



BOARD OF COUNTY COMMISSIONERS

DATE: February 16, 2010
AGENDA ITEM NO.

Consent Agenda

Regular Agenda

Public Hearing

28

County Administrator's Signature: 

Subject:

Ordinance Amending Section 2-161 et seq. of the Pinellas County Code Relating to Purchasing

Department:

Purchasing / County Attorney

Staff Member Responsible:

Joe Lauro / Michelle Wallace

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) AMEND SECTION 2-161 ET SEQ. OF THE PINELLAS COUNTY CODE RELATING TO PURCHASING.

Summary Explanation/Background:

During August of 2009, the Board directed the County Administrator to conduct a general review of the Consultant Competitive Negotiation Act (CCNA) procurement process. The methodology for selecting firms through the CCNA process was in place for many years and was administered by the Public Works Department. The review consisted of an industry stakeholder's focus group meeting, the hiring of a consultant to review CCNA process and procedures and an overview of the CCNA process by the Purchasing Director. The proposed amendments are consistent with the presentation and materials provided to the Board during its October 24, 2009, Work Session.

The Board approved authority to advertise for a public hearing on February 2, 2010. The attached proposed ordinance amending Section 2-161 et seq. of the Pinellas County Code provides for the following: revises the terminology pertaining to lobbying and specifies debarment as a penalty for lobbying; modifies the language contained in County Code so that is consistent with CCNA language as provided by Florida Statutes 278.055; places the responsibility of the CCNA process under the Purchasing Department; establishes a new CCNA oversight function; establishes a CCNA evaluator pool; provides language pertaining to the hiring of design build and construction manager services and establishes a due diligence process for CCNA contracts.

The proposed revisions satisfy the recommendations as presented by the consultant and Purchasing Director and further place the CCNA procurement process more in line with other county procurement activities. More specifically, the proposed revision to language pertaining to lobbying clearly establishes the potential for debarment as a penalty for those firms found in violation of the lobbying provision. Proposals from firms found in violation of lobbying will be disqualified from the procurement process. In addition, any evaluation committee member, government employee or elected official who has been lobbied must immediately report the incident to the Purchasing Director for potential action.

The modification of the language contained in County Code enables the County CCNA procurement process to more clearly follow the process as defined by Florida Statute 287.055. Specific language regarding continuing contracts, evaluation criteria, ranking of firms, negotiations etc. are now consistent with language contained in Florida Statute.

The code modification directly places the responsibility of the CCNA procurement process under the purview of the Purchasing Director. All CCNA contracts will originate in the Purchasing Department and the department will be responsible for the entire CCNA procurement process. As with all other County procurement, the Purchasing Department will service departments that require CCNA consultants such as Public Works, Utilities and Real Estate Management.

A pool of qualified evaluators will be established for the purpose of evaluating CCNA proposals. The evaluator pool will consist of representatives from county departments, local professional organizations and internal and external subject matter experts as needed. The pool of evaluators will be developed and maintained by the Purchasing Department with oversight provided by the County Administrators Office. To provide balance during the evaluation process, it should also be noted that the modification to code prohibits the requesting department from having majority representation on a CCNA evaluation committee.

A new oversight function is proposed incorporating the services of the County Administrator's Executive Leadership Team. The County Administrator will select a minimum of three (3) Assistant County Administrators who will directly oversee the composition of CCNA evaluation committees, ranking of firms, evaluator pool members and other matters as needed pertaining to the CCNA procurement process.

The code modification also establishes a due diligence process for all CCNA contracts. The purpose of due diligence is to ensure the recommended firm is "responsible" or in other words has the financial capacity, experience and qualifications to perform. This process will be under the direction of the Purchasing Director and will be for all CCNA contracts exceeding \$100,000.00, when the County has not awarded a contract to the recommended firm within the last twelve (12) month period. Due diligence will be performed prior to the BCC approving the ranking of firms.

Award of CCNA contracts will be consistent with all other County procurement. For contracts less than \$100,000.00, the Purchasing Director may award. For contracts exceeding \$100,000.00, but not exceeding \$250,000.00, the County Administrator may award. All contracts exceeding \$250,000.00 must be awarded by the Board. Due to Florida Statute requirements, however, the Board must approve the ranking of all CCNA firms regardless of the estimated award amount.

The proposed modifications to code have been reviewed by internal and external stakeholders for content and comment prior to Board consideration. The internal stakeholders were comprised of administrative management from Public Works, Utilities, Real Estate Management and Culture Education and Leisure. External stakeholders included engineers, contractors and design professionals expressing interest in the County's CCNA procurement process. Most of the external stakeholders contacted for input attended the CCNA Focus Group Meeting held in August 2009.

In addition, Purchasing Procedures which detail the CCNA procurement process have also been reviewed by the same groups for content and comment. Section Ten (10) of the Purchasing Procedures provide the detail of the CCNA modifications and the ongoing administration of the Board's policy direction.

Fiscal Impact/Cost/Revenue Summary:

N/A

Exhibits/Attachments Attached:

Blackline Ordinance 2-161 et seq.
Proposed Ordinance 2-161 et seq.
Section 10 Purchasing Procedures

PINELLAS COUNTY ORDINANCE NO. 10 - _____

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING SECTION 2-161 OF THE PINELLAS COUNTY CODE RELATING TO BIDDER QUALIFICATIONS AND PREQUALIFICATIONS; DEBARMENT, SECTION 2-176 RELATING TO COMPETITIVE SEALED BIDDING, SECTION 2-177 RELATING TO COMPETITIVE SEALED PROPOSALS, SECTION 2-178 RELATING TO CONTRACTING FOR DESIGNATED PROFESSIONAL SERVICES, SECTION 2-183 RELATING TO PROCUREMENT OF CONSTRUCTION MANAGEMENT SERVICES, SECTION 2-189 RELATING TO LOBBYING, SECTION 2-197 RELATING TO DEFINITIONS, SECTION 2-198 RELATING TO SELECTION OF DESIGN CRITERIA PROFESSIONAL, SECTION 2-199 RELATING TO DEVELOPMENT OF DESIGN CRITERIA PACKAGE, SECTION 2-200 RELATING TO SOLICITATION OF QUALIFIED FIRMS, SECTION 2-201 RELATING TO SELECTION OF MOST SUITABLE PROPOSALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA IN A MEETING DULY ASSEMBLED THIS _____ DAY OF _____, 2010, THAT:

Section 1. Section 2-161 is hereby amended to read as follows:

Section 2-161. Bidder qualifications and prequalifications; debarment.

(a) *Qualifications.*

(2) *Prequalification of general contractors.* General contractors wishing to bid on the board's construction projects in excess of \$100,000.00 are required to be prequalified with the county administrator or his/her designee prior to bid opening. Types of construction requiring prequalification, include but are not limited to, road and street, building, water and sewer, marine, bridge, and major well drilling. The establishment, deletion and modification of the prequalification categories for specific types of construction and the dollar amounts of the subcategories may be accomplished by resolution of the board. The primary criteria considered in determining qualification are financial capability and previous job experience and performance.

a. Prequalification is recommended to the county administrator or his/her designee for final approval by a prequalification committee consisting of representatives from each of the following professional associations:

Associated Builder's and General Contractors.
Pinellas Chapter of the Florida Engineering Society.
Florida Central Chapter of American Institute of Architects.
West Coast Chapter of the Florida Institute of C.P.A.'s.
Contractors' and Builders' Association of Pinellas County.
Suncoast Utility Contractors Association.

(b) *Debarment.*

(2) *Definitions.*

b. Contractor means any individual or other legal entity that:

3. For the purposes of this section, the terms "vendor" and "consultant" have the same meaning as "contractor." "Sub consultant" has the same meaning as "subcontractor."

(8) *Causes for debarment.*

b. The committee may debar a contractor based upon any of the following:

2. Violation of a county ordinance or administrative order ~~which lists debarment as a potential penalty~~ such as Pinellas County Code, Section 2-189, Lobbying; and

(9) *Debarment procedures.*

b. Upon receipt of a request for debarment, the purchasing department shall create a debarment committee from the standing pool of committee members appointed by the county administrator or his/her designee, none of whose members shall include a representative from the department making the debarment request. The purchasing department shall act as staff to the debarment committee. The department requesting debarment shall present evidence and argument to the debarment committee.

(10) *Period of debarment.*

b. The following guidelines in the period of debarment shall apply except:

5. For commission of an offense as described in subsections (8)ba.1. or b2.; three to five years;

Section 2. Section 2-176 of the Pinellas County Code is hereby amended to read as follows:

Section 2-176. Competitive sealed bidding.

