



**Policy & Rules Committee
Ordinance 08-461**

**ORDINANCE OF THE COUNTY BOARD
WILL COUNTY, ILLINOIS**

AMENDING THE WILL COUNTY PURCHASING ORDINANCE

WHEREAS, it is necessary to amend the Will County Purchasing Ordinance, and

WHEREAS, the Policy & Rules Committee concurred and held a Public Hearing to discuss the proposed changes on October 2, 2008, and

WHEREAS, the Policy & Rules Committee recommends the attached Will County Purchasing Ordinance be adopted effective December 1, 2008, if approved by the Will County Board.

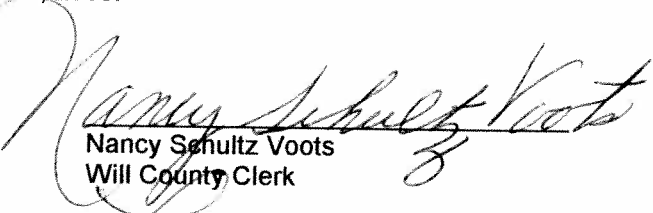
NOW, THEREFORE, BE IT ORDAINED, that the Will County Board hereby concurs with the recommendations and amends the Will County Purchasing Ordinance, as attached, effective December 1, 2008.

BE IT FURTHER ORDAINED, that all resolutions and ordinances in conflict herewith are repealed, including Resolutions #87-17, #87-142, #93-243, #00-04, #01-97, #04-250, and #08-211.

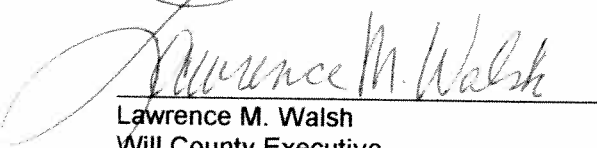
BE IT FURTHER ORDAINED, that the Preamble of this Ordinance is hereby adopted as if fully set forth herein. This Ordinance shall be in full force and effect upon its passage and approval as provided by law.

Adopted by the Will County Board this 20th day of November, 2008.

Vote: Yes 26 No 0 Pass _____ (SEAL)


Nancy Schultz Voots
Will County Clerk

Approved this 4th day of December, 2008.


Lawrence M. Walsh
Will County Executive

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PREAMBLE

A. ADVANTAGES OF CENTRALIZED PROCUREMENT

1. Professional purchasing.
2. Control of sources of supply, and evaluation of quality, services, and price.
3. Procurement on a competitive basis.
4. Monitoring of market trends and new developments.
5. Centralized contracts between vendors and purchaser.
6. Centralized contract administration.
7. Reduction of inventories through standardization of products used by more than one department.
8. Reduction of costs through volume buying.
9. Retention of information to be used as a guide for future purchasing.
10. Avoids duplication of efforts and improve communications.

ARTICLE 1 – GENERAL PROVISIONS

PART A – PURPOSE AND APPLICATION

1-101 PURPOSE

- (1) Interpretation. This Ordinance shall be construed and applied to promote its underlying purposes and policies.
- (2) Purposes and Policies. The underlying purpose and policies of this ordinance:
 - A. To invite competition, to guard against favoritism, negligence, extravagance, fraud, and corruption, and to secure the best work or supplies at the lowest practicable price.

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- B. To fairly and equitably treat all persons involved in public purchasing with Will County.
- C. To sustain a high level of public confidence in Will County procurement procedures.
- D. To simplify, clarify, and modernize the law governing procurement by the County.
- E. To permit the continued development of procurement policies and practices.
- F. To maximize to the fullest extent practicable, the purchasing value of public funds in procurement.
- G. To foster broad-based competition within the free enterprise system.
- H. To provide safeguards for the maintenance of a procurement system of quality and integrity.
- I. To provide guidelines for purchases of equipment, materials, supplies, and services for the operational requirements of Will County, so the competitive and unbiased selection of vendors is insured.
- J. To support the preservation of natural resources and reduction of energy use and pollution through development of a sustainable manufacturing production systems.
- K. To strengthen the markets for materials collected in local recycling collection systems.
- L. To maximize the reduction of discarded materials.
- M. To encourage economic development through attraction and retention of recycled and source reduction product manufacturers and distributors.
- N. To support markets for recycled and other environmentally preferable products and encourage County agencies and contractors to buy such products whenever practicable.

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1-102 REQUIREMENT OF GOOD FAITH

This Ordinance requires all parties involved in the negotiation, performance, or administration of County contracts to act in good faith.

1-103 SEVERABILITY

If any article, part, section, subsection, clause, or phrase of this Ordinance or application thereof to any person or circumstances is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the Ordinance.

1-104 SINGULAR-PLURAL AND GENDER RULES

- (1) Singular-Plural. Words in the singular number include the plural, and those in the plural include the singular.
- (2) Gender. Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

PART B – DEFINITIONS

1-201 DEFINITIONS.

The words defined in this Section shall have the meanings set forth below whenever they appear in this Ordinance or regulations promulgated there under:

- (1) Architect-Engineer and Land Surveying Services. Those professional services within the scope of practice of architecture, professional engineering, structural engineering, or land surveying, as defined by the laws of the State of Illinois.
- (2) Blind Trust. An independently managed trust in which the employee-beneficiary has no management rights, and in which the employee-beneficiary is not given notice of alterations, or other dispositions of, the property subjected to the trust.
- (3) Competitive Bidding. Procurement process where the procedure or method to accomplish a goal or result is unknown.

