

AN ORDINANCE AMENDING ARTICLE X OF CHAPTER TWO OF THE LAKE COUNTY CODE TO INCLUDE INCREASED PURCHASING LIMITS, ADDITIONAL DEFINITIONS, MODIFY REQUIREMENTS FOR EXEPTIONS FROM COMPETITIVE BIDDING AND ADDITIONAL PROCEDURES FOR INFORMAL AND FORMAL BIDDING

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

ORDINANCE NO. 3137

AN ORDINANCE AMENDING ARTICLE X OF CHAPTER TWO OF THE LAKE COUNTY CODE TO INCLUDE INCREASED PURCHASING LIMITS, ADDITIONAL DEFINITIONS, MODIFY REQUIREMENTS FOR EXEPTIONS FROM COMPETITIVE BIDDING AND ADDITIONAL PROCEDURES FOR INFORMAL AND FORMAL BIDDING

THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1: Sections 2-34 of Article X of Chapter Two of the Lake County Code is hereby amended to read as follows:

Sec. 2-34. Definitions.

34.1 As used in this article, the following words and phrases shall have the following meanings:

- (a) *Agency and Using Agency* means any of the departments, offices, or other organizational units of County government, and any special district whose affairs and funds are under the supervision and control of the Board of Supervisors and for which the Board of Supervisors is the ex-officio governing body.
- (b) *Agency head* means the head of an established department of County government or any of the special districts governed by the Board of Supervisors whose duties include supervision of the department's or district's day-to-day operations and who has either been appointed by the Board of Supervisors to their position or elected by the voters of the County. Agency head also includes the Chief Probation Officer and the County Director of the University of California Cooperative Extension Office.
- (c) *Supplies, Materials and Equipment* means any and all articles or things which shall be furnished to or used by any agency, including any and all printing, binding, or publication of stationery, forms, laws, journals, and reports, but excluding services or materials furnished "in kind" in lieu of cash to indigents.
- (d) *Contractual Services* means any and all telephone, gas, water, electric light and power services; towel, window washing and cleaning service; the rental of equipment and machinery; and all other types of agreements under which the contractor provides services which are required by the County government but not furnished by its own employees. However, "contractual services" shall not include legal or other advertising, road construction and repair, and public projects as defined in subsection (l) of this section. Purchases of space for legal or other advertising shall not be subject to the provisions of this article.
- (e) *Special Services* means the service of attorneys, physicians, architects, engineers, consultants, or other individuals, firms or organizations which provide specialized services as defined in Government Code Section 31000, or which provide other

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specialized products for which it is not possible to develop specifications so as to allow for normal competitive bidding.

- (f) *Bidders List* means a current file of sources of supply of articles for each category of commodities repetitively purchased for County use.
- (g) *Responsible Bid* means an offer, submitted by a responsible bidder in ink or typewritten form, to furnish supplies, materials, equipment or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids.
- (h) *Responsible Bidder* means a bidder who submits a responsible bid; who has furnished, when requested, information and data to prove that their financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, or equipment to satisfy any provisions of this article.
- (i) *Irresponsible Bidder* means a bidder, including prospective bidder, contractor or vendor of materials, supplies, equipment and services, who is not qualified to perform the particular work because the County has determined it lacks the quality, fitness, and capacity to perform the proposed work satisfactorily as evidenced by any of the following grounds:
 1. Bidder has previously been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state or local government project because of a violation of law, regulation, guideline, order, or a safety regulation; or
 2. Relative to prior contracts with the County or any other contract public or private, bidder has a demonstrated history of substandard performance or disregarding or failing to honor terms and conditions thereof, including, but not limited to, unexcused delays, non-compliance, unreliability, use of substandard or hazardous materials, abandonment of a job before completion, failure to complete work required thereunder in a timely manner or within the contract price, substandard quality of work, inadequate personnel or equipment to complete the work in a timely manner, inability or unwillingness to cooperate with County representatives, or any negligent or willful failure to cooperate in good-faith with any County department, or to comply with a County policy which is applicable to the contract; or
 3. Submission of a bid, proposal, insurance policy, bond, guarantee, certification of voluntary subcontract participation, or other document that is known, or should be known, by such bidder to be false, misleading or non-meritorious or to contain false information; or
 4. Submission of any false, misleading or non-meritorious bid protest, claim, demand or lawsuit against any public agency, including the County; or
 5. Knowingly doing business with a debarred third party in performance of the County's purchase of any supplies, materials and equipment or services contract awarded after debarment of such third party; or

