and the Director of the Office of Small
24 Business Assistance may make the determination to:

25 a. Uphold the protest in accordance with Section 2-55.(c)(1) b.
26 ~~6.(e)(1)a.~~ hereinabove.

27 b. Deny the protest in accordance with Section 2-55.(c)(1) b.
28 ~~6.(e)(1)b.~~ hereinabove.

29 c. Refer the protest to a special master in accordance with
30 Section 2-55.(c)(4) ~~6.(e)(4)~~ hereinbelow, in those instances
31 when a determination is not unanimous between the Director
32 of Purchasing and the Director of the Office of Small
33 Business Assistance. In this specific instance, the protestor
34 will be exempt from posting a protest bond.

1 In the event that the County adopts an M/WBE Ordinance, any
2 protest process shall be set forth by adopted Board policy.

3 (3) The Director of Purchasing shall issue a written statement of the
4 determination within a reasonable period of time. The written
5 statement shall provide the ~~reason(s)~~ general rationale for said
6 determination and shall be provided to the protestor and to any other
7 party to the protest.

8 (4) Upon receipt of a denial of the protest, the protestor may request a
9 hearing before a special master. The request for a hearing shall be
10 in writing to the Director of Purchasing and shall be made within
11 five (5) business days of issuance of the Director of Purchasing's
12 determination. The request for a hearing shall be accompanied by
13 a protest bond of ~~One Thousand Dollars (\$1,000.00)~~ Fifteen
14 Hundred Dollars (\$1,500) which shall be remitted in the form of a
15 money order, a certified check, a cashier's check, or a bank check
16 payable to Palm Beach County.

17 (5) At no time shall a protestor, party, or any other person, contact a
18 special master regarding any issue pertaining to or involving the
19 protest. Contact between the County and the special master shall
20 be limited to scheduling and other administrative issues, including
21 the provision and copying of public records pertinent to the protest.

22 (d) *Establishment of Rules.* The Purchasing Department shall establish rules
23 and regulations by separate policy and procedure detailing the selection of
24 special masters, the protest process, and the conduct governing protest
25 hearings.

26 (e) *Authority of Special Masters.* Special masters shall have the jurisdiction
27 and authority to hear and decide protests.

28 (1) The special master shall make a recommendation as to whether the
29 protest should be upheld or denied.

30 (2) If the special master ~~determines~~ upholds the protest, ~~the solicitation~~
31 ~~or the award recommendation is in violation of federal, state or local~~
32 ~~law, policy, procedure, or regulation~~, the special master shall either
33 make a recommendation to cancel the solicitation, or to cancel the
34 award recommendation and post a new award recommendation after

1 re-evaluation based on the special master's determination of the
2 facts in the case. In these instances, the Purchasing Department
3 shall return the protestor's bond to the protester.

4 (3) If the special master denies the protest ~~upholds the solicitation or~~
5 ~~award recommendation~~, the special master shall recommend that
6 the Director of Purchasing proceed with the posted award
7 recommendation. In these instances, the protestor's bond shall be
8 forfeited.

9 (4) In making contract awards for procurements in an amount equal to
10 or greater than Two Hundred Thousand Dollars (\$200,000) per
11 annum, the Board, upon recommendation of the Director of
12 Purchasing, may accept or reject the recommendation of the special
13 master.

14 (5) In making contract awards for procurements of less than Two
15 Hundred Thousand Dollars (\$200,000) per annum, the Director of
16 Purchasing may accept the special master's recommendation or, if
17 the Director of Purchasing determines the special master's
18 recommendation is not in the County's best interest, the original
19 award recommendation may be referred to the Board for approval.
20 At that time, the Board may accept or reject the recommendation of
21 the special master.

22 (6) Nothing contained herein shall limit or divest the Board of its
23 authority pursuant to ~~Florida Statutes~~, Chapter 125, Part IV, Florida
24 Statutes as referenced in Section 2-51 of the Purchasing Code.

25 (f) *Stay of Procurement During Protests.* Notwithstanding anything contained
26 herein to the contrary, in the event of a timely protest, the Director of
27 Purchasing shall stay the award of the contract unless the Director of
28 Purchasing, with the advice of the County Attorney and after consultation
29 with the ~~User~~ County Department, makes a determination that the award of
30 the contract without delay is necessary to protect substantial interests of the
31 County.

32 **Section 7. Sec. 2-56. Suspension and Debarment.**

33 (a) *Authority.* The Director of Purchasing may suspend or debar for cause the
34 right of a vendor, contractor or subcontractor to be included in the renewal

1 of an existing contract or any solicitation process; and any bid, proposal,
2 submittal, or quote received from that vendor, contractor or subcontractor
3 shall be rejected. The Board shall have the power to waive or lift such
4 suspension or debarment.

5 (b) *Suspension and Debarment.* A vendor, contractor or subcontractor may be
6 suspended for a period not to exceed two (2) years as determined by the
7 Director of Purchasing, or may be permanently debarred. However, any
8 suspension imposed pursuant to the provisions of subsections (b)(3) and (4)
9 below shall be in effect during the pendency of the applicable proceeding,
10 regardless of duration. A suspended or debarred vendor or contractor shall
11 not bid or propose as a subcontractor during their suspension or debarment;
12 and, a suspended or debarred subcontractor shall not bid or propose as a
13 vendor or contractor during their suspension or debarment. A suspension
14 or debarment may be based upon the following:

- 15 (1) Failure to fully comply with the conditions, specifications or terms
16 of a contract with the County, including but not limited to the
17 unilateral withdraw of a bid, quote, submittal, or proposal that has
18 been received from the recommended awardee.
- 19 (2) Any misrepresentation in connection with a solicitation or any
20 misrepresentation of fact upon which the County has based a
21 decision, including but not limited to a misrepresentation by a
22 vendor, contractor or subcontractor on a small business application,
23 or a local preference affidavit.
- 24 (3) ~~Charged and or convicted by a court of competent jurisdiction with~~
25 the commission of a criminal offense as an incident to obtaining or
26 attempting to obtain a public or private contract or subcontract, or in
27 the performance of such contract or subcontract. If charges are
28 dismissed or the vendor, contractor or subcontractor is found not
29 guilty, the suspension or debarment shall be lifted automatically
30 upon written notification and proof of final court disposition.
31 However, nothing herein shall preclude the Director of Purchasing
32 from imposing an additional suspension or debarment following
33 said dismissal or finding of not guilty where the Director of
34 Purchasing determines that the additional suspension or debarment

1 is otherwise supported by the Purchasing Code. In such case, the
2 suspended or debarred vendor, contractor, or subcontractor may
3 avail themselves of the protest procedure set forth in subsection (d)
4 below.

5 (4) ~~Charged and or convicted by a court of competent jurisdiction~~ for
6 embezzlement, theft, forgery, bribery, falsification or destruction of
7 records, receiving stolen property, or any other offense indicating a
8 lack of business integrity or business honesty which currently,
9 seriously, and directly affects responsibility as a County
10 government contractor. If charges are dismissed or the vendor,
11 contractor or subcontractor is found not guilty, the suspension or
12 debarment shall be lifted automatically upon written notification
13 and proof of final court disposition. However, nothing herein shall
14 preclude the Director of Purchasing from imposing an additional
15 suspension or debarment following said dismissal or finding of not
16 guilty where the Director of Purchasing determines that the
17 additional suspension or debarment is otherwise supported by the
18 Purchasing Code. In such case, the suspended or debarred vendor,
19 contractor, or subcontractor may avail themselves of the protest
20 procedure set forth in subsection (d) below.

21 (5) Any other cause the Director of Purchasing determines to be so
22 serious and compelling as to materially and adversely affect the
23 responsibility of a vendor, contractor or subcontractor, including but
24 not limited to suspension by another governmental entity for
25 substantial cause.

26 (6) Violation of the ethical standards set forth in local, state or federal
27 law.

28 (7) Violation of a County Ordinance.

29 (c) *Decision.* Upon a determination to suspend or debar a vendor, contractor
30 or subcontractor, the Director of Purchasing shall notify the vendor,
31 contractor or subcontractor in writing of the suspension or debarment along
32 with the reasons for the action taken.