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- (4) Finance Committee. The Committee established by the Will County Board to review and recommend appropriations and expenditure of funds for all using agencies or any successor committee having like authority.
- (5) Executive Committee. The Committee established by the Will County Board to review and consider all contracts for professional services.
- (6) Bid Deposit. A 10% Bid Bond or Cashiers Check made payable to the Will County Treasurer, shall accompany each bid, attached to the front cover, as a guarantee that if the bid is accepted, a contract will be entered into. **Money Orders or Company checks will NOT be accepted**. Bid Deposits will be returned to the unsuccessful bidder after the County Board awards the contract.
- (7) Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- (8) Change Order. A change in a contract term, other than as specifically provided for in the contract, which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.
- (9) Contract Modification (bilateral change). Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- (10) Confidential Information. Any information which is available to an employee only because of the employee's status as an employee of the County and is not a matter of public knowledge or available to the public on request.
- (11) Construction. The process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property.
- (12) Contract. All types of County agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.
- (13) Contractor. Any person having a contract with the County or using agency thereof.
- (14) Cooperative Purchasing. Procurement conducted by or on behalf of more than one Public Procurement Unit.

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- (15) Cost Analysis. The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- (16) Cost Data. Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have actually been incurred by the contractor in performing the contract.
- (17) County (Public) Agency. A County officer, department, official, commission, board, employee, or agency whose purchasing authority is subject to the Will County Board.
- (18) County Board. The County officials elected by the voters of the County to be the Legislative Body of the County.
- (19) County Executive. The County official elected by the voters of the County to be the Chief Executive Officer to administer the County Executive form of government. The term "County Executive" shall also include his designee.
- (20) Department Head. An appointed County officer whose position is specifically provided for in State Statute, for example, Supervisor of Assessments, Chairman of the Board of Review, County Engineer.
- (21) Direct or Indirect Participation. Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase, request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity.
- (22) Employee. An individual drawing a salary or wages from the County, whether elected or not.
- (23) Environmentally preferable products and services. Commodities or services that are less detrimental to the environment or human health than competing commodities or services serving the same purpose. Includes commodities or services that minimize waste, use recycled materials, conserve energy or water, or reduce the consumption or disposal of toxic materials.
- (24) Financial Interest.
 - a. Ownership of any interest or involvement in any relationship from which, or as a result of which, an individual within the past year has

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- received, or is presently or in the future entitled to receive, more than \$1,200.00 per year, or its equivalent;
- b. Ownership of 5% of any property of a business; or
 - c. Holding a position in a business such as officer, director, trustee, partner, employee, or holding any position of management.
- (25) Gratuity. A payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- (26) Immediate Family. Husband, wife, daughter, son, mother, father, mother-in-law, sister-in-law, daughter-in-law, son-in-law.
- (27) Invitation for Bids. All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids for the purchase or contract of any item or nonprofessional service, which estimated price equals or exceeds \$20,000.00.
- (28) Joint Purchase Act. The Governmental Joint Purchasing Act, 30 ILCS 525/0.01 et seq., or any successor statute.
- (29) Person. Any individual or group of individuals, business, union, firm, corporation, trust, partnership, association, joint venture, committee, club, or other entity.
- (30) Performance Bond. A Performance Bond may be required from the successful bidder and shall be valid throughout the term of the contract. The Performance Bond will be returned at the completion of the contract. The purpose of a Performance Bond is insurance that the successful contractor complete the job or service as outlined in the bid specifications for the price quoted and for the length of the contract. If the contractor should default on the said contract for any reason the County of Will would at that time exercise the right to use that performance bond to complete the contract.
- (31) Price Analysis. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
- (32) Pricing Data. Factual Information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

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- (33) Procurement. The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (34) Procurement Officer. The duly authorized agent of the County Board or County Executive for the purposes of procuring goods or services.
- (35) Professional Services. The services of a person possessing a high degree of professional skill where the ability or fitness of the individual plays an important part and the primary reason for that purchase is the service provided and the skills are primarily mental as opposed to manual. Professional service means, but is not limited to, services rendered in the practice of law, accounting, engineering, medicine, architecture, dentistry, clinical psychology, and technology. For example: development of software specifically designed to meet the needs of a county office or department. The purchase of shrink-wrap software is not.
- (36) Public Procurement Unit. The State of Illinois, any County, city, town, and any other subdivision of the state or public agency of any such subdivision, public authority, education, health, or other state or local entity which expends public funds for the procurement of supplies, services, and construction.
- (37) Purchase Order. The written commitment for the purchase of goods and/or services with a vendor.
- (38) Request for Proposals. All documents, whether attached or incorporated by reference, utilized for soliciting proposals for professional services, where the procedure or method to accomplish a goal or result is to be determined and the cost negotiated
- (39) Request for Qualifications. All documents, whether attached or incorporated by reference, utilized for soliciting qualifications, for professional services.
- (40) Reasonable Bidder or Offeror. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
- (41) Recycled Products. Goods containing materials, which have been diverted from the solid waste stream including post-consumer materials,

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and materials or by-products generated in industrial processes or which have been wholly or partially remanufactured.

