



BOARD OF COMMISSIONERS

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DECEMBER 8, 2011

NOTICE OF MEETING

There will be a meeting of the **BOARD OF COMMISSIONERS** on Thursday, December 15, 2011, at **7 p.m.**, on the 9th Floor of the County Administration Building, in the Commissioners' Board Room, Mount Clemens.

(Invocation this month is by Commissioner Joe Sabatini)

TENTATIVE AGENDA

1. National Anthem by L'Anse Creuse High School North Band
2. Presentation of Proclamation to Jeremy Duby (**Miller**)
3. Presentation of Proclamation to Frank Taylor (**Vosburg**)
4. **COMMITTEE REPORTS:**
 - a) Special Finance, November 22 **(attached)**
 - b) Board Operations, December 6 **(attached)**
5. Correspondence from Executive
6. **RESOLUTIONS:**
 - a) Override County Executive's Veto of Ethics Ordinance (offered by Vosburg) **(attached)**

MACOMB COUNTY BOARD OF COMMISSIONERS

Kathy D. Vosburg
District 8
Chair

Marvin E. Sauger
District 2
Vice Chair

Fred Miller
District 9
Sergeant-At-Arms

Toni Mocerì - District 1

David Flynn - District 4

James L. Carabelli - District 6

Roland Frascchetti - District 10

Bob Smith - District 12

Phillip A DiMaria - District 3

Ray Gralowski - District 5

Don Brown - District 7

Kathy Tocco - District 11

Joe Sabatini - District 13

7. **PROCLAMATIONS:**

- a) Honoring Frank Taylor – Retirement from Macomb County Community Services Agency (offered by Vosburg; recommended by Board Operations Committee on 12-6-11; previously provided at committee meeting)
- b) In Support of the Macomb Children’s Hands-on Museum (offered by Miller; recommended by Board Operations Committee on 12-6-11; previously provided at committee meeting)

8. 2012 Meeting Schedule **(to be provided)**

In addition to the agenda items listed, a committee report is anticipated from the following committee meeting: Finance, December 13.

Any other matters that require Full Board consideration and the report listed above will be attached to your official Full Board agenda.



Committee Reporter

November 22, 2011

TO: BOARD OF COMMISSIONERS

FROM: DON BROWN, CHAIR
FINANCE COMMITTEE

RE: RECOMMENDATION FROM FINANCE COMMITTEE
MEETING OF NOVEMBER 22, 2011

At a **special** meeting of the Finance Committee, held Tuesday, November 22, 2011, the following recommendation was made and is being forwarded to the Full Board for approval:

1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY MILLER, SUPPORTED BY FLYNN, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS ADOPT THE PURCHASING ORDINANCE (#7), AS AMENDED; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE. **THE MOTION CARRIED.**

A MOTION TO ADOPT THE COMMITTEE REPORT WAS MADE BY CHAIR BROWN, SUPPORTED BY VICE-CHAIR MILLER.

RESOLUTION NO. _____

FULL BOARD MEETING DATE: _____

AGENDA ITEM: _____

MACOMB COUNTY, MICHIGAN

RESOLUTION TO adopt draft Purchasing Ordinance dated October 12, 2011 *see below

INTRODUCED BY: Don Brown, Chair, Finance Committee

***At the 11-22-11 Finance Committee meeting, the following friendly amendment was approved:**

Section 2.2 **should be 2.1.** Authority and Duties

and

B. Duties - **should now read:** In accordance with this Ordinance, and subject to the supervision of the County Executive and the Finance Department Director, the Purchasing Manager shall:

(and the Finance Committee was deleted)

COMMITTEE/MEETING DATE

Finance	<u>11-22-11</u>
Full Board	<u>12-15-11</u>

**ENROLLED ORDINANCE
NO. 2011- 7**

INTRODUCED BY COMMISSIONER(S):

AN ORDINANCE TO PROVIDE FOR THE PROCEDURES FOR THE PURCHASE OF GOODS AND SERVICES BY THE COUNTY OF MACOMB.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF MACOMB:

SECTION 1. POLICY AND DEFINITIONS

Sec. 1.1. Policies and Procedures

It shall be the policy of Macomb County to enter into contracts for goods, services, construction and professional services at fair and reasonable compensation for the work performed. Procedures shall be developed to manage the procurement process in accordance with the law; spend the taxpayers' money wisely and fairly; protect against fraud and favoritism; encourage participation by Macomb County businesses; promote equality of opportunity for all businesses; and best meet the needs of Macomb County departments through continuous improvement of purchasing systems.