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- 6. Breach of the duty of good faith and fair dealing including, but not limited to, a violation of or non-compliance with any local, state, or federal law or regulation applicable to a contract or transaction; or
 - 7. Evidence that the bidder lacks financial responsibility, such as unpaid debts, unfulfilled insurance or bond obligations or other evidence of financial instability or irresponsibility; or
 - 8. Failure to have or maintain in good standing all necessary licenses, permits or other approvals required to transact business within the State of California; or
 - 9. Any other grounds which the Purchasing Agent or Board of Supervisors determines to substantially impair the ability of the bidder to perform on a County contract including evidence that the bidder was established to or operates in a manner designed to evade the application of this article or to defeat the purpose or intent of this article.
- (j) *Local Vendor* means those vendors who meet all of the following criteria:
- 1. A firm or individual which regularly occupies and maintains a fixed office (including an IRS qualified home office) or a fixed distribution point, with a verifiable street address, located within the geographical boundaries of Lake County at which work of an administrative, clerical, professional, or productive nature is routinely performed relative to its contracts, and not a temporary or movable office, a post office box or a telephone answering service.
 - 2. Have the equivalent of one (1) full-time permanent employee, whose primary residence is located in Lake County and who provides goods or services in Lake County to Lake County based clients.
 - 3. If providing supplies, materials and/or equipment, must maintain within the County a continuously stocked and substantive inventory of merchandise for sale that is consistent with its primary business function.
 - 4. A business whose headquarters is located out of the County which has twenty (20) or more locations under the same brand (franchises excepted) shall not be eligible to qualify as a Local Vendor.
- (k) *Emergency* means when an actual or imminent breakdown in machinery or in a service occurs; or when unforeseen circumstances arise, including, but not limited to, delays by contractors, delays in transportation, and unanticipated volume of work, which if not immediately corrected, will cause curtailment, degradation or disruption of an essential service. When expending federal monies the following federal definition of Emergency shall apply and supersede the local definition above: Assistance authorized by an emergency declaration is limited to immediate and short-term assistance, essential to save lives, to protect property and public health and safety, or to lessen or avert the threat of a catastrophe (44 CFR Section 206.63).
- (l) *Public Project* as defined by Section 22002 of the Public Contract Code, shall mean the construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any County owned, leased, or operated

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facility; and the painting or repainting of any County owned, leased, or operated facility; provided however, that "public project" shall not include maintenance work as defined in Section 22002 of the Public Contract Code.

- (m) *Purchase Order or Written Purchase Order* means a document, properly approved by the Purchasing Agent or Assistant Purchasing Agent on a template approved as to form by County Counsel, transmitted in writing or electronically, that authorizes the purchase of goods, including software (licensing or other) that is installed on a county computer/device, and authorizes the expenditure of funds therefore. When expending federal monies the following definition of Purchase Order shall apply in addition to the local definition above: Neither an electronic order form using a credit card nor a credit card statement signed by the Purchasing Agent or Assistant Purchasing Agent after a purchase has been made constitutes a Purchase Order. Purchase orders shall include clear dates of service, detailed description of expected service, dollar amount and signed by the Purchasing Agent or Assistant Purchasing Agent and the vendor. Purchase orders are acceptable when another type of agreement is not obtainable, after reasonable efforts have been made.
- (n) *Bid* means a solicitation made to potential vendors/contractors requesting costs to provide supplies, equipment, materials, and services. A bid may be classified as "formal" or "informal". A bid is also a response submitted by a bidder to an invitation for bids (IFB) or to a multi-step bid.
- (o) *Request for Proposal (RFP)* means a competitive procurement process used where non-price factors weigh heavily. RFP also refers to the complete assembly of related solicitation documents issued by the County to prospective contractors for the purpose of presenting a proposal.
- (p) *Proposal* is the document submitted in response to an RFP.
- (q) *Request for Quotation (RFQ) or Invitation for Bid (IFB)* means a competitive procurement process used for goods or services where there is a well-defined need and price is the primary decision factor. RFQ or IFB also refers to the complete assembly of related solicitation documents issued by the County to prospective contractors for the purpose of presenting a price proposal. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, delivery, service, past performance, and reliability.