(i) *Tie Bids.* ~~If two or more bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded by drawing lots in public.~~ If two or more bids received are for the same total amount or unit price, or in the case of proposals, the qualifications, quality and service are equal, the contract shall be awarded to the local bidder/proposer. A local firm is defined as a firm with headquarters in geographical Pinellas County. Headquarters shall mean the office location that serves as the administrative center and principal place of business. If two or more bids received are for the same total amount or unit price or in the case of proposals, the qualifications, quality and service are equal and no firms are deemed local, then the contract shall be awarded by drawing lots in public.

Section 3. Section 2-177 of the Pinellas County Code is hereby amended to read as follows:

Section 2-177. Competitive sealed proposals.

(f) *Award.* Award of the contract shall be made by the board of county commissioners, constitutional officer, county administrator or director of purchasing, as applicable, to the responsible and responsive proposer who submits the lowest responsive proposal which best meets the evaluation criteria described in the RFP. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. For any board contract, a proposal to be awarded which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a proposal to be awarded which is \$250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator or his/her designee; a proposal to be awarded which exceeds \$250,000.00 in a fiscal or calendar year may be awarded only by the board of county commissioners.

Section 4. Section 2-178 of the Pinellas County Code is hereby amended to read as follows:

Section 2-178. Contracting for designated professional services.

(a) *Consultants' Competitive Negotiation Act.* Contracts for architectural, professional engineering, landscape architectural and registered land surveying and mapping services shall be procured in accordance with Section 287.055, Florida Statutes (F.S.), referred to as the Consultants Competitive Negotiation Act (CCNA). All contracts for CCNA services shall be procured under the supervision of the director of purchasing and purchasing department.

(b) *Design-Build and Construction Management Services.* Design-Build and Construction Management Services as defined in Section 255.103, F.S., shall be procured pursuant to the process defined in the CCNA or unless the county, through its director of purchasing, elects to bid construction management and design build contracts through an invitation to bid or request for proposal process as provided in Section 255.20 (1), F.S., where cost is considered in the award process.

(c) *Continuing Contract.* The county is authorized to enter into a continuing contract for CCNA services in accordance with Section 287.055, F.S., whereby the firm provides professional services to the county for projects in which construction costs do not exceed \$2 million, for study activity if the fee for each individual study under the contract does not exceed \$200,000; or for work of a specified nature as outlined in the contract required by the county, with the contract being for a fixed term or no time limitation, except that the contract must provide a termination clause.

(d) *CCNA Oversight.* The county administrator shall appoint a minimum of three (3) members of his/her executive management team to provide oversight for the CCNA process. Such oversight will include, but not be limited to, composition of evaluation committees, evaluator pool members, the evaluation process, and any other matters deemed appropriate by the county administrator.

(e) *Evaluator Pool.* The director of purchasing shall be responsible for developing and maintaining a pool of qualified evaluators to participate in CCNA evaluation committees, consisting of, but not limited to, representatives from county departments, professional organizations, and internal and external subject matter experts.

(f) *Evaluation Committee.* The CCNA evaluation committee shall consist of at least three (3) but typically not more than seven (7) members (unless deemed to be in the best interest of the county) selected based upon their expertise and/or association with the project. The evaluation committee must consist of at least one person from the requesting department. The requesting department cannot have majority representation on the evaluation committee. The committee shall also include non-requesting department representatives, internal/external subject matter experts and local professional organization representatives (if deemed appropriate or necessary). Final composition and qualifications of evaluation committees shall be subject to CCNA oversight as provided in subsection (d) herein.

(g) *Ranking of Firms.* The county, through the competitive proposal process, shall make a finding that the firm or individual to be employed is duly qualified to render the required service. The evaluation committee shall review statements of qualifications and performance data submitted in response to the public solicitation and shall select, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified, if at least three (3) firms respond to the solicitation. If less than three (3) firms respond, and after meeting due diligence, it is decided by the director of purchasing that every effort was made to comply with Section 287.055, F.S., requirements, the county will interview all respondents and proceed with the evaluation process. The evaluation

committee may conduct public presentations with a minimum of three (3) firms (if three firms submitted).

(h) *Evaluation Criteria.* Pursuant to the CCNA, the evaluation criteria for ranking shall include: ability of firm and its professional personnel; firm experience with projects of a similar size and type; firm's willingness and ability to meet the schedule and budget requirements; volume of work previously awarded by the county; effect of the firms recent/current and projected workload; minority business status; location; past performance and when required, the public presentation. For continuing contracts, ranking and award shall be based on the criteria as stated above. For non-continuing contracts or project specific contracts, public presentation may be required. That requirement shall be stated in the RFP document.

(i) *Public Presentation.* The evaluation criteria for public presentation shall include but not be limited to the firm's understanding of the project, ability to provide required services within the schedule and budget, qualifications and approach to the project.

(j) *Due Diligence.* The director of purchasing shall be responsible for conducting due diligence of the firm approved for contract negotiations with an estimated contract value exceeding \$100,000.00, when the county has not awarded a contract to the specific number one ranked firm within the last twelve (12) month period prior to the ranking approval by the board of county commissioners.

(k) *Contract Negotiations.* The ranking of firms for all CCNA contracts shall be presented to the board of county commissioners for consideration. Upon board of county commissioners' approval of firm rankings, staff shall negotiate a contract with the most qualified firm (number one ranked firm) for professional services for compensation which is deemed to be fair and reasonable. Detailed discussions must be held by the firm and the county to establish the scope of the project and the exact services to be performed by the firm. Should the county and the firm fail to agree upon the terms of an acceptable contract, negotiations with the top firm shall be terminated and negotiations with the second ranked firm shall commence. If again unsuccessful, the process is repeated with the next ranked firm. This process is continued until a mutually agreeable contract is concluded or the project is abandoned, or the procurement process is otherwise terminated.

The firm awarded the contract must execute a truth-in-negotiation certificate stating that the wage rates and other unit costs are accurate, complete and current at the time of contracting. Any professional service agreement in which the certificate is required shall contain a provision that the agreement price shall be adjusted to exclude any significant sums where the county determines the agreement price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the agreement.

(l) Award. Based upon the final negotiated contract, a contract which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a contract which is \$250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator and all contracts exceeding \$250,000.00 in a fiscal or calendar year shall only be awarded by the board. ~~(a) Contracts for architectural, engineering and land surveying services.~~ Contracts for architectural, engineering and land surveying services shall be procured in accordance with F.S. § 287.055, referred to as the Consultant's Competitive Negotiation Act (CCNA), as amended. Additional requirements may be imposed.

(mb) *Contracts for professional services.* Notwithstanding the foregoing provision of this section, the noncompetitive procurement of contracts for legal, medical, independent certified public accounting, or other professional services is hereby authorized by negotiation with organizations or persons on the basis of experience, skill, and financial capacity to perform and shall be approved as provided in subsection (od) herein. Notwithstanding the foregoing, selection of an independent financial auditor to perform a "financial audit" as defined by F.S. section 11.45(1)(c) and other audit functions as may be requested shall be by the following described procedure, as permitted by the Pinellas County Home Rule Charter and F.S. section 218.391. A selection committee shall be established consisting of a designee of the board of county commissioners, the clerk of the circuit court or his/her designee, the director of the office of management and budget or his/her designee, the supervisor of elections or his/her designee, the tax collector or his/her designee, the property appraiser or his/her designee, and the sheriff or his/her designee. The selection committee shall prepare or cause to be prepared a request for proposal for independent financial auditor services, and the auditor shall be selected by competitive sealed proposal pursuant to Pinellas County Code, Section 2-177.

(ne) *Contracts for expert witnesses.* Expert witnesses are exempt from the purview of this division.

(od) *Award of professional service contracts.*

(1) Contracts for services of a value greater than \$250,000.00 in a fiscal or calendar year shall be authorized by the board of county commissioners or the constitutional officer, as applicable.

(2) Contracts for services of a value greater than \$100,000.00 and less than or equal to \$250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer, or by the county administrator or his/her designee, as applicable.

(3) Contracts for services of a value less than or equal to \$100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.

Section 5. Section 2-183 of the Pinellas County Code is deleted in its entirety and marked as reserved by the codifier.