Sec. 1.2. Applicability

This Ordinance applies to contracts for the procurement of goods, services, construction and professional services entered into by Macomb County. It shall apply to every expenditure of public funds by a Macomb County department for public purchasing irrespective of its source, except as otherwise provided by State law, State regulation, Macomb County Ordinance or administrative policy. When the procurement involves the expenditure of State or Federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory State and/or Federal law. Nothing in this Ordinance shall prevent any County department from complying with the terms and conditions of any grant, gift, bequest, or cooperative purchasing agreement that is otherwise consistent with law.

Sec. 1.3. Definitions

- A. Bid – An advertised, open, competitive solicitation for prices that are opened publicly.
- B. Business – Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

- C. Change Order – A signed written order directing the contractor to make changes according to the “Changes” clause of the contract authorizes the Purchasing Manager to order without the consent of the contractor.
- D. 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 via request pursuant to the Freedom of Information Act.
- E. Construction – The process of building, altering, renovating or demolishing any public structure or building, not including the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- F. Contract – All types of County agreements, regardless of what they may be called, for the procurement of good, services, construction or professional services.
- G. Contract Modification – 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.
- H. Contractor – Any person and/or their agent having a contract with the County.
- I. Cooperative Purchasing – Procurement conducted by or on behalf of more than one public procurement unit.
- J. County-based Enterprise – A business is deemed to be a county-based enterprise (CBE) if it satisfies all of the following criteria:
 - 1. Its headquarters is physically located within Macomb County, or it has been conducting business at a location with a permanent street address in the county on an ongoing basis for not less than one taxable year prior to its response to an invitation for bids.
 - 2. It has made payment of property taxes on real or personal property within the past year on property which is ordinarily needed to perform the proposed contract.
 - 3. At least 50 percent of its regular full-time employees are based at the county location to perform the proposed contract.
 - 4. It has been dealing for at least one year on a regular commercial basis in the kind of goods or service which is the subject of the bid or in a closely or logically allied product line.
- K. County Employee – An individual, including an elected or appointed official, drawing a salary or wages from the County.

- L. Department – Any County department, office, board, commission, or other unit of county government requiring goods, services, construction or professional services procured pursuant to this Ordinance.
- M. Direct or Indirect Participation – Involvement through decision, approval, disapproval, recommendation, preparation or any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- N. Finance Committee – The Committee established by the Board of Commissioners to review and recommend appropriation budgets and expenditures of fund for all using agencies.
- O. Financial Interest –
 - 1. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$1000.00 per year, or its equivalent;
 - 2. Ownership of 5% (five percent) of any property or business; or
 - 3. Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.
- P. 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.
- Q. Immediate Family – A spouse, child, stepchild, parent, parent-in-law, brother, sister, son-in-law, daughter-in-law, brother-in-law, and sister-in-law.
- R. Invitation for Bids – All documents (whether attached or incorporated by reference) utilized for soliciting sealed bids.
- S. Procurement – The buying, purchasing, renting, leasing, or acquiring of any supplies, or services. 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.
- T. Professional Services – Services which require a high degree of intellectual skill whereby the County's best interests are serviced by a unique combination of specialized knowledge, experience and expertise.
- U. Public Agency – A public entity subject to or created by the County.

- V. Public Servant - An employee, county-wide elected official, commissioner, or appointee of the County.
- W. Purchasing Manager – Macomb County’s principal purchasing official. The Purchasing Manager shall service as the central procurement officer of the County. The duties for the Purchasing Manager shall be exercised under the control, supervision, direction, and authority of the County Finance Director. With the approval of the Finance Director, the Purchasing Manager may delegate authority to purchase, if necessary, for the effective procurement of specific items.
- X. Relative - persons related to the individual as father, mother, son, daughter, anyone over the age of 21 who resides with that person, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of an individual's spouse and the individual's fiancé or fiancée.
- Y. Request For Proposals (RFP) – All documents (whether attached or incorporated by reference) utilized for soliciting proposals.
- Z. Responsible Bidder – A person who has the capability in all respects to perform fully the contract requirements, which will assure good faith performance.
- AA. Responsive Bidder – A person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.
- BB. Services – The furnishing of time, labor, or effort by a contractor, not involving the delivery of a specific end product other than reports which are incidental to the required performance.

SECTION 2. PURCHASING MANAGER

Sec. 2.1. Authority and Duties

A. Principal Purchasing Official. The Purchasing Manager shall serve as the principal public purchasing official for the County and shall be responsible for the procurement of goods, services, construction and professional services in accordance with this Ordinance, as well as the management and disposal of surplus property.