Section 2: Sections 2-36 through 2-42 of Article X of Chapter Two of the Lake County Code are hereby amended to read as follows:

Sec. 2-36. Powers and Duties.

36.1 The County Purchasing Agent shall, subject to the provisions of this article and applicable provisions of State law:

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- (a) As required by County agencies, purchase supplies, materials, equipment, and contractual services in amounts or estimated amounts of one hundred thousand dollars (\$100,000.00) or less unless otherwise provided in this article.
- (b) Negotiate contracts for special services and, on behalf of the County, execute such contracts in amounts of one hundred thousand dollars (\$100,000.00) or less. Contracts negotiated for amounts in excess of one hundred thousand dollars (\$100,000.00) shall be submitted for approval and award to the Board of Supervisors.
- (c) Pursuant to the procedures specified in this article, coordinate purchases for supplies, materials, equipment, and contractual services in amounts exceeding one hundred thousand dollars (\$100,000.00).
- (d) Coordinate the transfer of surplus property between agencies.
- (e) Use standard specifications wherever they are applicable to purchase orders and contracts.
- (f) Exchange, trade-in or sell those supplies, materials and equipment which are surplus, obsolete or unused and which are found by the Board of Supervisors or the Purchasing Agent, as applicable, not to be required for public use; provided, however, that said actions are in accordance with all applicable provisions of federal, state, and local laws.
- (g) Develop, with the approval of the County Counsel as to legal sufficiency, standard forms and conditions of invitations to bid and purchase orders and contracts for use by County agencies as well as the development of other forms required in carrying out the provisions of this article; and amend or eliminate any such forms.
- (h) Execute purchase orders.
- (i) Monitor County purchasing activities for compliance with procedural regulations and assist agencies in proceeding in the proper manner when correct procedures have not been observed. Compliance includes the obligation of the Purchasing Agent and Assistant Purchasing Agents to not participate in procurement activities in which they have a financial or other interest, or accept/solicit gratuities from contractors or potential contractors.
- (j) Upon request of the Board of Supervisors, and subject to its approval of each transaction, perform all delegable functions in connection with acquisition and disposal of real property, except for County highways as defined in the Streets and Highways Code.
- (k) Shall assign to Assistant Purchasing Agents responsibility to assist in the performance of various duties prescribed in this article.
- (l) Enter into a Purchasing Agreement with the State Department of General Services for purchases of commodities on behalf of the County of Lake if price is less than what can be obtained in the open market.
- (m) For volume purchasing benefits, enter into cooperative agreements with other public agencies for the purchase of supplies, materials, equipment, and contractual services in amounts not exceeding one hundred thousand dollars (\$100,000.00).

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- (n) Determine, in the procurement of supplies, materials, equipment, and contractual services not exceeding one hundred thousand dollars (\$100,000.00), whether or not a bidder is an irresponsible bidder except for those bids for road construction and/or repair or for the purchase of road heavy equipment, provided however, that a bidder may appeal the determination of the Purchasing Agent to the Board of Supervisors.
- (o) Dispose of supplies, materials, and equipment which are obsolete, inoperable, or otherwise have no practical resale value.

Sec. 2-37. Delegation of Authority and Unlawful Purchases.

37.1 Assistant Purchasing Agents are hereby delegated the authority of the Purchasing Agent in exercising those powers and fulfilling those duties as specified in Sections 2-36.1(a), (b), (c), (e), (h), (i), (l) and (o). The Purchasing Agent may rescind such delegation by written notice to any Assistant Purchasing Agent(s).

37.2 When exercising the duties delegated herein, Assistant Purchasing Agents shall comply with all regulations and procedures specified in this ordinance. Any failure to do so shall constitute an unlawful purchase.

37.3 Any purchases or contracts for supplies, materials, equipment or contractual services made contrary to the provisions of this article shall be void and of no effect. The person approving such purchase order or contract may be held personally responsible for its payment. If the amount of such purchase order or contract has already been paid for out of County funds, the amount thereof may be recovered in the name of the County in an appropriate action therefor.

37.4 It shall be unlawful for any agency to circumvent or evade the provisions of section 39 of this article by manipulating the requirements for supplies, materials, equipment, personal and contractual services.

