

**CITY OF MARCO ISLAND
ORDINANCE NO. 98-6**

AN ORDINANCE TO ESTABLISH A PURCHASING
POLICY FOR THE CITY OF MARCO ISLAND.

WHEREAS, Article VIII of the State constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City of Marco Island must purchase certain commodities, equipment, and services, including professional consulting services; and

WHEREAS, it is the goal of City Council to maximize the value of each tax dollar for expenditures associated with the provision of those services necessary for the general health, safety, and welfare of the community; and


WHEREAS, the financial resources of the City and the services provided to the community may be enhanced with sound purchasing practices.

NOW, THEREFORE, be it ordained by the City Council of the City of Marco Island, Florida the document entitled "Purchasing" as described in the attached Exhibit "A" and incorporated herein, is hereby adopted.

This Ordinance shall become effective immediately upon adoption.

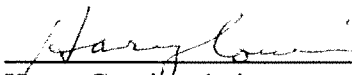
Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 17th day of August, 1998.

Attest:



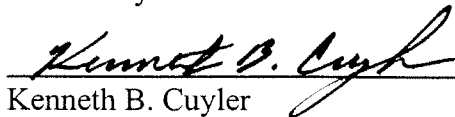
A. William Moss
City Manager

CITY OF MARCO ISLAND, FLORIDA



Harry Cowin, chairman

Approved as to form and legal
sufficiency:



Kenneth B. Cuyler
City Attorney

EXHIBIT "A"

PURCHASING

Section 1. Generally.

The City of Marco Island is required to purchase goods and services, which are necessary for the operation and maintenance of city government. This article establishes the procedures to maximize the use of financial and personnel resources with sound procurement practices in order to obtain the best value for each tax dollar expended; to ensure fair and equitable treatment of all persons who deal with the purchasing system of Marco Island; to develop procurement capability responsive to user department needs; to provide safeguards for the maintenance of a procurement system dedicated to quality and integrity; and to promote public confidence in the procedures followed in public procurement.

Section 2. Purchasing authority.

The city manager shall have purchasing authority, including authority to award and administer contracts necessary to procure goods and services for the city. The city manager may delegate procurement authority to a purchasing agent, contract officer, or employee(s). The city manager may:

- (1) Enter into, award, administer, and terminate contracts, unless otherwise provided in this article.
- (2) Require bid bonds, performance, and payment bonds before entering into a contract, in such form and amount as found reasonably necessary to protect the best interest of the city, procure supplies, material, equipment, contractual services, and construction services required by the city.
- (3) Require chemical and physical tests of samples submitted with quotations, bids or proposals to determine their quality and conformance with specifications.
- (4) Transfer surplus stock to other offices, departments or agencies of the city government.
- (5) Sell all supplies, materials and equipment which have become surplus property or unsuitable for use.
- (6) Trade-in supplies, material and equipment when deemed in the best interest of the city.

- (7) Enter into interlocal agreements for cooperative purchasing when the best interest of the city would be served.
- (8) Establish administrative policies and procedures for the implementation of this Article.

Section 3. Responsibilities.

The city manager or designee is responsible for ensuring efficient and effective contracting, compliance with the terms and conditions of contracts, and protecting the interests of the city in all contractual relationships. The city manager is provided the latitude to exercise sound business judgment while adhering to the requirements of the this Article and sound procurement principles.

Section 4. General practices.

- (1) *Competition.* Purchases should be planned and made on the basis of adequate competition whenever feasible. Adequate competition means the solicitation of sources to ensure that the price paid is fair and reasonable. The requirement for adequate competition does not preclude non-competitive procurement as enumerated in this article.
- (2) *Noncompetitive purchasing.* A noncompetitive purchase is any purchase of supplies, material, equipment or service from one source without competition. Noncompetitive purchases are permitted provided:
 - a. Acquisition of supplies or services does not exceed ten thousand dollars (\$10,000) in value.
 - b. In emergencies involving public health, public safety, or where necessary for repairs to city property in order to protect against further loss or damage to city property or to prevent or minimize serious disruption in city services.
 - c. Where goods and services are available under contracts written by federal and State of Florida agencies or other local governments.
 - d. Where goods and services are available from federal, state or local government agencies, and contracts with firms that provide goods or services subject to uniform tariff, government regulation or area-wide rates (utilities).
 - e. Institutional memberships, exhibition fees, booth space and attendance at training, seminars, or conferences.