~~Section 2-183. Procurement of construction management services.~~

~~If the county administrator determines that it is in the best interest of the county to proceed with a board of county commissioners' construction project using the services of a construction manager, who will hold all contracts of the general contractor and subcontractors, then those services may be procured by means other than the procedures specified above in this subdivision. The director of purchasing is authorized to prepare the alternate procedures, which shall be included in the purchasing procedures which are approved by the board of county commissioners by resolution from time to time.~~

Section 6. Section 2-189 of the Pinellas County Code is hereby amended to read as follows:

~~**Section 2-189. Lobbying.** Lobbying of evaluation committee members, county government employees, or elected officials regarding requests for proposals, requests for qualifications, bids, or contracts, or during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, an agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the requests for proposal, requests for qualification, bid or contract, or has a pending bid protest is strictly prohibited either upon advertisement or on a date established by the board of county commissioners and shall be prohibited until either an award is final or the protest is finally resolved by the county administrator or purchasing director; provided, however, nothing herein shall prohibit a prospective bidder/proposer from contacting the purchasing department to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any requests for proposal, requests for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any requests for proposal, requests for qualification, bid or contract to be rejected.~~

Lobbying shall be prohibited on all county competitive selection processes, and contract awards pursuant to this division, including but not limited to requests for proposals, requests for quotations, requests for qualifications, bids or the award of purchasing contracts of any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it from undue influences prior to the contract award, a protest is resolved, or the competitive selection process is otherwise concluded. However, nothing herein shall prohibit a prospective bidder/proposer/protestor from contacting the purchasing department or the county attorney's office to address situations such as clarification and/or questions related to the procurement process or protest.

Lobbying of evaluation committee members, county government employees, or elected officials regarding requests for proposals, requests for quotations, requests for qualifications, bids, purchasing contracts, or bid protests, by the bidder/proposer/protestor, any member of the bidder's/proposer's/protestor's staff, any agent or representative of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing a bidder/proposer/protestor, is strictly prohibited from the date of the advertisement, or on a date otherwise established by the board of county commissioners, until either an award is final, any protest is finally resolved, or the competitive selection process is otherwise concluded. Any lobbying activities in violation of of this section by or on behalf of a bidder/proposer/protestor shall result in the disqualification or rejection of the proposal, quotation, statement of qualification, bid or contract, and may lead to debarment of the bidder or proposer/protestor as provided in Pinellas County Code, Section 2-161(8)b.

For purposes of this provision, lobbying shall mean influencing or attempting to influence action or non-action, and/or attempting to obtain the goodwill of persons specified herein relating to the selection, ranking, or contract award in connection with any request for proposal, request for quotation, request for qualification, bid or purchasing contract through direct or indirect oral or written communication. The final award of a purchasing contract shall be the effective date of the purchasing contract.

Any evaluation committee member, county government employee or elected official who has been lobbied shall immediately report the lobbying activity to the director of purchasing.

Section 7. Section 2-197 of the Pinellas County Code is hereby deleted in its entirety and marked as reserved by the codifier.

~~Selection advisory committee means a committee appointed by the county administrator composed of at least three persons, two of whom are professional engineers. Other members of the committee may include, but not be limited to, a representative from the construction contracting community, the director of public works for the county, or the director of the user department for the project.~~

Section 8. Section 2-198 of the Pinellas County Code is hereby amended to read as follows:

Section 2-198. Selection of design criteria professional.

~~(a) — When the county administrator determines that a project shall be constructed pursuant to this division, the administrator shall arrange for preparation of a design criteria package for the project. The design criteria package shall be prepared and sealed by a design criteria professional employed by, or retained by, the county. If the county elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional shall be selected and contracted with in accordance with the requirements of F.S. §§ 287.055(3), 287.055(4) and 287.055(5).~~

~~(b) — The design criteria professional will be selected with special consideration for specific experience and ability relating to the type of facility required and the preparation of design build criteria. In determining whether a design criteria professional is qualified, the selection advisory committee shall also consider such factors as the ability of professional personnel; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the design criteria professionals; the volume of work previously awarded to each design build professional by the board of county commissioners, with the object of effecting an equitable distribution of contracts among qualified design criteria professionals, provided such distribution does not violate the principle of selection of the most highly qualified design criteria professionals; and whether a design criteria professional is a certified minority business enterprise in accordance with the requirements under F.S. § 287.055(3). In addition to these considerations, the selection advisory committee may require any other qualifications deemed appropriate to the project.~~

~~(c) — Acceptable individuals or entities who may act as the design criteria professional include:~~

~~(1) Licensed registered professional engineers, architects and landscape architects employed or retained by the county.~~

~~(2) Licensed engineering, architectural or landscape architectural firms providing services to the county where such firms have been selected pursuant to F.S. § 287.055 and this division.~~

~~(d) — A design criteria professional who has been selected to render services in connection with a specific design criteria package shall not be eligible to render services under the design build contract for that project. (a) Design-build services shall be governed by Section 287.055, F.S.. The county shall award design-build contracts by the use of a qualifications based selection process pursuant to Sections 287.055(3) through 287.055(5), F.S., or by use of the competitive proposal selection process set out in this section. The procurement of design-build services shall be made in accordance with the following procedures:~~

~~(1) Design criteria package. The design criteria package shall be prepared and sealed by a design criteria professional employed or retained by the county. If the county enters into a professional services contract for the preparation of the design criteria package, the professional shall be selected and contracted with in accordance with the requirements of Sections 287.055(4) and 287.055(5) F.S.. The professional preparing the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the package prepared by such professional.~~

~~(2) Selection/negotiation committee. A selection/negotiation committee, in this division referred to as the "committee," is hereby established which shall be composed of members designated by the director of purchasing.~~

(b) The county shall publicly advertise in a uniform and consistent manner on each occasion when design-build services are required except in cases of valid public emergencies. The advertisement shall include a general description of the project and shall indicate how, and the time within which, interested design-build firms may apply for consideration.

(c) Generally. Any firm or individual desiring to provide design-build services for the county must first be determined legally qualified. Legal qualifications are:

(1) Firms must be properly certified to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent.

(2) Firms must be properly certified to practice or to offer to practice engineering, architecture, or landscape architecture.

(3) The firm shall be duly qualified to perform its proposed services under any other applicable law.

Section 9. Section 2-199 of the Pinellas County Code is hereby amended to read as follows:

Section 2-199. Development of design criteria package Solicitation and negotiation of design build services.

~~(a) The selected design criteria professional shall develop a design criteria package consisting of performance-oriented drawings and/or specifications with sufficient information to permit design build firms to prepare bids for construction and to permit the county to enter into a design-build contract based upon the criteria in the design criteria package.~~

~~(b) The design criteria package may define the quality level required for the project, and shall include criteria and data including, but not limited to, the legal description of the site, site survey information, interior space requirements, material quality standards, schematic layouts and conceptual designs, budget estimates and requirements, construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, parking requirements, land development permitting requirements, building permitting requirements and environmental permitting requirements. Special consideration will be given to minimizing long-term lifestyle, operating and maintenance requirements, as well as energy consumption and water consumption.~~

(a) Solicitation. Requests for proposals shall be sent to all interested firms requesting that their qualifications, proposed design and price be submitted at a time and place certain. The request for proposal shall contain, at a minimum, the design criteria package; evaluation criteria based on price, technical and design aspects of the project;

evaluating procedures and any other information pertinent to selection and award of the design-build contract. The committee shall determine the evaluation criteria and the evaluation process of each project.

(b) *Evaluation.* The committee shall review all proposals and identify no less than three (3) firms (if at least three firms submitted proposals) deemed qualified to perform the required services based on firm qualifications, availability and past work of the firm. After short-listing, the committee shall open the envelopes containing the proposed design and the prices. The committee shall then rank the short-listed firms based on the evaluation criteria set forth on the request for proposal. The committee may require oral presentations of short-listed firms.

(c) *Negotiation.* After ranking, the committee shall attempt to negotiate a contract within the parameters of the design criteria package. Design-build contracts will be awarded under the provisions of Pinellas County Code, Section 2-176(o) and other applicable provisions of this article.

Section 10. Sections 2-200 and 2-201 of the Pinellas County Code are hereby deleted in their entirety and marked as reserved by the codifier.