- (42) Responsible Bidder. A person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.
- (43) Responsible bidder for construction contracts means a bidder who meets all of the following applicable criteria, and submits evidence of such compliance:
- a. All applicable laws prerequisite to doing business in Illinois.
 - b. Evidence of compliance with:
 - i. Federal Employer Tax Identification Number or Social Security Number (for individuals).
 - ii. Provisions of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions).
 - c. Certificates of insurance indicating the following coverages: general liability, workers' compensation, completed operations, automobile, hazardous occupation, product liability, and professional liability.
 - d. Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades as covered in the act.
 - e. Participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.
- (44) Services. The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product and other than reports which are merely incidental to the required performance. This definition shall not apply to employment agreements, collective bargaining agreements or the definition of professional services as provided in Subsection (28) of this Section.
- (45) Specification. Any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

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- (46) Standing Committee. Any committee established by the Will County Board with specific duties and responsibilities, as set forth in the Will County Board Rules.
- (47) Stringing. Knowingly structuring a contract or job order to avoid the contract or job order being subject to a competitive bidding requirements.
- (48) Supplies. All property, including but not limited to equipment, materials, and printing, excluding land or a permanent interest in land.
- (49) Surplus. All supplies that are beyond their useful life and have no value or use to the County as determined and approved by the assigned County Board Committee.

Part C – PUBLIC ACCESS TO PROCUREMENT INFORMATION

1-301 PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a public record to the extent provided in the Illinois Freedom on Information Act.

ARTICLE 2 – DUTIES OF THE COUNTY EXECUTIVE

2-101 AUTHORITY AND DUTIES

- (1) Authority. The County Executive shall be responsible for the procurement of supplies, services, professional services, and construction, in accordance with this Ordinance, as well as the management and disposal of supplies.
- (2) Duties. In accordance with this Ordinance, and subject to the supervision of the Will County Board and the assigned County Board Committee, the County Executive shall:
 - a. procure or supervise the procurement of all supplies, services, and construction needed by the County;
 - b. develop and implement a written policy for the sale, trade, transfer, or disposal of surplus items which have become obsolete and unusable to the County, upon terms most advantageous to the

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County. The policy shall be administered by the Office of the County Executive and audited by the County Auditor;

- c. establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the county agencies using the supplies, services, and construction;
- d. exercise general supervision over inventories of supplies belonging to the County;
- e. consistent with this Ordinance, and with the approval of the assigned County Board Committee, the County Executive shall adopt purchasing regulations and operational procedures relating to the execution of his duties;
- f. provide maximum service to all offices in the areas of contracts, negotiation, placement of orders, expediting delivery, and follow-up on orders in such a manner that the maximum value will be obtained per dollar expended;
- g. at the request of and in cooperation with the requesting county agency, prepare and issue Invitations for Bids (IFB), Requests for Proposals (RFP), and Requests for Qualifications (RFQ), Purchase Orders and addenda or corrections thereto;
- h. conduct pre-bid and pre-award conferences as necessary, cooperation with requesting county agency;
- i. evaluate vendor's bids for proposals and present recommendations for award with requesting county agency or with written or recommendation for award;
- j. maintain a complete record of all purchasing transactions, subject to section 2-102 (4);
- k. report to the assigned County Board Committee the contracts which are expiring 90 days prior thereto and to inform the assigned County Board Committee of all contracts that are of three year's duration or more;
- l. utilize all known contact and sources to expedite deliveries of needed supplies, services and equipment;

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- m. develop and maintain current bidders list of vendors;
- n. maintain vendor and product performance records;
- o. maintain, where possible, current prices through study of published price lists, information from salesmen, published market data, or through negotiations or competitive bids;
- p. coordinate and control inventory systems kept in County storerooms;
- q. inspect or delegate the inspection to requesting county agency of all deliveries of supplies, equipment or contractual services;
- r. function as the County's representative on all matters pertaining to purchasing, in cooperation with the requesting county agency; and
- s. periodically review systems and procedures to determine improved methods which result in efficiencies in performance;

2-102 APPLICABILITY.

- (1) The Purchasing Ordinance is applicable to the County Board, County Executive, and all departments under the County Executive, except as specified below:
 - A. The following county officials have internal control over their office, and therefore, are not subject to the county competitive bidding statute or county purchasing ordinance:
 - (1) Auditor 55 ILCS 5/3-1004
 - (2) County Clerk 55 ILCS 5/3-2003.2
 - (3) Recorder 55 ILCS 5/3-5005.2
 - (4) State's Attorney 55 ILCS 5/3-9006
 - (5) Treasurer 55 ILCS 5/3-10005.1
 - B. The Attorney General has determined that the following offices have internal control provisions over their office, and therefore, are not subject to the county competitive bidding statute or county purchasing ordinance: Supervisor of Assessments.
 - C. The following county offices have internal control over their offices except for purchases of equipment:
 - (1) Coroner 55 ILCS 5/3-3003
 - (2) Sheriff 55 ILCS 5/3-6018

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- D. The following offices are not subject to the county competitive bidding statute or county purchasing ordinance based upon the language of the above Attorney General opinion.
- (1) Courts
 - (2) Public Defender
 - (3) Regional Superintendent Schools 1987 Ill. Attorney General Opinion 233, 87-005
 - (4) Clerk of the Circuit Court 1984 Ill. Attorney General Opinion 9, 84-003
- E. Will County Engineer shall be required to procure services, materials and equipment for road and bridge construction, maintenance, engineering, land acquisition and such other technical supplies, services and engineering equipment necessary to meet the operational obligations of the Will County Engineer, as set forth in the Illinois Compiled Statutes.
- (2) Procurement Records. All records required by Section 3-309 (County Procurement Records) shall be maintained by any county agency to which procurement authority has been delegated and a copy of all such records, as appropriate, shall be provided to the County Executive.
- (3) Correspondence with Vendors. All correspondence with vendors relating to the purchasing functions shall originate from the County Executive or his designee. Correspondence concerning matters which precede actual purchasing, such as specifications development, conceptual ideas, and general industry and product application information, may be between the vendor, County Agency and the County Board Committees, provided copies of such correspondence are sent to the County Executive or his designee.