B. Duties. In accordance with this Ordinance, and subject to the supervision of the County Executive and the Finance Department Director, the Purchasing Manager shall:

1. Supervise the procurement of supplies and services needed by the County
2. Sell, trade, transfer, or otherwise dispose of surplus County property;
3. Establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the agencies using the goods, services, construction and professional services;
4. Exercise general supervision over inventories of goods belonging to the County;
5. Establish procedures for contract management including the monitoring of compliance and payments.

C. Purchasing Regulations and Operational Procedures. Consistent with this Ordinance, and with the approval of the County Executive and Finance Committee, the Purchasing Manager may adopt operational procedures relating to the execution of his/her duties.

D. Allocation of the Proceeds from Sale of Disposal of Surplus Goods. The Purchasing Manager shall allocate net proceeds from the sale, lease, or disposal of surplus goods back to the appropriate fund.

E. Purchasing Determinations. The Purchasing Manager shall work cooperatively with departments in making determinations relative to the purchase of goods, services, construction and professional services.

SECTION 3 - REQUISITION PROCESS

The purchasing process is instituted in all cases by the requesting department. Each department of the County shall supply the Purchasing Manager with a requisition through the computerized system. The Purchase Requisition includes such data as specifications, recommended vendor, and other details including budget and account information, and must be approved by the department head or authorized departmental representative through the on-line approval method. The requisition is sent electronically to the Purchasing Manager. The Purchasing Manager then distributes the work by commodity code responsibility to the appropriate buyer.

SECTION 4 – COMPETITIVE BIDDING AND PROPOSALS

Sec. 4.1. General

An openly publicized competitive process for the procurement of goods, services, construction and professional services is the most effective means of determining the lowest cost from a responsible source and shall be utilized whenever possible. Purchases of goods, services and construction in excess of \$ 20,000 or where multiple purchases within a year are likely to exceed \$20,000 shall be subject to competitive sealed bidding. For Professional Services Contracts refer to Section 5.

A. Source Selection and Contract Formation. All County contracts shall be awarded on a competitive bid basis or proposal basis. The various categories of competitive bids are listed below:

- Informal Bids
- Sealed Bids
- Multi-Step Sealed Bids
- Small Purchases
- Request for Proposal
- Sole Source Procurement
- Cooperative Purchasing
- Emergency Procurement

The conditions for the use of each bid process will be determined by the Purchasing Manager and the dollar expenditure limits as adopted by the Macomb County Board of Commissioners.

B. Methods Utilized by Macomb County. The County shall utilize the following methods for the procurement of services and supplies.

- 1. Informal Bids.** Informal bids are used for expenditures of \$5,000 to \$20,000. Competitive quotes are secured through formal quotations generated within the Purchasing Division. Three bids or more are typically requested. These bids contain standard terminology and specify a date by which they must be returned.
- 2. Sealed Bids.** Sealed bids are used for expenditures of \$20,000 and above. These bids contain standard terminology and performance specifications as well as date and time due. All bids must be received by the due date and time specified in order to be considered. Receipt of sealed bids by facsimile is not allowed by Macomb County.
- 3. Multi-Step Sealed Bids.** When it is considered impractical to initially prepare a purchase description to support an award based on price, an "Invitation for Bids" may be issued requesting the submission of unpriced offers to be followed by an invitation for bid limited to those bidders whose offers have determined to be technically acceptable under the criteria set forth in the first solicitation.
- 4. Request for Proposal.** This type of bid is normally used to secure outside services or a combination of services and/or products. A request for proposal normally describes a problem or specific need. This procurement method is more flexible and accommodates vendors wishing to submit a custom proposal where ingenuity or creative solutions can be submitted to solve a problem in a more cost-effective manner.
- 5. Sole Source Procurement.** A contract may be awarded without competition upon the written recommendation of the Purchasing Manager and the approval of the Finance

Director and Chair of the Board of Commissioners if, after conducting a good faith review of available sources, it is determined that there is only one source for the required supply or service item. Under this method, pricing must be established under government contract or negotiated. With this type of purchase more documentation is required and must be filed with each purchase order including the specific reasons for the designation as a sole source item and how the pricing was determined.

6. Cooperative Purchasing. This method of purchasing may be used in cooperation with political subdivisions to procure items off cooperatively bid state, local and Federal contracts. Under this method the bid limits follow those outlined above for formal and sealed bid procurements. Cooperative contracts can also be issued as joint efforts between political subdivisions and Macomb County. This method should incorporate each individual political subdivision's procurement policies and procedures.

