

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTION 105.01 (AUTHORITY OF COUNTY ADMINISTRATOR), SECTION 105.04 (BIDDING PROCEDURES) OF CHAPTER 105 (PURCHASING) OF THE CODE OF INDIAN RIVER COUNTY, FLORIDA IN ORDER TO INCREASE THE PURCHASING AUTHORITY OF THE COUNTY ADMINISTRATOR AND INCREASE THE BID BOND THRESHOLD; 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 Board 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. Amendment of Sections 105.01 (Authority of County Administrator), 105.02 (County Commission) and 105.04 (Bidding Procedures) of Chapter 105 (Purchasing).

New language indicated by underline, and deleted language indicated by ~~strike through~~.

Section 105.01 (Authority of County Administrator), Section 105.02 (County Commission) and Section 105.04 (Bidding Procedures) of Chapter 105 (Purchasing) of the Code of Indian River County, Florida is hereby amended to read as follows:

CHAPTER 105. PURCHASING

Section 105.01. Authority of County Administrator.

Except as otherwise provided by Florida Statutes, the county administrator or his designee is granted authority to purchase or contract for: (a) supplies, materials, equipment, real property, and services, (other than services under section 287.055, F.S, except as otherwise set forth herein) costing fifty seventy-five thousand dollars (\$~~50~~75,000.00) or less; and (b) planning or study activity services obtained pursuant to the "Consultants' Competitive Negotiation Act", F.S. § 287.055, when the fee for such professional services is thirty twenty-five thousand dollars (\$~~325~~325.000.00) or less for the county; and (c) utilize cooperative and

piggyback procurement methods after taking such action as the county administrator shall deem necessary to obtain the best price for the county. Any such purchase or contract may be executed by the county administrator in the name of the county without commission action, although copies of any such contracts shall be available to the commission for inspection. In an emergency, contracts for purchase of parts or repairs to then-existing county equipment or machinery may be purchased or contracted by the county administrator in his capacity as the county administrator, provided the county administrator certifies that a true emergency exists, and routes a copy of the purchase order or contract to the commission for its inspection with a memorandum describing the emergency situation.

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Section 105.02. - County commission.

Any county purchase of supplies, material, equipment, or services in excess of the authority provided in section 105,01 or the Purchasing Policies and Procedures Manual, and services (other than as delegated in section 105.01) obtained pursuant to the "Consultants' Competitive Negotiation Act", F.S. § 287.055, shall be approved by the county commission. Purchase orders of ~~fifty~~ seventy-five thousand dollars (~~\$50~~75,000.00) or less may be executed by the county administrator. If a formal written, integrated contract, in excess of ~~fifty~~ seventy-five thousand dollars (~~\$50~~75,000.00), is required for such purchases, said contract shall be signed by the chairman, the clerk, and the county administrator, and approved as to form and legal sufficiency by the county attorney. Any purported contract not so executed shall be void ab initio and shall have no force and effect whatsoever. The county commission may enter into contracts under this paragraph based on the recommendations of the county administrator, bidding procedures, or such other methods that the commission determines are in the best interest of the county. In addition, the county commission may direct the county administrator to take several bids and negotiate with these bidders to obtain an offer that is more advantageous to the county.

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Section 105.04. Bidding Procedures.

The following bidding procedures shall be followed if bidding is used and the procedures are not otherwise modified:

(a) Public notice to solicit competitive bids or proposals/advertisement. Any public notice to solicit competitive bids or proposals/advertisement shall be considered an invitation to potential bidders to submit offers to the county in conformity with the county's invitation. All bids received shall be considered irrevocable offers until such time as the county commission accepts an offer or rejects the offer as provided for in the bid specifications.

(b) Publication of notice. Public notice of any solicitation of competitive bids, proposals or statements of qualifications shall generally be by publication in at least one newspaper of general circulation in the county when required by Florida Statutes section 255.0525, and in additional instances at the discretion of the county administrator. Publication of notice will be made on the county's web site, as well as other appropriate online bid notification sites, and may be made directly to potentially interested parties.

(c) Bid bonds and other bid security.

(1) Bids under ~~twenty~~thirty-five thousand dollars (~~\$25~~35,000.00). Normally, a bid bond shall not be required; however, if the county administrator determines that a bid bond is desirable in a particular instance the solicitation of competitive bids or proposals/advertisement shall specify the requirement for a bid bond and subparagraphs (2) and (3) of this paragraph shall apply.