~~Section 2-200. Solicitation of qualified firms.~~

~~(a) *Prequalification by the selection advisory committee.* The county administrator shall appoint a selection advisory committee as defined in section 2-197. This committee shall establish the qualifications required for the design-build project, and then solicit qualifications statements from interested design-build firms. From these qualification statements, the selection advisory committee shall establish a short list of at least three qualified design-build firms to whom a request for proposal shall be issued pursuant to subsection (c) of this section. Numerous factors are considered in determining if a company is qualified to submit proposals for county design-build projects, including but not limited to the following:~~

~~(1) *Financial condition.* Financial capability is of primary concern in determining whether a design-build firm is qualified. The minimum standard for determining financial capability is expressed in the following formula:~~

~~Ten times Net Quick Assets = Ten times Total Assets minus Total Liabilities~~

~~When:~~

~~Total Assets = All tangible and intangible assets (excluding bank credit) minus questionable items minus one-half the net value of real estate.~~

~~Total Liabilities = All liabilities excluding encumbrances on real estate.~~

~~For tangible assets, the allowable value of equipment is book value or 50 percent of appraised value, if provided, whichever is greater.~~

~~The amount derived from this formula must be equal to or greater than the contract amount of the construction project. Assessment of financial capability may be more stringent depending on the magnitude of the project.~~

~~(2) *Job performance.* Previous job experience and performance, especially previous design build experience, is a primary criteria considered in determining qualification. A firm must show evidence of having performed satisfactory construction of similar work within the past three years. Inclusive in this evidence shall be a list of projects completed, including nature and size of project, the firm's complete address and zip code, and a listing of owners and/or architects or engineers where applicable.~~

~~(3) *Equipment.* A list of owned or leased equipment, acceptable to the selection advisory committee, shall be submitted at time of submission of the qualification statement.~~

~~(4) *Personnel.* A list of all supervisory personnel to be engaged on county projects shall be submitted, listing name, education and experience. The design build contract may require certain key personnel to be available to the project on a full time basis.~~

~~(5) *Licensing.* Proof of compliance with proper certification and license requirements shall be a prerequisite to qualification.~~

~~(6) *Out-of-state corporations.* Corporations incorporated in any state other than Florida, and nonFlorida limited partnerships, shall first obtain a license or permit to do business in Florida before entering a design build contract. Foreign corporations shall qualify to do business in Florida according to applicable law.~~

~~(7) *Change of ownership.* If a significant change in the structure of a firm occurs, such as a change of ownership or incorporation of a nonincorporated firm, a new qualification statement will be required. Also, a new qualification statement may be required whenever the selection advisory committee has reason to believe that the condition of a firm is less favorable than at the time of the last qualification statement. A new statement is not necessary when a change in the officers or the name of a corporation occurs, nevertheless, such information shall be submitted to the selection advisory committee at the time of such change.~~

~~(8) *Wholly owned subsidiaries.* If the design build firm is a wholly-owned subsidiary, the board of directors of the parent company shall provide a resolution properly adopted and executed by such board stating:~~

~~a. The power of such corporation to enter into contracts of surety and guaranty;~~

~~b. The legal relationship between the two corporations;~~

~~e. The corporate board's statement that the parent company will indemnify the county from and against any liability and expense which may be incurred due to any failure of subsidiary to perform; and~~

~~d. The authorization to the appropriate corporate officers to execute the appropriate indemnity agreement.~~

~~(9) *Joint ventures.* Evidence of financial capability will be required of each party involved in formation of a joint venture for a design-build project. Design-build firms must be legally qualified to engage in contracting and engineering, architecture or landscape architecture. Joint ventures between firms qualified in contracting and firms qualified in engineering, architecture or landscape architecture will be acceptable. Proposals will be solicited from recommended and accepted design-build firms.~~

~~(b) *Public announcement procedures.* Except in emergency situations declared in accordance with section 2-203, the purchasing department or its designee shall publish in a newspaper of general circulation in the county, and any other publication deemed appropriate, a public announcement providing a general description of the design-build project requiring design-build services, and defining the procedures by which interested design-build firms may apply for consideration. The public announcement shall include the qualification criteria for the project which has been prepared by the selection advisory committee as required in subsection (a) of this section.~~

~~(c) *Request for proposals.* After the selection advisory committee has set forth criteria for prequalification for the design-build project pursuant to subsection (a) of this section, and such criteria has been formally announced pursuant to subsection (b) of this section, the selection advisory committee shall review the submitted qualifications statements and shall establish a short list of at least three of the most qualified design-build firms. The selection advisory committee shall then issue requests for proposals to the firms on the short list. When the proposals are received, the selection advisory committee shall review the proposals and recommend the three most qualified design-build firms to the board of county commissioners, who shall select the most qualified and award the design-build contract. The committee may request that the firms submit both a technical proposal and a price proposal. These proposals may be reviewed in separate stages.~~

Sec. 2-201. Selection of most suitable proposals.

~~(a) The county administrator or his designee shall implement a selection procedure for evaluating the proposals received from the approved design-build firms. This procedure may include, but not be limited to, consideration of any special requirements, oral presentations by design-build firms, a scoring and ranking process, consideration of the firms' experience and qualifications with special emphasis on design-build projects and projects of the general nature of the subject project, and a value analysis of the proposal price. Evaluation of the criteria shall include whether a firm is a certified minority business enterprise. Other criteria for evaluating the proposal may include:~~

~~(1) The ability, capacity and skill of the firm to perform the contract or provide the service required;~~

~~(2) Whether the firm can perform the contract or provide the service promptly, or within the time specified, without delay or interference;~~

~~(3) The character, integrity, reputation, judgment, experience, and efficiency of the firm;~~

~~(4) The quality of performance of previous contracts or services;~~

~~(5) The previous and existing compliance by the firm with laws and ordinances relating to the contract or services;~~

~~(6) The sufficiency of the financial resources and ability of the firm to perform the contract or provide the service;~~

~~(7) The quality, availability and adaptability of the supplies or contractual services to the particular use required;~~

~~(8) The ability of the firm to provide future maintenance and service;~~

~~(9) The number and scope of nonconforming conditions attached to the proposal.~~

~~(b) The design criteria professional shall be involved in the selection and evaluation procedure so as to ensure proposal compliance with the design criteria package. The county administrator shall also provide a procedure by which the contract with the retained design criteria professional may be terminated prior to this solicitation/evaluation stage if termination is deemed in the best interest of the county.~~**Section 11. 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 12. Inclusion in the Pinellas County Code.

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

Section 13. Amendment of Proposed Ordinance at Public Hearing.

If any section, subsection, sentence, clause, phrase, or provisions of this Ordinance as proposed may be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, then such amendments, additions, or deletions shall be validly adopted without additional advertisement or public hearing.

Section 14. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

STATE OF FLORIDA
COUNTY OF PINELLAS

I, KEN BURKE, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners of Pinellas County, Florida, on _____ relative to:

ORDINANCE NO. 10-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING THAT SECTION 2-161 OF THE PINELLAS COUNTY CODE RELATING TO BIDDER QUALIFICATIONS AND PREQUALIFICATIONS; DEBARMENT, SECTION 2-176 RELATING TO COMPETITIVE SEALED BIDDING, SECTION 2-177 RELATING TO COMPETITIVE SEALED PROPOSALS, SECTION 2-178 RELATING TO CONTRACTING FOR DESIGNATED PROFESSIONAL SERVICES, SECTION 2-183 RELATING TO PROCUREMENT OF CONSTRUCTION MANAGEMENT SERVICES, SECTION 2-197 RELATING TO DEFINITIONS, SECTION 2-198 RELATING TO SELECTION OF DESIGN CRITERIA PROFESSIONAL, SECTION 199 RELATING TO DEVELOPMENT OF DESIGN CRITERIA PACKAGE, SECTION 2-200 RELATING TO SOLICITATION OF QUALIFIED FIRMS, SECTION 2-201 RELATING TO SELECTION OF MOST SUITABLE PROPOSALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this _____ day of _____, 2010.

KEN BURKE
Clerk of the Circuit Court and
Ex-officio Clerk to the
Board of County Commissioners

By: _____
Deputy Clerk

(SEAL)

PINELLAS COUNTY ORDINANCE NO. 10 - _____

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING SECTION 2-161 OF THE PINELLAS COUNTY CODE RELATING TO BIDDER QUALIFICATIONS AND PREQUALIFICATIONS; DEBARMENT, SECTION 2-176 RELATING TO COMPETITIVE SEALED BIDDING, SECTION 2-177 RELATING TO COMPETITIVE SEALED PROPOSALS, SECTION 2-178 RELATING TO CONTRACTING FOR DESIGNATED PROFESSIONAL SERVICES, SECTION 2-183 RELATING TO PROCUREMENT OF CONSTRUCTION MANAGEMENT SERVICES, SECTION 2-189 RELATING TO LOBBYING, SECTION 2-197 RELATING TO DEFINITIONS, SECTION 2-198 RELATING TO SELECTION OF DESIGN CRITERIA PROFESSIONAL, SECTION 2-199 RELATING TO DEVELOPMENT OF DESIGN CRITERIA PACKAGE, SECTION 2-200 RELATING TO SOLICITATION OF QUALIFIED FIRMS, SECTION 2-201 RELATING TO SELECTION OF MOST SUITABLE PROPOSALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA IN A MEETING DULY ASSEMBLED THIS _____ DAY OF _____, 2010, THAT:

Section 1. Section 2-161 is hereby amended to read as follows:

Section 2-161. Bidder qualifications and prequalifications; debarment.