7. Emergency Purchases. The Purchasing Manager may make or authorize others to make emergency procurements of supplies or services when there exists a threat to public health, welfare or safety. In each instance as much competition as is practical under the circumstances shall be factored into the decision of award. Written documentation specifying the nature of the emergency must be included in the contract file and approved by the Finance Director on a retrospective basis.

C. Made in Macomb County, Michigan, and/or USA. When the County makes a purchase, preference shall be given to products manufactured **or services based** first in Macomb County, then in Michigan and then in the United States when they are available at comparable prices and are of equal, superior, or similar quality.

Sec. 4.2 Procedures for Competitive Bidding

A. Vendors Bid and Qualification Listings. All vendors interested in providing goods or services to the County must register their business on the Purchasing System Website currently in use by the County. Vendors may access the Purchasing System Website through the County's website. All current bidding documents shall be posted at the Purchasing System Website. Vendors shall comply with the personal disclosure requirements as set forth in the Macomb County Ethics Ordinance.

B. Invitation for Bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.

C. Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time, not less than twelve (12) calendar days prior to the date of the opening of bids. Such notice shall be posted to the MITN website. The public notice shall state the place, date, and time of bid opening.

D. Standard Clauses and Their Modification. The Purchasing Manager, after consultation with Corporation Counsel **and Risk Management**, may establish standard contract clauses for use in County contracts. These clauses may include equal protection and non-discrimination compliance, labor harmony and living wage provisions.

E. Bid and Performance Bonds on Goods or Service Contracts. Bid and performance bonds or other security may be requested for supply contracts as the Purchasing Manager deems necessary to protect the County's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder's responsibility. The limits for bonds are 5% covered either by a 5% bid bond or certified check for 5% of the contract and 100% for a performance bond. Bid bonds will be held by the Purchasing Manager until an award decision is made. Upon final award, all other bid deposits shall be returned. If a vendor fails to submit a bid bond with their bid, the bid will be rejected.

When a construction contract is awarded in excess of \$20,000, 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 security 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 material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.

F. Insurance Requirements on Goods or Service Contracts. The Purchasing Manager shall determine, in consultation with the Risk Manager, 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 Purchasing Manager with satisfactory evidence of the insurance.

G. Cancellation or Rejection of Invitations for Bids or Requests. 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 interests of the County. Each solicitation issued by the County shall state that the solicitation may be canceled by the Purchasing Manager 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. The reasons shall be made part of the contract file and shall be provided upon request to unsuccessful bidders.

H. **Sealed Bids Opening.** All sealed bids shall be opened publicly by a Purchasing Division representative in the presence of one or more witnesses at the time and place designated in the bid invitation. Information as deemed appropriate will be read by the Purchasing Division representative including the name of each bidder, the amount of each bid and relevant information pertinent to the award. Bids shall be unconditionally accepted without alteration or correction.

I. **Addendums to Sealed Bids.** After solicitation has been made to vendors it may become necessary in certain instances to issue addendums amending the specifications, or extending the bid due date. If the Purchasing Manager or requisitioning department deems it necessary to make changes to the specifications, such changes will be posted to the Purchasing System website. Clarifications, modifications, or amendments may be made to any bidding document and will appear on the Purchasing System website. It is the responsibility of the bidder to check the website for additional postings. This procedure ensures that the process stays intact and is completed by the deadline or opening of the sealed bid. Sealed bids received by the County prior to the issuance of an extension or addendum shall be returned to the vendor along with the amended bid specification and due date.

J. **Correction or Withdrawal of Bids.** The correction or withdrawal of a bid may be done by the vendor prior to the bid opening. This correction or withdrawal because of a mistake can be either in written form, delivered via the U.S. Postal Service or other carrier, or can be faxed or emailed to the Purchasing Department prior to the bid deadline. After the bid opening no changes in the bid prices or provisions shall be permitted. In lieu of correcting the bid, a bidder alleging a material mistake is permitted to withdraw his bid if the mistake is clearly evident or the bidder submits evidence that clearly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids are to be supported by a written determination to be made by the Purchasing Manager and approved by the Finance Director.

