

CHAPTER THREE
PROCUREMENT CODE

3.0 PURPOSE

The purpose of the Osceola County Procurement Code is to simplify, clarify, centralize, and modernize the policies governing Procurement by the County. It also permits the continued development of comprehensive Procurement Policies and Procedures that provide for increased public confidence in public Procurement. Ensuring the fair and equitable treatment of all persons who do business with the County provides safeguards for maintaining a quality Procurement process. It also provides increased economy in County Procurement activities and maximizes, to the fullest extent practicable, the purchasing value of public monies. Promoting effective broad-based competition within the free enterprise system ensures the County obtains the quality Goods, Services, and Construction which is required by the County to better serve its citizens in a cost-effective and timely manner. Definitions for terms referenced throughout the Chapter are located in Appendix A.

3.1 GENERAL PROVISIONS

3.1-1 APPLICABILITY AND EXCLUSIONS

- A. Applicability: The provisions of this Code shall apply to the Procurement of Goods, Services, and Construction by the Board of County Commissioners (Board) and the Departments and agencies under the control of the County Manager/Attorney. Expenditures of federal or state assistance funds and Grants will be conducted in accordance with the applicable mandatory laws and regulations which may not be reflected in this Code or may be inconsistent with any provision of this Code. However, nothing in the Administrative Code shall prevent the County from complying with the terms and conditions of any Grant, Contract, gift or bequest that is otherwise consistent with the law.

- B. Exclusions: Not precluding all other requirements of this Code, the following are exempt from the Competitive Solicitation provisions, except as regulated by Ordinance or State Statute as amended, but do not prevent the County from competitive selection:
 - 1. Artistic Services.
 - 2. Academic Program reviews.
 - 3. Advertisements.
 - 4. Animal Feed.
 - 5. Auditing Services.
 - 6. Commodities or Services provided or awarded by other governmental agencies including, but not limited to: federal, states, counties, cities, school boards, community colleges, and state university systems.

7. Communications including marketing, promotion, and education.
8. Continuing education events or programs that are offered to the general public and for which fees have been collected that pay all expenses associated with the event or program.
9. Dues, memberships, and subscriptions.
10. Emergency Purchases.
11. Employment Services.
12. Family placement services.
13. Financial services.
14. Goods and/or Services given to or accepted by the County via Grant, gift or bequest.
15. Grant Services – Grant opportunity, research, application development, reporting, and monitoring.
16. GSA Contracted vendors – purchases made directly from vendors awarded a GSA Schedule Contract at prices equal to the vendor’s current GSA price.
17. Medical or health Services, including services mandated through the court system, involving examinations, diagnosis, treatment, prevention, medical consultation, counseling and outside providers administering the program, including but not limited to, substance abuse and mental health Services.
18. Neighborhood-Serving Municipal Serving Taxing Units (MSTUs)/Municipal Serving Benefit Units (MSBUs) community-initiated requests for specific vendors for their support and services.
19. Insurance.
20. Lectures.
21. Legal Services, including attorneys, paralegals, expert witnesses, interpreters, translation services, mediators, appraisal services, real estate title services, and court reporters.
22. Lobbying Services.
23. Material from publishers and copyright holders.
24. Medicaid services delivered to an eligible Medicaid recipient unless the agency is directed otherwise by law.
25. Pharmaceuticals – Medicinal drugs.
26. Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations.
27. Public Notices.
28. Real Property - Acquisition of Real Property interests and/or development mitigation credits.
29. Section 8 Program Voucher awards.
30. Section 8 Program Landlord Housing Assistance Payment (HAP) Contracts.
31. Services or commodities exempted by Florida Statutes.
32. Services or commodities provided by Non-Profit organizations.
33. Services or commodities which are Direct Payments as listed in this Code.
34. Sole Source Goods or Services.

35. Software license/subscription renewal, software annual maintenance, and software support costs.
36. Sponsorships.
37. Standardized equipment, annual maintenance repairs, and support costs.
38. Used or pre-owned equipment.
39. Utilities including internet and cable television access.
40. Warehouse Stores – Purchases from paid membership retailers.
41. Workshop and seminar registration, attendance, education and training, strategic planning and/or costs of job-related travel.

C. Tax Exempt Certificate:

1. Whenever possible, it is the responsibility of the County employee making a purchase, regardless of the Procurement method, to provide Osceola County's Certificate of Exemption from Florida's sales and use tax in an effort to reduce expenses.
2. The tax-exempt status granted to the County is only applicable to expenses that occur inside the State of Florida.
3. Sales taxes that are charged, with no ability to request the exemption and/or provide the Certificate of Exemption (e.g. automated receipts from a machine) are eligible expenses.
4. Sales Tax Expenses:
 - a. If sales tax is erroneously charged, the Department shall request it be removed / a corrected invoice.
 - b. If the tax is applied to only part of the invoice, partial payment may be processed.
 - c. If at least one (1) attempt has been made to have the sales tax removed, and the amount of sales tax charged is less than twenty (\$20) dollars, the County Manager/Designee or County Attorney/Designee may approve payment.

3.1-2 WAIVER OF REQUIREMENTS

The Osceola County Board of County Commissioners may, when deemed to be in the best interest of the County and not inconsistent with law, waive any or all requirements or provisions set forth in this Chapter of the Administrative Code and proceed thereafter to take whatever action is deemed to be in the best interest of the County.

3.1-3 CHANGES IN LAWS AND REGULATIONS

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Code, automatically supersede this Code.

3.1-4 REQUIREMENT OF GOOD FAITH

This Code requires all parties involved in the Solicitation, Negotiation, performance, or administration of County Contracts to act in good faith.

3.1-5 CONFIDENTIAL INFORMATION

Confidential information shall be administered in accordance with the Public Records Act, Chapter 119, Florida Statutes, as amended. Such information furnished by a Bidder or Respondent shall not be disclosed by the County outside of the Procurement Services Office and appropriate staff as determined by the Procurement Services Office without prior written consent by the Bidder or Respondent. All other information submitted by a Bidder or Respondent shall be subject to public records right of access requirements as stated in Chapter 119, Florida Statutes.

3.2 AUTHORITY

3.2-1 BOARD OF COUNTY COMMISSIONERS

Florida Statutes Chapter 125 and the Charter of Osceola County grant authority to the Board of County Commissioners of Osceola County, Florida to enact the provisions of this Code.

- A. The Board has the authority to award all Contracts except as otherwise provided in this Code. All agreements and Contract awards exceeding one hundred fifty thousand dollars (\$150,000.00) per year shall be approved by the Board prior to execution, unless otherwise provided by Board action. Said Threshold amount shall be established based on an annual not-to-exceed amount of one hundred fifty thousand dollars (\$150,000.00) per contract year, not to exceed four hundred fifty thousand dollars (\$450,000.00), including all renewals.
- B. The Board has the authority to approve any Amendments and/or renewals to a Contract originally executed by the County Manager or their Designee, which would increase the not to exceed amount of the Contract above the approved Threshold limitation as identified in 3.2-1(A). However, once approved by the Board, the County Manager, or their Designee, shall have authority to execute 1) agreement renewals which do not increase the annual not to exceed amount, and 2) Contract Amendments which do not increase the not to exceed amount of the Contract or the scope of services as approved

by the Board.

- C. The Board shall approve Right-of-Way and Real Property acquisitions and Construction Easements (temporary or permanent) exceeding three hundred fifty thousand dollars (\$350,000.00) per parcel.

3.2-2 COUNTY MANAGER

In accordance with Chapter One of the Administrative Code (1.2), the County Manager is responsible for the day-to-day administration of the County and to administer and carry out the policies of the Board.