33 (d) *Finality of Decision.* The suspension or debarment shall be final and
34 conclusive unless the suspended or debarred vendor, contractor or

subcontractor initiates protest proceedings. Protests ~~will~~ shall be initiated under the procedures provided in Section 2-55. 6: hereinabove except that:

(1) The preliminary review by the Director of Purchasing as set forth in Section 2-55(c)(3) ~~6.(c)(3)~~ hereinabove will be waived.

(2) The suspension or debarment shall be in effect pending result of the protest.

(3) The allowable time for protesting the suspension or debarment shall be ten (10) calendar days after the date of notification of said suspension or debarment.

(4) The Board ~~of County Commissioners~~, upon recommendation of the Director of Purchasing, may accept or reject the recommendation of the Special Master.

Section 8. Sec. 2-57. Vendor Preferences.

The Purchasing Department shall strictly comply with the SBE Ordinance, the Local Preference Ordinance, any future M/WBE Ordinance adopted by the County, and all pertinent County policies and procedures, to ensure that the ~~SBE preference and the local preference~~ vendor preferences are awarded accordingly in accordance with adopted Board policy.

Section 9. Sec. 2-58. Conflict of Interest.

Special Masters. Special masters shall be subject to a policy and procedure implemented by the Purchasing Department relating to outside counsel conflicts of interest. In addition, the ethics rules promulgated by the Florida Bar pertaining to conflicts of interest shall apply. If a special master is unable to provide a fair hearing for any reason, the special master shall not accept the case and shall immediately notify the Director of Purchasing of the conflict. The ~~Purchasing~~ Director of Purchasing shall reassign the case to a special master who does not have a conflict with the case.

Section 10. Repeal of Laws In Conflict.

All local laws and ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

Section 11. Severability.

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such

holding shall not affect the remainder of this Ordinance.

Section 12. Savings Clause.

All provisions of Palm Beach County Ordinance No. 2005-062, as amended by Ordinance No. 2008-009 and Ordinance No. 2010-010, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any violation of said Ordinance, which violations occurred prior to its appeal.

Section 13. Inclusion in the Palm Beach County Code.

The provisions of this Ordinance shall become and be made a part of the Code of Palm Beach County, Florida. The Sections of this Ordinance may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 14. Effective Date.

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2015.

**SHARON R. BOCK,
CLERK & COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of _____, 2015.

ORDINANCE NO. 2015 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE ENTITLED "THE PALM BEACH COUNTY PURCHASING CODE," REPEALING AND REPLACING SECTIONS 2-51 THROUGH 2-58 OF THE PALM BEACH COUNTY CODE, WHICH CODIFIED ORDINANCE NO. 2005-062, ORDINANCE NO. 2008-009, AND ORDINANCE NO. 2010-010, ESTABLISHING A CENTRALIZED PURCHASING SYSTEM; PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR APPLICATION/EXEMPTIONS; PROVIDING FOR DEFINITIONS; PROVIDING FOR DESIGNATION, DUTIES AND AUTHORITY OF THE DIRECTOR OF PURCHASING; PROVIDING FOR DELEGATION OF AUTHORITY TO SUBORDINATE STAFF AND AUTHORITY OF DEPARTMENTS OF ENGINEERING, AIRPORTS, WATER UTILITIES, FACILITIES DEVELOPMENT AND OPERATIONS, AND ENVIRONMENTAL RESOURCES MANAGEMENT; PROVIDING FOR A MANDATORY BID AND PROPOSAL AMOUNT; ESTABLISHING REQUIREMENTS FOR COMPETITIVE SOURCE SELECTION; PROVIDING FOR ALTERNATE SOURCE SELECTION; PROVIDING FOR WAIVER OF REQUIREMENTS FOR COMPETITIVE SELECTION FOR PROFESSIONAL AND CONSULTANT SERVICES; PROVIDING FOR PROTESTED AWARDS; PROVIDING FOR SUSPENSION AND DEBARMENT; PROVIDING FOR VENDOR PREFERENCES; PROHIBITING CONFLICTS OF INTEREST; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 20, 2005, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance No. 2005-062 which repealed all prior Purchasing Ordinances and established a centralized purchasing system to govern the procurement of goods and services; and

WHEREAS, on April 15, 2008, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance No. 2008-009, thereby amending the Palm Beach County Purchasing Code in order to facilitate and enhance the efficiency of the County's procurement process; and

WHEREAS, on April 20, 2010, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance No. 2010-010 thereby amending the Palm Beach County Purchasing Code to include a process for purchases made for the Glades Utility Authority and for implementation of the Inspector General Fee; and

1 **WHEREAS**, the Board of County Commissioners has deemed it necessary to repeal
2 Ordinance No. 2005-062, as amended by Ordinance No. 2008-009 and Ordinance No. 2010-010,
3 in order to further streamline and enhance the efficiency of the County's procurement process.

4 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
5 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

6 **Section 1. Repeal of Prior Ordinances.**

7 Palm Beach County Ordinance No. 2005-062, as amended by Ordinance No.
8 2008-009 and Ordinance No. 2010-010 (collectively Sections 2-51 through 2-58 of
9 the Palm Beach County Code), is hereby repealed in its entirety and replaced with
10 the following.

11 **Section 2. Sec. 2-51. General Provisions.**

12 (a) *Authority.* The provisions of Sections 2-51 through 2-58 are based upon
13 the authority granted to the Board of County Commissioners ("Board"),
14 and the County Administrator ("Administrator") in Article VIII, Section 1,
15 of the Florida Constitution; Chapter 125, Part IV, Florida Statutes; and, the
16 Palm Beach County Charter.

17 (b) *Short Title.* The provisions of Sections 2-51 through 2-58 shall be known
18 and cited as the "Palm Beach County Purchasing Code" ("Purchasing
19 Code").

20 (c) *General Purpose.* The purpose of the Purchasing Code is to place the
21 County's purchasing function under a centralized system which will enable
22 the County and the County's Purchasing Department to:

23 (1) Establish policies and procedures governing the purchase of goods
24 and services, including those goods and services that are revenue
25 generating;

26 (2) Provide fair and open competition among all persons desiring to do
27 business with the County in a manner that reduces the appearance
28 and opportunity for favoritism, and inspires public confidence that
29 contracts are awarded in an equitable manner;

30 (3) Provide, encourage, and promote fair and equitable treatment for all
31 persons desiring to do business and who currently do business with
32 the County; and

1 (4) Obtain goods and services of satisfactory quality and quantity at a
2 reasonable cost.

3 (d) *Policy Decision.* The authority granted hereunder shall not include
4 fundamental policy decisions regarding the County's purchasing functions
5 and procedures. These powers, including the determination of the total
6 funds to be spent pursuant to the Purchasing Code by County Departments
7 and the setting aside of those funds, shall remain solely with the Board and
8 are not and shall not be delegated. County Departments may not request
9 procurements that are not budgeted or that are beyond the limitations
10 imposed in the County's budgetary process, and shall make annual
11 accountings to the Board of their expenditure of these funds.

12 (e) *Requirements of Good Faith.* The Purchasing Code requires all parties
13 involved in procuring goods or services, or in administering the contracts
14 for procured goods or services, to act in good faith.

15 (f) *Application/Exemptions.* Except as otherwise specified herein or by law, the
16 Purchasing Code shall apply to every purchase by the Board to be paid from
17 County funds, including those purchases made by the County with state
18 moneys, federal moneys, and grant moneys from any source.

19 (1) The Purchasing Code shall not apply to:

20 a. Agreements between the Board and nonprofit organizations
21 or other governments that provide for the transfer, sale or
22 exchange of goods or services.

23 b. Procurement of dues and memberships in trade or
24 professional organizations; subscriptions to periodicals;
25 advertisements; postage; utility services; copyrighted
26 materials; professional medical services; authorized
27 hospitality expenses; fees and costs of job-related seminars
28 and training, including materials provided with, or as an
29 integral part of, that training; and, admission fees for
30 amusement parks and entertainment activities included in
31 County recreational programs for youth, teens, adults,
32 seniors, and persons with disabilities.