The Purchasing Agent and/or the Assistant Purchasing Agent shall not split purchases or contracts for supplies, materials, equipment, and contractual services to evade the informal or formal purchasing process. Purchases or contracts for the same supplies, materials, equipment, or contractual services from the same vendor throughout the year are subject to the corresponding solicitation method under Section 2-39.1 based on the purchase or contract amount for said year.

Sec. 2-38. Exemptions from Competitive Bidding.

38.1 *Extension of annual agreements.* The County Purchasing Agent, or Assistant Purchasing Agent, as applicable, may, if he determine such action to be a cost advantage and in the best interest of the County, extend existing equipment lease agreements or contracts for service for an additional period or periods of time without competitive bid if the cost of the equipment lease or service contract per physical or time unit is not increased by more than the consumer price index (San Francisco-Oakland-Hayward) as determined by the United States Department of Labor.

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38.2 *Not in the public interest.* Notwithstanding the provisions of Section 2-39, competitive bidding is not required when the Board of Supervisors determines that competitive bidding would not be in the public's interest because of any of the following:

- (1) A state of emergency,
 - A) An "emergency purchase" is a purchase made in response to an emergency as defined in Section 34.1(k) herein.
 - B) Any emergency purchase shall be made in compliance with Sections 42.1, 42.2 and 42.3.
- (2) The unique nature of the goods or services precludes competitive bidding,
 - A) Use of this criterion requires documentation demonstrating both why the goods or services contracted are unique and why competitive bidding is precluded. Appropriate documentation shall be attached to the Memorandum to the Board of Supervisors at the time the item is submitted for consideration of Agenda placement.
- (3) Services are provided by another governmental agency that is not County government or a County Agency.

38.3 *Purchase of undercover vehicles.* Section 2-39.1 and 2-41 of this Article shall not apply to the purchase or lease of Sheriff's undercover vehicles costing more than fifty thousand dollars (\$50,000.00). In the purchase of such vehicles, the Sheriff shall obtain authorization from the Board of Supervisors to issue a purchase order for the procurement of said vehicles after obtaining at least three (3) written quotes, at least one of which must be obtained from a local vendor.

38.4 *Cooperative Purchases.* Subject to the conditions and requirements described herein, the County may "piggyback" or use other agencies' competitively awarded contracts for the same or similar products or services. The competitive bidding requirements of this Article shall be deemed fulfilled when materials, supplies, equipment and services have been competitively bid and awarded by another awarding authority that is a governmental agency, an entity constituted for a governmental purpose, or a cooperative purchasing consortium. In addition to the foregoing, the following requirements must be met:

- (1) Permission has been explicitly granted by both the awarding authority and the vendor.
- (2) A copy of the bid solicitation, award and executed contract has been obtained.
- (3) Unless otherwise approved by the Board of Supervisors, the County's award will be in accordance with all the terms and conditions, prices, time frames, and other criteria established in the bid solicitation issued by the awarding authority.

Professional services subject to the County's Consultant Selection Policy and services that solely provide for labor or installation are not eligible for this exemption.

38.5 *Purchase of patented or proprietary articles.* When the County requires supplies, materials or equipment which are produced by only one (1) manufacturer, such manufacturer's make or brand shall be specified in the invitations to bid and competitive bids shall be obtained from authorized dealers or distributors of such manufacturer.

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If one (1) manufacturer, dealer or distributor is the sole source of supply, the County Purchasing Agent or Assistant Purchasing Agent, as applicable, is authorized to negotiate a purchase order or contract with the manufacturer, dealer or distributor at prices and on terms most advantageous to the County.

When the County requires supplies, materials or equipment which are patented or proprietary and which are obtainable in two (2) or more equally satisfactory and competitive makes, brands, or types, they shall be listed in the invitation to bid. Such lists shall also include the phrase "or equal" to permit bidders to bid on alternate or additional makes, brands, or types.

It shall be incumbent on each such bidder to prove to the satisfaction of the County that the alternate or additional make, brand or type which they offer is equal in quality or performance to those listed in the invitation for bids.

38.6 Federal Procurement Standards. When expending federal monies Chapter "8 "Federal Procurement Standards" of the Lake County Policies and Procedures Manual shall supersede Section 2-38.