- A. The County Manager or their Designee shall have the authority to award and execute purchases, Contracts, and/or Amendments that do not exceed the authorized Threshold as established above. This limitation shall be established based on the Threshold limitation established in 3.2-1(A) amount during the term of the Contract.
- B. The County Manager or their Designee shall have the authority to execute Right-Of-Way (ROW) and Real Property purchases and Temporary Construction Easements that do not exceed the authorized Threshold as established above in 3.2-1(C) if the property has been deemed necessary for a Capital Project that is included in the Board's approved Capital Improvement Plan and Budget.
- C. The County Manager or their Designee shall have authority to approve and execute Task Authorizations for continuing Service Contracts that do not increase the entire compensation amount of agreements as authorized and approved by the Board. Specific limitations to County Manager authority, and/or delegation of authority, to approve and execute Task Authorizations may be included in Agenda Requests and/or Agreements approved by the Board, when applicable.
- D. Reporting Requirements: The County Manager or his/her Designee shall, not less than once a month, report to the Board on various Procurement activities either as an informational item on the agenda or via electronic communication. The report will set forth all Contracts, Task Orders, and/or Amendments approved and executed by the County Manager or his/her Designees. Additionally, it will include all Board approved Contracts that may be renewed within the next six months. Board approval is not necessary and failure to notify alone will not be grounds for a protest of any kind.
- E. The County Manager or their Designee shall have the authority to adopt operational procedures, consistent with this Code, Florida Statutes, and best practices governing the Procurement and management of all Goods, Services, and Construction by the County.
- F. The County Manager shall have the authority to delegate Procurement authority, in writing, and to designate Procurement Thresholds for amounts less than the Board

approval amount.

3.2-3 COUNTY ATTORNEY

In accordance with Chapter 1.3, the County Attorney or Designee serves as legal counsel and represents the Board and County departments, including Procurement.

- A. All Contract, Agreement, and Amendment templates, including terms and conditions, shall be reviewed by the County Attorney for legal sufficiency.
- B. The Board, County Manager or his/her Designee may request individual legal review and approval of specific Agreements, Contracts, and/or Amendments, or other Procurement related documents on a case-by-case basis.
- C. The County Attorney or Designee shall have the authority to award and execute Purchases, Contracts, and/or Amendments for outside legal counsel without a threshold limitation

3.2-4 PROCUREMENT SERVICES STAFF

The County Manager shall designate the qualified individuals responsible for the County's procurement process as identified throughout this Policy, including, except for the County Attorney's procurement of legal services, the following:

- A. Supervise the Procurement of all Goods, Services, and Construction required by the County.
- B. Execute and issue, via mail, email or fax, all regular and electronic Purchase Orders, for Goods, Services, and Construction, including Owner Direct Purchases, that are associated with Agreements, Contracts, Task Orders, Amendments, County Manager Approval forms, County Attorney Approval forms, Agenda Items, and/or Change Orders approved and/or executed by the Board, County Manager, County Attorney, and/or Designee(s).
- C. Manage the County's Procurement Card (P-Card) Program.
- D. Assist the County Manager in the development, implementation and administration of Procurement Procedures and processes in the best interest of the County and in accordance with this Code, State Statutes, best practices, and any other applicable laws.

3.3 ETHICS IN PUBLIC CONTRACTING

3.3-1 STANDARDS OF CONDUCT

Public employment is a public trust. Public employees must discharge their duties impartially so

as to assure fair competitive access to governmental Procurement by responsible Contractors. Employees should conduct themselves in such a manner as to foster public confidence in the integrity of the County's Procurement process.

Failure of a County employee to adhere to this Code or the Procurement procedures as established by the County Manager shall constitute insubordination and shall subject that employee to disciplinary action pursuant to Chapter 2 Personnel Policies and Procedures, of the Administrative Code.

3.3-2 CONFLICT OF INTEREST

- A. Bidders, Respondents, members of an Evaluation Committee, Vendors, awarded Contractors, and County employees shall not engage in any action that would create a Conflict of Interest in the performance, or possible performance, of their obligation with the County or would violate, or cause others to violate, the applicable provisions of the Florida Statutes and federal laws relating to ethics in government. No Procurement of Goods, Services, or Construction in which a Conflict of Interest occurs between the County and the Vendor shall be made with any Person. A Conflict of Interest with a Respondent, Contractor, Vendor, Subcontractor or Person may occur under the following situations:
1. An employee of Osceola County or an individual chosen by the County to serve as a member of an Evaluation Committee has a Material Interest as defined in the Florida Statutes.
 2. A member of the Board, the County Manager, County Attorney, their Designees, or a spouse, or child thereof, has an employment relationship or a material or financial interest, as defined in the Florida Statutes, upon award of a Solicitation.
- B. No public officer or employee of the County shall solicit or accept anything of value including a gift, loan, reward and, or promise of future employment, favor or service based upon the understanding that a Procurement recommendation or decision would be thereby influenced.
- C. In addition to the prohibitions concerning gifts and gratuities as stated in applicable Florida Statutes, employees within the Procurement Services Office shall not accept any gift from a Lobbyist, as that term is defined in the Florida Statutes, regardless of the dollar value.
- D. It shall be unethical for any payment, gratuity, or offer of employment to be made by, or on behalf of, a potential Vendor, Bidder, Contractor, or Subcontractor, to any Person associated with a particular Solicitation or award as an inducement for the award.
- E. Any violation of any provision of this section shall be subject to the sanctions contained in the Florida Statutes Chapter 112 and/or any other applicable state or federal law.

3.3-3 LOBBYING

- A. The Lobbying Black-Out Period commences upon the issuance of the Solicitation document.
- B. The Lobbying Black-Out Period for awards requiring Board approval concludes at the beginning of the meeting at which the Board will be presented the award(s) for approval or a request to provide authorization to negotiate a Contract(s). However, if the Board refers the item back to the County Manager for further review or otherwise does not take action on the item, the Lobbying Black-Out Period will be reinstated until such time as the Board meets to consider the item for action.
- C. The Lobbying Black-Out Period for awards requiring County Manager Approval concludes upon issuance of a Notice of Intent to Award.
- D. Bidders, Respondents, potential Vendors, service providers, Lobbyists, Consultants, or Vendor representatives shall not contact any Board member, the County Manager, any requesting or evaluating Department/Division/Office personnel, and/or any member of the Evaluation Committee concerning an active Solicitation during the Lobbying Black-Out Period.
- E. All questions and inquiries concerning procedural matters shall be directed to the Procurement Services Office.
- F. Except in response to communications initiated by authorized County representatives, contact or communications by Bidders or Respondents to any Board member, the County Manager, any requesting or evaluating County personnel, or any member of the Evaluation Committee, initiated during the Black-Out Period, may result in disqualification from the Solicitation process.

3.3-4 PROHIBITION AGAINST CONTINGENT FEES

Contractors and Vendors wanting to do business with the County must not hire a Person to solicit or secure a Contract for a commission, percentage, brokerage, or contingent fee.

3.3-5 SPECIFICATION PREPARATION

No Person preparing Solicitation Specifications including, but not limited to, architects, engineers, designers, and Consultants for public Contracts, or Subcontractors shall be able to respond to the Solicitation or receive any direct or indirect benefit from the utilization of such Specifications with the exception of contracted Design/Builds Firms.

3.3-6 UNAUTHORIZED PURCHASES

- A. No unauthorized purchases shall be allowed.
- B. No County employee shall make any purchase in the name of the County for personal use.
- C. No County employee shall obligate the funds of the County, except in the case of emergency Procurements, authorized Procurement card (P-Card) transactions, and/or Direct Payment requests handled through the Clerk of the Circuit Court of Osceola County, unless duly authorized by the Board or County Manager/Designee, as applicable.
- D. Every Purchase Requisition or Contract shall be properly financed and budgeted, or have an identified plan as approved by County Administration, prior to the issuance of a Purchase Order by the Procurement Services Office as designated by the County Manager. The Board may provide exceptions to this requirement.
- E. Dividing or breaking up Procurements into two (2) or more smaller purchases to avoid or to circumvent the requirements of this Code and its implementing County Manager Procedures are expressly prohibited.