K. **Bid Evaluation.** Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability such as inspection, testing of quality, workmanship, delivery and suitability for a particular purpose. The "Invitation for Bids" shall establish the evaluation criteria to be used which may include such factors as discounts, transportation costs, total life cycle costs, and/or value analysis. Criteria that is not requested in the bid or intentionally left out may not be used in the award evaluation. The responsibility and responsiveness of the bidder will also be a factor. A responsible bidder is a bidder whose reputation, past performance, and financial capabilities are such that the bidder would be judged by the appropriate authority to be capable of satisfying the County's needs for a specific contract. A responsive bidder is a bidder whose bid does not vary from the specifications and the terms set in the proposal.

L. **Determination of Non-responsibility of Bidder.** Failure to perform, or unsatisfactory performance, on one or more County contracts within a 2 year period shall be cause for the Purchasing Manager to determine non-responsibility. The unreasonable failure of a bidder to promptly supply information or samples in connection with an inquiry with respect to

responsibility, or unacceptable performance on prior contracts, may be grounds for a determination of non-responsibility with respect to such bidder. If a bidder who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Purchasing Manager. A copy of the determination shall be sent promptly to the non-responsible bidder.

M. **County-Based Enterprise.** An equalization percentage credit from the equalization allowance table will be applied to the bid of any county-based enterprise. This credit will be subtracted from the bid of the county-based enterprise. In comparing bids, the bid of the county-based enterprise after subtraction of the credit shall be considered the official bid. However, if the county-based enterprise is awarded the contract, the bid without the equalization percentage credit shall be the contract price.

Contract Amount	Equalization Percentage
Up to \$50,000.00	5
\$50,001.00 to \$200,000.00	3
\$200,001.00 and over	1

1. No business shall receive these credits unless they have been certified by the Purchasing Manager.
2. Any business who claims entitlement to any equalization credit shall agree to make the records necessary to establish eligibility to the County.
3. After apply any equalization credits as provided above, the contract shall be awarded to the lowest responsible bidder thus evaluated.

N. **Award.** The contract shall be awarded by appropriate written notice to the lowest responsive and responsible bidder whose bid best meets the requirements and criteria set forth in the invitation for bids, if the bid is within the amount of funds appropriated.

The Standing Committee in charge of the department and the Finance Committee shall submit their recommendation on the award of a contract by resolution to the County Board for its consideration at its next meeting.

O. **Public Right-to-Know.** Not less than once each calendar month, the Office of County Executive shall deliver to the Commission a list of all contracts of goods and services signed or entered into during the previous thirty (30) days, with sufficient detail as required by the Commission for verification of the line item authorization and to provide feasible, accessible, and economical public access to that expenditure information. This information shall be made available to the public on the county's website for the duration of said contracts.

SECTION 5 – PURCHASES EXEMPT FROM COMPETITIVE SEALED PROPOSALS; EMERGENCIES AND SMALL PURCHASES

Sec. 5.1. Purchases Exempt from Competitive Sealed Proposals

When a department head conducts a good faith review of available sources and determines that the contract by its very nature is not suitable to competitive bids or proposals, the department head shall forward an Exempt request to the Purchasing Manager. The Purchasing Manager will review and approve all Exempt requests and give retrospective notice to the Chair of the Board of Commissioners. The Purchasing Manager may consult with ad hoc groups of county staff in making the determination with regard to a particular procurement. If the Purchasing Manager reviews and approves the department head's recommendation that the procurement is exempt from competitive bids or proposals, the department is not required to employ the competitive proposal or bidding process to enter into a contract. Examples of contracts which may not be suitable for competitive bids or proposals are:

1. There is only one source for the required goods, service, or construction item.
2. There exists a long standing, successful relationship for professional services, and the knowledge gained through this relationship adds value integral to the services provided.
3. A sole supplier's item is needed for trial use or testing.
4. Purchases of used equipment.
5. Purchases at auctions.

Sec. 5.2 Emergency Procurement

A threat to public health, welfare, or safety, or to prevent or minimize serious disruption of government services, shall be considered an "emergency." Notwithstanding any other provisions of this Ordinance, the Purchasing Manager may make or authorize others to make emergency procurement of goods, services, or construction items. Emergency procurements 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 certified by the using department head or other department head as may be appropriate, shall be forwarded to the Purchasing Manager, and 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 or more.

SECTION 6. SMALL PURCHASES

Sec. 6.1 Small Purchase Procurement

For non-contract purchases, competitive quotations for purchases up to \$5,000 are encouraged by the Department Head or their designee to determine the source that is in the County's best

interests. The Purchasing Manager shall document quotations from at least three vendors whenever feasible.