38.7 Elections materials and polling places. Pursuant to Election Code 13001 and 14100, the Registrar of Voters may directly authorize payment, rather than Purchase Order, for postage, delivery/courier services, and printed paper goods (such as ballots, ballot inserts, and envelopes) needed for the conduct of any election. The Registrar of Voters may also directly authorize payment for the items (such as extension cords, writing supplies, posters, and flags) necessary to maintain the individual precinct supply kits. In addition, the Registrar of Voters may sign short-term licenses or agreements for space to be used as a polling place where the space is to be used for fewer than twenty days.

Sec. 2-39. Solicitation Methods and Awarding Authority.

39.1 For purchases of, and contracts for, supplies, materials, equipment, and contractual services, the solicitation method and awarding authority is specified as follows:

- (a) For expenditures not exceeding five thousand dollars (\$5,000.00), competitive quotes are not required. The Purchasing Agent or Assistant Purchasing Agent may purchase such items or services by either verbal or written order.
- (b) For expenditures in excess of five thousand dollars (\$5,000.00), but not exceeding fifty thousand dollars (\$50,000.00), informal written quotes are required to be solicited by the Purchasing Agent or Assistant Purchasing Agent pursuant to Section 2-40.2. After evaluating the quotes pursuant to Section 2-40.3, the Purchasing Agent or Assistant Purchasing Agent shall procure the item or services by issuing a written purchase order or executing a contract. A contract for services or purchase order under this expenditure shall be approved as to form by the Office of the County Counsel.
- (c) For expenditures in excess of fifty thousand dollars (\$50,000.00), but not exceeding one hundred thousand dollars (\$100,000.00), either an RFP or IFB through a formal bid process is required to be solicited by the Purchasing Agent or Assistant Purchasing Agent pursuant to Section 2-41. After evaluating the bids or proposals

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pursuant to the criteria set forth in Section 2-41, the Purchasing Agent or Assistant Purchasing Agent shall create a purchase order or contract for services. A contract for services or purchase order under this expenditure shall be approved as to form by the Office of the County Counsel.

- (d) For expenditures in excess of one hundred thousand dollars (\$100,000.00), either an IFB or RFP is required. Said invitation for bids or proposals shall be advertised by the Purchasing Agent or Assistant Purchasing Agent pursuant to Section 2-41. After evaluating the bids pursuant to Section 2-41, the bid or contract shall be awarded by the Board of Supervisors and signed by the Board of Supervisors or designee pursuant to Section 2-41. A contract for services or purchase order under this expenditure shall be signed approved as to form by the Office of the County Counsel. Professional contractual services are exempt from Section 2-41, but shall be governed by Chapter 4 of the Lake County Policies and Procedures Manual.

39.2 Special services contracts shall not be subject to the competitive bidding procedures in this section but shall be governed by the "Policy for Review and Selection of Professional Consultants and other Contract Service Providers" as adopted by the Board of Supervisors.

Sec. 2-40. Informal Solicitation and Evaluation Procedures.

40.1 For the purchase of supplies, materials, equipment, and contractual services for which verbal quotes are optional, as specified in Section 2-39.1(a), the following procedure may be observed:

- (a) The Purchasing Agent or Assistant Purchasing Agent may contact vendors who would be expected to be able to provide the required goods or services.
- (b) In keeping with the County's interest in promoting local businesses, the Purchasing Agent or Assistant Purchasing Agent may contact a local vendor, if there is one (1) who can provide the required goods or services, and document that outreach was conducted.

40.2 For the purchase of supplies, materials, equipment, and contractual services which require obtaining informal written quotes, as specified in Section 2-39.1(b), the following procedure shall be observed:

- (a) The Purchasing Agent or Assistant Purchasing Agent shall write a description of the supplies, materials, equipment, or services needed.
- (b) The Purchasing Agent or Assistant Purchasing Agent shall obtain a Request for Quote (RFQ) number from Administration, write a description of the supplies, materials, equipment, or services needed, and prepare an RFQ using standard language on a Purchasing Agent approved template
- (c) The Purchasing Agent or Assistant Purchasing Agent shall send e-mail, letters, or RFQ to at least three (3) vendors who would be expected to submit a quote. When expending federal monies three (3) quotes shall be obtained from vendors.
- (d) In keeping with the County's interest in promoting local businesses, an RFQ shall be sent to at least one (1) local vendor, if there is one (1) who can provide the required goods or services, and document that outreach was conducted.