33 c. Presenters, lecturers, and facilitators for County sponsored
34 programs.

- d. Recreational instructors and sports officials.
- e. Procurements for Constitutional officers, specifically the Clerk and Comptroller, Sheriff, Supervisor of Elections, Property Appraiser, State Attorney, Public Defender, and Tax Collector.
- f. Selection of professional services that are governed by the provisions of the "Consultants Competitive Negotiations Act" ("CCNA"), Section 287.055, Florida Statutes, and by County policies and procedures. Selection of professional services that are exempt from the requirements of Section 287.055, Florida Statutes, shall be made in accordance with the Purchasing Code.
- g. Real property interests or any acquisition, disposition or lease made pursuant to the Palm Beach County Real Property Acquisition, Disposition, and Leasing Ordinance, applicable law, or Federal rule/regulation.
by 49 CFR Part 23.
- h. Vending machines.
- i. Goods or services purchased with donations, gifts or bequests containing restrictions that would interfere with or prevent the application of the requirements of the Purchasing Code.
- j. Goods purchased with petty cash in accordance with established County procedures.
- k. Decentralized Purchase Orders; however, said purchases shall not be exempt from the County's Small Business Enterprise Ordinance or any Minority/Women Business Enterprise Ordinance, if adopted, or from Resource Manager approval. These goods or services are not exempt in and of themselves but for the dollar value being less than Five Thousand Dollars (\$5,000). No purchase shall be artificially divided so as to constitute a decentralized purchase under this Section.
- l. Labor negotiation services, legal services, expert witnesses, court reporter services, and other expenses pertaining to

claims, negotiations, or litigation.

- m. Insurance policies costing less than the Mandatory Bid or Proposal Amount.
- n. Artwork as defined by applicable County policy and procedure.
- o. Full or part-time contractual employees of the Board.
- p. Event specific stage production or programming including, but not limited to, fireworks or individuals or groups providing musical or theatrical performances or lectures.
- q. County sponsorships or the solicitation of sponsorships.
- r. Golf tee time advertising and sales services for County golf courses.
- s. Bond underwriters.
- t. Grant funded training, events, activities, and grant payments to recipients and sub-recipients.
- u. Codification of County Ordinances

(2) *Procurement of Exempt Purchases.* Exempt purchases shall, where possible, be competitively procured by the County Department. The procurement of exempt purchases shall be made by written contract between the vendor and the Board or authorized designee; by direct payment in accordance with applicable policy and procedure; or, by purchase order. County Departments shall maintain an internal policy and procedure for procurement of all exempt purchases.

Section 3. Sec. 2-52. Definitions.

Administrator means the County Administrator.

Best and Final Offer means the process used in competitive proposal evaluation whereby final proposals containing the vendor's most favorable terms for price and services or goods to be delivered are requested and considered prior to proposal award.

Bid means a formal price offer by a vendor to furnish specific goods or services in response to an Invitation for Bid or a multistep bidding procedure.

Board means the Board of County Commissioners.

Business means any corporation, partnership, individual, sole

1 proprietorship, joint stock company, joint venture, or any other private legal entity.

2 *Capital Improvement Project* means any public improvement which the
3 County undertakes, including the construction or reconstruction in whole or in part
4 of any building, road, highway, street improvements, plant, structure, or facility
5 necessary in carrying out the functions of the County government.

6 *Change Order* means a written document executed to direct a contractor to
7 make changes or additions to a purchase order or contract, including monetary,
8 time and specified changes.

9 *Construction* means the process of building, altering, improving,
10 demolishing, or major repairing or renovating of any structure or building, or other
11 improvements of any kind to any real property, or other activity specifically related
12 to, or part of, these processes, as determined by the Director of Purchasing.

13 *Construction Departments* collectively means the Departments of
14 Engineering, Water Utilities, Airports, Facilities Development and Operations, and
15 Environmental Resources Management.

16 *Contract* means a binding written agreement, enforceable by law, between
17 two (2) or more parties for the purchase or sale of goods or services. A purchase
18 order is a contract.

19 *Contractor* means any awardee having a contract with the Board.

20 *County* means the Palm Beach County Board of County Commissioners or
21 any of its authorized representatives pursuant to ordinance, resolution, Board
22 authorization, or administrative Code.

23 *County Department* means any Department under the direction of the
24 Board.

25 *Debarment* means the exclusion for cause of a vendor or contractor from
26 responding to any County solicitation or from doing business with the County
27 directly or indirectly.

28 *Decentralized Purchase Orders* means any purchase of value less than Five
29 Thousand Dollars (\$5,000).

30 *Designee* means a duly authorized representative of the Board, the County
31 Administrator, Director of Purchasing, or a Director of a Construction Department,
32 as applicable.

33 *Emergency Purchase* means a procurement made in response to a need
34 when the delay incident to complying with all governing rules, regulations, or

1 procedures would be detrimental to the interests, health, safety, or welfare of the
2 County.

3 *Glades* means the area from the Broward County line north along Canal
4 L-36 to the Loxahatchee National Wildlife Refuge, thence north to Southern
5 Boulevard along Canal L-40, thence west along Southern Boulevard to a
6 north-south 1½ miles west of Canal L-8, which coincides with a private agricultural
7 road heading north from Southern Boulevard at the point where State Road 880
8 intersects Southern Boulevard from the South, thence north along the line of this
9 north-south road to the boundary of the J.W. Corbett Wildlife Management Area,
10 thence east and north along the boundary of the J.W. Corbett Wildlife Management
11 Area to the Martin County line.

12 *Glades Business* means a bidder or proposer which has a permanent place
13 of business within the Glades and which holds a business tax receipt issued by the
14 County that authorizes the bidder or proposer to provide the goods, services, or
15 construction to be built and which is issued prior to the issuance of the Invitation for
16 Bids/Request for Proposals for which a preference is sought. If the Business is a
17 joint venture/partnership, it is sufficient for qualification as a Glades Business if at
18 least one (1) of the joint venturers/partners meets the requirements set forth in this
19 Section.

20 *Goods* mean any tangible personal property other than services or real
21 property.

22 *Inspector General Fee* means the fee that is or may be imposed by the
23 Board pursuant to the Palm Beach County Inspector General Ordinance.

24 *Invitation for Bid* ("IFB") means a solicitation used in the formal
25 competitive bid process to solicit sealed bids for the purchase of goods or services
26 that are equal to or greater than the Mandatory Bid or Proposal Amount.

27 *Living Wage Ordinance* means an ordinance adopted by the Board that
28 requires construction or transit contractors and subcontractors as defined in Chapter
29 2, Article IV, Division 3, of the County Code, to pay a living wage and provide
30 minimal health benefits to employees directly providing construction-related
31 services or transit services to the County pursuant to a contract.

32 *Local Preference Ordinance* means an Ordinance adopted by the Board that
33 applies a local preference to responses submitted by local vendors, to solicitations
34 for construction and non-construction goods and services as defined in Sections

2-80.51 through 2-80.58 of the Palm Beach County Code.

Mandatory Bid or Proposal Amount means the threshold dollar amount established by the Board whereby the formal competitive bid or proposal process must be used, except as otherwise provided herein. The Mandatory Bid or Proposal Amount shall be One-Hundred Thousand Dollars (\$100,000) per annum.

May denotes the permissive.

Minority Women Business Enterprise ("M/WBE") means a business defined by an M/WBE Ordinance, as may be adopted by the Board.

Posting means an act whereby the County publicly notices, in a designated location(s), the recommended awardee of an Invitation for Bid or a Request for Proposal.

Professional Services mean those services as defined in Section 2-80.21 of the Palm Beach County Code.

Proposal means a formal offer by a vendor to furnish goods or services in response to a Request for Proposal.

Proprietary means there is only one (1) item that meets the need of the County Department as determined by a reasonably thorough analysis of the marketplace; however, the item may be obtained through more than one vendor.

Purchase Order means a contract used to authorize a purchase from a vendor that includes specific goods or services ordered, applicable terms as to payment, discounts, date of performance and transportation; and other factors pertinent to the transaction. A Purchase Order is referred to herein as a Contract.

Quotation means a written informal offer by a vendor to furnish specific goods or services in response to a Request for Quotation.

