

ORDINANCE NO. 2025- \_\_\_\_\_

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING THE INDIAN RIVER COUNTY CODE TO REPEAL CHAPTER 105, PURCHASING, IN ITS ENTIRETY AND TO REPLACE IT WITH A NEW PURCHASING CODE THAT PROVIDES PURCHASING AUTHORITY FOR THE COUNTY COMMISSION, COUNTY ADMINISTRATOR, AND PROCUREMENT MANAGER; THAT REQUIRES A PROCUREMENT MANUAL; THAT ESTABLISHES CERTAIN BID PROCEDURES; THAT MANDATES COMPLIANCE WITH F.S. 287.055 WHEN PROCURING PROFESSIONAL SERVICES; THAT PROVIDES PROCEDURES FOR THE PURCHASE OF REAL PROPERTY; THAT REQUIRES CERTAIN VENDOR DISCLOSURES; THAT PROVIDES FOR A LIMITED WAIVER OF SOVEREIGN IMMUNITY; AND THAT PROVIDES A PREFERENCE FOR ENVIRONMENTALLY FRIENDLY PRODUCTS AND SERVICES.**

**WHEREAS**, the Board of County Commissioners desires to update its Purchasing Code to enhance its ability to provide effective services through fair, open, and transparent procurement processes; and

**WHEREAS**, the structure of existing code has had few changes since 1990 and needs to be updated for ease of review and understanding and to comply with statutory changes; and

**WHEREAS**, the efficient operation of county government requires the County Administrator and Procurement Manager to have enhanced authority to purchase or contract for goods and services in a timely manner; and

**WHEREAS**, detailed bidding procedures should more appropriately be detailed in the Procurement Policies and Procedures manual, rather than in Purchasing Code; and

**WHEREAS**, it is necessary for transparency and elimination of conflict of interest to identify potential vendor entities that are owned or managed by current county employees and commissioners.

**NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, AS FOLLOWS:**

SECTION 1. The recitals above are incorporated herein.

SECTION 2. Indian River Code “Chapter 105 – Purchasing” is hereby repealed in its entirety and replaced with the following:

## **Chapter 105 - Purchasing**

### **Section 105.01. Purchasing Authority**

(a) *County Commission.* Any county purchase of supplies, material, equipment, or services costing more than two hundred thousand dollars (\$200,000) shall be approved by the county commission. All contracts approved by the county commission 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 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.

(b) *County Administrator.* Any county purchase of supplies, material, equipment, or services costing less than two hundred thousand dollars (\$200,000) may be approved by the county administrator or his/her designee. If any emergency exists, the county administrator may authorize necessary purchases or contracts exceeding this amount, provided that the county administrator certifies that a true emergency exists, and details of the purchase or contract and the circumstances relating to it are provided to the commission for review and ratification.

(c) *Procurement Manager.* Any county purchase of supplies, material, equipment, or services costing less than one hundred thousand dollars (\$100,000) may be approved by the procurement manager or his/her designee. The procurement manager is also authorized to approve and utilize the cooperative and piggyback procurement methods with no limit, after taking such action has deemed necessary to validate the procurement method and obtain the best price for the county.

### **Section 105.02 Procurement Manual**

The procurement manager shall prepare a procurement manual to outline the requirements and procedures for the county to follow to maintain and ensure fair and competitive purchasing. The procurement manual shall be approved by resolution of the county commission. To the extent not inconsistent with this Code, the procurement manual is hereby incorporated herein.

### **Section 105.03. Bid procedures.**

(a) *Bid Not Required.* Nothing in this chapter shall be construed as requiring the county to go out for bids, or, if bids are invited, that the lowest bidder be selected; provided, however, that it is recognized that on certain projects and services the Florida Statutes specifically require bidding.

(b) *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. The county administrator and procurement manager shall have this same authority with respect to bids for contracts under their purchasing authority.

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

#### **Section 105.04. Professional services.**

Public announcement and qualification procedures, competitive selection, and competitive negotiation for professional services of architects, professional engineers, landscape architects, or registered land surveyors shall be as specified in F.S. § 287.055, as applicable, as said section exists or may be amended.

#### **Section 105.05. Purchase of real property.**

In addition to statutory methods and procedures for the purchase of real property, the county may acquire real property by bid, negotiated sale, or exchange. Where appropriate the county shall establish the value of the property by appraisal.

#### **Section 105.06. Disclosure of relationships.**

Any entity submitting a bid or proposal or entering into a contract with the county shall disclose if any officers are elected officials or county employees. In addition, the entity must disclose any relationship that may exist between the contracting entity and a county commissioner or county employee.

The relationship with county commissioner or county employee that must be disclosed is as follows:

Current county commissioner or county employee, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, or grandchild.

The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of the entity.

The disclosure of relationships shall be a sworn statement made on a county approved form.

### **Section 105.07. Waiver of sovereign immunity in contracts.**

Notwithstanding any specific contractual language to the contrary, in any contract executed by the chairman of the board of county commissioners on behalf of the county, the county shall be bound only by the express written terms of the contract as originally written or as expressly modified by a written document executed by the chairman. No action or demand for arbitration shall be commenced against the county based on an implied covenant within the express written terms of the contract or upon a provision implied by law. Failure of a party to comply with the express written terms of the contract shall act as a bar to any action or arbitration by said party against the county. This represents the limits of waiver of sovereign immunity by the county with regard to county contracts.

### **Section 105.8. Environmentally preferred procurement policy.**

The county is committed to the procurement of products and services that minimize negative environmental and social impacts and emphasize long-term values. Preference shall be given to products and services that have a lesser or reduced effect on human health and the environment when compared to other products and services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

SECTION 3. 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. 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. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. 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 \_\_\_\_\_, 2025, for a public hearing to be held on the \_\_\_\_ day of \_\_\_\_\_, 2025, at which time it was moved for adoption by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and adopted by the following vote:

|               |                    |       |
|---------------|--------------------|-------|
| Chairman      | Joseph E. Flescher | _____ |
| Vice-Chairman | Deryl Loar         | _____ |
| Commissioner  | Joseph H. Earman   | _____ |
| Commissioner  | Susan Adams        | _____ |
| Commissioner  | Laura Moss         | _____ |

The Chairman thereupon declared the ordinance duly passed and adopted this 23<sup>rd</sup> day of September, 2025.

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

By: \_\_\_\_\_  
Joseph E. Flescher, Chairman

**ATTEST: RYAN L. BUTLER, CLERK  
AND COMPTROLLER**

By: \_\_\_\_\_  
Deputy Clerk

Approved as to form and  
Legal sufficiency:

\_\_\_\_\_  
Jennifer W. Shuler  
County Attorney

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the \_\_\_\_\_ day of \_\_\_\_\_, 2025.