3.4 PROCUREMENT ADMINISTRATION

As designated by the County Manager, Procurement Services shall serve as the central Procurement office of the County. County Manager Procedures / operational procedures shall be approved in advance by the County Manager or Designee.

3.4-1 PROCUREMENT METHODS AND SOLICITATION

All Contracts shall be awarded by one of the approved methods of source selection as specified in this Code or in the Florida Statutes. The County Manager shall direct the Procurement Services Office to develop Procedures to aid in determining the appropriate source selection method.

- A. Procurement of Construction Services - The County Manager, or Designee, shall have the discretion to select the appropriate delivery method for a Construction project in consideration of the County's requirements, resources and Florida Statutes.
- B. Public Notice: Public Notice of each formal Solicitation shall be advertised and/or posted and electronically noticed and shall state the place, date, and time that Bids or proposals must be received.
- C. Pre-Qualification: A pre-qualification process may be conducted by the Procurement Services Office prior to the issuance of a Solicitation in order to establish a list of qualified Bidders or Respondents.
- D. Formal Solicitations:

1. In accordance with this Code and, where applicable State Statutes, the County Manager will establish the Solicitation Threshold for a formal process that is necessary to achieve a fair and equitable solicitation. The County may require Respondents to provide presentations to an Evaluation Committee, County Manager, and/or Board during the selection process as stated in the Solicitation document. All Respondents selected for presentation shall be accorded fair and equal treatment.
 2. Competitive Sealed Bids/Proposals must be received in the location stated in the Solicitation document and no later than the precise date and time set for the Opening of Bids or Proposals to be considered Responsive. Those received prior to the specified date and time shall be opened publicly at a Bid Opening in accordance with approved Procedures. Whenever permitted by State Statutes, Osceola County may utilize electronic means for Bid Openings versus physical, in-person Openings, and will be properly noted in the advertisement.
- E. Small Purchases: Small purchases for securing Goods and Services that do not exceed the Formal Solicitation Threshold are conducted using informal procedures as established by the County Manager.
- F. Cooperative Purchasing: The County may participate in, sponsor, conduct or administer a Solicitation for the Procurement of any Goods, Services, or Construction with one or more eligible governmental agencies, in accordance with an agreement entered into between the participants. The County is authorized to enter into intergovernmental cooperative purchases, sometimes referred to as “piggybacking” in which the County will be extended the pricing and terms of a competitively solicited active Contract of another governmental entity. When in the best interest of the County, a Cooperative Purchasing agreement will be executed.
- G. Single Source Procurement: A Contract may be awarded without competition when the County Manager, or Designee, determines, in writing, after conducting a good faith review of available sources and reviewing all applicable documentation, that there is only one source for the required Goods, Services, or Construction.
- H. Emergency Procurements:
1. Notwithstanding any other provisions of this Code, the County Manager, or Designee, may make or authorize others to make Emergency Procurements of Goods, Services, or Construction when there exists a threat to public health, welfare, or safety or if a situation exists which makes compliance with source selection methods contrary to the public interest. This stipulation is provided that such Emergency Procurements shall be made utilizing any existing contracts or whatever competition as is practicable under the circumstances.

2. A written determination of the basis for the emergency and for the selection of the particular Vendor shall be maintained by the Procurement Services Office, as designated by the County Manager, as a public record in the Procurement file. Procurement Services will include any Emergency Procurements in the monthly report to the Board.
 3. In the event an official state of emergency has been declared by the Board, the County Manager, or their Designee, is expressly authorized to execute Contracts with the State of Florida, FEMA and/or other applicable emergency relief entities on behalf of the County in order to accomplish all necessary relief efforts, provided that the requirements of this section have been met.
- I. Owner Direct Purchase Program: When not prohibited by law, the County Manager, or Designee, may exercise a right to directly purchase various Materials, Goods, and/or equipment to be used in the Construction project pursuant to Florida Statute 212.08(6), as amended. While authorization will be included in the approved, associated Contract, nothing herein shall prohibit the County from deleting items within the Solicitation and purchasing said items directly from a supplier, without further Bidding, in an effort to benefit from the County's tax exempt status, in accordance with the proper authorization.
 - J. Procurement Card (P-Card) Program: The Board recognizes that certain Procurements are more efficiently processed via a P-Card Program. As such, the County Manager is directed to ensure the requirements for the program are developed, to include, but not limited to, the establishment, communication, and maintenance of procedures for the use and control of the utilization of a P-Card to purchase Goods and Services on behalf of the County.
 - K. Direct Payments: Unless controlled by an applicable agreement, Direct Payments to a vendor may be permitted when there is legal authorization to expend the funds, there is no additional value in processing via Purchase Order, and is in accordance with approved County Manager Procedures.

3.4-2 BID/PROPOSAL ACCEPTANCE AND EVALUATION

- A. Opening: Competitive Sealed Bids/Proposals received in the location stated in the Solicitation document no later than the precise date and time set for the Opening shall be accepted without alteration or correction. The County reserves the right to accept any or all Bids/Proposals or to waive any formalities, technicalities or irregularities. In no instances would this include receipt after the precise date and time due.
- B. Evaluation: Bids/Proposals shall be evaluated based only on the requirements set forth in the Solicitation document. With the exception of Solicitations procured pursuant to 287.055 F.S. (CCNA), Evaluation of Bids shall include consideration of the total cost for

each year of the Contract, including renewal years, as submitted by the Vendor.

- C. Rejection: The Board authorizes the County Manager, or Designee, the right to reject any or all Bids/Proposals due to the following:
 - 1. Respondent previously failed to perform properly, or to complete on time a Contract of a similar nature; and/or
 - 2. Respondent failed to establish they are in a position to perform the Contract; and/or
 - 3. Respondent habitually, and without just cause, neglected the payment of bills or otherwise disregarded its obligations to Subcontractors or employees.
- D. Correction or Withdrawal of Bids: After Bid Opening, no changes in Bid prices or other Bid provisions shall be permitted. In the event of mathematical mistakes in extended pricing, the unit price shall prevail.
- E. Exceeding Allocated Funds: In some circumstances the lowest acceptable Bid for a project exceeds allocated/budgeted funds; however, the project's scope, time or economic considerations precludes the re-Solicitation of work for a reduced scope. If such Bid does not exceed the allocation by more than ten percent (10%), the County Manager, or Designees, is authorized to negotiate an adjustment of the Bid price with the lowest Responsive and Responsible Bidder so long as the adjusted Bid price does not exceed allocated funds.
- F. Tie Bids: If there are two (2) or more Bid submittals that are identical in price and meet all the requirements and criteria set forth in the Solicitation, the award may be made by the Board or County Manager pursuant to the approval limitations as stated in this Code. In making the tie-breaker decision, the following may be considered including, but not limited to: Service-Disabled Veteran's Business Enterprise (SDVBE) status, Minority/Women Business Enterprise (M/WBE) status, Bidder's location, and/or the Bidder's Local Small Business Enterprise status.

3.4-3 RESPONSIBILITY OF BIDDERS AND RESPONDENTS

- A. In the interest of efficiency and effectiveness of the solicitation and selection process, factors to be considered in determining if a Bidder is Responsible may include, but is not limited to, any or all of the following:
 - 1. The Bidder's financial condition, physical capacity, professional ability, personnel, or other resources, including the ability to furnish Subcontractors possessing the same qualifications as the Bidder.