Request for Information ("RFI") means a solicitation that will satisfy a need or that will determine available sources rather than provide a firm specification; thereby giving the respondent latitude to develop a good or service that will fulfill the need, or thereby provide available sources for the good or service.

Request for Proposal ("RFP") means a solicitation used in the formal competitive proposal process to solicit sealed proposals for a good or service that is equal to or greater than the Mandatory Bid or Proposal Amount; where the scope of work or specifications may not be closely defined; and, where the evaluation is based on established criteria which may include, but is not limited to, price.

Request for Quotation ("RFQ") means a solicitation used in the informal

1 competitive bid process to solicit quotations for a specific good or service that is
2 less than the Mandatory Bid or Proposal Amount.

3 *Request For Submittal ("RFS")* means a solicitation used in the informal
4 competitive proposal process to solicit submittals for a good or service that is less
5 than the Mandatory Bid or Proposal Amount; where the scope of work or
6 specifications may not be closely defined; and, where the evaluation is based on
7 criteria which may include, but is not limited to, price.

8 *Resource Manager* means the Director of a County Department, or
9 Designee, who has been given the responsibility of monitoring and approving the
10 County's procurements of specific commodity groups as specified in the
11 Purchasing Department's policies and procedures.

12 *Responsible Bidder, Quoter, Proposer, or Respondent* means a bidder,
13 quoter, proposer, or respondent who is fully capable of meeting all the
14 requirements contained in the solicitation.

15 *Responsive Bid, Quote, Proposal, Submittal, or Response* means a bid,
16 proposal, submittal, quotation, or response that conforms in all material respects to
17 the solicitation. Responsive also applies, where applicable, to compliance with
18 specified SBE requirements, Local Preference requirements, or M/WBE
19 requirements that may be adopted by the Board. A vendor can be responsive to a
20 solicitation but may be deemed non-responsive to SBE requirements, Local
21 Preference requirements, or M/WBE requirements that may be adopted by the
22 Board.

23 *Services* mean the furnishing of labor, time, or effort by a Contractor
24 wherein the provisions of goods or other specific end products (other than reports,
25 studies, plans, advisories, contractual documents, or other documents relating to the
26 required performance) is incidental or secondary. This term shall not include
27 construction, employment agreements, or collective bargaining agreements.

28 *Shall* denotes mandatory.

29 *Small Business Enterprise ("SBE")* means a business as defined in Chapter
30 2, Article III, Division 2, Part C of the Palm Beach County Code.

31 *Sole Source* means there is only one (1) good or service that meets the need
32 of the County Department and that good or service is available through only one (1)
33 source as determined by a reasonably thorough analysis of the marketplace.

34 *Specification* means the description within a solicitation or contract for the

1 good or service to be provided by a Contractor.

2 *Suspension* means the suspending for cause of a Vendor or Contractor from
3 responding to any County solicitation, or from doing any new business with the
4 County, for up to a two (2) year period.

5 *Vendor* means an actual or potential supplier of a good or service. A
6 Vendor includes an owner, director, manager or employee of the supplier and can
7 be a quoter, bidder, respondent, or proposer, or a successful quoter, bidder,
8 respondent, or proposer; however, upon execution of a Contract with the Board or
9 Designee, the Vendor is referenced herein as a "Contractor".

10 **Section 4. Sec. 2-53. Organization.**

11 (a) *Purchasing Department.* Except as provided otherwise in the Purchasing
12 Code, the Purchasing Department shall purchase all goods and services on
13 behalf of the Board, and shall procure and manage any inventory necessary
14 to stock the County warehouse.

15 (b) *Director of Purchasing.* Under the direction of the Administrator, the
16 Director of Purchasing shall serve as the principal officer for the purchase
17 and sale of goods and services for the County.

18 (c) *Duties of the Director of Purchasing.* The Director of Purchasing shall:

19 (1) Administer the central purchasing function for the County.

20 (2) Maintain a warehouse stock of commonly used items and a catalog
21 system for use by County Departments and agencies.

22 (3) Maintain a current list of Vendors that supply goods and services
23 purchased by the County.

24 (4) Establish and implement policies and procedures with regard to the
25 procurement of goods and services.

26 (5) Take all necessary action to further the objectives of all County
27 ordinances, resolutions, policies and procedures that pertain to the
28 procurement of goods and services by the County.

29 (6) Perform other duties as directed by the Board or the Administrator.

30 (d) *Authority of the Director of Purchasing.* Subject to the direction of the
31 Board or the Administrator, the Director of Purchasing is delegated all
32 powers, duties and authority relating to the procurement of goods and

1 services for the Board, including the authority to execute contracts to
2 expend, reimburse, or to receive in revenues an amount less than Two
3 Hundred Thousand Dollars (\$200,000) per annum, subject to the same
4 limitations specified in Section (h) hereinbelow. The Director of Purchasing
5 may also execute contracts for the purchase of goods or services that are
6 exempt from the Purchasing Code, subject to the same limitations as
7 specified herein. The authority granted in the Purchasing Code is
8 specifically limited by the provisions herein and any award must be made in
9 strict compliance herewith. The Director of Purchasing shall have no
10 independent discretion in the award process except as specifically granted
11 herein. In the absence of the Director of Purchasing, the Assistant Director
12 of Purchasing, or the Administrator or Designee, may assume the powers,
13 duties, and authority vested in the Purchasing Code.

14 (e) *Delegation of Authority.* Delegation of authority by the Director of
15 Purchasing may be made to the Assistant Director of Purchasing and to
16 subordinate staff as designated in writing by the Director of Purchasing.
17 Purchasing Department employees designated in writing by the Director of
18 Purchasing may execute any contract to expend, reimburse, or to receive in
19 revenues an amount less than Two Hundred Thousand Dollars (\$200,000)
20 per annum, subject to the same limitations specified in Section (h)
21 hereinbelow. All further references in the Purchasing Code to the Director
22 of Purchasing shall include the Assistant Director of Purchasing or
23 Designee.

24 (f) *Authority of the Construction Departments.* In addition to specific authority
25 provided herein, the Directors of each of the Construction Departments may
26 individually: Approve source selection via a formal or informal
27 competitive solicitation process; provide for the solicitation, cancellation or
28 postponement of a procurement; approve procurement award or award
29 recommendation as applicable; execute amendment/changes after award;
30 and approve alternate source selection for construction related contracts,
31 including but not limited to, design-build contracts and all architectural,
32 professional engineering, landscaping architectural or registered land

1 surveying services. Award of any Construction Contract to expend,
2 reimburse, or to receive in revenues an amount equal to or greater than Two
3 Hundred Thousand Dollars (\$200,000) per annum, shall be approved by
4 the Board. This authority shall be subject to the provisions of the
5 Purchasing Code and shall be limited to the same powers, duties, and
6 authorities granted to the Director of Purchasing as set forth herein.

7 (g) The authority to purchase goods or services on behalf of the Board shall not
8 be delegated unless provided for herein or otherwise delegated by the
9 Board.

10 (h) *Board Approval.*

11 (1) The Board hereby approves every contract executed by the Director
12 of Purchasing and every award made in accordance with the
13 Purchasing Code in an amount less than Two Hundred Thousand
14 Dollars (\$200,000) per annum, and for a duration not to exceed five
15 (5) years. No purchase shall be artificially divided so as to not
16 require Board approval. The Clerk and Comptroller as ex-officio
17 Clerk and Accountant of the Board and as auditor, recorder, and
18 custodian of all County funds, is authorized to accept and process all
19 such contracts made on behalf of the Board pursuant to the
20 Purchasing Code as the act and deed of the Board.

21 (2) All awards in which the County is contracting to expend, to
22 reimburse, or to receive in revenues in an amount equal to or greater
23 than Two Hundred Thousand Dollars (\$200,000) per annum shall be
24 effective upon Board approval.

25 (3) All purchases of goods and services recommended to the Board for
26 approval shall be reviewed by the Director of Purchasing or by a
27 director of a Construction Department prior to Board approval.

