

**ORDINANCE NO. 08-063**

**AN ORDINANCE AMENDING ORDINANCE 06-24, THE POLK COUNTY PROCUREMENT ORDINANCE; REPEALING ORDINANCE AMENDMENT 08-14; AMENDING SECTION 2B, APPLICATIONS AND EXCLUSIONS; PROVIDING FOR FLORIDA STATUTE 163.01, THE "FLORIDA INTERLOCAL COOPERATION ACT OF 1969"; AMENDING SECTION 2D, PROVIDING FOR LOCAL PREFERENCE; AMENDING SECTION 3, PROVIDING FOR THE NATIONAL INSTITUTE OF GOVERNMENTAL PURCHASING CODE OF ETHICS (NGIP); PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, THAT:**

**I. Repeal of Ordinance In Conflict.** Polk County Ordinance 08-14 is hereby repealed.

**II. Section 2 of Polk County Ordinance Number 06-024 is hereby amended to read as follows:**

**SECTION 2: GENERAL PROVISIONS**

The provisions of this ordinance are based upon the authority granted to the Board of County Commissioners of Polk County, Florida, in Chapter 125, Florida Statutes and in the Polk County Charter that came into effect on January 1, 1999.

**A. TITLE**

This ordinance shall be known and cited as the Polk County Procurement Ordinance.

**B. APPLICATION AND EXCLUSIONS**

The provisions of this ordinance shall apply to every purchase/procurement of goods, services, supplies, equipment, materials, or the letting of any contract for vertical or horizontal construction of any type for any agency, department or advisory board under control of the Board of County Commissioners, irrespective of their funding source, including state and federal assistance monies, except as otherwise specified by law and to the sale of

conveyance of real or personal property belonging to the county. They shall not apply to:

1. Agreements between the Board and non-profit organizations or governmental entities, including the procurement, transfer sale or exchange of goods and/or services.
2. Procurement of dues and memberships in trade or professional organizations; subscriptions for periodicals; advertisements; postage; expert witnesses; lobbying services; abstracts of titles for real property; title insurance for real property; court reporter services; water, telecommunication services, sewer and electricity for the use of the Board of County Commissioners or any agency, department or advisory board under the control of the Board of County Commissioners, where a fee or charge is paid to the provider for those utilities; copyrighted materials; patented materials; litigation support services; and fees and costs of job-related seminars and training.
3. Goods and/or services given or accepted by the County via grant, gift or bequest.
4. Real property.
5. Any contract awarded by the State of Florida; any contract which has been let to the lowest qualified and responsible bidder pursuant to competitive sealed bids by a county, municipality, school board, other units of local government in Florida, the Florida Sheriff's Association, the Florida Association of Counties, or any purchases made pursuant to Florida Statute 163.01.
6. Any contract pursuant to Request for Proposal which has been let to a responsive, responsible proposer, pursuant to competitive sealed proposals by a county, municipality, school board, other units of government and an immediate need has been determined by both the Purchasing Division Director.
7. Items purchased for resale to the general public.
8. Purchases from private cooperative groups or organizations or a Federal General Services Contract when the best interests of the county would be served thereby, provided the Purchasing Division has attempted to obtain three (3)

written or verbal quotations and those quotations confirm that the contract price is lower than the price available from vendors who are not a party to said contract.

9. The repair of wrecked County vehicles which have been designated for repair by the County's Risk Manager.
10. Purchases of educational tests, text books, printed instructional materials, films, filmstrips, video-tapes, disk or tape recording or similar licensed or copyrighted audio-visual materials, computer software, library books, reference books, periodicals, printed library cards, and other copyrighted materials where these items are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, a governmental agency, or a recognized educational institution.
11. The binding of insurance policies.

**C. WOMEN/MINORITY BUSINESS ENTERPRISE (W/MBE) PROGRAM POLICY STATEMENT**

The policy statement of the W/BME is hereby made apart of this ordinance and is described as follows:

It shall be the policy of the Polk County Board of County Commissioners that W/MBE participants shall have the maximum feasible opportunity to participate in the County's procurement process. The County's Purchasing Division shall do the following:

1. Ensure nondiscrimination in the administration of the County's procurement process;
2. Maintain a procurement environment in which W/MBE participants can compete fairly;
3. Prevent barriers that may obstruct W/MBE participation in the County's procurement activities; and
4. Assist in the development of firms so that they can compete successfully in the market place outside the W/MBE Program.