(a) *Qualifications.*

(2) *Prequalification of general contractors.* General contractors wishing to bid on the board's construction projects in excess of \$100,000.00 are required to be prequalified with the county administrator or his/her designee prior to bid opening. Types of construction requiring prequalification, include but are not limited to, road and street, building, water and sewer, marine, bridge, and well drilling. The establishment, deletion and modification of the prequalification categories for specific types of construction and the dollar amounts of the subcategories may be accomplished by resolution of the board. The primary criteria considered in determining qualification are financial capability and previous job experience and performance.

a. Prequalification is recommended to the county administrator or his/her designee for final approval by a prequalification committee consisting of representatives from each of the following professional associations:

Associated Builder's and Contractors.
Pinellas Chapter of the Florida Engineering Society.
Florida Central Chapter of American Institute of Architects.
West Coast Chapter of the Florida Institute of C.P.A.'s.
Contractors' and Builders' Association of Pinellas County.
Suncoast Utility Contractors Association.

(b) *Debarment.*

(2) *Definitions.*

b. Contractor means any individual or other legal entity that:

3. For the purposes of this section, the terms "vendor" and "consultant" have the same meaning as "contractor." "Sub consultant" has the same meaning as "subcontractor."

(8) *Causes for debarment.*

b. The committee may debar a contractor based upon any of the following:

2. Violation of a county ordinance or administrative order such as Pinellas County Code, Section 2-189, Lobbying; and

(9) *Debarment procedures.*

b. Upon receipt of a request for debarment, the purchasing department shall create a debarment committee from the standing pool of committee members appointed by the county administrator or his/her designee, none of whose members shall include a representative from the department making the debarment request. The purchasing department shall act as staff to the debarment committee. The department requesting debarment shall present evidence and argument to the debarment committee.

(10) *Period of debarment.*

b. The following guidelines in the period of debarment shall apply except:

5. For commission of an offense as described in subsections (8)b.1. or b2.; three to five years;

Section 2. Section 2-176 of the Pinellas County Code is hereby amended to

read as follows:

Section 2-176. Competitive sealed bidding.

(i) *Tie Bids.* If two or more bids received are for the same total amount or unit price, or in the case of proposals, the qualifications, quality and service are equal, the contract shall be awarded to the local bidder/proposer. A local firm is defined as a firm with headquarters in geographical Pinellas County. Headquarters shall mean the office location that serves as the administrative center and principal place of business. If two or more bids received are for the same total amount or unit price or in the case of proposals, the qualifications, quality and service are equal and no firms are deemed local, then the contract shall be awarded by drawing lots in public.

Section 3. Section 2-177 of the Pinellas County Code is hereby amended to read as follows:

Section 2-177. Competitive sealed proposals.

(f) *Award.* Award of the contract shall be made by the board of county commissioners, constitutional officer, county administrator or director of purchasing, as applicable, to the responsible and responsive proposer who submits the proposal which best meets the evaluation criteria described in the RFP. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. For any board contract, a proposal to be awarded which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a proposal to be awarded which is \$250,000.00 or less in a fiscal or calendar year may be awarded by the county administrator or his/her designee; a proposal to be awarded which exceeds \$250,000.00 in a fiscal or calendar year may be awarded only by the board of county commissioners.

Section 4. Section 2-178 of the Pinellas County Code is hereby amended to read as follows:

Section 2-178. Contracting for designated professional services.

(a) *Consultants' Competitive Negotiation Act.* Contracts for architectural, professional engineering, landscape architectural and registered land surveying and mapping services shall be procured in accordance with Section 287.055, Florida Statutes (F.S.), referred to as the Consultants Competitive Negotiation Act (CCNA). All contracts for CCNA services shall be procured under the supervision of the director of purchasing and purchasing department.

(b) *Design-Build and Construction Management Services.* Design-Build and Construction Management Services as defined in Section 255.103, F.S., shall be procured pursuant to the process defined in the CCNA or unless the county, through its director of purchasing, elects to bid construction management and design build contracts through an

invitation to bid or request for proposal process as provided in Section 255.20 (1), F.S., where cost is considered in the award process.

(c) *Continuing Contract.* The county is authorized to enter into a continuing contract for CCNA services in accordance with Section 287.055, F.S., whereby the firm provides professional services to the county for projects in which construction costs do not exceed \$2 million, for study activity if the fee for each individual study under the contract does not exceed \$200,000; or for work of a specified nature as outlined in the contract required by the county, with the contract being for a fixed term or no time limitation, except that the contract must provide a termination clause.

(d) *CCNA Oversight.* The county administrator shall appoint a minimum of three (3) members of his/her executive management team to provide oversight for the CCNA process. Such oversight will include, but not be limited to, composition of evaluation committees, evaluator pool members, the evaluation process, and any other matters deemed appropriate by the county administrator.

(e) *Evaluator Pool.* The director of purchasing shall be responsible for developing and maintaining a pool of qualified evaluators to participate in CCNA evaluation committees, consisting of, but not limited to, representatives from county departments, professional organizations, and internal and external subject matter experts.

(f) *Evaluation Committee.* The CCNA evaluation committee shall consist of at least three (3) but typically not more than seven (7) members (unless deemed to be in the best interest of the county) selected based upon their expertise and/or association with the project. The evaluation committee must consist of at least one person from the requesting department. The requesting department cannot have majority representation on the evaluation committee. The committee shall also include non-requesting department representatives, internal/external subject matter experts and local professional organization representatives (if deemed appropriate or necessary). Final composition and qualifications of evaluation committees shall be subject to CCNA oversight as provided in subsection (d) herein.

(g) *Ranking of Firms.* The county, through the competitive proposal process, shall make a finding that the firm or individual to be employed is duly qualified to render the required service. The evaluation committee shall review statements of qualifications and performance data submitted in response to the public solicitation and shall select, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified, if at least three (3) firms respond to the solicitation. If less than three (3) firms respond, and after meeting due diligence, it is decided by the director of purchasing that every effort was made to comply with Section 287.055, F.S., requirements, the county will interview all respondents and proceed with the evaluation process. The evaluation committee may conduct public presentations with a minimum of three (3) firms (if three firms submitted).

(h) *Evaluation Criteria.* Pursuant to the CCNA, the evaluation criteria for ranking shall include: ability of firm and its professional personnel; firm experience with projects of a similar size and type; firm's willingness and ability to meet the schedule and budget requirements; volume of work previously awarded by the county; effect of the firms recent/current and projected workload; minority business status; location; past performance and when required, the public presentation. For continuing contracts, ranking and award shall be based on the criteria as stated above. For non-continuing contracts or project specific contracts, public presentation may be required. That requirement shall be stated in the RFP document.

(i) *Public Presentation.* The evaluation criteria for public presentation shall include but not be limited to the firm's understanding of the project, ability to provide required services within the schedule and budget, qualifications and approach to the project.

(j) *Due Diligence.* The director of purchasing shall be responsible for conducting due diligence of the firm approved for contract negotiations with an estimated contract value exceeding \$100,000.00, when the county has not awarded a contract to the specific number one ranked firm within the last twelve (12) month period prior to the ranking approval by the board of county commissioners.

(k) *Contract Negotiations.* The ranking of firms for all CCNA contracts shall be presented to the board of county commissioners for consideration. Upon board of county commissioners' approval of firm rankings, staff shall negotiate a contract with the most qualified firm (number one ranked firm) for professional services for compensation which is deemed to be fair and reasonable. Detailed discussions must be held by the firm and the county to establish the scope of the project and the exact services to be performed by the firm. Should the county and the firm fail to agree upon the terms of an acceptable contract, negotiations with the top firm shall be terminated and negotiations with the second ranked firm shall commence. If again unsuccessful, the process is repeated with the next ranked firm. This process is continued until a mutually agreeable contract is concluded or the project is abandoned, or the procurement process is otherwise terminated.