28 **Section 5. Sec. 2-54. Source Selection.**

29 (a) The procurement of all goods or services, including those transactions
30 through which the Board shall receive revenue in an amount equal to or
31 greater than the Mandatory Bid or Proposal Amount of One Hundred
32 Thousand Dollars (\$100,000), shall be awarded by a formal competitive bid

1 or proposal process or as set forth herein, unless otherwise provided by state
2 or federal law. As applicable, the provisions of the County's SBE
3 Ordinance and the Local Preference Ordinance shall apply to all source
4 selections, including alternate source selections, and awards which are
5 subject to the provisions of the Purchasing Code. In the event that the
6 County adopts an M/WBE Ordinance, such Ordinance shall also apply to
7 all source selections, including alternate source selections, and awards
8 which are subject to the provisions of the Purchasing Code.

9 (b) Nothing in the foregoing shall prohibit the Board from renewing contracts
10 entered into as a result of a competitive selection process, an alternate
11 source selection process, or from purchasing goods or services for inclusion
12 in a Capital Improvement Project, whose price has been incorporated as part
13 of a bid or proposal selected in a competitive or alternate source selection
14 process provided for herein. Further, nothing in the foregoing shall
15 prohibit the Board from extending contracts, entered into as a result of a
16 competitive or alternate source selection process, beyond the specified term
17 or renewal period when the Board determines that such an extension of the
18 term or renewal period is beneficial to the interest, health, safety or welfare
19 of the County. However, any such extension of the term or renewal period
20 by the Board shall not exceed twelve (12) months, unless the Director of
21 Purchasing or a Director of a Construction Department, deem said
22 extension to be an emergency as set forth hereinbelow or the Board, upon
23 good cause, deems that the extension provides a cost savings to the County
24 that would not result if an extension were not granted.

25 (c) *Formal Competitive Bid Process.*

26 (1) *Invitation for Bid.* An Invitation for Bid shall be issued which
27 shall include the scope of work and specifications for the purchase
28 of the goods or services sought. Terms and conditions may
29 include, but not be limited to, the requirement of insurance or
30 surety.

31 (2) *Public Notice.* Public notice of the Invitation for Bid shall be

published in a newspaper of general circulation for a reasonable period prior to bid opening or in accordance with applicable federal or state law.

(3) *Bid Submission.* Bids should state the name and address of the bidder on the outside of the envelope, package or container, and must be received no later than the time and date and at the location specified in the Invitation for Bid. No bids shall be accepted after such time and date or at any location other than specified, and any bids received later or at any location other than specified shall be returned unopened to the bidder.

(4) *Bid Opening.* All bids timely received shall be opened internally by the Director of Purchasing or Designee. A list of bidders that have submitted bids in response to an Invitation for Bid shall be recorded.

(5) *Bid Cancellation or Postponement.* The Director of Purchasing may, prior to Bid Opening, elect to cancel a bid or postpone the date or time of Bid Submission or opening. After Bid Opening, the Director of Purchasing may cancel a bid if no or only one (1) responsive, responsible bid is received, or if the lowest responsive, responsible bid is in excess of the funding limits established by the County for that bid. In the event of discovery after bid opening of a patent irregularity or procedural flaw which is so severe as to render the process invalid, or in the event that the County determines that the need for the procurement no longer exists and will not exist in the immediate future, or in the event the cancellation or postponement is in the best interest of the County, the Administrator or Designee may cancel the bid.

(6) *Corrections, Additions to and Withdrawal of Bids.*

a. The following shall govern the correction of information submitted in a bid when that information is a determinant of the responsiveness of the bid:

1. Errors in the extension, addition or multiplication of unit prices stated in a bid or in multiplication, division, addition, or subtraction in a bid shall be

corrected by the Director of Purchasing or designee prior to award recommendation. However, actual unit prices included in the bid shall not be changed under this or any other circumstance.

2. No bidder shall be permitted to correct a bid mistake after bid opening.
3. Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from the lowest responsive, responsible bidder after bid opening, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any specifications or conditions contained in the Invitation for Bid or alter the determination of which bidder is to be awarded the bid or portion thereof.

- b. A bidder who has made a clearly evident mistake of fact may be permitted to withdraw its bid only when it is determined by the Director of Purchasing that there is reasonable proof that such a mistake was made. However, if a bidder unilaterally withdraws its bid without permission after bid opening, the Director of Purchasing may suspend the bidder for up to two (2) years from the date of the unilateral withdrawal. Further, if the apparent lowest responsive, responsible bidder has made a mistake of any kind in a lump sum construction-related bid, the bid bond may not be returned.

(7) *Bid Evaluation.*

- a. The County reserves the right to accept or reject any and all bids and to make award to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the Invitation for Bid and whose award will, in the opinion of the County, be in the best interest of and most advantageous to the County.
- b. A bid shall be considered responsive only if it conforms to the requirements of the Invitation for Bid.

1 c. Information in a bid that concerns the responsibility of the
2 bidder shall not necessarily be considered conclusive at the
3 time of bid opening, except when the Invitation for Bid
4 unequivocally states that the bid shall not be considered
5 responsive unless the particular information is provided in
6 the bid at the time of submittal.

7 1. The bidder shall supply information requested by the
8 County concerning the responsibility of such bidder.
9 If such bidder fails to supply the requested
10 information, the County shall base the determination
11 of responsibility upon available information and may
12 find the bidder non-responsive and reject the bid.

13 2. The Director of Purchasing may determine the
14 information submitted concerning the responsibility
15 of the bidder is so inadequate as to warrant a
16 recommendation of rejection of the bid based upon a
17 lack of demonstrated responsibility on the part of the
18 bidder.

19 3. Pursuant to the particular solicitation, the Director of
20 Purchasing, after bid opening, may request
21 additional information of the bidder concerning his
22 responsibility to perform. The Director of
23 Purchasing shall consider this and all other
24 information gained prior to award recommendation.

25 d. Notwithstanding Sections 2-54(c)(7)b. and c., a lack of
26 conformity as to an issue(s) of responsiveness or
27 responsibility that is non-substantive in nature may be
28 considered a technicality or irregularity that may be waived
29 by the Director of Purchasing.

30 (8) *Bid Award.* Awards in which the County is contracting to expend,
31 reimburse, or receive in revenue an amount less than Two Hundred
32 Thousand Dollars (\$200,000) per annum shall be made to the lowest
33 responsive, responsible bidder and shall be effective upon issuance
34 of a Contract by the Director of Purchasing. Awards in which the

1 County is contracting to expend, reimburse, or receive revenues
2 in an amount equal to or greater than Two Hundred Thousand
3 Dollars (\$200,000) per annum shall be made to the lowest
4 responsive, responsible bidder and shall be effective upon Board
5 approval. The Board may reject any bid prior to issuance of an
6 award. Recommended awards equal to or greater than the
7 Mandatory Bid or Proposal Amount shall be posted at a designated
8 location(s) for a period of five (5) business days. In the event only
9 one (1) responsive, responsible bid is received, an award may be
10 made to the sole bidder or rebid or canceled as provided herein.

11 (9) *Changes After Award.* The Director of Purchasing may authorize
12 decreases or increases to the authorized revenue or expenditure
13 amount(s) of a contract, except that increases of more than ten (10)
14 percent to authorized expenditure amounts which have reached or
15 exceeded Two Hundred Thousand Dollars (\$200,000) per annum
16 must be approved by the Board. After Board approval of an
17 increased authorized expenditure amount, the Director of
18 Purchasing may authorize additional increases of up to ten (10)
19 percent of the increased authorized expenditure amount. Authority
20 to increase any authorized expenditure amount is predicated on the
21 condition that all provisions of the original award, including the
22 level of SBE participation, or M/WBE participation if the Board
23 adopts an M/WBE Ordinance, remain intact and unchanged. The
24 Director of Purchasing may approve extensions of delivery dates or
25 performance time on all contracts to a maximum of three (3) months
26 provided that any changes to the existing authorized expenditure
27 amount comply with the provisions of the Purchasing Code. After
28 Board approval of an extension of delivery dates or performance
29 time, the Director of Purchasing may authorize additional delivery
30 dates or performance time extensions up to three (3) months.
31 Further, changes to the Contract may be made by the Director of
32 Purchasing if considered minor or non-material in nature.