#### **D. LOCAL PREFERENCE**

It shall be the policy of the Board of County Commissioners to afford local preference to Polk County entities in the execution of this ordinance. The local preference policy shall be implemented in the following manner:

When written quotations (less than \$50,000.00) are received, and the lowest price is offered by an entity located outside of Polk County, and the next lowest price is offered by an entity located in Polk County, and is within 5% of the lowest price offered, then the Polk County entity shall be given the opportunity to match the lowest price offered, and if agreement to match the lowest price is reached, the Polk County entity will be awarded the quote if the Polk County entity is otherwise fully qualified and meets all county requirements.

When sealed bids are received that do not exceed \$3,000,000.00, and the lowest price is offered by an entity located outside of Polk County, and the next lowest price is offered by an entity located in Polk County, and is within 2% of the lowest price offered, then the Polk County entity shall be given the opportunity to match the lowest price offered, and if agreement to match the lowest price is reached, the Polk County entity will be awarded the bid if the Polk County entity is otherwise fully qualified and meets all county requirements.

When sealed bids are received that are greater than \$3,000,000.00 but do not exceed \$5,000,000.00, and the lowest price is offered by an entity located outside of Polk County, and the next lowest price is offered by an entity located in Polk County, and is within 1% of the lowest price offered, then the Polk County entity shall be given the opportunity to match the lowest price offered, and if agreement to match the lowest price is reached, the Polk County entity will be awarded the bid if the Polk County entity is otherwise fully qualified and meets all county requirements.

When sealed bids are received that are greater than \$5,000,000.00, and the lowest price is offered by an entity located outside of Polk County, and the next lowest price is offered by an entity located in Polk County, and is within .5% of the lowest price offered, then the Polk County entity shall be given the opportunity to match the lowest price offered, and if agreement to match the lowest price is reached, the Polk County entity will be awarded the bid if the Polk County entity is otherwise fully qualified and meets all county requirements.

For purposes of this provision the term "Polk County entity" means any business having a physical location within the boundaries of Polk County at which employees are located and from which business is regularly transacted.

If a contract is being funded in whole or in part by assistance of any federal, state or local agency which disallows local preference, the County will adhere to those requirements by not applying this section.

**III. Section 3 of the Polk County Procurement Ordinance is hereby amended by adding paragraph D as follows:**

**D. ETHICS**

Whereas the Purchasing Division is charged with the responsibility to transact the business of the county through the procurement of goods, services and construction and whereas the division should conduct these activities with the highest degree of ethical standards, the code of ethics of the National Institute of Governmental Purchasing (NIGP) is adopted as follows:

**NIGP CODE OF ETHICS**

The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization.

Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.

Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.

Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.

Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.

Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.

Believes that members of the Institute and its staff should at no time, or under any circumstances accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.

Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.

Resists encroachment on control of personnel in order to preserve integrity as a professional manager. Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, natural origin, disability, gender, age, pregnancy and other protected characteristics.

Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.

Subscribes to and supports the professional aims and objectives of the National Institute of Governmental Purchasing, Inc.

#### **SEVERABILITY**

If any portion of this ordinance is for any reason held unconstitutional or otherwise invalid by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

#### **EFFECTIVE DATE**

This ordinance shall become effective upon receipt of the official acknowledgment from the Office of the Secretary of the State of Florida that this ordinance has been filed with said office.

COMMISSIONERS POLK COUNTY BOARD OF COUNTY  
Polk County, Florida

STATE OF FLORIDA )  
COUNTY OF POLK )

I, Richard M. Weiss, Clerk of the Board of County Commissioners of Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No. 08- 063 to the Polk County Comprehensive Plan, which was adopted by the said Board on the 18<sup>th</sup> of November, 2008.

WITNESS by hand and official seal on this 22 day of November 2008.

Richard M. Weiss

Richard M. Weiss  
Clerk and Auditor  
By:

Kathryn Courtney  
Kathryn Courtney  
Deputy Clerk





## FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

December 1, 2008

Mr. Richard M. Weiss  
Clerk of the Board  
Polk County  
Post Office Box 988  
Bartow, Florida 33831-0988

Attn: Ms. Kathryn Courtney, Deputy Clerk

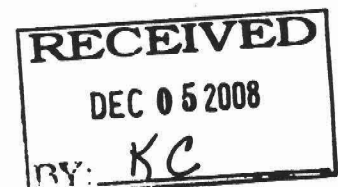
Dear Mr. Weiss:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated November 22, 2008, and certified copies of Polk County Ordinance Nos. 08-063 and 08-064, which were filed in this office on November 26, 2008.

Sincerely,

Liz Cloud  
Program Administrator

LC/srd



DIRECTOR'S OFFICE

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