2. The Bidder's performance record.
 3. Whether the Bidder has successfully paid the fees, taxes, or assessments owed to the County.
 4. Whether the Bidder provided all required information concerning its responsibility.
- B. Determination of Non-Responsibility: If a Bidder or Respondent, who otherwise could have been awarded a Contract, is found Non-responsible, a written finding of Non-responsibility, setting forth the basis of the finding, shall be prepared by the County Manager, or Designee, and the written finding shall be maintained as part of the County's Procurement file.
- C. Right to Inspect: The County may inspect the plant or place of Business of, or equipment to be utilized by a proposed Bidder or Respondent or any Subcontractor of an awarded Contract or a Contract to be awarded by the County to assist in determination of Bidder/Respondent responsibility.
- D. Establishment of Specific Criteria: The County Manager may establish specific criteria to determine the responsibility of a Bidder or Respondent, relative to a particular Procurement, with said criteria set forth in the Solicitation.
- E. Electronic Signature: The County will accept electronic signatures on documents submitted to it electronically when in the County's best interest.

3.4-4 BONDS AND SECURITY REQUIREMENTS

- A. Bid Security: The County may require the submission of a Bid bond or other form of security to guarantee full Bid compliance. When the Solicitation requires a Bid bond or security, failure of the Bidder to supply same, in the amount and type required, shall automatically render the Bidder as Non-responsive to the requirements of the Solicitation.
- B. Contract Payment and Performance Bonds: When a Contract is awarded the County may require the successful Bidder to supply a payment and performance bond as required by State Statute. When a payment and performance bond is required, it shall be in the amount and type satisfactory to the County and executed by a surety company authorized to do business in Florida that is acceptable to the County. The bonds shall be recorded in the public records of the County, be held by the Clerk of the Circuit Court, and shall become binding on the parties upon the execution of the Contract. In lieu of a payment and performance bond, the County may accept cash, money order, certified check, cashier's check, or irrevocable letter of credit. Nothing in this section shall be construed to limit the authority to require other security in addition to, or in lieu of, those bonds or

in circumstances other than those specified in this Code, when in the best interest of the County.

3. 4-5 CANCELLATION OR REJECTION OF SOLICITATIONS

Solicitations may be cancelled, or any or all submittals in response to Solicitations issued by the County may be rejected by the County Manager, or Designee, in whole or in part, without recourse, when it is in the best interest of the County. The County will provide said determination in writing in accordance with approved Procedures.

3.5 PROTEST AND APPEALS

It is essential that Bidders, Vendors, Contractors and the citizens of Osceola County have confidence in the policies and procedures for soliciting and awarding Contracts. The County has adopted herein the policy for the protest of a Solicitation, award or related Procurement decision. The County Manager shall cause to be developed a Procedure to identify the process and responsible parties for the administration of protests and appeals.

3.5-1 NOTICE OF PROTEST

- A. Notice of Intent to Award: A Notice of Intent to Award will be posted at the Procurement Services Office and County Bid notification site for a period of at least three (3) business days. A Notice of Intent is not issued for certain qualification-based solicitations such as those procured pursuant to 287.055 F.S. (CCNA).
- B. Notice of Protest:
 - 1. Notice of Solicitation Protest: Per the approved Procedure, any prospective Bidder or Respondent may file a Notice of Solicitation Protest concerning a Solicitation, in writing, and received in at least three (3) business days prior to the due date for the Solicitation.
 - 2. Notice of Award Protest: Per the approved Procedure, any Bidder or Respondent, who is not the intended awardee but claims to be the rightful awardee, may file a Notice of Award Protest, in writing, by 5:00 pm on the third (3rd) business day after the Notice of Intent to Award is posted. An Award Protest is not valid if filed by a Bidder who cannot show they would be awarded the Contract if their protest is upheld.
 - 3. Failure to file a Notice of Protest in a timely manner shall constitute a waiver of rights hereunder.

3.5-2 FORMAL WRITTEN PROTEST

After a Notice of Protest has been filed in a timely manner by the Bidder/Respondent, a formal written protest must be filed within five (5) business days of the filing of the Notice of Protest. Failure to file a Formal Written Protest in a timely manner shall constitute a waiver of rights hereunder. The alleged basis for the protest shall be limited to any of the following:

- A. Solicitation Protests: The Board directs the County Manager to develop a Procedure to consider Solicitation protests under the following criteria:
 - 1. The County failed to follow the procedures or requirements specified in the Solicitation document.
 - 2. A County employee engaged in misconduct or impropriety concerning the Solicitation.
 - 3. The terms of the Solicitation are in violation of or contradicts applicable laws, regulations, rules, code, policies or other legal authorities governing the Solicitation.
 - 4. Solicitation document instructions are unclear and/or contradictory.

- B. Award Protest: The Board directs the County Manager to develop a Procedure to consider award protests under the following criteria:
 - 1. The County failed to follow the procedures or requirements specified in the Solicitation document.
 - 2. County employees or Evaluation Committee member(s) engaged in misconduct or impropriety.
 - 3. The County made an identifiable mathematical or other error in evaluating proposals, resulting in the proposal receiving an incorrect score and not being selected for award.
 - 4. The County's designation of the protesting party as Non-responsive was incorrect due to an issue of fact or law not apparent on the face of the Bid or proposal document.

- C. Content of Protest: The formal written protest shall state all grounds claimed for the protest and include supporting documentation in accordance with implementing Procedures. Failure to do so shall be deemed a waiver of all protest rights.

3.5-3 STAY OF PROCUREMENT DURING THE PROTEST

The County Manager shall decide whether the performance of the Contract should be stayed. If

the Procurement Services Director, with the approval of the County Manager, makes a written determination within five (5) days of the Filing of the Formal Written Protest that the protest is clearly without merit and/or that a delay in the performance of the Contract is not necessary to protect the substantial interest of the County, the County may proceed with commencement of performance of the Contract.

3.5-4 REVIEW OF PROTEST AND DETERMINATION

The County Manager shall ensure that Procedures are developed to consider the timeliness of the Formal Written Protest, notify the protestor of its timeliness within seven (7) Business Days following receipt of the Formal Written Protest, make any pertinent inquiries, and attempt to resolve the protest by mutual agreement between the parties. Designated County staff shall confer with the County Attorney and County Manager or their Designee(s) to review the basis for the protest and the results of the inquiries and concur on a determination. The County Manager, or Designee, will send the protestor a Notice of Determination within five (5) Business Days of the County's determination.

3.5-5 APPEALS

- A. If the protestor is not satisfied with the determination, the protestor may appeal to the Board by filing a Notice of Appeal, which sets forth the facts upon which the appeal is based and includes any and all supporting documentation, with the County Manager, or Designee, within five (5) Business Days of issuance of the Notice of Determination.
- B. The County Manager, or Designee, shall prepare an agenda item for the Board and schedule an Appeal hearing before the Board within thirty (30) days of Receipt of the Notice of Appeal or as soon as practicable.
- C. Failure of the protestor to file a Notice of Appeal in a timely manner shall constitute a waiver of rights hereunder.
- D. The decision of the Board shall be final and conclusive.

3.5-6 STAY OF PROCUREMENT DURING APPEAL

If an Appeal is filed and performance of the Contract was stayed by the County Manager pursuant to this section, the filing of an Appeal shall automatically continue the stay. The exception would be if the County Manager makes a written determination that Contract performance without delay is necessary to protect the substantial interest of the County or the health, welfare, and/or public safety of the citizens of Osceola County.

3.6 CONTRACTS

3.6-1 TERMS AND CONDITIONS

Any type of Contract which promotes the best interest of the County, and has been approved for legal sufficiency by the County Attorney, may be used. All County Contracts shall include provisions necessary to define the responsibilities and rights of the parties to the Contract. The County Manager, or Designee, shall have the authority to establish and modify any such terms and conditions subject to review by the County Attorney for legal sufficiency.