ARTICLE 3 - SOURCE SELECTION AND CONTRACT PROCEDURE

PART A - METHODS OF SOURCE SELECTION

3-101 COMPETITIVE SEALED BIDDING

- (1) Conditions for Use. Excepting professional services. All contracts of the County shall be awarded by competitively sealed bidding, except as otherwise provided in Sections 3-102 (Bid Procedures), 3-103

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(Competitive Sealed Proposals), 3-104 (Non-Competitive Procurement), 3-106 (Emergency Procurement), 9-102 (Sale, Acquisition, or Use of Supplies), and 9-103 (Cooperative Use of Supplies and Services), or as provided by State Statute.

- (2) Invitation for Bids. All invitations for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.
- (3) Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time, but not less than twelve (12) calendar days prior to the date set forth therein for the opening of bids. Such notice shall be published in a newspaper of general circulation within the County at least twelve (12) calendar days prior to the date set forth therein for the opening of bids. The public notice shall state the place, date, and time of bid opening. All notices that are published in a newspaper shall also be published concurrently on the County web page giving notice that any and all questions may be e-mailed to the County Executive's Office together with a notice that any and all questions shall be answered by posting the answer on the appropriate County web page.
- (4) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the County Executive deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-301 (Public Access to Procurement Information).
- (5) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Ordinance. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the invitation for bids. Alternative bids may be considered and accepted provided they are specifically provided for in the invitation for bids and meet the evaluation criteria set forth therein. The evaluation criteria chosen for inclusion in a bid or proposal cannot exceed the minimum requirements necessary to meet the needs of the County. Evaluation criteria cannot be used to eliminate potential bidders or proposers.

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- (6) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, cancellation of bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in the bid prices or other provisions of bids prejudicial to the interest of the County in fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
- A. the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B. the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids, or to cancel awards of contracts based on bid mistakes, shall be supported by a written recommendation of the assigned County Board Committee to the entity having the authority to approve.

- (7) Award. The contract shall be awarded with reasonable promptness to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the lowest responsible bid for a construction project exceeds available funds as certified by the County Auditor, and such bid does not exceed such funds by more than ten percent (10%), the County Executive or his designee is authorized when time or economic considerations preclude resolicitation of work on a reduced scope, to negotiate with the lowest responsible bidder a reduction in only the price term of the bid, in order to bring the bid within the amount of available funds. Notwithstanding the above, the following language will be included in all solicitations: **“the County Board retains the right to reject any and all bids, and to waive non-material informality or irregularity in any bid received in whole or part., and to determine not to proceed to contract on any particular bid”**.

3-102 BID PROCEDURES

Preparation of Invitation for Bid

- A. Determination of Method of Procurement

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The determination of the method of procurement is made by the cost or nature of that procurement as indicated below and determined by the by the designated procurement officer:

1. Purchases less than \$100.00 (Purchase Order).
2. Purchases from \$100.00 to \$9,999.99:
 - a) For the County Executive the purchase award is to be authorized by the County Executive or his duly authorized agent.
 - b) For the County Board the purchase award is to be authorized by the County Board or its duly authorized agent.
 - c) Bids shall not be required, but at the discretion of the County Executive or the duly authorized agent, thereof, informal quotes may be obtained.
 - d) Bids, Bid Deposits or Performance Bonds are not required.
3. Purchases from \$10,000 to \$19,999.99:
 - a) Formal bids shall not be required, but three informal quotes shall be sought.
 - b) The results of the quotes shall be reported in written form as an attachment to the Auditor. The County Executive or County Board, or duly authorized agent thereof, shall select the lowest responsible quote and procure the item or services.
 - c) In the event the lowest quote is not chosen then the reason shall be reported by the procurement officer in writing – as an attachment to the Auditor.
 - d) Bids, Bid Deposits or Performance Bonds are not required.
4. Purchases in Excess of \$20,000.00
 - a) The purchase or contract of any budgeted item or nonprofessional service, with an estimated price equal to or exceeding \$20,000.00, shall be submitted to the County Executive for advertising and bidding and then presented by the County Executive to the