33 (d) *Formal Competitive Proposal Process.* If it is neither practical nor in the
34 best interest of the County to procure a good or service by a formal

1 competitive bidding process, the Director of Purchasing may determine that
2 the use of a competitive proposal process may be used.

3 (1) *Requests for Proposals.* A Request for Proposal shall be issued
4 which shall include a scope of work and specifications for the
5 purchase of goods or services sought, and shall also include
6 evaluation criteria to be used in evaluating proposals. Terms and
7 conditions included in a Request for Proposal may include, but not
8 be limited to, the requirement of insurance or surety.

9 (2) Requests for Proposals shall be noticed, and cancelled or postponed,
10 in accordance with Section 2-54.(c)(2) and (5) hereinabove.

11 (3) *Proposal Submission.* Proposals should state the name and address
12 of the proposer on the outside of the envelope, package or container,
13 and must be received no later than the time and date and at the
14 location specified in the Request for Proposal. No proposal shall
15 be accepted after such time and date or at any location other than
16 specified. Any proposals received later or at any location other
17 than specified shall be returned unopened to the proposer, if
18 requested, at the proposer's sole expense. The proposer shall be
19 notified by the Purchasing Department that the proposal was late
20 and the proposer shall be given ten (10) business days from the date
21 of notification to request the return of the unopened proposal. If no
22 such request is received from the proposer within the designated
23 time frame, the Purchasing Department shall discard the unopened
24 and untimely proposal.

25 (4) *Proposal Opening.* All proposals timely received shall be opened
26 internally by the Director of Purchasing or Designee. A list of
27 proposers that have submitted proposals in response to a Request for
28 Proposal shall be recorded.

29 (5) Corrections, additions to, and withdrawal of proposals shall be
30 addressed in accordance with Section 2-54.(c)(6) hereinabove.

31 (6) *Proposal Evaluation.* The County reserves the right to accept or
32 reject any and all proposals. The County further reserves the right
33 to award to the responsive, responsible proposer whose proposal
34 conforms to the solicitation and is determined to be the most

1 advantageous to the County taking into consideration the evaluation
2 criteria set forth in the Request for Proposal.

3 a. Evaluation of the responsiveness of proposals shall be
4 performed by the Purchasing Department. Evaluation of
5 the responsibility of a proposer shall be made by a selection
6 committee and shall be based upon the evaluation criteria as
7 set forth in the Request for Proposal and upon any other
8 relevant information obtained through the evaluations
9 process.

10 b. Issues of responsiveness and responsibility shall be
11 addressed in accordance with Sections 2.54(c)(7)b., c. and d.
12 hereinabove.

13 c. Upon concurrence by the Director of Purchasing, the
14 selection committee may determine that it is not in the best
15 interest of the County to award solely on the basis of initial
16 proposals and may utilize a "Best and Final Offer" process to
17 further evaluate the proposals.

18 (7) *Proposal Award.* Upon recommendation by the selection
19 committee, award shall be made to the responsive, responsible
20 proposer whose proposal is in the best interest of the County, and
21 shall be effective upon issuance of a contract by the Director of
22 Purchasing. Awards in which the County is contracting to expend,
23 reimburse, or receive revenues in an amount equal to or greater than
24 Two Hundred Thousand Dollars (\$200,000) per annum shall be
25 effective upon Board approval. The Board may reject any proposal
26 prior to issuance of an award. Recommended awards equal to or
27 greater than the Mandatory Bid or Proposal Amount shall be posted
28 at a designated location(s) for a period of five (5) business days. In
29 the event only one (1) responsive, responsible proposal is received,
30 an award may be made to the sole proposer or re-solicited or
31 canceled as provided herein. Where consultants, contractors, or
32 special masters are selected through a formal competitive proposal
33 process and more than one (1) award and contract are issued,
34 individual orders for projects may be assigned or awarded upon

1 justification of availability, cost to perform the project, conflict of
2 interest, and/or specific and necessary expertise of the required
3 consultant, Contractor, or Special Master.

4 (8) *Amendments/Changes After Award.*

5 Amendments or changes after award of the proposal shall be made
6 in the same manner and in accordance with Section 2-54.(c)(9)
7 hereinabove. Amendments to the contract may be made by the
8 Director of Purchasing if considered minor or non-material in
9 nature.

10 (e) *Request for Information*

11 (1) A Request for Information may be used to satisfy a need or to
12 determine available sources for goods or services. The Request for
13 Information shall specify a need or provide a description of the
14 goods or services, and shall provide vendors the latitude to develop
15 goods or services that will fulfill the County's need.

16 (2) Public notice of the Request for Information may be published in a
17 newspaper of general circulation or may be mailed directly to
18 potential vendors.

19 (3) Based upon the statements of interest received from vendors
20 responding to the Request for Information, the County Department,
21 upon approval from the Director of Purchasing, may request a trial
22 use of two (2) or more of the products for a limited period of time.
23 Upon receipt of the statements of interest or at the end of the trial
24 period for approved goods, the Purchasing Department may initiate
25 a competitive process for the goods or services. A Request for
26 Information shall not result in a purchase without a competitive or
27 alternate source selection process conducted by the Purchasing
28 Department. If goods or services are exempt, the Request for
29 Information may be conducted by a Construction Department or by
30 a County Department, as applicable.

31 (4) The Purchasing Department shall have unlimited use of the
32 information included within the statements of interest submitted in
33 response to a Request for Information. The County is required to
34 comply with Chapter 119, Florida Statutes, Public Records Act, and

1 therefore accepts no responsibility for the protection of the
2 information submitted unless the vendor requests that privileged or
3 confidential information be protected in the manner prescribed by
4 law. The County shall have no further obligation to any vendor
5 who furnishes information.

6 (f) *Alternate Source Selection.*

7 (1) *Small Purchases.* Any purchase for an amount over the
8 Decentralized Purchase Order Amount and less than the
9 Mandatory Bid or Proposal Amount shall be made in accordance
10 with policies and procedures promulgated by the Purchasing
11 Department utilizing a Request for Quote or a Request for
12 Submittal or other such procurement method authorized herein or
13 in said policies and procedures. However, the Director of
14 Purchasing has the sole discretion to utilize the Invitation for Bid
15 process or the Request for Proposal process if the procurement is
16 complex, or for other sound reason, even though the specific good
17 or service is budgeted less than the Mandatory Bid or Proposal
18 Amount.

19 (2) *Sole Source Purchases.* The Director of Purchasing may make or
20 authorize the purchase of goods or services without competitive
21 solicitation when the Director of the County Department, or
22 designee has documented in writing and has provided information
23 supporting the fact, that the good or service requested is the only
24 item that meets their need and that the good or service is available
25 through only one (1) source.

26 (3) *Proprietary Purchases.* The Director of Purchasing may make or
27 authorize the purchase of goods or services via a competitive
28 solicitation when the Director of the County Department, or
29 Designee, has documented in writing that the good or service is the
30 only item that meets their need and that the good or service is
31 available through more than one (1) source.

32 (4) *Emergency Purchases.* The Director of Purchasing, upon receipt of
33 written verification of the emergency circumstance by the Director
34 of the County Department or Designee, may authorize emergency

1 purchases. Emergency purchases must meet the definition
2 provided for in Section 3 above. Emergency purchases in which
3 the County is to expend or to reimburse an amount of Two Hundred
4 Thousand Dollars (\$200,000) or more per annum shall be approved
5 by the Board. However, in emergency circumstances where
6 approval by the Board cannot be obtained in a timely manner, the
7 Director of Purchasing may authorize a purchase(es) of Two
8 Hundred Thousand Dollars (\$200,000) or more provided that said
9 purchase(es) and expenditure(s) of funds shall be presented to the
10 Board for ratification as soon as possible following signature or
11 approval by the Director of Purchasing.

12 (5) *Purchases Off Contracts of Other Entities* ("piggyback purchases").