- f. Where services required are for professional (architectural, engineering and medical) or artistic skills.
 - g. Repair, maintenance, remodeling, renovation, construction or demolition of a single project not involving an increase in the size and type of an existing facility.
 - h. Maintenance and servicing of equipment by the manufacturer or authorized service agent of the equipment.
 - i. Telecommunications systems and information technology, including data processing equipment, systems software, and reproduction equipment.
 - j. Where, after reasonable investigation, it has been demonstrated that only one source is capable of meeting the purchase requirement.
 - k. Where complete systems or equipment, parts or replacements of specified makes and models are needed for interoperability, compatibility or standardization purposes.
 - l. When competitive purchasing would not otherwise be in the best interest of the city.
 - m. When purchasing land, buildings, structures, or assets of other government agencies or private utilities.
 - n. When granting non-exclusive franchise agreements, or contracts to manage and operate municipal facilities and programs.
- (3) *Standards of conduct.* City employees are held to the highest standard of conduct in the performance of their duties and shall conduct themselves so as to avoid even the appearance of any impropriety in the planning and execution of purchase requirements. All employees shall adhere to the standards of ethical conduct as listed in the city's personnel manual and other applicable policies and laws.
- (4) *Gifts and rebates.* The city manager and every officer and employee of the city are expressly prohibited from accepting any valuable gift, whether in the form of service, loan, thing or promise that may tend to unduly and improperly influence them in the discharge of their duties.

- (5) *Public notice.* Public notice should be provided for all purchases requirements valued at over ten thousand dollars (\$10,000) unless otherwise provided in this article.

Section 5. Purchasing methods.

Purchases shall be made following established procurement and contracting principles and requirements of this article and supplemental procurement policies established by the city manager. The purchasing method employed is based upon the purchase requisition dollar estimate and the complexity of the purchase requirement.

- (1) *Simplified or small purchases.* Simplified or small purchase procedures are to be used in making fixed-price purchases up to ten thousand dollars (\$10,000). Requirements aggregating more than ten thousand dollars (\$10,000) may not be separated solely for the purpose of avoiding formal contract procedures as defined herein. The following provisions shall apply for simplified or small purchases:
 - a. *Departmental authority.* Department heads are authorized to make purchases for supplies and material valued up to one hundred dollars (\$100) using departmental petty cash funds. The department head shall be responsible for the accounting and documentation of petty cash transactions. Use of petty cash for services is prohibited.
 - b. *Competition for simplified or small purchases.* Competition is not required if the city manager or designee determines that the price received is fair and reasonable. Where practicable, noncompetitive purchases may be distributed equitably among qualified suppliers in order to develop and maintain a responsive industrial/supplier base for the city.
 - c. *Basis for award.* Simplified purchases are awarded to the proposer or quoter who offers the best value to the city. Best value is obtained by basing the award on price or a combination of price with price-related factors, other evaluation factors, or both. Award may be made to other than the lowest offeror. Rationale for making other than low price award will be documented in the appropriate files. In instances of equal prices and all other evaluation factors being equal, the award should be made to the local proposer or quoter. If no local proposer or quoter is involved, award will be made by drawing lots and documented in the appropriate files.