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- appropriate County Board Committee as determined by the County Board Rules for presentation to and for final approval by the County Board.
- b) Expenditures shall be as provided in the approved budget; or if not specifically provided in the approved budget, shall require prior approval of the assigned County Board Committee only to the extent that additional funds or appropriation is necessary.
 - c) Public advertisements for Sealed Bids shall be required.
 - d) The Bids are to be opened at a time and place designated prior to the letting of bids.
 - e) Bid Deposit and Performance Bonds will be required. The requirement of a bid deposit and/or performance bonds may be waived or modified prior to bid letting, including time & material costs, (on an individual case-by-case basis upon the recommendation of the Will County Executive) with the final determination of the waiver of the bid deposit requirement to be made by the assigned County Board Committee. ***Notwithstanding the aforesaid, a one-time purchase of supplies shall not require a performance bond.***
 - f) Awards are to be made to the lowest responsible bidder complying with the terms and conditions of the invitation for bids, request for proposals, or request for quotes.
 - g) Notwithstanding any other provision of this Ordinance, the County Board may let without advertising for bids in the case of purchases and contracts, when individual orders do not exceed \$25,000.00 for the use, purchase, delivery, movement or installation of data processing equipment, software or services and telecommunications and inter-connect equipment, software, and services.
- B. General Terms and Requirements. (Required for, but not limited to, all purchases exceeding \$20,000.00. The general terms and requirements will include, but are not limited to:
- 1. Delivery time.
 - 2. Bid opening date and place.
 - 3. Tax exemption statements.
 - 4. Method of award.
 - 5. Bond requirements
- C. Bidders able to supply products containing recycled materials that

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meet performance requirements are encouraged to offer them in bids and proposals.

- D. Responsibility of Bidders Determination of Nonresponsibility. If a bidder or offeror who otherwise would have been awarded a contract is found not responsible, the awarding entity must make a written determination of nonresponsibility, setting forth the basis of the finding. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file.

3-103 COMPETITIVE BID AND REQUEST FOR PROCEDURES

- (1) Where the procedure or method to accomplish a goal or result is unknown, as determined by the Director of Purchasing with the concurrence of the assigned County Board Committee, Competitive Sealed Proposals may be used.
- (2) Requests for Proposals and/or Bids. Proposals shall be solicited through a request for proposals.
- (3) Public Notice. Public notice of the request for the proposals shall be given in the same manner as provided in Section 3-101 (3) (Competitive Sealed Bidding, Public Notice).
- (4) Receipt of Proposals. No proposals shall be handled so as to permit the disclosure of the identity of any bidder or the contents of any proposal to competing bidders during the process of negotiation. A bid tabulation of the proposals shall be prepared containing the name of each bidder, the number of addendums issued, if any, and a description sufficient to identify the item bid. The register of proposals shall be open for public inspection by Freedom of Information Request only after contract award. The contractor shall be notified so they can determine if there is any sensitive and/or proprietary information in their proposal that they do not want viewed.
- (5) Evaluation Factors. Where appropriate, the request for proposals shall state the relative importance of evaluation factors.
- (6) Award. Awards shall be made to the lowest responsible bidder taking into consideration the evaluation factors set forth in the request or addenda thereto. The contract file shall contain the basis on which the award is made.

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3-104 NON-COMPETITIVE PROCUREMENT

- (1) General. Contracts may be awarded without competitive bidding when the appropriate County Board Committee as determined by the County Board Rules determines in writing, after the requesting county agency has conducted and presented a good faith review of available sources, that the contract by its very nature is not suitable to competitive bids or proposals. Examples of contracts which may not be suitable to competitive bids or proposals are contracts where:
 - A. there is only one source for the required supply, service, or construction item;
 - B. a sole supplier's item is needed for trial use or testing;
 - C. purchases of used equipment; and
 - D. purchases at auctions.
- (2) Negotiation. The County Executive or his designee or responsible elected official shall conduct negotiations, as appropriate, as to price, delivery, and terms.

3-105 EMERGENCY PROCUREMENTS

Notwithstanding any other provisions of this Ordinance, the County Executive, County Officers, and Department Heads, may make emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety, or to prevent or minimize serious disruption of government services; provided that each emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. A confirming Resolution, along with the written determination, shall be submitted to the County Board for all emergency procurements of \$20,000.00 or more in accordance with Section 3-405 (Approval of Contracts).

3-106 CANCELLATION OR REJECTION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best

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interests of the County. The reasons therefore shall be made part of the contract file. Each solicitation issued by the County shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation, and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

PART B – BIDDER QUALIFICATIONS AND DUTIES

3-201 INSURANCE REQUIREMENTS ON SUPPLY OR SERVICE CONTRACTS

For supply contracts or service contracts, the County Executive or responsible elected official, shall determine whether insurance coverage by the contractor shall be required, and, if so, the types and amounts of coverage that shall be required. The contractor shall have the County named as an additional insured as its interest may appear and furnish the County Executive with satisfactory evidence of said insurance.

PART C – TYPES OF CONTRACTS AND CONTRACT ADMINISTRATION

3-301 TYPES OF CONTRACTS

- (1) General Authority. Subject to the limitations of this Section, any type of contract which is appropriate to the procurement of and which will promote the best interests of the County may be used, provided that the use of a cost-plus-a percentage-of cost contract is prohibited, unless otherwise required by law.
- (2) Multi-Term Contracts. Specified Period. Unless otherwise provided by law, a contract for supplies or services may be entered into for any specified period of time deemed to be in the best interests of the County, not to exceed 3 years, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. However, the total contract term for any contract *except leases, including the time periods by which the contract is extended due to renewal, shall not exceed a maximum of three (3) years. Payment and performance obligations for

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succeeding fiscal periods shall be subject to the availability and appropriation of funds thereof, and copies of all contracts shall be submitted with annual budget requests.

- A. Determination Prior to Use. Prior to the utilization of a multi-term contract, it shall be determined in writing:
 - 1. that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - 2. that such a contract will serve the best interests of the County by encouraging effective competition or otherwise promoting economies in County procurement.
- B. Cancellation Due to Unavailability of Funds. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

(3) Multiple Source Contracting.

