



BOARD OF COUNTY COMMISSIONERS

DATE: February 11, 2014

AGENDA ITEM NO. 4a.-c.

Consent Agenda ☐

Regular Agenda ☐

Public Hearing ☒

County Administrator's Signature:

Subject:

Ordinance Amending Sections 2-62, 2-161, 2-162, 2-176, 2-177 and 2-189 of the Pinellas County Code Relating to Purchasing; Elimination of Board of County Commissioner Approval Process for Ranking Vendors in Competitive Procurements.

Department:

Office of County Attorney / Purchasing

Staff Member Responsible:

Dennis Long / Joe Lauro

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD): A) CONDUCT A PUBLIC HEARING AND APPROVE ORDINANCES AMENDING SECTIONS 2-62, 2-161, 2-162, 2-176, 2-177 AND 2-189 OF THE PINELLAS COUNTY CODE RELATING TO PURCHASING; AND B) APPROVE ELIMINATING THE BOARD APPROVAL OF VENDOR RANKINGS FOR COMPETITIVE PROCUREMENTS.

Summary Explanation/Background:

On January 28, 2014, the Board approved authority to advertise for a public hearing the attached proposed ordinances amending sections 2-62, 2-161, 2-162, 2-176, 2-177 and 2-189 of the Pinellas County Code relating to the purchasing and contracting process. The recommendation to amend the County Code in an effort to improve County contracting processes is a result of the work of the Contract Administration Review Team (CART), which was established and started meeting in December 2012.

The goals of CART include improving efficiencies in the contract administration process while maintaining internal controls and accountability for both staff and parties that contract with the County. The deliverables supporting this effort include establishing enterprise contract administration guiding principles; revising ordinances, policies and procedures to increase efficiencies; creating a contract administration manual; and establishing a staff training program.

On October 29, 2013, Dennis Long and Joe Lauro provided recommendations to the Board on behalf of CART pertaining to proposed improvements to the purchasing and contract administration process. Most of the recommendations were positively received; some recommendations were modified based upon Board input and comment. The Board subsequently agreed to advertise for public hearing on January 28, 2014, the following recommended modifications to County Code to effect efficiencies in the contracting process:

1. Section 2-62 – (Approval Authority) – Enables the County Administrator to approve change orders not exceeding 10% of the amount awarded by the Board or \$250,000, whichever is less. This modification will greatly expedite contract closeouts and provide improved efficiency to many contract change orders that now require Board approval. In addition, other sub-sections of Section 2-62 have been modified to update language reflecting current business process. While Section 2-62(a)(6) has been amended to eliminate the requirement that all contracts/instruments be filed with the Clerk in anticipation of the establishment of an electronic contracts repository and automated agenda process, no changes will be made to the current process related to filings with the Clerk's office until those systems are implemented.

2. Section 2-161 – (Bidder Suspension and Debarment) – This entire section of Code has been substantially revised to allow for suspensions of vendors by the Purchasing Director so that non-performing firms may be penalized for poor performance in a more expedient and effective manner. Suspensions shall be based on documented contracting issues such as breach of contract, vendor misrepresentation, criminal offense, fraud and conviction of a public entity crime.
3. Section 2-162 – (Protest Procedure) – Clarifies sections of the current protest policy which were open to interpretation such as the window of opportunity for protest and which portions of competitive processes that can be protested.
4. Section 2-176 – (Competitive Sealed Bidding) – Clarifies the authority of the County Administrator to reject all bids or portions of bids.
5. Section 2-177 – (Competitive Sealed Proposals) – Clarifies the authority of the County Administrator to reject all proposals or portions of proposals.
6. Section 2-189 – (Lobbying) – Adds “advisory board members” to lobbying code and further updates language in this section of code.

While not required by the Purchasing Code, the Board has historically approved the rankings of firms, authorized staff to negotiate a contract and return to the Board for approval of the negotiated contract as part of the Request for Proposal (RFP) process. This process conservatively adds four to six weeks to the contracting process. CART recommends the elimination of this process for all contracts (including Consultant Competitive Negotiation Act) except for: a) operating agreements for the Waste to Energy Plant; b) Emergency Medical Services Transport; c) other contracts as necessary or required. This improvement to the contracting process will greatly expedite competitive RFP's while also maintaining essential internal controls to ensure the Board is considering the approval of contracts with firms that are qualified and responsible.