(2) Bids ~~twenty~~thirty-five thousand dollars (~~\$25~~35,000.00) or over. Bid bonds equal to five (5) percent of the total bid amount shall be submitted with each bid unless the public notice soliciting competitive bids or proposals/advertisement specifies that a bid bond is not necessary. Unsuccessful bidders shall be entitled to return of the bond no later than the final award of bid. The county shall retain the bid bond of a successful bidder upon failure by the successful bidder to execute and deliver a contract and, where applicable, the required payment and performance bonds within fifteen (15) days after receipt of a proposed contract from the county, unless such time is extended by the county administrator.

(3) Bid security in lieu of bid bond. Any bidder may submit a certified check or a cashier's check, drawn on any bank authorized to do business in the State of Florida in an amount equal to five (5) percent of the total bid amount as bid security in lieu of a bid bond. The county shall retain the bid security of a successful bidder upon failure by the successful bidder to execute and deliver a contract and, where applicable, the required payment and performance bonds within fifteen (15) days after receipt of a proposed contract from the county, unless such time is extended by the county administrator.

(d) Bid opening procedures:

(1) Sealed. Bids shall be submitted sealed and shall be identified as bids on the envelope.

(2) Opening. Bids shall be opened in public at the time and place stated in the public notice.

(3) Tabulation. A tabulation of all bids received shall be available for public inspection.

(e) Rejection of bids. The county commission shall have the authority to reject any or all bids, parts of any or all bids, or any or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest shall be served thereby. Further, after rejection of all bids, the county commission may republish for new bids. County administrator shall have this same authority with respect to bids for contracts under the purchasing authority of the county administrator. (Section 105.01)

(f) Bidders in default to county. The county commission may reject the bid of a contractor, vendor, or other service provider who is in default on the payment of taxes, licenses, or other monies due the county. The county administrator shall have this same authority with respect to bids for contracts under the purchasing authority of the county administrator. (Section 105.01)

(g) Award of contract. The county commission after review of bids received may award the contract to the bidder who, in the view of the county commission, has submitted the bid that is in the overall best interest of the county. The county administrator shall have this same authority with respect to submittals and bids for contracts under the purchasing authority of the county administrator. (Section 105.01)

(h) Public Construction or payment and performance bonds.

(1) Contracts under one hundred thousand dollars (\$100,000.00). Normally, public construction or payment and performance bonds shall not be required; however, if the county administrator determines that public construction or payment and performance bonds are desirable in a particular instance, the public notice soliciting competitive solicitation for bids or proposals/advertisement shall specify the requirements for public construction or payment and performance bonds and subparagraphs (2), (3), and (4) of this paragraph shall apply. Except for a contract subject to paragraph (i), when there is no bond requirement the county shall make only one payment for the entire amount when the terms of the contract have been fulfilled.

(2) Contracts one hundred thousand dollars (\$100,000.00) and over. Either a public construction bond equal to one hundred (100) percent of the contract price, or payment bonds equal to one hundred (100) percent of the contract price and performance bonds equal to one hundred (100) percent of the contract price shall be provided by the successful bidder at the time of the execution of the contract. The public notice soliciting competitive bids or proposals/advertisement shall specify the requirements for public construction or payment and performance bonds.

(3) Public construction and payment and performance bond requirements. Each public construction, payment and performance bond shall be provided by a surety company authorized to do business in the State of Florida. The bond shall remain in effect for at least thirty (30) days after final completion.

(4) Security in lieu of public construction or payment and performance bonds. In lieu of the bond required by this subparagraph (h) a contractor may file with the county an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, or an irrevocable letter of credit. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the public construction or payment and performance bonds required by this subparagraph (h). The determination of the value of an alternative form of security shall be made by the county administrator.

(i)Waiver of bonds. At the time of award of contract, the county may waive the requirement for public construction or payment and performance bonds and the cost of said bonds shall be deducted from the contract price.

(j)Waiver of bidding procedures. The county commission may waive or modify the bidding procedure on specific contracts.

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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 ____ day of _____, 2018, for a public hearing to be held on the __ day of _____, 2018, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

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

The Chairman thereupon declared the ordinance duly passed and adopted this _____ day of January, 2019.

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

By: _____
Bob Solari, Chairman

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

By: _____
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the _____ day of January, 2019.