- A. General. A multiple source award is an award of an indefinite quantity for one or more similar supplies or services to more than one bidder
- B. Limitations on Use. A multiple source award may be made when award to two or more bidders for similar products is necessary for adequate economic delivery, service, or product compatibility.

Any multiple source awards shall be made in accordance with the provisions of Section 3-101 (Competitive Sealed Bidding), Section 3-102 (Bid Procedures), and Section 3-103(Competitive Sealed Proposals), Section 3-106 (Emergency Procurements), as applicable. Multiple source awards shall not be made when a single award will meet the County's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of the County without sacrificing economy and service.

- C. Contract and Solicitation Provisions. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users included in the contract be obtained in accordance with the contract, provided that: the County shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal

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requirement or an amount specified in the contract; and

- D. Intent to Use. If a multiple source award is anticipated prior to issuing a solicitation, the County shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.
- E. Determination Required. The County Executive or his designee shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

3-302 CONTRACT CLAUSES AND THEIR ADMINISTRATION

- (1) Contract Clauses. All County contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The County may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:
 - A. the unilateral right of the County to order in writing changes in the work within the scope of the contract;
 - B. the unilateral right of the County to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
 - C. variations occurring between estimated quantities of work in contract and actual quantities;
 - D. defective pricing;
 - E. liquidated damages;
 - F. specified excuses for delay or nonperformance;
 - G. termination of the contract for default;
 - H. termination of the contract in whole or in part for the convenience of the County;
 - I. suspension of work on a construction project for the convenience of the County;

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- J. site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in the contract:
1. when the contract is negotiated;
 2. when the contractor provides the site or design; or
 3. when the parties have otherwise agreed with respect to the risk of differing site conditions.

(2) Price Adjustments

- A. Adjustments in price resulting from the use of contract clauses required by Subsection (1) of this Section shall be computed in one or more of the following ways:
1. by agreement of a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 2. by unit prices specified in the contract or subsequently agreed upon;
 3. by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 4. in such other manner as the contracting parties may mutually agree; or
 5. in the absence of agreement by the parties, by a unilateral determination by the County of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the County, as accounted for in accordance with applicable cost principles and subject to the provisions of Article 7 (Appeals and Remedies).
- B. Notwithstanding the above, all adjustments in price must be in compliance with the provisions of state statute.

- (3) Standard Clauses and Their Modification. The County Executive, after consultation with the State's Attorney, may establish standard contract clauses for use in County contracts.

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A contract administration system designed to ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.

3-304 RIGHT TO INSPECT PLANT

The County may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the County.

- (1) Contract Audit. The County shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor or subcontractor for a period of three years from the date of final payment.

3-305 REPORTING OF ANTICOMPETITIVE PRACTICES

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State's Attorney.

3-306 COUNTY PROCUREMENT RECORDS

- (1) Contract File. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the County in a contract file to be determined by the County Executive, the Auditor, and the County Clerk. The Highway Department contracts shall be maintained at the Highway Department.
- (2) Retention of Procurement Records. All procurement records shall be retained and disposed of by the County in accordance with records retention guidelines and schedules approved by the State of Illinois Local Records Commission.

3-307 APPROVAL OF ACCOUNTING SYSTEM

Except with respect to firm price contracts, no contract type shall be used unless

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it has been determined in writing by the County Executive that:

- (1) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- (2) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

PART D – CONTRACT EXECUTION

3-401 REQUISITIONS

Prior to submission to the County Executive, all requisitions shall be signed by the county agency making the request or by any individual authorized by the County Officer.

3-402 FISCAL RESPONSIBILITY

Prior to the payment of any purchase order, contract, change order or contract modification, the Auditor shall verify that sufficient budgeted funds are available.

3-403 AUTHORIZATION TO ISSUE BIDS OR OTHER SOLICITATIONS

The County Executive may issue bids or other solicitations for any supply, service, or construction item for which funds have been specifically budgeted.

3-404 REVIEW OF CONTRACTS

The County Executive may request the State's Attorney to review all contracts prior to award of the contract.

3-405 APPROVAL OF CONTRACTS

- (1) Contracts of \$20,000.00 or more. Contracts for \$20,000.00 or more shall be submitted by the responsible county official to the County Board for approval. After award by the County Board, contracts shall be signed by the County Executive.

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- (2) Contracts of less than \$20,000.00. Subject to the provisions of Section 3-102 the County Officer or Department Head, upon approval by the County Executive, shall sign all contracts of less than \$20,000.00 for all purchases when the funds are available within their budget.
- (3) Contracts by Other County Officials. When authority to purchase certain supplies, services, or construction items has been delegated pursuant to Section 2-102 (Delegation to Other County Officials), then the delegated official shall sign the contract instead of the County Executive.
- (4) Upon execution, the Auditor will be provided with one copy of the executed contract for his retention.