13 Notwithstanding any requirements of the Purchasing Code, the
14 purchase of goods or services under contract with a federal, state or
15 municipal government or any other governmental agency, political
16 subdivision, or government-related association, may be
17 piggybacked or purchased off contracts of other entities providing
18 that:

- 19 a. the County Department, in its sole discretion, has
20 determined that the piggyback purchase is deemed
21 advantageous to the County;
- 22 b. the contractor extends the terms and conditions specified in
23 the originating contract to the County and the County
24 accepts the terms and conditions specified.
- 25 c. the goods or services available under the originating contract
26 meet the County's needs and specifications;
- 27 d. the quantity and specifications of the goods or services being
28 purchased from the originating contract do not substantially
29 change the terms and conditions specified in the originating
30 contract, and unsubstantial increases or decreases in quantity
31 requested or rendered shall not invalidate any contract;
- 32 e. the County does not currently have a contract that can be
33 utilized for the good or service being requested by the
34 County Department;

- 1 f. the County Department determines and documents with
2 processing expense estimates, pricing data and schedule
3 implications that the utilization of the piggyback purchase
4 would likely result in a financial advantage to the County;
- 5 g. the County Department determines and documents that the
6 impact to local vendors is minimally negative or is a benefit
7 to the County that positively outweighs any negative impact
8 to local vendors;
- 9 h. there are no certified SBE vendors, or M/WBE vendors if an
10 M/WBE Ordinance is adopted by the Board, that can
11 provide the service as required and to the extent required by
12 the County Department; and
- 13 i. the originating entity utilized a competitive process similar
14 to the County's, as determined by the Director of Purchasing.
15 However, this provision (i) is not applicable to contracts
16 procured or solicited by the State of Florida.

17 (6) *Cooperative Purchases.* The County may participate in, sponsor,
18 conduct, or administer a cooperative purchase with other
19 government entities for the procurement of goods or services.

20 (7) *Direct Purchases.* Notwithstanding the provisions of the
21 Purchasing Code, in the event that no bids, proposals, quotes,
22 responses or submittals are received, or that no responsive,
23 responsible bids, proposals, quotes, responses or submittals are
24 received, and the Director of Purchasing documents that no
25 significant alteration in the specifications, qualifications, or terms
26 and conditions can be made to encourage competition, the
27 Administrator or Designee may authorize the Director of
28 Purchasing to make a direct purchase of the goods or services from
29 any vendor identified as being qualified and capable of meeting the
30 original specifications. A direct purchase may be made for items
31 for resale, that, subsequent to a market analysis, meet the definition
32 of a sole source.

33 (8) *Prequalification of Vendors.* Prospective vendors may be
34 prequalified for specified types of goods or services when deemed

1 advantageous to the County and when the amount of each order for
2 a good or service is less than the County's Mandatory Bid or
3 Proposal Amount. The method for submitting prequalification
4 information and the information required in order to be prequalified
5 shall be set forth in the applicable solicitation for prequalified
6 vendors. All vendors deemed responsive and responsible shall be
7 considered prequalified for the specific good or service. Once a
8 vendor is prequalified, they are permitted to submit price offers or
9 qualifications for each individual order for a good or service, or take
10 turns via rotation, depending upon the language within the
11 applicable solicitation.

12 (9) *Items for Resale.* All applicable County Departments shall
13 implement policies and procedures regarding the procurement of
14 items for resale. The County Department shall conduct a thorough
15 market research analysis of the available items for resale in order to
16 determine the specific types of goods to be procured. A market
17 analysis shall not result in the purchase of goods without a
18 competitive or alternate source selection process conducted by the
19 Purchasing Department.

20 (10) *Sales Tax Recovery Program for Construction-Related Purchases.*
21 Purchase orders for the purchase of goods, materials, or equipment
22 in any dollar amount, additive or deductive, included in a Capital
23 Improvement Project, and the corresponding change order required
24 to implement those purchases, may be approved by the Director of
25 Purchasing or by the Director of the appropriate Construction
26 Department in accordance with the County's sales tax recovery
27 program.

28 (g) *Informal Competitive Solicitation Process.* Solicitations for goods or
29 services valued at less than the Mandatory Bid or Proposal Amount shall be
30 made in accordance with policies and procedures established by the
31 Purchasing Department for Requests for Quotes and Requests for
32 Submittals.

33 (h) *Waiver of Requirements for Competitive Selection for Professional and*
34 *Consultant Services.* The Board may waive the requirements for

1 competitive selection and approve professional or consulting services upon
2 recommendation of the Administrator.

3 **Section 6. Sec. 2-55. Protested Awards.**

4 (a) *Right to Protest.* After posting of the recommended awardee, any bidder or
5 proposer who is aggrieved in connection with the recommended award may
6 protest in writing to the Director of Purchasing. The right to protest is
7 limited to those procurements of goods or services solicited through an
8 Invitation for Bid or a Request for Proposal. Recommended awards less
9 than the Mandatory Bid or Proposal Amount cannot be protested.
10 Notwithstanding the above, the Director of Purchasing may, in his or her
11 sole discretion, include the right to protest in any solicitation process if in
12 the best interests of the County.

13 (b) *Notice of Protest.* The protest shall be submitted within five (5) business
14 days after posting of the award recommendation. The protest shall be in
15 writing and shall identify the protestor and the solicitation, and shall include
16 a factual summary of the basis of the protest. Such protest is considered
17 filed when it is received and date/time stamped by the Department of
18 Purchasing. Neither the Director of Purchasing nor a special master shall
19 consider any issue not submitted in writing within the time frame specified
20 for the notice of protest.

21 (c) *Authority to Resolve.* Protests filed in accordance with Section 2-55.(b)
22 hereinabove shall be resolved under the provisions of this Section.

- 23 (1) The Director of Purchasing shall have the authority to:
- 24 a. Uphold the Protest. The protest may be upheld based upon
25 a violation of the provisions of this Purchasing Code or of
26 any other County Ordinance, resolution, policy, or
27 procedure, or upon discovery of an irregularity or procedural
28 flaw that is so severe as to render the process invalid. If the
29 upholding of the protest will result in a change of the
30 recommended awardee, a new recommended award shall be
31 posted in accordance with Section 2-54.(c)(8) and 2-54.(d)
32 (7) hereinabove. If the upholding of the protest will result
33 in a cancellation of the protested solicitation, a
34 recommendation to uphold the protest and cancel the

solicitation will be made to the Administrator, who may then direct the cancellation of the solicitation.

b. Deny the Protest. If the protest is denied, the protestor has the right to request that the protest be referred to a special master in accordance with Section 2-55.(c)(4) hereinbelow.

c. Refer the protest directly to a special master with no determination made by the Director of Purchasing, in accordance with Section 2-55.(c)(4) hereinbelow.

(2) When a protest is filed by a certified SBE contractor or where the protest involves a small business issue, the Director of the Office of Small Business Assistance will act in conjunction with, and with authority equal to, the Director of Purchasing in arriving at the determination to be made in this step of the process. After reviewing the facts surrounding the issues raised in the written protest, the Director of Purchasing, and the Director of the Office of Small Business Assistance may make the determination to:

a. Uphold the protest in accordance with Section 2-55.(c)(1) b. hereinabove.

b. Deny the protest in accordance with Section 2-55.(c)(1) b. hereinabove.

c. Refer the protest to a special master in accordance with Section 2-55.(c)(4) hereinbelow, in those instances when a determination is not unanimous between the Director of Purchasing and the Director of the Office of Small Business Assistance. In this specific instance, the protestor will be exempt from posting a protest bond.

In the event that the County adopts an M/WBE Ordinance, any protest process shall be set forth by adopted Board policy.

(3) The Director of Purchasing shall issue a written statement of the determination within a reasonable period of time. The written statement shall provide the general rationale for said determination and shall be provided to the protestor and to any other party to the protest.

(4) Upon receipt of a denial of the protest, the protestor may request a

1 hearing before a special master. The request for a hearing shall be
2 in writing to the Director of Purchasing and shall be made within
3 five (5) business days of issuance of the Director of Purchasing's
4 determination. The request for a hearing shall be accompanied by
5 a protest bond of Fifteen Hundred Dollars (\$1,500) which shall be
6 remitted in the form of a money order, a certified check, a cashier's
7 check, or a bank check payable to Palm Beach County.