3.6-2 MULTI-YEAR CONTRACTS AND APPROPRIATION OF FUNDS

A Contract for Goods, Services, or Construction may be entered into for more than one (1) Fiscal Year if it is deemed to be in the best interest of the County, the term of the Contract and conditions of renewal or extension are included in the Solicitation, and the funds are available for the current Fiscal Year. Obligations for succeeding Fiscal Years may be subject to the availability and appropriation of funds by the Board.

3.6-3 ADMINISTRATION AND COMPLIANCE

- A. After a contract has been awarded, the County will conduct Contract administration and compliance activities. This encompasses all interaction between the County and the Vendor from the time the Contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved.
- B. The County Manager will designate the individual(s) responsible for the Contract administration and compliance functions to ensure compliance with the contract, County Administrative Code, Florida Statutes, as applicable, County Procedures, and other applicable requirements.
- C. Right to Audit Records: The County may, at reasonable times and places, audit the books, records, and accounts of any Person, to the extent that the books, records, and accounts relate to the performance of Services in accordance with a County Contract. Any Person that is awarded a Contract or granted a Contract Amendment shall maintain all books, records, and accounts in compliance with generally accepted accounting procedures; and shall retain all books, records, and accounts for three (3) years, or a longer term as required by the funding source and designated in the Solicitation and Contract documents, from the date of final payment, termination, or until a full County audit is complete, whichever comes last. All books, records, and accounts related to the performance of a County Contract shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes, as amended.
- D. Settlement of a Contract Dispute: The County Manager, or Designee, and review by the County Attorney, is authorized to settle disputes arising out of the performance of a County Contract, provided the settlement amount does not cause the total Contract amount, including the settlement amount, to exceed the authority of the County Manager

as established in this Code. Any settlement exceeding the authority of the County Manager must be approved by the Board. If it is determined that termination is in the best interest of the County, a proposed letter of termination shall be presented to the Board or County Manager for approval.

3.7 SUSPENSION AND DEBARMENT

3.7-1 AUTHORITY TO DEBAR OR TEMPORARILY SUSPEND

- A. The Board has the authority to Debar a Person or Business, for cause, from doing business with the County.
- B. The Debarment shall be for a period not to exceed three (3) years from the date of the final Debarment determination by the Board. However, if the Debarment is based solely upon a previous Debarment by another governmental agency, the period of Debarment may run concurrently with the period established by that other agency.
- C. The County Manager has the authority to Suspend a Person or Business from doing business with the County during an investigation and pendency of Debarment action.
- D. The Temporary Suspension shall be for a period not to exceed six (6) months from the date of the final Suspension determination by the County Manager.

3.7-2 CAUSES FOR DEBARMENT

- A. Conviction of any Person, under any statute of the federal government, the State of Florida, or any other state, for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of Business integrity or Business honesty which currently, seriously, and directly affects responsibility as a County Contractor/Vendor within the last three (3) years.
- B. Conviction for commission of a criminal offense as an incident to obtaining, or attempting to obtain, a public or private Contract or sub-Contract, or in the performance of such Contract or sub-Contract within the last three (3) years.
- C. Conviction of or civil judgment against any Person based on a violation of a state or federal antitrust statute, relating to a response to a Solicitation within the last three (3) years.
- D. Violations of Contract provisions within three (3) years of current Debarment action, of a character which are reasonably deemed to be so serious as to justify the current Debarment or Suspension action.
- E. Abandonment of a Contract.

- F. Willful failure, without good cause, to perform in accordance with the terms and conditions as stated in an awarded Contract.
- G. Unsatisfactory performance of any of the terms of a Contract with the County. However, failure to perform or unsatisfactory performance caused by acts beyond the control of the Person shall not be considered to be a basis for Debarment or Suspension.
- H. Failure to pay a Contractor, Subcontractor, or Materials provider as required.
- I. A determination by a court, the Florida Department of Business and Professional Regulation or the federal government that the Person has violated the provisions of any Florida Statute, federal regulation or local law and/or has been placed on the State of Florida or federal government list of Debarred Contractors.
- J. Any other cause that the Board reasonably considers to be as serious and compelling enough to support a determination for of Debarment, such as proven Collusion.

3.7-3 INITIATION OF DEBARMENT, TEMPORARY SUSPENSION, AND FINAL DETERMINATION

- A. The County Manager, or Designee, shall investigate any information received concerning a possible cause for Debarment.
- B. After reviewing the basis for the Debarment with the County Attorney, the County Manager may determine that the Person shall be temporarily Suspended from doing business with the County during the investigation, and pendency of a Debarment action.
- C. In the event of temporary Suspension by the County Manager, written notification shall be provided to the Person regarding the reasons for the temporary Suspension, explanation of the Person's current status with the County, and the date and time that the final Debarment determination hearing will be held in front of the Board.
- D. If the Board determines that a Person should be Debarred, written notification will be provided to the Person, regarding the reasons for the Debarment, status with the County, and the period of Debarment, including the specific date that the Debarment ends.

3.7-4 IMPUTED KNOWLEDGE

- A. Improper conduct by a Person may be imputed to an Affiliate for purposes of Debarment where the impropriety occurred in connection with the Affiliate's duties for, or on behalf of, and/or with the knowledge or approval of the Person.
- B. The improper conduct of a Person or its Affiliate having a current County Contract with a Contractor/Vendor may be imputed to the Contractor/Vendor for purposes of Debarment where the impropriety occurred in connection with the Person/Affiliate's duties for, or on

behalf of, and/or with the knowledge or approval of the Contractor/Vendor.

3.7-5 MASTER LIST OF DEBARRED OR SUSPENDED PERSONS

The County Manager shall cause a Master List of Debarments and Suspensions to be created and maintained. This will include, at a minimum, the names of those Persons Debarred or Suspended, the basis for such action, the period including expiration date and the name of the Debarring agency, if the County's Debarment is based on Debarment by another governmental entity.

3.8 SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE (SDVBE) PROGRAM

It is the intent of the County, by providing opportunities for SDVBEs, to address the economic disadvantage of service-disabled veterans who are statistically least likely to be self-employed, compared to the general veteran population, and who have made extraordinary sacrifices on behalf of the nation, the state, and the public.

Whenever the County is considering two (2) or more Bids, proposals, or responses to a Solicitation for the Procurement of Goods, Services, and/or Construction, which are equal with respect to price, quality, and Services, where at least one (1) response is from a certified SDVBE, the County shall award such Procurement or Contract to the SDVBE even if a different respondent qualifies for one of the other programs identified in this Code. If one (1) or more Businesses are entitled to this preference, then the Business having the smallest net worth or average annual income shall receive the award.

3.9 MINORITY/WOMEN BUSINESS ENTERPRISES (M/WBE) PROGRAM

3.9-1 ENHANCING CONTRACTING OPPORTUNITIES

Minority/Women Business Enterprises (M/WBE) are encouraged to participate in the Procurement process, and as such, the County shall use its best efforts to award Contracts to eligible M/WBE Vendors for all Goods, Services, and Construction. All entities performing work for the County, including Subcontractors, shall take all necessary and reasonable steps to ensure that M/WBEs have the maximum opportunity to participate in the performance of Contracts without discrimination on the basis of race, color, national origin, religion, age, sex (gender), sexual orientation, physical or mental disability.

The County's M/WBE program is not intended to promote the use of racial or gender set-asides, and quotas, but is intended to encourage increased participation among minority-owned and women-owned Business enterprises. As such, the County Manager is directed to develop and implement procedures for the MWBE Program.

Whenever the County is considering two (2) or more Bids, proposals, or responses to a Solicitation for the Procurement of Goods, Services, and/or Construction, which are equal with respect to price, quality, and Services, if neither bid is from a certified SDVBE, but one of the bids

is received by a certified M/WBE, the County shall award such Procurement or Contract to the M/WBE. The County will report to the Board annually on the prior calendar year's progress and success along with the current status of the program.