- d. *Solicitations.* Solicitation of proposals or quotations for small purchases may be done in writing or orally, at the discretion of the city manager or designee. Public notice of small purchases is not required, but may be initiated at the discretion of the city manager.
 - e. *Negotiation.* The city manager or designee may negotiate with proposers or quoters to ensure prices are reasonable, and that the city's requirements are understood.
 - f. *Suppliers or sources in default to city.* No purchases shall be made from vendors or contractors who are delinquent in the payment of taxes, licenses or other monies due the city.
 - g. *Ordering methods.* Simplified or small purchases may be made using petty cash or by purchase methods such as purchase orders, unpriced purchase orders, blanket purchase orders and delivery agreements.
 - h. *Administration of small purchases.* Small purchases will be administered in accordance with the terms and conditions of the order or agreement. The city manager may amend, modify, cancel, or terminate purchase orders and agreements as deemed necessary by the particular circumstances or situation.
- (2) *Formal contract procedures.* All supplies, material, equipment and contractual services valued in excess of ten thousand dollars (\$10,000), whether purchased competitively or noncompetitively through sealed bids or sealed proposals, shall be purchased by formal written contract or purchase order. All sales of personal and surplus property, when the estimated value exceeds one thousand dollars (\$1,000), shall be sold by written sales contract or at public auction to the highest responsible bidder, after due notice inviting proposals or bids. Surplus personal property may be sold to other governmental agencies in lieu of using sealed bid or public auction procedures. The principles listed in the subparagraph below apply to formal contracts:
- a. *Approval of contracts.* (1) All contracts over one thousand dollars (\$1,000) up to one hundred thousand dollars (\$100,000) shall be awarded by the city manager. (2) All formal contracts over one hundred thousand dollars (\$100,000) shall be awarded by City Council.

- b. *Public notice requirements.* All purchase requirements over ten thousand dollars (\$10,000), except those authorized to be purchased noncompetitively by this article, shall only be awarded after due public notice. The public notice required for purchases over ten thousand dollars (\$10,000) shall include a general description of the articles or services, state where written solicitations may be obtained, and shall state the time and place for receipt of bids or proposals.
- c. *Solicitations.* Except in cases of emergency, written solicitations will be issued when requesting sealed bids and sealed proposals.

Section 6. Use of sealed competitive bidding.

Sealed, competitive bidding is a method of contracting that employs competitive bids, public opening of bids, and award to the lowest responsive and responsible bidder. Invitations to bid (written solicitations) shall be used to request sealed bids and shall describe the purchase requirements. Sealed bid procedures are normally used for standard products or services where the specifications or statement of work are so definitive that prospective bidders may clearly understand the requirement and may take the necessary business risk to propose a firm-fixed price for the contract.

- (1) *Bid bonds for sealed bids.* When deemed necessary, bid bonds shall be prescribed in the public notices inviting sealed bids. Upon entering into a contract, bidders will be entitled to return of the bid bond. A successful bidder shall forfeit any bid deposit upon failure on his part to enter into a contract within the working days specified following the award of contract. The city, in its sole discretion, may waive this forfeiture.
- (2) *Sealed bids - Award to other than low bidder.* When contract award is not made to the lowest responsible bidder, a full and complete statement of the reasons should be prepared and filed with the purchase transaction.

Section 7. Contract through negotiation.

Negotiation is a process of contracting through the use of either competitive or other-than-competitive proposals and discussions. Negotiation is a procedure that may include the receipt of sealed proposals from offerors, permits bargaining, and may afford offerors an opportunity to revise their offers before award of a contract. Award may be made on a basis other than the lowest price. Negotiation is the preferred method of contracting when specifications or statements of work may not be definitive and may allow for variation in providing the products or services. Requests for proposals (written solicitation) should be used in negotiated acquisitions to communicate purchase requirements to prospective contractors and to solicit proposals or quotations from them.

