

ORDINANCE NO.: 2011 - 3

AN ORDINANCE TO AMEND PROVISIONS OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO THE POSITION OF CHIEF PROCUREMENT OFFICER; AMENDING CODE SECTION 2-102 TO MODIFY DEFINITION OF CHIEF PROCUREMENT OFFICER; AMENDING CODE SECTION 2-104 TO MODIFY THE APPOINTMENT AND TENURE OF THE CHIEF PROCUREMENT OFFICER; PROVIDING FOR SEVERABILITY AND INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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HERNANDO COUNTY FLORIDA

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY:

**Section 1. Amendment of Hernando County Code § 2-102.** Hernando County Code § 2-102 is hereby amended to read as follows, with underlined matter added and struck-through matter deleted:

Sec. 2-102. Definitions.

When used in this article, the following terms are to be defined and construed as follows:

*Administrator* means the county administrator, or designee.

*Agreement* means the same as and is fully synonymous with "contract."

*Bid* or *bids* means a formal written price offer by a vendor to the county to furnish goods and/or services in response to a solicitation for bids or request for proposals. The term bid or bids shall include, but not be limited to, invitations for bids, requests for proposal, request for qualifications and competitive negotiations.

1            *Board* means the Board of County Commissioners of Hernando County,  
2 Florida.

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

5            *Competitive award* means to award contracts based on the submission of  
6 sealed bids, proposals submitted in response to a request for proposals, proposals  
7 submitted in response to a request for qualifications, or proposals submitted for  
8 competitive negotiation.

9            *Competitive negotiations* means a solicitation of responses for a good and/or  
10 service where the competitive award may be based on negotiations with competitors  
11 submitting bids under a request for proposals or a request for qualifications.

12            *Chief procurement officer* ~~means the person holding the position as the~~  
13 ~~Director of Purchasing and Contracts of Hernando County~~ means the person holding  
14 the position created in Hernando County Code § 2-104 (Creation of the Office of the  
15 Chief Procurement Officer), as the head of the central procurement office of the  
16 County.

17            *Construction* means the process of building, altering, repairing, improving,  
18 or demolishing any structure, building, road, bridge, sidewalk, drainage facility,  
19 water distribution system, sewer collection system, water or sewer treatment plant,  
20 or other improvements of any kind to any real property. It does not include the

1 routine operation, repair or maintenance of existing structures, buildings or real  
2 property.

3 *Consultant services* means any narrow discipline wherein a known  
4 practitioner has, through education and experience, developed expert advisory and  
5 programming skills as a vocation; any service performed primarily by vocational  
6 personnel which requires the analysis or certification of a professional before the  
7 services are acceptable to the user of the services; or any other advisory, study, or  
8 programming activity. For the purposes of this article, the term "consultant services"  
9 does not include those services defined and prescribed under Florida Statute 287.055.

10 *Contract* is used in a legal sense and means a promissory agreement between  
11 two (2) or more parties that creates, modifies or destroys a legal relation. It includes  
12 all types of county agreements regardless of what they may be called, for the  
13 purchase or disposal of goods or services or performance of construction with the  
14 following exceptions: Salaries/employee benefits, taxes, judgements, travel, dues,  
15 pensions, utilities, subscriptions, debt service requirements, and postage. It includes  
16 contracts for a fixed price, cost, cost plus a fixed fee, or incentive contracts, contracts  
17 providing for issuance of job or task orders, leases, letter contracts and purchase  
18 orders.

19 *Contract modification* means any written alteration in specifications, delivery  
20 point, rate of delivery, period of performance, price, quantity, or other provisions of

1 any contract or purchase order accomplished by mutual action of the parties to the  
2 contract.

3 *Data* means recorded information, regardless of form or characteristic.

4 *Designee* means a duly authorized representative of a person holding a  
5 superior position.

6 *Electronic* means electrical, digital, magnetic, optical, electromagnetic, or any  
7 other similar technology.

8 *Emergency purchase* means a procurement of goods and/or services made in  
9 response to a requirement when the delay incident to complying with all governing  
10 rules, regulations, and/or procedures would be detrimental to the health, safety and  
11 welfare of the county and/or its citizens.

12 *Goods* means any tangible personal property other than services or real  
13 property.

14 *Invitation for bids* means all documents, whether attached or incorporated by  
15 reference, utilized for soliciting bids.

16 *Lease* means a contract where one party (lessee) has use and possession of an  
17 asset owned by another party (lessor) for a specified period of time for a monetary  
18 payment. Under a straight lease contract, title of the asset remains with the owner.

19 *Lease/purchase* means a lease contract where, upon completion of the  
20 specified lease period, in consideration of the monies paid during the term of the

1 lease agreement or an additional buyout payment, title to the leased asset passes to  
2 the lessee.

3 *May* denotes the permissive.

4 *Must* denotes the imperative.

5 *Personal property* means all tangible property which is not real estate, land,  
6 buildings or fixtures on land or buildings. Personal property includes, without  
7 limitation, all goods, materials, supplies, equipment and vehicles owned, leased or  
8 used by the county.

