

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, ENACTING CHAPTER 106 (REAL PROPERTY DISPOSITION PROCEDURES) OF THE CODE OF INDIAN RIVER COUNTY, FLORIDA IN ORDER TO ESTABLISH ALTERNATIVE PROCEDURES FOR THE DISPOSITION OF REAL PROPERTY; AND PROVIDING FOR CODIFICATION, SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:

Section 1. Enactment Authority.

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

Section 2. Enactment of Chapter 106 (Real Property Disposition Procedures) of the Code of Indian River County, Florida.

Chapter 106 (Real Property Disposition Procedures) of the Code of Indian River County, Florida is hereby enacted to read as follows:

CHAPTER 106. REAL PROPERTY DISPOSITION PROCEDURES.

Section 106.01. - Purpose.

This Chapter is adopted for the purpose of setting forth the methods of disposition of surplus County real property. The County Administrator or designee shall have the option of utilizing the statutory methods of disposal, this Chapter, or any combination thereof.

Section 106.02. - Authority, purpose, and standards.

- (a) This section is enacted under authority of section 125.35, Florida Statutes, for the sale, leasing and donation of real property by the County when it is determined by the Board to be in the best interest of the County.
- (b) Any of the procedures specified in this Chapter may be used and applied, where applicable, by the Board for the competitive or non-competitive sale or lease of any real property.
- (c) At a minimum, any legal entity seeking to purchase available County real property must be currently active, registered and in good standing with the Florida

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Department of State. Other standards for competition and qualification for the sale or lease of county real property are set forth in sections 106.03 through 106.05 below.

Section 106.03. - Declaration of surplus property.

When the Board finds that any real property owned by the County is unusable or not needed for County purposes or usable for affordable housing, the Board may declare the real property to be surplus property. Once the property is declared surplus, the property may be sold, dedicated, donated or otherwise conveyed to interested parties in accordance with applicable Florida Statutes or pursuant to the terms of this Chapter.

Section 106.04 - Methods of disposal.

(a) When real property is declared surplus, the County Administrator or designee shall recommend to the Board a particular method of disposal as set forth in Florida Statutes or as set forth in this section.

(b) As authorized in section 125.35(3), Florida Statutes, the County may dispose of surplus real property through alternative procedures outlined in this subsection:

1. Minimum base bid. The County may sell, transfer or convey real property through the minimum base bid procedures outlined in this subsection.

a. A minimum base bid for the sale or lease of real property may be determined using an appraisal obtained by the County.

b. After determining the minimum base bid, as approved by the Board, the County shall advertise for bids on the property. The advertisement shall specify the minimum base bid and the specific terms and conditions, if any, to be bid upon. All bids shall be sealed and must contain a minimum of a ten percent cash deposit submitted on a certified or cashier's check.

c. Upon receipt of the sealed bids, the property shall be sold to the bidder submitting the highest, qualified, responsive and best bid. The Board reserves the right to reject any bid, including the minimum base bid that is not reasonably close to the fair market value of the property at the time bids are opened.

2. Negotiated sale or lease. The County may sell, transfer, convey or lease real property through the negotiated sale procedures outlined in this subsection through the use of a licensed real estate broker or through a public auction house in the following manner:

a. A licensed real estate broker or public auction house (including internet auction companies) shall be retained in accordance with County policy to market or auction the real property. Any contract for

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services shall, at a minimum, set forth the amount of compensation due for services, the length of notice/advertising time, and such other information as deemed necessary by the County Administrator or designee. The contract(s) shall be approved by the Board, unless permitted to be approved by the County Administrator or Purchasing Manager per County policy.

b. A licensed real estate broker shall bring any offer received for purchase of listed surplus property to the County in the form of a purchase agreement. County staff shall review the purchase agreement and if deemed acceptable, the County Administrator shall bring the purchase agreement to the Board for consideration.

c. For any real property dispositions made through public auction, the county shall establish a base reserve for the property.

3. Florida Department of Transportation Coordinated Sale or Lease. The County may sell, transfer, convey or lease real property in coordination with the Florida Department of Transportation for County properties that are associated with a Florida Department of Transportation real estate transaction for properties involved in the same Florida Department of Transportation project.

4. Request for proposals. The County may sell, transfer, or convey real property through the request for proposals (RFP) process in the following manner. If the sale or lease of the property was initiated in response to an unsolicited offer by a prospective purchaser then the offeror may submit a proposal. If no other proposal is received, the original proposal shall be accepted, unless the original offer was deemed unacceptable and rejected before issuing the RFP. The County reserves the right to reject any RFP in which the proposed sale or lease amount is not reasonably close to the fair market value of the property at the time RFPs are considered by the Board.

Section 106.05 - Negotiation procedures.

(a) In determining the terms and conditions of the disposal of surplus property, the County Administrator or designee shall, at a minimum, take into consideration the following factors:

1. The appraised value of the real property;
2. Any prior County liens on the property, if applicable;
3. The condition of the real property, and the extent to which the party seeking to acquire the property will have to expend funds to make the property usable, rezoning issues excluded, or, to bring the property into compliance with the County Code, if necessary;

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- 4. The proposed use by the party seeking to acquire the property, if applicable; and
- 5. The proposed use of the property for affordable housing.

(b) In no event shall the disposition of surplus property violate the County comprehensive plan or the zoning regulations of the County.

Section 3. Codification. It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

Section 4. Severability. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 5. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the 16th day of February, 2020, for a public hearing to be held on the 3rd day of March, 2020, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Susan Adams	_____
Vice-Chairman Joseph E. Flescher	_____
Commissioner Tim Zorc	_____
Commissioner Peter D. O'Bryan	_____
Commissioner Bob Solari	_____

The Chairman thereupon declared the ordinance duly passed and adopted this 3rd day of March, 2020.

**BOARD OF COUNTY
COMMISSIONERS OF INDIAN RIVER
COUNTY, FLORIDA**

By: _____
Susan Adams, Chairman

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**ATTEST: Jeffrey R. Smith, Clerk
and Comptroller**

By: _____
Deputy Clerk

Approved as to form
and legal sufficiency:

By: _____
Dylan Reingold
County Attorney

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the _____
day of March, 2020.