3.9-2 PARTICIPATION GOAL

The County hereby establishes an annual Contract participation goal of twenty-five percent (25%) of Contracts/Subcontracts awarded to M/WBEs and LSBEs. Vendors are encouraged to reflect the County's specific M/WBE annual participation goal in subcontracting opportunities. Vendors will still be asked to make good faith positive steps to subcontract with M/WBEs for a share of the work consistent with the goals of the County. However, the County shall consider the availability of M/WBEs in the relevant market, the capacity of the particular M/WBE to complete the job, the past results of efforts to Contract with M/WBEs, and M/WBE Firms that indicated they are ready, willing, and able to perform work on County projects.

3.10 LOCAL SMALL BUSINESS ENTERPRISE PROGRAM (LSBE)

3.10-1 ENHANCING CONTRACTING OPPORTUNITIES

When not in conflict with a grantor's requirements or other laws, Osceola County will enhance contracting and Procurement opportunities for small business enterprises headquartered in Osceola County by establishing a Local Small Business Enterprise (LSBE) program. The County Manager shall have the authority to develop and implement procedures for the Local Small Business Enterprise Program that encourages LSBE participation and document good faith efforts that promote participation of LSBE in contracting and sub- contracting opportunities.

An economic development opportunity shall be offered to certified LSBE(s) as defined in the implementing Procedures. The opportunity shall be applicable to the request for Quotation and Competitive Sealed Bid Solicitation should a certified Osceola County LSBE business respond to a Solicitation and submit a Bid that is within a certain percentage, as specified in approved procedure, of the lowest Bid.

3.10-2 PARTICIPATION GOAL

Osceola County has established a goal of twenty-five percent (25%) participation for LSBE and M/WBE for all County Contracts, including sub-contracting opportunities. This goal does not include Contracts where the funding source prohibits local preference, including but not limited to Procurements which are federally funded directly or through other means.

3.10-3 EXCEPTIONS

Exceptions to this policy shall include, but are not limited to, the following:

- A. Purchases that are funded in whole or in part by assistance from any federal, state, or

local agency that disallows preference;

- B. Purchases made through cooperative Procurements;
- C. Purchases subject to section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act, as amended;
- D. Procurements subject to formal proposal where price is not the primary factor and/or is not part of the criteria are not subject to Local Small Business Enterprise program; however, a Firm's location may be considered in the evaluation criteria.

3.11 LIVING WAGE INCENTIVES (LWI) AND APPRENTICESHIP PROGRAMS

It is the intent of the County, by providing opportunities to reward existing and/or new employers providing a Living Wage to their employees, to promote a just and sustainable local economy. As a result, Living Wage Certified (LWC) employers are strongly encouraged to participate in the County's Solicitation processes. This is further encouraged through incentives.

3.11-1 COST BASED SELECTION.

Whenever the County is considering two (2) or more Bids, proposals, or responses to a Solicitation for the Procurement of Services, which are equal with respect to quality, and Services, if neither bid is from a certified SDVBE, but one of the bids is received by a Living Wage Certified (LWC) employer who is willing to match the lowest bid received, the County shall award such Procurement or Contract to the LWC Bidder. If one (1) or more Bidders are entitled to this incentive, the LWC Bidder having the lowest Bid will be given the first opportunity to match. The aforementioned process will be used progressively as applicable.

3.11-2 QUALIFICATION BASED SELECTION.

Whenever appropriate, the incentive will provide for up to five (5) points for a Living Wage Certified (LWC) vendor as one component of the established evaluation criteria. The Solicitation documents will specifically identify the amount of available points. A LWC vendor would then be eligible for the specified points.

3.11-3 APPRENTICESHIP OPPORTUNITIES.

During the Solicitation of certain Construction Manager at Risk (+\$5 million) services, should a LWC vendor affirm and provide required documentation of a viable apprenticeship program, the County may add up to five (5) points to the evaluation criteria, where not prohibited by law.

3.11-4 NEOCITY CONSTRUCTION PROJECT REQUIREMENTS

For any construction projects the County initiates within the NeoCity Boundary, there shall be a requirement that the awarded vendor provide a Living Wage to their employees and provide opportunities for apprenticeships for all contractors or sub-contractors.

APPENDIX A. - DEFINITIONS

Unless the context otherwise requires, the following terms shall have the meanings set forth below whenever they appear in Chapter 3 of the Administrative Code and/or correlating County Manager Procedures:

“Addendum” means a written change to a Solicitation during the Solicitation process.

“Administrative Code/Code” means the compilation of the Board’s Policy/rules for its operations.

“Advertisement” means a public notice in a newspaper of general circulation and or posted on the County’s web-based bid notification system of formal Solicitations; notice should state the place, date, and time that bids or proposals must be received.

“Affiliate” means a corporation that is related to another corporation by one owning shares of the other, by common ownership, or by other means of control.

“Agenda Items/Requests” means a written form of communication presented to the Board for consideration that includes a summary of the requested action along with supporting documentation.

“Agreement” means a written agreement between two or more competent parties that includes provisions necessary to define the responsibilities and rights of the parties to perform a specific act(s); any type of agreement, regardless of what it is called, for the procurement or disposal of goods, services or construction, usually an exchange of goods or services for money or other consideration. The term Agreement may be used interchangeably with the term “Contract” or “Contract Acceptance Letter.”

“Amendment/Contract Amendment” means a written modification, which revises specifications, price, quantity, or other terms of the Agreement, upon mutual consent and with a formally executed document signed by both parties.

“Animal Feed” means domestic animal or livestock food, including hay and nutritional supplements.

“Artistic Services” means the rendering by a Contractor of time and effort to create or perform an artistic work in the fields of music, dance, drama, fold art, creative writing, painting, sculpture, photography, graphics arts, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio or tape and sound recording.

“Bid” means a formal written price offer by a Vendor to the County to furnish specific Goods, Services, and/or Construction in response to an Invitation for Bids or a multistep bidding procedure.

“Bid Award” means the award of a bid for goods or services by the appropriate level of authority after receipt of competitive quotes or bids, and determination of fund availability.

“Bid Bond/Security” means an insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

“Bidder” means any Person, Firm, Business or other group of individuals that submits a response to a Solicitation. The term Bidder may be used interchangeably with the term Respondent.

“Black-Out Period” means the period that begins upon the issuance of a Solicitation and concludes upon the final execution of the contract by the appropriate approval authority during which bidders and respondents are prohibited from contacting any Board Member, the County Manager, any requesting or evaluating department personnel and/or any member of the Evaluation Committee.

“Board” means the Osceola County Board of County Commissioners that is the duly elected legislative branch responsible for setting policies, adopting ordinances, appropriating funds, etc.

“Budget” means the annual Adopted Budget, as amended or revised, that serves as the County’s financial plan that includes estimated revenues equaling estimated expenditures for a period of one year.

“Business” means a corporation, Firm, association, syndicate, partnership, sole proprietorship, joint stock company, joint venture, or any other legal entity.

“Business Day” means the days of operation that the Osceola County offices are open, except for holidays recognized by the County, during normal operating hours.

“Capital Project” means any project funded by public monies, or proposed to be funded by public monies, to build restore, retain, or purchase any equipment, property, facilities, programs or other items, including buildings, park facilities, infrastructure, information technology systems, or other equipment, that is funded on a necessarily non-repeating, or non-indefinite, basis and that is to be used as a public asset, or for the public benefit. Any and all funds used for a Capital Project shall be used in accordance with the rules and regulation of the fund source with parameters and thresholds established in the County’s Finance Code.

“Capital Improvement Plan (CIP)” means a five-year framework for planning for the replacement of existing capital equipment/facilities and for major investments in acquiring and

building new public facilities that links the County's Comprehensive Plan and fiscal Budget to physical development.