In addition to the revisions to County Code and vendor ranking recommendation, CART also recommends revising several long-standing procedures which are not codified, but have a direct impact to County Contracting processes. These procedural modifications set out in 1 and 2 below do not require action by the Board; however, this information has been provided to the Board to inform of positive internal changes which will ultimately provide goods and services more efficiently to the residents of Pinellas County:

1. Contract Review – CART updated the contract review process identifying contracts and amendments that are no longer subject to the contract review process. This modification of procedure eliminates steps in the process, eliminates redundant reviews and greatly simplifies the entire contracting process. In unison, another County team is working to develop a scope of work to purchase agenda automation software which will include automated contract review. The combination of automation and revision to the contract review procedure will affect substantial time savings in the contracting process as compared to current procedure.
2. Master Contracts – CART, in conjunction with the Office of the County Attorney, has drafted master bid/RFP boilerplates and agreements which contain standard terms and conditions eliminating redundancy and inconsistency from current agreement and bid/RFP boiler plates. This improvement will greatly reduce negotiation time, provides for a more concise contracting process and more importantly is the “driver” behind the recommendation to revise the contract review process. With consistent agreement bid/RFP boilerplates, the need for contract review has been greatly reduced and in some instances, is no longer necessary.

The recommendations reflected above are an accumulation of many hours of dedicated work by the cross organizational CART team. This is the beginning of process improvement by CART, a team which is currently active to provide future recommendations and improvements to the County contracting process.

Fiscal Impact/Cost/Revenue Summary:

N/A

Exhibits/Attachments Attached:

Proposed Ordinances (Blackline and Final)
List of CART Members
Memo Regarding Firm Ranking

ORDINANCE NO. 14-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING THE
PINELLAS COUNTY CODE ("CODE") RELATING TO DELEGATED
APPROVAL AUTHORITY; AMENDING SECTION 2-62 OF THE PINELLAS
COUNTY CODE RELATING TO APPROVAL AUTHORITY; PROVIDING FOR
FILING; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS
COUNTY in a meeting duly assembled this _____ day of _____ 2014, that:

Section 1. Section 2-62 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-62. Approval authority.

(a) The county administrator or his/her designee shall have the authority to approve and execute the following contracts, documents and instruments:

- (1) Any and all contracts including, but not limited to, grants, revenue contracts, interlocal agreements, intergovernmental contracts, joint and cooperative purchasing contracts with other governmental agencies, contracts for the acquisition of interests in real property, litigation settlement stipulations and agreements for the acquisition of interests in real property, litigation settlement stipulations and agreements not governed by the risk finance program as provided in section 2-142 of this Code, leases of real and personal property to the county, contracts governed by the purchasing division of this Code, and any amendments, extensions, renewals, or assignments thereof, including changes in price, terms and conditions, that involve the receipt or payment by the county of not to exceed \$250,000.00 in a fiscal, contract, or calendar year.

For the purposes of this section, "interests in real property" means any interest in real property, the acquisition of which is specifically budgeted within and will advance the completion of any specifically described capital improvement project in the county's capital improvement program work plan ("CIP"). Any acquisition of interests in real property funded from project contingency accounts in the CIP must be approved by the board of county commissioners.

- (2) Amendments to contracts or leases approved by the board of county commissioners that involve: (i) time only extensions; (ii) a name change of a party, or substitution of a party as a result of an acquisition (stock, membership or partnership interest or asset sale), merger, court order (such as the appointment of a receiver or trustee, federal or state forfeiture, by way of illustration and not limitation), or a change of ownership of leased real or personal property; (iii) amendments, extensions, or renewals of leases of real or personal property to or from third parties, including changes in terms and conditions, decreases in rent, or increases in rent or other lease financial obligations of not more than the sums authorized in section 2-62(a)(1) of this code or 10% of the total fees, costs, or compensation payable pursuant to the lease, whichever is less, if delegated authority is provided for in the lease; (iv)

decreases in fees, costs, or compensation paid by the county, or cumulative increases in fees, costs, or compensation paid by the county of not more than the sums authorized in section 2-62(a)(1) of this code or 10% of the total fees, costs, or compensation, whichever is less; (v) revisions or amendments to plans, specifications, pay items, or the scope of work or services; and/or (vi) mutual releases or terminations of contracts approved by all parties to the contract.

- (3) Contract closeout documents for contracts referenced in subsections (a)(1) and (2) above approved by either the county administrator or designee, or the board of county commissioners, including, but not limited to, releases of surety bonds and retainages, and releases of completion and maintenance security for subdivision improvements.
- (4) Grant applications in amounts not to exceed \$1,000,000.00 excluding local match or in-kind contributions, in a fiscal or calendar year.
- (5) Licenses, access agreements, permits for right-of-way, temporary use permits, and the acceptance or conveyance of temporary or permanent easements for construction, utility or other governmental purposes on any real property, whether or not owned by the county, and any assignments, consents, extensions, amendments, releases, or terminations of the foregoing documents or instruments, including changes in price, terms and conditions.
- (6) Subordination agreements, landlord estoppel agreements/certificates, attornment agreements, and assignments including consents thereof, relating to any real property, whether or not owned, by the county.
- (7) Corrective contracts and instruments.
- (8) Releases, satisfactions or assignments of liens and mortgages, upon full payment thereof, if a mortgage, and upon full or partial payment thereof, if an inferior lien other than a mortgage.
- (9) Any instrument required for the exercise of an option of renewal or extension of a lease or license agreement for a term of a year or years, upon the same terms and conditions as set forth in any original lease or license agreement approved by the board of county commissioners.
- (10) Applications to the state or other political subdivisions, including the county to vacate unopened right of way and abandoned easements.
- (11) Approval of sublease of lease agreement if the original lease agreement allows a sublease upon county approval, and if the original tenant remains ultimately liable under the lease agreement.
- (12) Any instrument required for the exercise of option of renewal or extension, or acceptance of contractor's exercise of option of renewal or extension of use, access, concession or similar agreement (such as the United Parcel Services agreement with the airport, by way of illustration and not limitation) for a term of a year or years,