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- (e) When the Assistant Purchasing Agent sends the RFQ to bidders, a copy shall also be sent to the Purchasing Agent, along with a list of those bidders receiving a copy of the RFQ.
- (f) Each proposer may be required to accompany their submission with a statement made under oath that they have not been a party with other proposers to an agreement to propose a fixed or uniform price. Violation of such statement shall render void the quote of such proposer. Any disclosure to, or acquisition by, a competitive proposer, in advance of the scoring of the quotes, of the terms of conditions of the quote submitted by another competitor shall render the proceedings void and may require readvertising for quotes.
- (g) Quotes shall be submitted to the Purchasing Agent, Assistant Purchasing Agent or designee, by mail, email or in person.
- (h) Once a vendor is selected, a copy of the quotes, contract or purchase order, and any other pertinent documents shall be submitted to the Purchasing Agent to verify the purchasing ordinance has been followed before the agreement can be executed.

40.3 Upon receipt of quotes pursuant to 40.2 (g), purchase orders or contracts for materials, supplies, equipment, or contractual services in amounts in excess of five thousand dollars (\$5,000.00), but not exceeding fifty thousand dollars (\$50,000.00) shall be awarded by the Purchasing Agent or Assistant Purchasing Agent to the lowest responsible quote, as determined below.

- (a) These purchase orders or contracts shall be approved as to form by County Counsel or use a purchase order template approved as to form by County Counsel. A purchase order is acceptable when the purchase is for physical goods, including software (licensing or other) that is installed on a county computer/device. Purchase orders should include clear dates of service, detailed description of expected service, dollar amount and signed by the Purchasing Agent or Assistant Purchasing Agent and the vendor. Purchase orders are acceptable when another type of agreement is not obtainable, after reasonable efforts have been made.
- (b) In determining the respondent to whom the award will be made the Purchasing Agent or Assistant Purchasing Agent shall consider the respondent's price, the quality of product offered and its conformity with the County's needs, the delivery and discount terms and conditions of the response, the service reputation of the respondent and other information and data required to prove responsibility. When the County is required to pay shipping charges for an item or items, said charges shall be considered a part of the quote in determining the lowest responsible quote. When expending federal monies the considerations contained in Chapter 18 'Federal Procurement Standards' of the Lake County Policies and Procedures Manual Part 2 (h) shall supersede the local considerations above.

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- (c) In addition to the foregoing criteria, if the total combined quote amount submitted by a responsible local vendor is not greater than one hundred ten (110) percent of the apparent low quote and all other criteria being equal, preference shall be given to the responsible local vendor. However, in no case shall the amount of the preference exceed five thousand dollars (\$5,000.00), unless waived by the Lake County Board of Supervisors when it determines that a waiver would serve the best interests of the County and the public due either to the nature of the goods or services provided, the projected long-term costs to the County, or the ability to respond to the County's needs in a timely manner. This provision shall not apply to contracts required by State or Federal statutes and/or regulations to be awarded to the 'lowest responsible respondent' or otherwise exempted from local preference.
- (d) If more than one (1) quote is for the same total amount or unit price (after considering the preference hereinabove), and if the public interest will not permit the delay of obtaining quotes again, the Purchasing Agent or Assistant Purchasing Agent may award the contract to one (1) of the respondents by drawing lots in public.

40.4 Provisions of this section do not apply to amounts in excess of \$50,000.

Sec. 2-41. Soliciting and Awarding Formal Bids.

41.1 For the purchase of supplies, materials, equipment, and contractual services which requires an IFB (as defined in Section 2-34.1(q) through a formal bid process, the following procedure shall be observed:

- (a) The Purchasing Agent or Assistant Purchasing Agent shall obtain a bid number from Administration, write a description of the supplies, materials, equipment, or services needed, and prepare an invitation for bids (IFB) using standard language on a Purchasing Agent approved template.
- (b) The Purchasing Agent or Assistant Purchasing Agent shall send an IFB to at least five (5) potential bidders who would be expected to submit a bid, and when expending federal monies three (3) quotes shall be received. In keeping with the County's interest in promoting local businesses, an IFB shall be sent to at least one (1) local vendor, if there is a vendor who can provide the required goods or services, and document that outreach was conducted.
- (c) If the Assistant Purchasing Agent sends the IFB to bidders, they shall also send a copy to the Purchasing Agent, along with a list of those bidders receiving a copy of the IFB.
- (d) The Purchasing Agent or Assistant Purchasing Agent shall publish a bid notice on the county website and in a newspaper of general circulation at least ten (10) calendar days prior to the bid opening and shall post a bid notice on a public bulletin board in the proximity of the Purchasing office.
- (e) Each bidder may be required to accompany their bid with a statement made under oath that they have not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of such statement shall render void the bid of such

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bidders. Any disclosure to, or acquisition by, a competitive bidder, in advance of the opening of the bids, of the terms of conditions of the bid submitted by another competitor shall render the proceedings void and may require readvertising for bids.