"Change Order" means a modification, deletion or addition to an authorized Purchase Order.

"Collusion" means a secret agreement or cooperation between two or more parties to accomplish a fraudulent, deceitful, or unlawful purpose.

"Collusive Bidding" means an unethical and illegal practice in which suppliers act in collusion to "fix" their bids in a collectively advantageous manner.

"Communications" means services used by the County such as cellular telephone providers, Cable television, and long-distance service carriers.

"Competitive Solicitation" means a process of requesting and receiving two or more bids, proposals, or replies submitted by responsive Vendors in accordance with the terms of a competitive process, regardless of the method of Procurement.

"Conflict of Interest" means a clash between the public interest and the private pecuniary interest of the individual concerned. (Black's Law Dictionary, 299, 1990). The term identifies those situations where contractors or public officials may obtain a benefit from a public contract. Conflicts of Interest may result in a breach of ethics or an ethical code. Actual or Perceived Conflict of Interest: Any action, decision or recommendation by an agent or public official acting in an official capacity, the effect of which could be to the private pecuniary benefit or detriment of the person or person's relative.

"Construction" means the process of constructing a building, structure, road or drainage utilities; altering, repairing, improving, or demolishing any structure or building; or other improvements of any kind.

"Construction Manager at Risk (CMAR)" means a project specific delivery method that provides overall planning, coordination and control of a construction project from beginning to completion for a guaranteed maximum price.

"Construction Services" means all labor, Services, and Materials provided in connection with the Construction, repair, replacement, renovation, or demolition, or any other improvement of any kind, to any real property.

"Consultant" means a person that possesses unique qualifications which allow them to serve and/or perform specialized and/or advisory Services, usually for a fee.

"Consultants Competitive Negotiation Act (CCNA)" means guidelines for the acquisition of professional architectural, engineering, landscape architecture, or surveying and mapping

services, including definitions, procedures and prohibitions as defined in Florida Statute 287.055, as amended.

“Consultant Services” means any narrow discipline wherein a known practitioner has, through education and experience, developed expert advisory and programmed skills as a vocation; any service performed primarily by vocational personnel which requires the analysis or certification of a professional before the services are acceptable to the user of the service or any other advisory, study or programming activity.

“Contract” means an obligation, such as an accepted offer, between competent parties upon a legal consideration, to abstain from or to do some act or acts. The term Contract may be used interchangeably with Agreement.

“Contract Management” means the management of the organization’s contracts and contract-related activities which may include accounting, administration, auditing, grants management, law, negotiation, logistics, price-structure compensation, delegation of purchasing authority, program management, termination and other business activities.

“Contractor” means any person, individual, Firm, partnership, corporation, association or other legal entity having a Contract with the Board of County Commissioners to furnish Goods, Services, or Construction for an agreed upon price.

“Cooperative Purchasing” means a Procurement conducted by, or on behalf of, more than one public Procurement unit.

“County” means Osceola County, Florida, a charter county and political subdivision of the State of Florida.

“County Administration” means the County Manager, Chief Operating Officer, Deputy County Manager(s) and/or Assistant County Manager(s) when acting in the capacity of the County Manager in accordance with approved, written delegation of authority, and determined necessary by the County Manager to assist with overseeing the day-to-day operations of the County.

“County Manager” means a Chief Executive Officer for the County appointed pursuant to Section 2:3 A. of the Osceola County Home Rule Charter, or such person's designee, who oversees county operations.

“County Manager Approval (CMA)” means a process and form to be utilized when a Board Division/Department/Office submits an agreement or request for expenditures to the County Manager, or designee, for approval. The form provides a summary of the agreement and or transaction along with authorization / signatures for audit purposes.

“County Manager Procedure/Procedure(s)” means an established process in support of the Board’s Policies developed by the relevant staff, reviewed by the County Attorney’s Office and approved by the County Manager, in order to provide direction to staff in carrying out the day-to-day administration of the County.

“Cure Notice” means a notice, either oral or in writing, that informs the Contractor that he or she is in default and states what the Contractor has to do to correct the deficiency. If the notice is oral, it shall be confirmed in writing.

“Debar/Debarment” means an action taken by the Board under this Code to prohibit a Person of Firm from participating in County Procurements for an extended period of time.

“Department/End User Department/End User/Division/Office” means an administrative Department, Division, or Office of the County which utilizes any Goods, Services, or Construction procured under the Administrative Code and correlating Procedures. The terms may be used interchangeably.

“Department Direct County Manager Approval (DD-CMA)” means a process and form to be utilized when a Board Division/Department/Office submits an agreement to the County Manager, or designee, for approval without Procurement Services involvement. The form provides a summary of the agreement along with authorization / signatures for audit purposes.

“Departments’ Administrators/Directors/Department Head” means executive-level managers assigned to oversee a specific division/area of responsibility in accordance with the County Manager’s Organizational Chart.

“Designee” means a person who has been given the authority to act on the behalf of another Person of authority.

“Direct Payment” means the payments the Clerk of the Circuit Court can process directly, without a purchase order, for specific fees, Goods, Services in accordance with the Code and approved procedures.

“Electronic Signature” means letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party, with the intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

“Emergency Procurement” means a Procurement that is made in order to minimize a delay in a requirement for goods or services that would be detrimental to the health, safety or welfare of the County and/or its citizens.

“Employment Services” means employee recruitment services, background investigations, polygraph testing, compensation studies, employee leasing, temporary employment services, employee skill assessments, employment program development and

fitness for duty assessments.

“Ethics” means pertaining to or relative to moral action, conduct, motive or character; as ethical emotion; professionally right or benefitting; conforming to professional standards of conduct.

“Evaluation Committee (EC)” means an evaluation group established for the sole purpose of evaluating responses received from a County Solicitation.

“Filed” means the delivery of applicable document(s) to the Procurement Services Office. A time and date of Receipt shall be documented by the Procurement Services Office in a verifiable manner for purposes of filing.

“Financial Services” means professional services involving the evaluation, investment and management of public assets including the study of potential economic impacts in the expenditure of public authority.

“Firm” means any business, individual, union, committee, club, organization or group of individuals.

“Fiscal Year” means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.

“General Services Administration (GSA) Contract” means a program established by the federal government for products and services procured from pre-vetted vendors. Procurement from vendors offering GSA Schedule pricing results in reduced costs and maximized efficiency due to federal volume procurement.

“Goods” means any tangible property other than services or real property.

“Grant” means the furnishing by the County of assistance, whether financial or otherwise, to any Person or organization; or the receipt by the County of assistance, whether financial or otherwise, from any governmental or private entity. Grant does not include an agreement whose primary purpose is to procure a specific end product, whether in the form of Goods, Services, or Construction.

“Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless given without consideration.

“Invitation to Bid (ITB)” means Solicitation documents, written or electronic, whether attached or incorporated by reference, which are used for Competitive Sealed Bidding for the Procurement of Goods, Services and/or Construction. The Invitation to Bid is used when the County is capable of clearly defining the scope of work for which a contractual Service or precise Specification defining actual commodities that are being procured.

“Lobbying” means any action taken by a Person to influence the decision of a Board member, the County Manager, any User Department/Division/Office personnel, and/or any individual serving on an Evaluation Committee during the Black-Out Period.

“Lobbyist” means an individual or group whose efforts are intended influence public and governmental policy.

“Local Small Business Enterprise (LSBE) Program” means a program developed to enhance contracting and Procurement opportunities for certified small business enterprises headquartered in Osceola County.

“Material Interest” means a Direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of any business entity.

“Materials” means items that are incorporated into or attached to an end item or consumed in performing a Contract. Materials do not include land, a permanent interest in land, or leases of real property.