Sec. 6.2. Small Purchase Procedures

A. **Solicitation Factors.** Three quotations shall be received whenever possible prior to the contract. Circumstances may exist where the Purchasing Manager determines that it is not feasible to secure three quotations. In other situations, the Purchasing Manager may determine that it is in the best interests of the County to consider only one supplier who has previous expertise relative to a procurement. Whenever the Purchasing Manager determines that it is not feasible, or is not in the County's best interests to satisfy the minimum quotation requirements of this section, the reason for this determination shall be indicated in writing and retained in the contract file. A copy shall also be forwarded to the Chair of the Board of Commissioners. The Purchasing Manager shall conduct negotiations, as appropriate, as to price, delivery and terms.

B. **Evaluation Factors.** Evaluation factors which may justify an award to a vendor who has not provided the lowest quotation include, but are not limited to, delivery requirements, quantity requirements, quality, and past vendor performance. Whenever the Purchasing Agent or the agents' designee determines that it is in the County's best interests to award a small purchase contract to a vendor who did not submit the lowest quote, the reason for this determination shall be indicated in writing and retained in the contract file. A copy shall also be forwarded to the Chair of the Board of Commissioners.

SECTION 7– PROFESSIONAL SERVICES

Sec. 7.1. General

When procuring professional services, the user department requiring such services may procure them through the Purchasing Department in accordance with the selection procedure specified in this section.

Sec. 7.2 Statement of Qualifications

Persons engaged in providing professional services shall submit a statement of qualifications and expressions of interest in providing such professional services. The using agency procuring such professional services may specify a uniform format for the statement of qualifications.

Sec. 7.3 Request for Proposals

Requests for proposals shall be sent to qualified people showing an interest in providing the services required and they shall describe the services requested, list the types of information and data required of each bidder and state the relative importance of particular qualifications.

The award criteria should be documented by the head of the using department procuring the required professional services or the Purchasing Manager. The evaluation and selections process shall be conducted by a committee composed of the using department director, Finance Director, Chair of the Board of Commissioners, Corporation Counsel, or their designees. Should either Corporation Counsel or the Finance Department be the using department, the Risk Manager shall be added to the evaluation and selection committee.

SECTION 8 - COOPERATIVE PURCHASING

Sec. 8.1. Cooperative Purchasing Authorized

Subject to applicable state law, Macomb County may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of goods, services, construction, or professional services 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.

Sec. 8.2. Sale, Acquisition, or Use of Goods

Macomb County may sell to, acquire from, or use any goods belonging to another public procurement unit independent of the requirements stated herein.

Sec. 8.3. Cooperative Use of Goods and Services

Macomb County may enter into an agreement independent of the requirements stated in this ordinance with any other public procurement unit for the cooperative use of goods or services under the terms agreed upon between the parties.

Sec. 8.4. Joint Use of Facilities

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

SECTION 9 – CONTRACT CHANGES

Sec. 9.1. Change Orders and Contract Modifications

When the total of change orders, contract modifications or price adjustments on any contract approved by Resolution of the County Board exceeds ten percent (10%) of the original contract

amount, approval of the Standing Committee in charge of the using department and the Finance Committee is required.

The Purchasing Manager is authorized to sign all change orders. Additionally, the Director of the Department of Roads is authorized to sign change orders for projects relating to planning, design, construction and maintenance of highways, bridges, and culverts. The Public Works Commissioner is authorized to sign change orders relating to planning, design, construction and maintenance of water and sewer projects. The Facilities & Operations Director is authorized to sign change orders relating to planning and design and such other projects the Director is assigned by the County Executive to administer.

SECTION 10 – ETHICS POLICY

Sec. 10.1. Statement of Ethical Policy

Public employment is a public trust. Proper conduct by Macomb County officers and employees inspires confidence in the work of Macomb County. County officers and employees involved directly or indirectly in Macomb County's various procurement activities have a responsibility to perform their duties in a manner that will insure the integrity of Macomb County's purchasing transactions.

Sec. 10.2 General Ethical Standards

- A. It shall be unethical for individuals and organizations to use their positions to manipulate Macomb County's Purchasing Ordinance, policies and procedures for personal gain or profit.
- B. It shall be unethical for an individual to attempt to influence any involved individual or organization to violate the ethical standards for Macomb County Purchasing activities.
- C. Individuals involved in Macomb County's Purchasing activities shall conduct their activities in good faith and shall use the resources, property and funds under their control wisely and in accordance with ethical standards and legal requirements.
- D. All county public servants shall, at all times, comply with any and all rules and regulations enacted by the County as defined in the Macomb County Ethics Ordinance. With respect to any provisions of this paragraph which overlap and/or conflict with the Ethics Ordinance the stricter of the two provisions shall govern.
- E. Individuals involved in Macomb County's Purchasing activities shall conduct their activities to avoid the appearance of attempting to influence others or of being influenced by others to violate the ethical and legal standards for Macomb County's Purchasing standards.