- (1) *Award without negotiation.* A contractor may be selected from the sealed proposals and award made without discussing proposals with the offerors. Whenever price or price-related factors are the most important or the only evaluation factors, award will normally be made without discussion, if adequate competition exists, to ensure that offerors submit their most favorable proposals at the outset. However, even when award will be based on price alone, discussions may be held as necessary to determine that the price is fair and reasonable. The decision to make an award without discussions shall be made by the city manager for amounts up to one hundred thousand dollars (\$100,000).
- (2) *Award with negotiation.* Whenever appropriate, written or oral discussions may be held with offerors to resolve uncertainties in their proposals, to give them an opportunity to correct deficiencies, and to provide the opportunity to revise proposals. Discussion may be held with one offeror, or with all offerors in the competitive range. The competitive range will be determined following evaluation of proposals. The competitive range shall be determined on the basis of the evaluation factors stated in the solicitation and shall only include all proposals that have a reasonable chance of being selected for award.
- (3) *Conduct of discussions.* When necessary, discussions shall be held with the assistance or participation of technical, accounting or legal personnel as appropriate. Discussions may be conducted so as to:
 - a. Advise the offeror of deficiencies in its proposal in terms of user department requirements, but not deficiencies relative to other proposals.
 - b. Attempt to resolve uncertainties concerning aspects of the proposal.
 - c. Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information concerning other offerors' proposals or the evaluation process.
 - d. Provide the offeror a reasonable opportunity to submit any price, technical or other revisions to its proposal that may result from the discussions.
- (4) *Best and final offers.* Upon completion of discussions, a request for "best and final offer" will be issued to all offerors still in the competitive range.

- (5) *Contractor selection.* Following receipt of the best and final offers, the contract may be awarded to the offeror (contractor) whose proposal offers the best value to the city.

Section 8. Award of Contracts.

Contracts may be awarded to the lowest responsible bidder meeting the terms and conditions of the specifications, provided the price, terms, and conditions are fair and reasonable. The city shall, in its discretion, determine whether such conditions qualify for award of contract.

Section 9. Professional Services.

The selection of professional engineering and architectural services shall follow the procedure established by Chapter 287.055, Florida Statutes, as revised.

- (1) The city manager shall appoint a committee of no less than three individuals to evaluate statements of qualification and proposals for professional services. Such individuals may be employees, citizens, or elected officials.

Section 10. Administration of contracts.

While administration of contracts (including purchase orders) requires the efforts and skills of many city employees, the city manager shall provide guidance regarding contract administration functions.

Section 11. Dispute resolution.

Any unresolved dispute pertaining to a purchase made under this article shall be submitted to the city manager for resolution and/or final determination.

Naples Daily News
Naples, FL 33940

Affidavit of Publication
Naples Daily News

CITY OF MARCO ISLAND
ATT: DEE PHILLIPS
950 N COLLIER BLVD #308
MARCO ISLAND FL 34145

REFERENCE: 054361
57731151 PUBLIC NOTICE CALLED

State of Florida
County of Collier

Before the undersigned authority, personally appeared B. Lamb, who on oath says that she serves as the Assistant Corporate Secretary of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida: that the attached copy of advertising was published in said newspaper on dates listed.

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

PUBLISHED ON: 08/07

AD SPACE: 34.000 INCH
FILED ON: 08/07/98

0110 ORDINANCES AND PETITIONS

SECOND READING & PUBLIC HEARING
ORDINANCE NO. 98-6
CITY OF MARCO ISLAND
 The City Council of Marco Island, meeting in regular session at 6:00 p.m. on August 17, 1998, at the Marco Island YMCA, 101 Sand Hill Street, Marco Island, Florida, will consider:

AN ORDINANCE TO ESTABLISH A PURCHASING POLICY FOR THE CITY OF MARCO ISLAND.

Members of the Public are invited to make oral or written comments in regards to this Petition.
 August 7 No. 1254088

Signature of Affiant B. Lamb

Sworn to and Subscribed before me this 2 day of Aug 1998

Personally known by me Judith A. Flanigan

RECEIVED
AUG 11 1998



Judith A. Flanigan
MY COMMISSION # 00508787 EXPIRES
February 19, 2000
BONDED thru TROY FAIR INSURANCE, INC.