3-406 CHANGE ORDERS AND CONTRACT MODIFICATIONS

- (1) Change orders, contract modifications or price adjustments, as defined in Section 1-201 or by state statute, are subject to approval of the assigned County Board committee in the following circumstances:
 - A. When the total of change orders, contract modifications, or price adjustments of any contract of \$20,000.00 or more exceeds ten percent (10%) of the original contract amount, or a change in the time of completion is 30 days or more; or
 - B. When the total of change orders, contract modifications, or price adjustments of any contract exceeds \$20,000.00
- (2) Change orders, contract modifications or price adjustments of contracts under Section 3-407(1)(A) or (B) maybe approved by the appropriate County Board Committee as determined by the County Board rules when the County Official or employee determines in writing that:
 - A. the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, or
 - B. the change is germane to the original contract, as signed, or
 - C. the change order is in the best interest of the County and is authorized by law.
- (3) The written change orders shall be preserved in the contract file.

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- (4) Contracts under the jurisdiction of the County Engineer are not subject to this provision.

3-407 MAXIMUM PRACTICABLE COMPETITION

All specifications shall be drafted so as to promote overall economy for the purpose intended and encourage competition in satisfying the County's needs, and shall not be unduly restrictive. The policy enunciated in this Section applies to all specifications including, but not limited to, those prepared for the County by architects, engineers, designers, and draftsmen.

3-408 ADDITIONAL CONTENTS OF BID PACKAGES

In addition to the bid specifications detailing information as to the specific services, materials, equipment, or supplies sought, the bid package must include the following:

- (1) pursuant to 720 ILCS 5/33E-11, the prime contractor bid certification form attesting that the prime contractor is not barred from entering the contract;
- (2) a copy of Article 33E of Illinois Criminal Code of 1961, together with a form to be signed by the bidder that the bidder has not violated any of the provisions of said Article; and
- (3) the phone number of the State's Attorney's Office to call concerning any possible violation of Article 33 of the Illinois Criminal Code for 1961.
- (4) Where applicable, prevailing wage act requirements will be specified.

PART B – BID SECURITY, PERFORMANCE BONDS, AND INSURANCE
REQUIREMENTS FOR CONSTRUCTION CONTRACTS

201 BID SECURITY

- (1) Requirement for Bid Security. Bid Security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the County Executive to exceed \$25,000.00. Bid Security shall be a bond provided by a surety company authorized to do business in the State of Illinois, or the equivalent in cash, or otherwise supplied in a form satisfactory to the County. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$25,000.00

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when the circumstances warrant.

- (2) Amount of Bid Security. Bid Security shall be in an amount equal to at least ten percent (10%) of the amount of the bid.

202 CONTRACT PERFORMANCE OR PAYMENT BONDS

- (1) When Required - Amounts. When a construction contract is awarded in excess of \$25,000.00, the following bonds or security shall be delivered to the County and shall become binding on the parties upon the execution of the contract:
 - A. a performance bond satisfactory to the County, executed by a surety company authorized to do business in the State, or otherwise secured in a manner satisfactory to the County, in an amount equal to one-hundred percent (100%) of the price specified in the contract; and
 - B. a payment bond satisfactory to the County, executed by a surety company authorized to do business in the State or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor or materials to the contractor or its subcontractors for the performance of the work provided in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.
- (2) Authority to Require Additional Bonds. Nothing in this Section shall be construed to limit the authority of the County to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in Subsection (1) of this Section.

ARTICLE 4 - SUPPLY MANAGEMENT

4-101 SUPPLY MANAGEMENT REGULATIONS

Pursuant to Section 2-101(3) (Purchasing Regulation and Operational Procedures), the County Executive shall be responsible for developing policy for:

- (1) the management of supplies during their entire life cycle;
- (2) the sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, or other appropriate method designated by

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regulation; and

- (3) transfer of excess property.

4-102 ALLOCATION OF THE PROCEEDS FROM SALE OR DISPOSAL OF SURPLUS SUPPLIES

Proceeds from the sale or disposal of surplus supplies or equipment shall be disposed into the County Corporate Fund, unless State or Federal Law requires or mandates otherwise.

ARTICLE 5 - APPEALS AND REMEDIES

5-101 BID PROTESTS

- (1) Right to Protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the County Executive. Any protest must be submitted in writing within ten (10) calendar days from the issuance of the solicitation, addendum, notice of award or other decision by the County Executive, County Board, or awarding official.
- (2) Stay of Procurement during Protest. In the event of a timely protest under Subsection (1) of this Section, the County Executive or the assigned County Board Committee, after consulting with the State's Attorney, shall determine whether it is in the best interests of the County to proceed with the solicitation or award of the contract.
- (3) Entitlement to Costs. When a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled only to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

5-102 CONTRACT CLAIMS

All claims by a contractor against the County relating to a contract, except bid protests, shall be submitted in writing to the County Executive. The contractor may request a conference with the County Executive on the claim. Claims include without limitation, disputes arising under a contract, and those based

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upon modification or rescission.

5-103 AUTHORITY OF THE COUNTY EXECUTIVE TO SETTLE BID PROTEST AND CONTRACT CLAIMS, SUBJECT TO STATUTORY PROVISIONS

- (1) Authority. The Awarding Entity is authorized to settle any procedural protest regarding the solicitation or award of a County contract prior to an appeal to the Will County Board, or any committee thereof. The County Executive, after consulting with the State's Attorney, is authorized to make recommendations on the settlement of any monetary claim to the assigned County Board Committee of the Will County Board for their consideration.
- (2) Notice to the Contractor of the County Executive's or Awarding Entity's Decision. If a protest or claim is not resolved by mutual agreement, the County Executive or Awarding Entity shall promptly issue a decision in writing, and it shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under Subsection (3) of this Section.
- (3) Failure to Render Timely Decision. If a written decision is not rendered regarding any protest or claim within ten (10) calendar days after written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed with an appeal to the County Board as if an adverse decision had been received.