Sec. 10.3. Employee Conflict of Interest/Bias

A. Public servants shall not participate directly or indirectly or influence or attempt to influence any procurement, contract, purchase, order or invoice decision when the county employee knows or has reason to know that:

(a) the public servant's or any relative of the public servant has a financial interest related to the procurement, contract, purchase order or invoice, decision or activity; or

(b) the public servant or a relative of the public servant is negotiating for or already has an arrangement concerning employment with an individual or organization involved in the procurement, decision or activity.

B. Public servants who discover an actual or potential conflict of interest, relative to a procurement, contract, purchase order, or invoice decision shall immediately disclose said conflict and file a written statement of disqualification with the Purchasing Agent and the Board of Ethics and shall withdraw from further participation in the transaction.

C. The Board of Ethics may grant a waiver from the public servant conflict of interest provision upon making a written determination that:

1. the financial interest of the public servant has been publicly disclosed;
2. the public servant will be able to perform his/her procurement functions without actual or apparent bias or favoritism; and
3. the award will be in the best interests of the County.

D. Individuals shall not engage in unlawful discrimination or prejudice based on race, religion, national origin, language, gender, political affiliation, disability, or age when involved in a procurement, contract, purchase order or invoice decision.

Sec. 10.4. Gifts or Financial Gain

Individuals involved either directly or indirectly in the procurement process and members of their immediate family are prohibited from the following activities:

A. accepting financial gratuities, gifts, offers of employment, expense paid trips, private vacations, or other special financial treatment and favors from any person or organization in connection with any direct or indirect involvement in a procurement activity or decision.

B. participating in or allowing situations in which any form of payment, gratuity or offer of employment is made by or on behalf of any contractor or subcontractor in an effort to influence the award of a contract with Macomb County.

C. accepting a commission, percentage, brokerage or contingent fee in exchange for assisting individuals or organizations to secure a Macomb County contract, purchase or invoice.

Individuals involved either directly or indirectly in the procurement process are NOT prohibited from the following activities:

A. accepting food or refreshment not exceeding \$75 per person on a single calendar day in the course of conducting business with an individual or organization with whom Macomb County is involved in business activities, provided the food or refreshment is (i) consumed on the premise from which it was purchased or prepared or (ii) if it is catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

B. (2) accepting only nominal gifts similar to advertising samples, from an individual or organization with whom Macomb County is involved in procurement activities.

Sec. 10.5. Confidentiality

A. Individuals are prohibited from using confidential or proprietary information received in the course of their jobs to give any other individual or organization unfair advantage in Macomb County's procurement process.

B. Individuals are prohibited from using confidential information received in the course of their procurement-related duties for personal gain, including but not limited to, financial gain.

C. Individuals have a duty to protect confidential information, gained through procurement activities, from being disclosed to other parties.

Sec. 10.6. Duty to Report

A. An employee shall immediately report to the Board of Ethics and either his or her supervisor or department head any attempt by any other individual or organization to induce him or her to violate any of the ethical principles and guidelines in this Article.

B. A non-employee shall immediately report to the Purchasing Agent and the Board of Ethics any attempt by any other individual or organization to induce him or her to violate any of the ethical principles and guidelines in this Article.

Sec. 10.7. Sanctions

A. An employee who violates the ethical principles and guidelines of this Article may be subject to discipline up to and including the termination of employment or to sanctions under the Macomb County Ethics Ordinance.

B. A non-employee, non-officer who violates the Ethical Principles and Guidelines is subject to the applicable law and the following penalties as determined by the Finance Committee after consulting with the Purchasing Agent;

1. written warning or reprimand;
2. termination of contract;
3. determination as a non-responsible contract bidder;
4. recovery by Macomb County of the value of anything given or received in violation of any provision of law, the Home Rule Charter of Macomb County, the Ethics Ordinance and this Article, including, but not limited to, monetary gifts, gratuities and kickbacks.