upon the same terms and conditions as set forth in the original agreement approved by the board of county commissioners.

(b) The approval of the above specified agreements and/or documents by the county administrator or his/her designee shall include the exercise of such authority on behalf of the county industrial development authority, emergency medical services authority, and fire protection authority. Additionally, the county administrator or his/her designee shall have the authority to approve and execute leases, and amendments, releases and terminations thereof, on behalf of the county industrial development authority, including leases previously approved by the board of county commissioners.

(c) The county administrator or his/her designee shall have the authority to approve and to authorize the payment of state assessments and fees relating to the self insurance workers compensation program administered by the county risk management department.

(d) All documents approved under this section shall be subject to the county's contract review procedures, and shall be placed on a receipt and filed report on the consent agenda of the board of county commissioners at least quarterly.

Section 2. Severability.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

Section 3. Codification.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code as an addition thereto, and shall be appropriately numbered to conform to the uniform system of the Code.

Section 4. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Florida Statutes, this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after the enactment by the Board of County Commissioners. This Ordinance shall take effect upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM

By: _____

Office of the County Attorney

ORDINANCE NO. 14-_____

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BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY in a meeting duly assembled this _____ day of _____ 2014, that:

Section 1. Section 2-62 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-62. Approval authority.

(a) The county administrator or his/her designee shall have the authority to approve and execute the following contracts, documents and instruments:

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For the purposes of this section, "interests in real property" means any interest in real property, the acquisition of which is specifically budgeted within and will advance the completion of any specifically described capital improvement project in the county's capital improvement program ~~six-year~~ work plan ("CIP"). Any acquisition of interests in real property funded from project contingency accounts in the CIP must be approved by the board of county commissioners.

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increases in rent or other lease financial obligations of not more than the sums authorized in section 2-62(a)(1) of this code or 10% of the total fees, costs, or compensation payable pursuant to the lease, whichever is less, if delegated authority is provided for in the lease; (iv) decreases in fees, costs, or compensation paid by the county, or cumulative increases in fees, costs, or compensation paid by the county of not more than the sums authorized in section 2-62(a)(1) of this code or 10% of the total fees, costs, or compensation, whichever is less; (v) revisions or amendments to plans, specifications, pay items, or the scope of work or services; and/or (vi) mutual releases or terminations of contracts approved by all parties to the contract.

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the airport, by way of illustration and not limitation) for a term of a year or years, upon the same terms and conditions as set forth in the original agreement approved by the board of county commissioners.

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(d) All documents approved under this section shall be subject to the county's contract review procedures, and shall be placed on a receipt and filed report on the consent agenda of the board of county commissioners at least quarterly ~~and filed with the clerk of the circuit court for placement in board records.~~

Section 2. Severability.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

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CART MEMBERS

- 1. *Jim Bennett – Office of County Attorney – Executive Sponsor***
- 2. *Mark Woodard – Office of County Administrator – Executive Sponsor***
- 3. *Dennis Long – Office of County Attorney – Team Sponsor***
- 4. *Joe Lauro – Purchasing Department – Team Sponsor***
- 5. *Ginny Holscher – Risk Management Department***
- 6. *Jorge Quintas – Department of Environment and Infrastructure***
- 7. *Jackie Trainer – Office of Management and Budget***
- 8. *Candy Mancuso – Purchasing Department***
- 9. *Don Crowell – Office of County Attorney***
- 10. *Miles Belknap – Office of County Attorney***
- 11. *Paul Giuliani – Department of Environment and Infrastructure***
- 12. *Kelli Levy – Department of Environment and Infrastructure***
- 13. *Merry Celeste – Department of Environment and Infrastructure***
- 14. *Deb Bush – Department of Environment and Infrastructure***
- 15. *Ken Green – Clerk of Court – Office of Inspector General***
- 16. *Paula Gonya – Office of County Administrator***
- 17. *Jeff Noa – Department of Environment and Infrastructure***
- 18. *Steve Daniel – Real Estate Management Department***
- 19. *Tim Burns – Health and Community Services***
- 20. *Nadine Pedersen – Business and Technology Services***
- 21. *Michael Roiland – Business and Technology Services***