The firm awarded the contract must execute a truth-in-negotiation certificate stating that the wage rates and other unit costs are accurate, complete and current at the time of contracting. Any professional service agreement in which the certificate is required shall contain a provision that the agreement price shall be adjusted to exclude any significant sums where the county determines the agreement price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the agreement.

(l) *Award.* Based upon the final negotiated contract, a contract which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the director of purchasing; a contract which is \$250,000.00 or less in a fiscal or calendar year may be

awarded by the county administrator and all contracts exceeding \$250,000.00 in a fiscal or calendar year shall only be awarded by the board.

(m) *Contracts for professional services.* Notwithstanding the foregoing provision of this section, the noncompetitive procurement of contracts for legal, medical, independent certified public accounting, or other professional services is hereby authorized by negotiation with organizations or persons on the basis of experience, skill, and financial capacity to perform and shall be approved as provided in subsection (o) herein. Notwithstanding the foregoing, selection of an independent financial auditor to perform a "financial audit" as defined by F.S. section 11.45(1)(c) and other audit functions as may be requested shall be by the following described procedure, as permitted by the Pinellas County Home Rule Charter and F.S. section 218.391. A selection committee shall be established consisting of a designee of the board of county commissioners, the clerk of the circuit court or his/her designee, the director of the office of management and budget or his/her designee, the supervisor of elections or his/her designee, the tax collector or his/her designee, the property appraiser or his/her designee, and the sheriff or his/her designee. The selection committee shall prepare or cause to be prepared a request for proposal for independent financial auditor services, and the auditor shall be selected by competitive sealed proposal pursuant to Pinellas County Code, Section 2-177.

(n) *Contracts for expert witnesses.* Expert witnesses are exempt from the purview of this division.

(o) *Award of professional service contracts.*

(1) Contracts for services of a value greater than \$250,000.00 in a fiscal or calendar year shall be authorized by the board of county commissioners or the constitutional officer, as applicable.

(2) Contracts for services of a value greater than \$100,000.00 and less than or equal to \$250,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer, or by the county administrator or his/her designee, as applicable.

(3) Contracts for services of a value less than or equal to \$100,000.00 in a fiscal or calendar year shall be authorized by the constitutional officer or the director of purchasing, as applicable.

Section 5. Section 2-183 of the Pinellas County Code is deleted in its entirety and marked as reserved by the codifier.

Section 6. Section 2-189 of the Pinellas County Code is hereby amended to

read as follows:

Section 2-189. Lobbying.

Lobbying shall be prohibited on all county competitive selection processes, and contract awards pursuant to this division, including but not limited to requests for proposals, requests for quotations, requests for qualifications, bids or the award of purchasing contracts of any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it from undue influences prior to the contract award, a protest is resolved, or the competitive selection process is otherwise concluded. However, nothing herein shall prohibit a prospective bidder/proposer/protestor from contacting the purchasing department or the county attorney's office to address situations such as clarification and/or questions related to the procurement process or protest.

Lobbying of evaluation committee members, county government employees, or elected officials regarding requests for proposals, requests for quotations, requests for qualifications, bids, purchasing contracts, or bid protests, by the bidder/proposer/protestor, any member of the bidder's/proposer's/protestor's staff, any agent or representative of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing a bidder/proposer/protestor, is strictly prohibited from the date of the advertisement, or on a date otherwise established by the board of county commissioners, until either an award is final, any protest is finally resolved, or the competitive selection process is otherwise concluded. Any lobbying activities in violation of of this section by or on behalf of a bidder/proposer/protestor shall result in the disqualification or rejection of the proposal, quotation, statement of qualification, bid or contract, and may lead to debarment of the bidder or proposer/protestor as provided in Pinellas County Code, Section 2-161(8)b.

For purposes of this provision, lobbying shall mean influencing or attempting to influence action or non-action, and/or attempting to obtain the goodwill of persons specified herein relating to the selection, ranking, or contract award in connection with any request for proposal, request for quotation, request for qualification, bid or purchasing contract through direct or indirect oral or written communication. The final award of a purchasing contract shall be the effective date of the purchasing contract.

Any evaluation committee member, county government employee or elected official who has been lobbied shall immediately report the lobbying activity to the director of purchasing.

Section 7. Section 2-197 of the Pinellas County Code is hereby deleted in its entirety and marked as reserved by the codifier.

Section 8. Section 2-198 of the Pinellas County Code is hereby amended to read as follows:

Section 2-198. Selection of design criteria professional.

(a) Design-build services shall be governed by Section 287.055, F.S.. The county shall award design-build contracts by the use of a qualifications based selection process pursuant to Sections 287.055(3) through 287.055(5), F.S., or by use of the competitive proposal selection process set out in this section. The procurement of design-build services shall be made in accordance with the following procedures:

(1) *Design criteria package.* The design criteria package shall be prepared and sealed by a design criteria professional employed or retained by the county. If the county enters into a professional services contract for the preparation of the design criteria package, the professional shall be selected and contracted with in accordance with the requirements of Sections 287.055(4) and 287.055(5) F.S.. The professional preparing the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the package prepared by such professional.

(2) *Selection/negotiation committee.* A selection/negotiation committee, in this division referred to as the "committee," is hereby established which shall be composed of members designated by the director of purchasing.

(b) The county shall publicly advertise in a uniform and consistent manner on each occasion when design-build services are required except in cases of valid public emergencies. The advertisement shall include a general description of the project and shall indicate how, and the time within which, interested design-build firms may apply for consideration.

(c) *Generally.* Any firm or individual desiring to provide design-build services for the county must first be determined legally qualified. Legal qualifications are:

(1) Firms must be properly certified to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent.

(2) Firms must be properly certified to practice or to offer to practice engineering, architecture, or landscape architecture.

(3) The firm shall be duly qualified to perform its proposed services under any other applicable law.

Section 9. Section 2-199 of the Pinellas County Code is hereby amended to read as follows:

Section 2-199. Solicitation and negotiation of design build services.

(a) *Solicitation.* Requests for proposals shall be sent to all interested firms requesting that their qualifications, proposed design and price be submitted at a time and

place certain. The request for proposal shall contain, at a minimum, the design criteria package; evaluation criteria based on price, technical and design aspects of the project; evaluating procedures and any other information pertinent to selection and award of the design-build contract. The committee shall determine the evaluation criteria and the evaluation process of each project.

(b) *Evaluation.* The committee shall review all proposals and identify no less than three (3) firms (if at least three firms submitted proposals) deemed qualified to perform the required services based on firm qualifications, availability and past work of the firm. After short-listing, the committee shall open the envelopes containing the proposed design and the prices. The committee shall then rank the short-listed firms based on the evaluation criteria set forth on the request for proposal. The committee may require oral presentations of short-listed firms.

(c) *Negotiation.* After ranking, the committee shall attempt to negotiate a contract within the parameters of the design criteria package. Design-build contracts will be awarded under the provisions of Pinellas County Code, Section 2-176(o) and other applicable provisions of this article.

Section 10. Sections 2-200 and 2-201 of the Pinellas County Code are hereby deleted in their entirety and marked as reserved by the codifier.

Section 11. 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 12. Inclusion in the Pinellas County Code.

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

Section 13. Amendment of Proposed Ordinance at Public Hearing.

If any section, subsection, sentence, clause, phrase, or provisions of this Ordinance as proposed may be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, then such amendments, additions, or deletions shall be validly adopted without additional advertisement or public hearing.

Section 14. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be

filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By Michelle Wallace
Attorney

STATE OF FLORIDA
COUNTY OF PINELLAS

I, KEN BURKE, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners of Pinellas County, Florida, on _____ relative to:

ORDINANCE NO. 10-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING THAT SECTION 2-161 OF THE PINELLAS COUNTY CODE RELATING TO BIDDER QUALIFICATIONS AND PREQUALIFICATIONS; DEBARMENT, SECTION 2-176 RELATING TO COMPETITIVE SEALED BIDDING, SECTION 2-177 RELATING TO COMPETITIVE SEALED PROPOSALS, SECTION 2-178 RELATING TO CONTRACTING FOR DESIGNATED PROFESSIONAL SERVICES, SECTION 2-183 RELATING TO PROCUREMENT OF CONSTRUCTION MANAGEMENT SERVICES, SECTION 2-197 RELATING TO DEFINITIONS, SECTION 2-198 RELATING TO SELECTION OF DESIGN CRITERIA PROFESSIONAL, SECTION 199 RELATING TO DEVELOPMENT OF DESIGN CRITERIA PACKAGE, SECTION 2-200 RELATING TO SOLICITATION OF QUALIFIED FIRMS, SECTION 2-201 RELATING TO SELECTION OF MOST SUITABLE PROPOSALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this _____ day of _____, 2010.