December 6, 2011

TO: BOARD OF COMMISSIONERS

FROM: KATHY TOCCO, CHAIR
BOARD OPERATIONS COMMITTEE

RE: RECOMMENDATION FROM BOARD OPERATIONS COMMITTEE
MEETING OF DECEMBER 6, 2011

At a meeting of the Board Operations Committee, held Tuesday, December 6, 2011, the following recommendation was made and is being forwarded to the Full Board for approval:

1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY DiMARIA, SUPPORTED BY FRASCHETTI, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE THE FOLLOWING APPOINTMENTS:

REAPPOINTMENTS OF THOMAS LANDA, MARTIN SMITH, ROBERT SOULLIERRE, TED WAHBY, JERRY DANCEY, RICHARD IVES AND VINCENT VIVIANO TO THE MACOMB COUNTY BUILDING AUTHORITY FOR TWO-YEAR TERMS BEGINNING 1-1-12 THROUGH 12-31-13 AND

APPOINTMENT OF COMMISSIONER DON BROWN TO THE HOSPITAL FINANCE AUTHORITY BOARD FOR A FOUR-YEAR TERM BEGINNING 1-1-12 THROUGH 12-31-16.

FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE. **THE MOTION CARRIED.**

A MOTION TO ADOPT THE COMMITTEE REPORT WAS MADE BY CHAIR TOCCO, SUPPORTED BY VICE-CHAIR CARABELLI.

RESOLUTION NO. _____

FULL BOARD MEETING DATE: _____

AGENDA ITEM: _____

MACOMB COUNTY, MICHIGAN

RESOLUTION TO concur in the recommendation of the Board Chair and approve the reappointments of Thomas Landa, Martin Smith, Robert Soullierre, Ted Wahby, Jerry Dancey, Richard Ives and Vincent Viviano to the Macomb County Building Authority for two-year terms beginning 1-1-12 through 12-31-13

INTRODUCED BY: Kathy Tocco, Chair, Board Operations Committee

COMMITTEE/MEETING DATE

Board Operations 12-06-11
Full Board 12-15-11

RESOLUTION NO. _____

FULL BOARD MEETING DATE: _____

AGENDA ITEM: _____

MACOMB COUNTY, MICHIGAN

RESOLUTION TO concur in the recommendation of the Board Chair and approve the appointment of Commissioner Don Brown to the Hospital Finance Authority Board for a four-year term beginning 1-1-12 through 12-31-16

INTRODUCED BY: Kathy Tocco, Chair, Board Operations Committee

COMMITTEE/MEETING DATE

<u>Board Operations</u>	<u>12-06-11</u>
<u>Full Board</u>	<u>12-15-11</u>

RESOLUTION NO. _____

FULL BOARD MEETING DATE: _____

AGENDA ITEM: _____

MACOMB COUNTY, MICHIGAN

RESOLUTION TO adopt a resolution to override the County Executive's veto of Ordinance No. 2011-4, the Ethics Ordinance

INTRODUCED BY: Kathy Vosburg, Board Chair

COMMITTEE/MEETING DATE

Full Board 12-15-11

Official Resolution of the Board of Commissioners
Macomb County, Michigan

**A RESOLUTION TO OVERRIDE
VETO OF ETHICS ORDINANCE**

Chair Kathy D. Vosburg,
On Behalf of the Board of Commissioners,
Offers the Following Resolution:

WHEREAS, pursuant to Article II of the Macomb County Charter the Commission is required to have adopted an ethics ordinance; and

WHEREAS, the Commission adopted an Ethics Ordinance (Ordinance No. 2011-4), but the County Executive vetoed that ordinance expressing his reasons therefore in a letter to the Commission dated December 1, 2011; and

WHEREAS, the Commission is always willing to consider concerns the County Executive may timely express about pending Commission actions; and

WHEREAS, pursuant to Section 4.4 of the Charter, the Commission may override a veto.

WHEREAS, the citizens and businesses of Macomb County are entitled to a fair, ethical and accountable government that has earned the public's full faith and confidence; and

WHEREAS, all public officials and employees are required to maintain the highest standards of honesty, integrity, fairness and impartiality in their conduct and judgment and shall avoid any actions that would adversely reflect on the County; and

WHEREAS, in keeping with Macomb County's commitment to excellence, all public officials and employees must ensure that public office is used for the public good and must comply with both the letter and spirit of the laws and policies affecting the operation of government; and

WHEREAS, the Macomb County Board of Commissioners has determined that the adoption of an Ethics Ordinance will assist in achieving these ends.

NOW, THEREFORE, BE IT RESOLVED, that the County Board of Commissioner does hereby override the County Executive's veto of Ordinance No. 2011-4, the "Ethics Ordinance".