5-104 REMEDIES FOR SOLICITATION OR AWARD IN VIOLATION OF LAW

- (1) Prior to Bid Opening or Closing Date for Receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the County Executive, after consultation with the State's Attorney, determines that the solicitation is in violation of federal, state, or local law, then the solicitation shall be canceled or revised to comply with applicable law.
- (2) Prior to Award. If after bid opening or closing date for receipt of proposals, the County Executive, after consultation with the State's Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or local law, then the solicitation or proposed

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award shall be canceled.

- (3) After Award. If, after award, the County Executive, after consultation with the State's Attorney, determines that a solicitation or award of a contract was in violation of applicable law, then the matter shall be considered at the next County Board meeting.

ARTICLE 6 - COOPERATIVE PURCHASING

6-101 COOPERATIVE PURCHASING AUTHORIZED

Subject to applicable state statutes, the County of Will may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of supplies, services, or construction with one or more public procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which are made available to other public procurement units. The Elected Officials must follow rules of the state statute if not following the purchasing ordinance.

6-102 SALE, ACQUISITION, OR USE OF SUPPLIES

The County of Will may sell, acquire from, or use any supplies belonging to another public procurement unit independent of the requirements of Article 3 (Source Selection and Contract Procedure).

6-103 COOPERATIVE USE OF SUPPLIES AND SERVICES

The County of Will may enter into an agreement independent of the requirements of Article 3 (Source Selection and Contract Formation) with any other public Procurement unit for the cooperative use of supplies or services under the terms agreed upon between the parties.

6-104 JOINT USE OF FACILITIES

The County of Will may enter into agreements for the common use or lease of warehouse facilities, capital equipment, and other facilities with another public procurement unit under the terms agreed upon between the parties.

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ARTICLE 7 - ETHICS IN PUBLIC CONTRACTING

7-101 STATEMENT OF POLICY

Public employment is a public trust. It is the policy of the County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the County. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the County procurement organization. To achieve the purpose of this Article, it is essential that those doing business with the County also observe the ethical standard prescribed herein.

7-102 GENERAL STANDARDS OF ETHICAL CONDUCT

- (1) General Ethical Standard for Employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of the public trust.
- (2) General Ethical Standards for Non-Employees. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this Article is a breach of ethical standards.

7-103 CRIMINAL PENALTIES

To the extent that violations of the ethical standards of conduct set forth in this Article constitute violation of State Statutes, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Article. Criminal, civil, and administrative sanctions against employees or non-employees which are in existence on the effective date of this Ordinance shall not be impaired.

7-104 EMPLOYEE CONFLICT OF INTEREST

- (1) Conflict of Interest. It shall be unethical for any County employee to participate directly or indirectly in a procurement contract when the County employee knows that:

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- A. the County employee or any member of the County employee's immediate family has a financial interest pertaining to the procurement contract; or
 - B. any other person, business, or organization with whom the County employee or any member of a County employee's immediate family is negotiating or has an agreement concerning prospective employment is involved in the procurement contract.
- (2) Financial Interest in a Blind Trust. A County employee or any member of a County employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.
- (3) Discovery of Actual or Potential Conflict of Interest, Disqualification, and Waiver. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply for an advisory opinion as to what further participation, if any, the employee may have in the transaction pursuant to Section 9-108 (Waivers from Contemporaneous Employment Prohibited).

7-105 GRATUITIES AND KICKBACKS

- (1) Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee, or for any County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any direct or indirect participation in a County bid, proposal, or purchase.
- (2) Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any individual associated therewith, as in inducement for the award of a subcontract or order.

7-106 PROHIBITION AGAINST CONTINGENT FEES

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

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7-107 CONTEMPORANEOUS EMPLOYMENT PROHIBITED

It shall be unethical for any County employee who is participating directly or indirectly in the procurement process to become or to be, while such a County employee, the employee of a person contracting with the County.

7-108 WAIVERS FROM CONTEMPORANEOUS EMPLOYMENT

The assigned County Board Committee may grant a waiver from the employee conflict of interest provision (Section 9-104; Employee Conflict of Interest) or the contemporaneous employment provision (Section 9-107; Contemporaneous Employment Prohibited) upon making a written determination that:

- (1) the contemporaneous employment or financial interest of the County employee has been publicly disclosed;
- (2) the County Employee will be able to perform its procurement functions without actual or apparent bias or favoritism; and
- (3) the award will be in the best interest of the County.

7-109 USE OF CONFIDENTIAL INFORMATION

It shall be unethical for any employee or former employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

7-110 SANCTIONS

- (1) Employees. Sanctions on a County employee for violations of the ethical standards of this Article shall be imposed in accordance with Will County Ethics Ordinances.

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- (2) Non-Employees. The assigned County Board Committee may impose one or more of the following sanctions on a non-employee for violations of the ethical standards:
 - A. written warning or reprimands;
 - B. termination of contracts.

7-111 RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS

- (1) General Provisions. The value of anything transferred or received in breach of the ethical standards of this Ordinance by a County employee or non-employee may be recovered from both the County employee and the non-employee.
- (2) Recovery of Kickbacks by the County. Upon showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or an order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the County and will be recoverable hereunder from the recipient. In addition, the amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.