“Minority/Women-Owned Business Enterprise (M/WBE)” means a Florida domiciled Small Business entity or Firm that is a minority-owned business enterprise or a women-owned business enterprise, or both, as defined by Title 13 in the Code of Federal Regulations.

“Minority Person” means a lawful, permanent resident of Florida who is African American, Hispanic American, Asian-Indian American, Native American, Asian-Pacific American or American woman.

“Municipal Serving Benefit Units (MSBU)” means a service unit which receives a specific benefit for which a special assessment is imposed to cover the cost of providing the service or improvement established by the Board through an adopted ordinance or resolution that outlines the boundaries of the district and the services or improvements to be provided.

“Municipal Serving Taxing Units (MSTU)” means a service unit for which an ad valorem tax levy is imposed to cover the cost of providing a service or improvement, based upon taxable value established by the Board through an adopted ordinance or resolution that outlines the boundaries of the district and the services or improvements to be provided.

“Must” means to denote the imperative.

“Negotiation” means a legitimate, arm’s length Discussion and conferences to reach an agreement on terms or price.

“Non-responsible” means a Bidder who does not have the capability to fully perform the Contract requirements, or who does not have the experience, reputation, and/or reliability to

assure performance.

“Non-responsive” means a Bidder whose submittal does not conform to the mandatory or essential requirements of the Solicitation.

“Notice to Proceed” means a written notification from the Project Manager to the contractor to establish commencement of the contractor's responsibilities under the provisions of the contract.

“Opening” means the date and time set for Opening of Bids, Receipt of statements of qualifications or Receipt of proposals in Competitive Sealed Proposals, or in the case of a reverse auction, the date and time set for the auction close.

“Owner Direct Purchase Program” means Materials and commodities that will be purchased and paid for directly by the County that are incorporated into any public work project, which is under the direction or management of a Contract manager.

“Person” means any Consultant, Business, individual, union, committee, club, representative, other organization, or group of individuals.

“Pharmaceuticals” means medications used to diagnose, cure, treat or prevent disease.

“Procurement” means buying, purchasing, renting, leasing, or otherwise acquiring of any Goods and/or services for public purposes in accordance with the laws, rules, regulations and procedures intended to provide for the economic expenditure of public funds. It includes, but is not limited to, all functions which pertain to the obtaining of any supplies, materials, equipment and/or services including construction projects and Capital Projects, as defined herein, required by any division/department/office or agency of County government regardless of the source of funds.

“Procurement Card (P-Card)” means an instrument used to purchase goods/services in accordance with established procedures.

“Procurement Card (P-Card) Program” means a program designed to improve efficiency in processing low dollar purchases of commodities or Services from any provider that accepts a credit card.

“Procurement Services Director” means the principal officer for procurement-related activities duly authorized to conduct and approve Procurements as delegated by the County Manager; sign purchase orders for Procurements pursuant to the Administrative Code; manage Contracts and make written determinations with respect thereto.

“Procurement Services Office” means the central County Office responsible for County Procurements. The term may be used interchangeably with Procurement Services or Office.

“Professional Services (PS)” means any architectural, engineering, landscape architectural, registered land surveying, or planning activity as defined and prescribed under Florida Statute 287.055, as amended.

“Proposal” means an executed formal document submitted by an offeror to the County stating the good(s) and/or service(s) offered in response to a Request for Proposal or Request for Information.

“Public Notice” means written announcement made by the County concerning a Solicitation or other information of general public interest.

“Purchase” means the same as Procurement, as defined herein.

“Purchase Order” means the County’s document used to authorize a purchase transaction with a vendor; contains provisions for construction, goods and/or services ordered; applicable terms as to payments, discounts, date of performance and transportation; and other factors or conditions relating to the transaction.

“Purchase Requisition” means an internal document by which the County sends details of supplies, services or materials required to the Procurement Services Office.

“Quotation” means an oral or written informal offer to the County by a vendor for furnishing specific goods and/or services at a stated price.

“Real Property” means the land, everything that is permanently attached to the land, and all of the rights of Ownership, including the right to possess, sell, Lease, and enjoy the land.

“Receipt” means actual Receipt of an item being delivered or the first attempted delivery by certified mail, or by any other means that provides conclusive evidence of the attempt to deliver to the last known address of party.

“Request for Letters of Interest (RFLOI)” means a non-binding method Solicitation method used to obtain information for services or projects that cannot be quantified and an award of a Contract may be accomplished in a single step or multi-step process.

“Request for Proposals/Competitive Proposal Solicitation (RFP)” means a Solicitation method used to solicit proposals from potential providers of Goods, Services, and Construction. Price is not the only determining factor in an RFP and an award of a Contract may be accomplished in a single step or multi-step process.

“Request for Qualifications/Qualifications Based Solicitation or Professional Services (PS)” means a Solicitation method used to solicit proposals from potential providers of specific Services where price is not an evaluation factor.

“Request for Quotations (RFQ)” means an informal Solicitation where oral or written quotes are obtained from a reasonable number of providers, preferably three (3), without formal advertising or Receipt of sealed Bids.

“Respondent” means a Person, Business, Firm or other group of individuals that submits a response to a Solicitation. The term Respondent may be used interchangeably with the term Bidder.

“Responsible Bidder/Offeror/Responsible Respondent” means an individual or Business which has submitted a bid, offer, proposal, Quotation or response, which has the capability, as determined by the County, in all respects, to fully perform Solicitation requirements with the integrity and reliability which give reasonable assurance of good faith and performance.

“Responsive Bidder/Offeror/Responsive Respondent” means an individual or business which has submitted a bid, offer, proposal, Quotation or response, which conforms to all material aspects of the Solicitation, as determined by the County.

“Right(s)-of-Way (ROW)” means a type of easement or other real property interest granted or reserved over the land for transportation purposes including highway, public footpath, etcetera, or for other public purposes.

“Service-Disabled Veteran” means a Veteran who has a service-connected disability of ten percent (10%) or greater as determined by the United States Department of Veteran Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

“Service-Disabled Veteran Business Enterprise (SDVBE)” means a Business that has been certified by the State of Florida to be an independently owned and operated SDVBE business as defined by the state.

“Services” means the furnishing of labor, time, and/or effort by professionals or Contractor, wherein the submission of goods or other specific end products other than reports, studies, plans, advisories, contractual documents or other documents relating to the required performance is incidental or secondary.

“Shall” means to denote the imperative.

“Sole/Single Source” means the only existing source of the only item which meets the needs of the user Department/Division/Office as determined by a reasonably thorough analysis of the marketplace.

“Solicitation” means an invitation or request by which the County invites participation in the Procurement process.

“Specifications/Scope/Scope of Services/Scope of Work” means a statement of the requirements for product, materials, or process used to describe the goods and/or services required by the County.

“Sponsorship” means a monetary or/or in-kind fee paid to a property/entity (typically in sports, arts, entertainment or causes) in return for access commercial potential associated with that property/entity.

“State” means the State of Florida.

“Subcontractor” means any Person employed to perform part of a contractual obligation under the control of the principal Contractor.

“Suspend/Suspension” means action taken by the County Manager under the Administrative Code to temporarily disqualify or exclude a Person from participating in County Procurements for a definite period of time.

“Task Authorization/Task Order (TA)” means a process used by a Department/Division/Office to obtain the appropriate approval for an individual engagement under certain continuing service agreements. The terms may be used interchangeably.

“Temporary Construction Easement” means the right to use property belonging to another for a limited period of time for construction purposes.

“Threshold” means the dollar value which determines the methods for the purchase or Solicitation of Goods and Services and authorization approval.

“Used or pre-owned” means an item or equipment that is not new.

“Vendor” means a supplier/seller of Goods, Services, and/or Construction. The term Vendor may be used interchangeably with provider or supplier.

“Warehouse Store” means a retailer offering goods at discounted prices to business and private customers via paid membership.

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