KEN BURKE
Clerk of the Circuit Court and
Ex-officio Clerk to the
Board of County Commissioners

By: _____
Deputy Clerk

(SEAL)

SECTION 10

CONTRACTING FOR PROFESSIONAL SERVICES CONSULTANT COMPETITIVE NEGOTIATION ACT (CCNA)

10.0 INTRODUCTION

The purpose of this procedure is to provide guidance for hiring professional firms for architectural, engineering, landscape architecture, land survey and mapping services, design build and construction management services as per Florida Statute (F.S.) 287.055. The CCNA process allows for professional firms to be hired based on the ability of the firm and quality of personnel, minority business enterprise consideration, firm experience with projects of similar size and scope, firm's willingness to meet the schedule and budget requirements, volume of work previously awarded by the County, effect of the firms current and projected workload, location and past performance.

In addition, the County has the right, as an option, to bid construction management services and, design build contracts through an invitation to bid or request for proposal process as provided in F.S 255.20 (1), where cost is considered in the award process. The option to bid construction management services and design build contracts shall be the sole option of the County.

10.1 RELEASE OF CCNA REQUEST FOR PROPOSALS

The Purchasing Department shall develop a request for proposal (RFP) document based on the needs of the requisitioning department and release the document per procedure established in section 3.16 of the Purchasing Procedures. The RFP document shall contain a general description of the project and shall indicate the method and the time within which interested professional firms can provide their written responses. In addition, the RFP document shall contain a draft agreement, period of term and any potential contract extensions.

10.2 QUALIFICATION OF CONSULTANTS

The basis of judging qualifications shall be at the time of committee evaluation. The Purchasing Department shall maintain a list of firms by discipline capable of providing services. The firms contained on the list are not deemed to be qualified until judged by an evaluation committee.

10.3 EVALUATION OF CONSULTANTS

The evaluation committee shall review statements of qualifications and performance data submitted in response to a released RFP and "Short list" the most qualified firms accordingly. The process utilized to evaluate CCNA RFP's shall be the same process utilized for all other County RFP processes. This process of evaluation involves individual review with consensus scoring determined at a public meeting. By utilizing this process, CCNA RFP's will be consistent in approach will all other County RFP processes.

EVALUATION OF CONSULTANTS (continued)

The evaluation committee shall select at least three (3) firms deemed to be the most qualified, if at least three (3) firms respond to the RFP. If there are less than three (3) firms responding to the RFP and after searching it is decided every effort was made to meet the requirements of F.S. 287.055, the County shall proceed with the evaluation process.

The evaluation committee may request public/oral presentations and/or shall request some type of discussions with a minimum of three (3) firms (if three firms submitted to the RFP). The oral presentation shall include a firms' understanding of the project; approach to the project and methods used to plan, design and administer the project; ability to furnish the required service within time and budget and strength of the individual proposed team members as demonstrated. Each evaluation committee member shall rate each firm and the committee will decide on a total average score to determine the top ranked firm. If public/oral presentations are not conducted the ratings applied during the "short list" phase will determine the rank order of firms for negotiation.

10.4 DEFINITION FOR SHORT LIST OR INITIAL RANKING CRITERIA

A. Ability of Firm and its Professional Personnel

Reviews the level of qualifications and experience of the firm and project team and appropriateness of the organization of the project team. Reviews the professional resources available to properly provide services as requested in the RFP document. Reviews the project team to insure the team proposed contains all of the critical disciplines required. Prime team proposed should have exceptional professional resources to properly provide services. The project manager and proposed team should be uniquely qualified to provide the desired services.

B. Firm Experience with Project of Similar Size and Past Performance

Reviews the firms experience with projects of similar size, type and scope and the performance on those specific projects. The prime firm must have adequate, recent (within the past five years) experience with projects of similar type as defined in the RFP document. Experience pertaining to specific Pinellas County projects may also be considered. Pinellas County staff shall not however furnish references for such projects. The scope of services provided should represent projects that are similar to those defined in the RFP document. The overall performance of the firm relative to projects of similar size and scope should be evaluated.

C. Firms Willingness and Ability to Meet Schedule and Budget Requirements

Reviews the submittal from the firm and its understanding of the schedule and budgetary requirements. The submittal should show a good understanding and approach to meet schedule and budget

D. Volume of Work Previously Awarded by the County

Pre-populated by the Purchasing Department, the purpose of this criterion is to effect an equitable distribution of contracts. This criterion is evaluated based on contract value awarded to a firm during the two (2) previous completed fiscal years. The points are worth 5 percent of the overall points available and are distributed as follows:

\$0 - \$200,000 – five (5%) percent of points available

\$200,001 - \$400,000 – four (4%) percent of points available

\$400,001 – 600,000 – three (3%) percent of points available

\$600,001- \$800,000 – two (2%) percent of points available

\$800,001 - \$1,000,000 – one (1%) percent of points available

Over \$1,000,000 – zero (0%) percent of points available

Based on a typical 1000 point evaluation scoring process, a firm deemed to be in the \$0-\$200,000 category threshold would be allotted 50 points etc.

E. Effect of the Firms Current and Projected Workload

Evaluates the workload commitments that will impact the firm's ability to complete services on schedule. The submittal should demonstrate that the firm has adequate time available and personnel to compete services on schedule and additional backup staffing capability in the event of unforeseen circumstances.

F. Minority Business Status

Provides points pre-populated by the Purchasing Department for minority business status as designated by the State of Florida. If the firm is designated as a minority business by the State of Florida, five (5%) percent of the total evaluation points are awarded. If the firm does not have minority business status as per the State of Florida, zero (0%) percent of the points available are awarded.

G. Location

Evaluates the location of the project team relative to Pinellas County including the prime firm and project manager. If firm has an established office located in Pinellas, Manatee, Hillsborough or Pasco counties, 50 points are awarded. If not, no points will be awarded.

10.5 DEFINITION OF PUBLIC/ORAL PRESENTATION CRITERIA

A. Understanding of Project

Evaluate the firm's understanding of the overall project including the scope of work which may include but is not limited to, studies performed that affect the project, key design elements and affect on the community involved. The managerial approach to the project shall also be evaluated as well as the firm's qualifications and proposed staff.

DEFINITION OF PUBLIC/ORAL PRESENTATION CRITERIA (continued)

B. Ability to Provide Required Services Within the Schedule and Budget

Evaluation of the firm's overall approach including experience in scheduling projects, systems that will be used to keep track of the project schedule, cost control, quality assurance and quality control, issues and methods employed to avoid cost overruns and project delays.

C. Approach to the Project and Methods Used to Plan, Design and Administer the Project:

Evaluates the overall approach to the project proposed by the firm and the appropriateness of the methods proposed to plan, design and administer the project in relation to the scope of work and County requirements.

D. Qualifications

Evaluation of the qualifications of the individuals assigned to the project, including the project manager and staff of the firm to be assigned. Qualifications shall include but not be limited to experience with similar projects, management experience, firm experience etc

10.6 EVALUATION COMMITTEES

The CCNA evaluation committee shall consist of at least three (3) but typically not more than seven (7) members (unless deemed to be in the best interest of the County) based upon their expertise and association with the project. The evaluation committee must consist of at least one person from the requesting department; however, the requesting department cannot have majority representation on the evaluation committee. As an example, an evaluation committee consisting of three (3) representatives shall only contain one representative from the requesting department.

The committee may consist of subject matter experts and professionals from outside of County government as deemed necessary. All representatives selected to CCNA evaluation committees must be approved by the CCNA Oversight Committee.

All evaluation committee members must be free of conflicts of any sort, either direct or indirect and must complete the applicable Conflict of Interest form prior to participation in an evaluation process.

All evaluation meetings are public meetings. The meeting is proctored by a representative of the Purchasing Department. Purchasing Department representatives cannot participate as a voting member on an evaluation committee. The CCNA evaluation committee may be convened at any time to address pertinent issues pertaining to the procurement process; however, any discussion regarding the actual evaluation of proposals must be advertised as a public meeting before the meeting can be held.

The Purchasing Department shall provide a written summary of the evaluation proceedings. The written summary, at a minimum, shall set forth the names of the evaluation committee member's present and official action taken by the committee.