- 8 (5) At no time shall a protestor, party, or any other person, contact a
9 special master regarding any issue pertaining to or involving the
10 protest. Contact between the County and the special master shall
11 be limited to scheduling and other administrative issues, including
12 the provision and copying of public records pertinent to the protest.

13 (d) *Establishment of Rules.* The Purchasing Department shall establish rules
14 and regulations by separate policy and procedure detailing the selection of
15 special masters, the protest process, and the conduct governing protest
16 hearings.

17 (e) *Authority of Special Masters.* Special masters shall have the jurisdiction
18 and authority to hear and decide protests.

- 19 (1) The special master shall make a recommendation as to whether the
20 protest should be upheld or denied.

- 21 (2) If the special master upholds the protest, the special master shall
22 either make a recommendation to cancel the solicitation, or to
23 cancel the award recommendation and post a new award
24 recommendation after re-evaluation based on the special master's
25 determination of the facts in the case. In these instances, the
26 Purchasing Department shall return the protestor's bond to the
27 protester.

- 28 (3) If the special master denies the protest, the special master shall
29 recommend that the Director of Purchasing proceed with the posted
30 award recommendation. In these instances, the protestor's bond
31 shall be forfeited.

- 32 (4) In making contract awards for procurements in an amount equal to
33 or greater than Two Hundred Thousand Dollars (\$200,000) per
34 annum, the Board, upon recommendation of the Director of

Purchasing, may accept or reject the recommendation of the special master.

(5) In making contract awards for procurements of less than Two Hundred Thousand Dollars (\$200,000) per annum, the Director of Purchasing may accept the special master's recommendation or, if the Director of Purchasing determines the special master's recommendation is not in the County's best interest, the original award recommendation may be referred to the Board for approval. At that time, the Board may accept or reject the recommendation of the special master.

(6) Nothing contained herein shall limit or divest the Board of its authority pursuant to Chapter 125, Part IV, Florida Statutes as referenced in Section 2-51 of the Purchasing Code.

(f) *Stay of Procurement During Protests.* Notwithstanding anything contained herein to the contrary, in the event of a timely protest, the Director of Purchasing shall stay the award of the contract unless the Director of Purchasing, with the advice of the County Attorney and after consultation with the County Department, makes a determination that the award of the contract without delay is necessary to protect substantial interests of the County.

Section 7. Sec. 2-56. Suspension and Debarment.

(a) *Authority.* The Director of Purchasing may suspend or debar for cause the right of a vendor, contractor or subcontractor to be included in the renewal of an existing contract or any solicitation process; and any bid, proposal, submittal, or quote received from that vendor, contractor or subcontractor shall be rejected. The Board shall have the power to waive or lift such suspension or debarment.

(b) *Suspension and Debarment.* A vendor, contractor or subcontractor may be suspended for a period not to exceed two (2) years as determined by the Director of Purchasing, or may be permanently debarred. However, any suspension imposed pursuant to the provisions of subsections (b)(3) and (4) below shall be in effect during the pendency of the applicable proceeding, regardless of duration. A suspended or debarred vendor or contractor shall not bid or propose as a subcontractor during their suspension or debarment;

1 and, a suspended or debarred subcontractor shall not bid or propose as a
2 vendor or contractor during their suspension or debarment. A suspension
3 or debarment may be based upon the following:

4 (1) Failure to fully comply with the conditions, specifications or terms
5 of a contract with the County, including but not limited to the
6 unilateral withdraw of a bid, quote, submittal, or proposal that has
7 been received from the recommended awardee.

8 (2) Any misrepresentation in connection with a solicitation or any
9 misrepresentation of fact upon which the County has based a
10 decision, including but not limited to a misrepresentation by a
11 vendor, contractor or subcontractor on a small business application,
12 or a local preference affidavit.

13 (3) Charged or convicted with the commission of a criminal offense as
14 an incident to obtaining or attempting to obtain a public or private
15 contract or subcontract, or in the performance of such contract or
16 subcontract. If charges are dismissed or the vendor, contractor or
17 subcontractor is found not guilty, the suspension or debarment shall
18 be lifted automatically upon written notification and proof of final
19 court disposition. However, nothing herein shall preclude the
20 Director of Purchasing from imposing an additional suspension or
21 debarment following said dismissal or finding of not guilty where
22 the Director of Purchasing determines that the additional suspension
23 or debarment is otherwise supported by the Purchasing Code. In
24 such case, the suspended or debarred vendor, contractor, or
25 subcontractor may avail themselves of the protest procedure set
26 forth in subsection (d) below.

27 (4) Charged or convicted for embezzlement, theft, forgery, bribery,
28 falsification or destruction of records, receiving stolen property, or
29 any other offense indicating a lack of business integrity or business
30 honesty which currently, seriously, and directly affects
31 responsibility as a County government contractor. If charges are
32 dismissed or the vendor, contractor or subcontractor is found not
33 guilty, the suspension or debarment shall be lifted automatically
34 upon written notification and proof of final court disposition.

1 However, nothing herein shall preclude the Director of Purchasing
2 from imposing an additional suspension or debarment following
3 said dismissal or finding of not guilty where the Director of
4 Purchasing determines that the additional suspension or debarment
5 is otherwise supported by the Purchasing Code. In such case, the
6 suspended or debarred vendor, contractor, or subcontractor may
7 avail themselves of the protest procedure set forth in subsection (d)
8 below.

9 (5) Any other cause the Director of Purchasing determines to be so
10 serious and compelling as to materially and adversely affect the
11 responsibility of a vendor, contractor or subcontractor, including but
12 not limited to suspension by another governmental entity for
13 substantial cause.

14 (6) Violation of the ethical standards set forth in local, state or federal
15 law.

16 (7) Violation of a County Ordinance.

17 (c) *Decision.* Upon a determination to suspend or debar a vendor, contractor
18 or subcontractor, the Director of Purchasing shall notify the vendor,
19 contractor or subcontractor in writing of the suspension or debarment along
20 with the reasons for the action taken.

21 (d) *Finality of Decision.* The suspension or debarment shall be final and
22 conclusive unless the suspended or debarred vendor, contractor or
23 subcontractor initiates protest proceedings. Protests shall be initiated under
24 the procedures provided in Section 2-55. hereinabove except that:

25 (1) The preliminary review by the Director of Purchasing as set forth in
26 Section 2-55(c)(3) hereinabove will be waived.

27 (2) The suspension or debarment shall be in effect pending result of the
28 protest.

29 (3) The allowable time for protesting the suspension or debarment shall
30 be ten (10) calendar days after the date of notification of said
31 suspension or debarment.

32 (4) The Board, upon recommendation of the Director of Purchasing,
33 may accept or reject the recommendation of the Special Master.

Section 8. Sec. 2-57. Vendor Preferences.

The Purchasing Department shall strictly comply with the SBE Ordinance, the Local Preference Ordinance, any future M/WBE Ordinance adopted by the County, and all pertinent County policies and procedures, to ensure that the vendor preferences are awarded in accordance with adopted Board policy.

Section 9. Sec. 2-58. Conflict of Interest.

Special Masters. Special masters shall be subject to a policy and procedure implemented by the Purchasing Department relating to outside counsel conflicts of interest. In addition, the ethics rules promulgated by the Florida Bar pertaining to conflicts of interest shall apply. If a special master is unable to provide a fair hearing for any reason, the special master shall not accept the case and shall immediately notify the Director of Purchasing of the conflict. The Director of Purchasing shall reassign the case to a special master who does not have a conflict with the case.

Section 10. Repeal of Laws In Conflict.

All local laws and ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

Section 11. Severability.

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 12. Savings Clause.

All provisions of Palm Beach County Ordinance No. 2005-062, as amended by Ordinance No. 2008-009 and Ordinance No. 2010-010, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any violation of said Ordinance, which violations occurred prior to its appeal.

Section 13. Inclusion in the Palm Beach County Code.

The provisions of this Ordinance shall become and be made a part of the Code of Palm Beach County, Florida. The Sections of this Ordinance may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

1 **Section 14. Effective Date.**

2 The provisions of this Ordinance shall become effective upon filing with the
3 Department of State.

4
5

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2015.

**SHARON R. BOCK,
CLERK & COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 2015.