9 *Procurement* means buying, purchasing, renting, leasing or otherwise  
10 acquiring any goods and/or services for public purposes in accordance with the laws,  
11 rules, regulations and procedures intended to provide for the economic expenditure  
12 of public funds. It includes, but is not limited to, all functions which pertain to the  
13 obtaining of any supplies, materials, equipment and/or services, including  
14 construction projects, as defined herein, required by any department or agency of  
15 county government regardless of the source of funds or for which payment is made  
16 from county funds.

17 *Professional services* means architectural, engineering, landscape  
18 architectural, and registered land surveying services, as defined and prescribed under  
19 Florida Statute 287.055.

20 *Public notice* means the distribution or dissemination of information to

1 interested parties using methods that are reasonably available. Such methods will  
2 often include publication in newspapers of general circulation in the county,  
3 electronic or paper mailing lists, and web site(s) designated by the county and  
4 maintained for that purpose.

5 *Purchase order* means the county's contract document used to authorize the  
6 purchase of personal property or services.

7 *Purchasing agency* means any governmental employee or body other than the  
8 Chief

9 *Procurement Officer* which is authorized by this Ordinance or its  
10 implementing regulations, or by way of delegation from the Chief Procurement  
11 Officer, to enter into contracts.

12 *Real property* means, generally, real estate, including land, the buildings and  
13 other fixed improvements on the land, all objects growing on the land, and all other  
14 objects which are reasonably considered to be affixed to the land.

15 *Request for proposal (RFP)* means a solicitation of responses for a good  
16 and/or service for which the scope of work, specifications or contractual conditions  
17 cannot reasonably be closely defined. Evaluation of a proposal is based on prior  
18 established criteria wherein the RFP shall state the relative importance of price and  
19 other evaluation factors.

20 *Request for qualifications* means a solicitation of responses for services for

1 which the competitive award will be based on the qualifications of the responding  
2 bidders. Request for qualifications shall be used in the solicitation of, but not be  
3 limited to, professional services, design build services and construction management  
4 services.

5 *Regulation* means a government body's statement, having general or particular  
6 applicability and future effect, designed to implement, interpret, or prescribe law or  
7 policy, or describing organization, procedure, or practice requirements, which has  
8 been promulgated in accordance with applicable law.

9 *Responsible bid/bidder* means an individual, partnership, firm, association,  
10 corporation or business which has submitted a bid, offer, proposal, quotation, or  
11 response, which has the capability, as determined by the county, in all respects to  
12 fully perform the contract requirements, and the integrity and reliability which give  
13 reasonable assurance of good faith and performance.

14 *Responsive bid/bidder* means an individual, partnership, firm, association,  
15 corporation or business which has submitted a bid, offer, proposal, quotation, or  
16 response, which, as determined by the county, conforms in all material respects to a  
17 solicitation or request for proposals.

18 *Services* means the furnishing primarily of labor, time, and/or effort.

19 *Shall* denotes the imperative.

20 *Sole source* means the only existing source of the required item which meets

1 the needs of the county, as determined by a reasonably thorough analysis of the  
2 marketplace.

3 *Specification(s)* means a concise statement of a set of requirements to be  
4 satisfied by a product, material, service or process used in a solicitation for bid or  
5 request for proposal to describe the goods and/or service to be purchased or otherwise  
6 acquired.

7 *State contract* means a current, valid, continuing or term contract or  
8 agreement which has been publicly bid or negotiated by a department, division or  
9 agency of the State of Florida.

10 *Supplies* means all property including, but not limited to, equipment,  
11 materials, printing, insurance, and leases, but excluding land or permanent interest  
12 in land.

13 *Vendor* means an actual or potential supplier of a good and/or service.

14 *Written or in writing* means the product of any method of forming characters  
15 on paper, other materials, or viewable screen, which can be read, retrieved, and  
16 reproduced, including information that is electronically transmitted and stored.

17

1           Section 2. Amendment of Hernando County Code § 2-104. Hernando County Code §  
2 2-104 is hereby amended to read as follows, with underlined matter added and struck-through  
3 matter deleted:

4           Sec. 2-104. Chief procurement officer.

5           (a)    Creation of office. There is hereby created the office of the chief  
6 procurement officer. ~~Subject to the provisions of this article, the~~  
7 ~~director of purchasing and contracts shall serve as the chief~~  
8 ~~procurement officer for the county.~~

9           (b)    ~~Appointment and qualifications.~~

10           (1)    Appointment. Pursuant to a recommendation by the county  
11 administrator, the Board shall designate a full-time employee  
12 of the County to serve as the chief procurement officer shall  
13 ~~be appointed by an affirmative vote of a majority of the~~  
14 ~~members of the board of county commissioners.~~

15           (2)    ~~Qualifications. The chief procurement officer shall have~~  
16 ~~relevant, recent experience in public procurement and the~~  
17 ~~large-scale procurement of supplies, services, or construction;~~  
18 ~~and shall be a person with demonstrated executive and~~  
19 ~~organizational ability.~~

20           (c)    ~~Tenure and removal. The chief procurement officer shall be a full~~

~~time official of the county. The chief procurement officer may be removed from office by the county administrator pursuant to human resources policy relating to the removal of department heads.~~

**Section 3. Severability.** It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

**Section 4. Inclusion in the Code.** It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate designation.

**Section 5. Effective date.** This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