10.7 EVALUATOR POOL

The Director of Purchasing shall have the responsibility for developing and maintaining a pool of qualified evaluators to participate in CCNA evaluation committees. The pool of evaluators shall be composed of assorted subject matter experts, both internal and external to County government and be capable and willing to evaluate CCNA proposals. The evaluator pool shall

not contain members from the Purchasing Department, Office of County Attorney or Board of County Commissioners. Procurement processes for certain specialized services may require the ad hoc addition of evaluators to assist in the evaluation process.

10.8 RANKING OF FIRMS

Members of evaluation committees shall review each proposal submitted during a competitive CCNA process. The evaluation committee will convene at a prescribed public meeting and score proposals based on defined scoring criteria. The evaluation committee shall select in order of preference, at least three (3) firms, if at least three (3) firms responded to the public solicitation. If less than three (3) firms respond, and after the Purchasing Department provides ample due diligence to comply with F.S. 287.055 requirements, the County will evaluate all respondents and proceed with the evaluation process. As an option, the County may conduct public/oral presentations with a minimum of three (3) firms (if three firms submitted).

Upon completion of firm ranking and oral presentations (if applicable), the ranking will be presented to the BCC for consideration and permission to negotiate.

10.9 NEGOTIATION

Upon BCC approval, staff (usually the department managing the project) will negotiate a contract with the most qualified firm (number one ranked firm) for professional services. The Purchasing Department will be responsible for facilitating this process. Detailed discussions must be held by the firm and the County to clearly establish the scope of the project and the exact services to be performed by the firm. Should the County and firm fail to reach agreement, negotiations with the first firm are terminated and negotiations with the second ranked firm shall commence. If again unsuccessful, the process is repeated with the next ranked firm. The process is continued until a mutually agreeable contract is concluded or the procurement process is abandoned. Termination of negotiations with the first firm and commencement of subsequent negotiations does not require further BCC approval.

10.10 TRUTH IN NEGOTIATIONS

The successful professional firm shall execute a truth in negotiation certificate stating that wage rates and other factual unit costs supporting compensation are accurate, complete and current at the time of contracting. Any professional service agreement in which such a certificate is required shall contain a provision that the agreement price shall be adjusted to exclude any significant sums where the County determines the agreement price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All adjustments to the agreement, if any, shall be made within one (1) year following the end of the agreement.

10.11 AWARD

The ranking of firms for all CCNA contracts shall be presented to the BCC for consideration. Per Section 2-177(f) of County code, based upon the final negotiated contract, a contract which is \$100,000.00 or less in a fiscal or calendar year may be awarded by the Director of Purchasing; a contract which is \$250,000.00 or less in a fiscal or calendar year may be awarded by the County Administrator and all contracts exceeding \$250,000.00 in a fiscal or calendar year shall only be awarded by the BCC.

10.12 CONTINUING CONTRACTS

Per FS 287.055, a continuing contract is a contract for professional services entered into with all of the procedures of F.S. 287.055 between the County and a firm whereby the firm provides professional services to the agency for projects in which the construction costs do not exceed Florida Statute threshold, for a study activity where the fee for such professional services does not exceed Florida Statute threshold or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract must provide a termination clause. The consultants on continuous contracts are selected to perform professional services on same or similar terms.

For each specific task to be performed regarding a continuing contract, the requesting department shall prepare or have prepared with the assistance of a consultant the tasked out scope of work. The scope of work shall include only those services to be performed and should include as applicable but not limited to; time for completion, amount of compensation, and construction cost estimate.

Tasked out scope of services are narratively described and supported by a detailed spreadsheet of tasks and subtasks with distribution of appropriate man hours by job title for each task and subtask at rates from the continuing consultant's contract fee schedule. Assignments will be rotated among firms as feasible by the facilitating department based upon the specific discipline required, experience and qualifications of the firm.

Continuing contracts are evaluated as per the evaluation of consultants for all other CCNA contracts. Oral presentations are not required for the evaluation of continuing contracts and the criteria utilized to evaluate the firms will be the same as utilized for determining the short list of other CCNA contracts.

10.13 CCNA OVERSIGHT

The County Administrator shall appoint minimum of three (3) members of his/her executive management team (Assistant County Administrators) to provide oversight of the CCNA process. Such oversight will pertain to but not be limited to: composition of evaluation committees, evaluator pool members, the evaluation process and any other matters deemed appropriate by the County Administrator.

Prior to the scheduling of CCNA evaluation meetings, the Purchasing Department shall be responsible for obtaining Oversight approval of the committee members for the purpose of insuring the committee is comprised of equitable members and that no apparent conflict exists. The Purchasing Department shall be responsible for obtaining CCNA Oversight pertaining to the evaluation process to BCC consideration. The purpose of this oversight is to review the evaluation process and insure no obvious discrepancies exist such as incorrect scores or errors in the process.

10.14 DESIGN-BUILD SERVICES

Design-build services shall be governed by F.S. 287.055. The County shall award design-build contracts by the use of a qualifications based selection process pursuant to F.S. 287.055(3)--287.055(5), or by use of the competitive proposal selection process set out in this section. The procurement of competitive proposal design-build services shall be made in accordance with the following rules and procedures:

DESIGN-BUILD SERVICES (continued)

- A. **Design criteria package:** The design criteria package shall be prepared and sealed by a design criteria professional employed or retained by the County. If the County enters into a professional services contract for the preparation of the design criteria package, the professional shall be selected and contracted with in accordance with the requirements of F.S. 287.055(4) and 287.055(5). The professional preparing the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the package prepared by such professional.
- B. **Selection/negotiation committee:** The County shall publicly advertise in a uniform and consistent manner on each occasion when design-build services are required except in cases of valid public emergencies. The advertisement shall include a general description of the project and shall indicate how, and the time within which, interested design-build firms may apply for consideration.

Any firm or individual desiring to provide design-build services for the County must first be determined legally qualified. Legal qualifications are:

- A. Firms must be properly certified to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent.
- B. Firms must be properly certified to practice or to offer to practice engineering, architecture, or landscape architecture.
- C. The firm shall be duly qualified to perform its proposed services under any other applicable law.

10.15 SOLICITATION AND NEGOTIATION OF DESIGN-BUILD SERVICES

A. Solicitation.

Requests for proposals shall be sent to all interested firms requesting that their qualifications, proposed design be submitted at a time and place certain. The request for proposal shall contain at a minimum the design criteria package; evaluation criteria, technical and design aspects of the project; evaluating procedures and any other information pertinent to selection and award of the design-build contract. As an option, the County shall incorporate price into the evaluation process as well.

B. Evaluation.

The committee shall review all proposals and identify no less than three firms deemed qualified (if three firms propose, see Section 10.8) to perform the required services based on the evaluation criteria contained in the procurement document. The committee shall then rank and short-listed firms based on the evaluation criteria set forth on the request for proposal. The committee may require oral presentations of short-listed firms. Price will also be considered in the evaluation process if used as an optional criterion.

SOLICITATION AND NEGOTIATION OF DESIGN-BUILD SERVICES (continued)

C. Negotiation.

After ranking, the committee shall attempt to negotiate a contract within the parameters of the design criteria package. Design-build contracts will be awarded under the provisions of section 2-176(f) and other applicable provisions of this article.

D. Additional Functions of Design Criteria Professional

The design-criteria professional shall be consulted in the evaluation process, the supervision or approval of the County of the detailed working drawings of the project and for the evaluation of the compliance of the project construction with its design criteria package.

10.16 CONSTRUCTION MANAGER AT RISK SERVICES

A. Solicitation

Requests for proposals shall be sent to all interested firms requesting that their Letter of Interest; qualifications, general approach to the project and other information as requested in the RFP. The request for proposal shall contain at a minimum a narrative description of the project scope of work, evaluation criteria, evaluating procedures and any other information pertinent to selection and award of the CM contract.

B. Evaluation

The committee shall review all proposals and identify no less than three firms deemed qualified (if three firms propose, see Section 10.8) to perform the required services based on firm qualifications, availability and past work of the firm. The committee shall rank the short-listed firms based on the evaluation criteria set forth on the request for proposal. The committee may, at their option require oral presentations of short-listed firms. As an option, price may be utilized as a criterion for evaluation.

C. Negotiation

After final ranking (after oral presentations if required), the committee shall attempt to negotiate a contract within the parameters of the narrated scope of work description set forth on the request for proposal. CM contracts will be awarded under the provisions of Section 2-178 and other applicable provisions of this article.