- (f) Bids shall be submitted sealed to the County Purchasing Agent on the official bid form, and in an envelope, marked plainly with bid number.
- (g) A public bid opening shall be conducted by a representative from the agency and the Purchasing Agent.
- (h) Late bids shall be returned to the sender unopened.
- (i) A tabulation of all bids received, whether accepted or rejected, shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.
- (j) The Purchasing Agent or Assistant Purchasing Agent shall submit a copy of the tabulation of all bids received to the Board of Supervisors, together with their recommendation for award.

41.2 Request for Proposal (RFP) is used as an alternative to the bid procedures under Section 2-41.1. Departments should use a RFP when price is not the main evaluation factor. For the purchase of supplies, materials, equipment, and contractual services which requires an RFP, as defined in Section 2-34.1(o), the following procedures shall be observed:

- (a) The Purchasing Agent or Assistant Purchasing Agent shall obtain an RFP number from Administration, write a description of the supplies, materials, equipment or services needed, and prepare an RFP using standard language on a Purchasing Agent approved template.
- (b) The Purchasing Agent or Assistant Purchasing Agent shall send an RFP to at least five (5) potential bidders who would be expected to submit a bid. In keeping with the County's interest in promoting local businesses, an RFP shall be sent to at least one (1) local vendor, if there is a vendor who can provide the required goods or services, and document that outreach was conducted.
- (c) When the Assistant Purchasing Agent sends the RFP to bidders, they shall also send a copy to the Purchasing Agent, along with a list of those bidders receiving a copy of the RFP.
- (d) The Purchasing Agent or Assistant Purchasing Agent shall publish the RFP at a minimum on a county approved website and must be open for at least ten (10) business days.
- (e) At the time of posting the RFP, the Purchasing Agent or Assistant Purchasing Agent shall form a RFP Selection Committee which includes themselves, two (2) or more department heads or their designees, one (1) representative from an advisory board, task force, other citizen's committee or a member from the general public, and a minimum of one (1) but no more than three (3) additional persons selected by the responsible department head, no more than one (1) of which may be an employee of the responsible department.

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- (f) Each proposer may be required to accompany their submission with a statement made under oath that they have not been a party with other proposers to an agreement to propose a fixed or uniform price. Violation of such statement shall render void the proposal of such proposer. Any disclosure to, or acquisition by, a competitive proposer, in advance of the scoring of the proposals, of the terms of conditions of the proposal submitted by another competitor shall render the proceedings void and may require readvertising for proposals.
- (g) Proposals shall be submitted to the Purchasing Agent or their designee, by mail, email or in person by the closing date and time of the submission.
- (h) Late proposals shall not be considered.
- (i) The RFP Selection Committee formed by the Purchasing Agent or Assistant Purchasing Agent will meet and review and score the proposals within two (2) weeks of the close of the RFP. Within thirty (30) days of the RFP closing, a decision should be made. If unforeseen circumstances prohibit a decision to be made by the 30-day window, a notification must be sent to all proposers.
- (j) Once the decision by the RFP Selection Committee is finalized, a copy of the proposals and score sheets shall be sent to the Purchasing Agent.
- (k) If a winning proposal is selected, the Purchasing Agent or Assistant Purchasing Agent can start contract negotiations. If there are multiple submissions, the Purchasing Agent or Assistant Purchasing Agent can schedule a demonstration or presentation for a second review with the same Selection Committee.

41.3 The Board of Supervisors may reject any and all bids for any or all commodities or contractual services included in the bid and may authorize the Purchasing Agent to readvertise for bids when the public interest will be served thereby.

41.4 In determining the lowest responsible bidder, the Board of Supervisors shall consider the quality offered and its conformity with the specifications, the delivery and discount terms and conditions of the bid, the service reputation of the bidder, and other information and data required to prove their responsibility. When the County is required to pay shipping charges for an item or items, said charges shall be considered a part of the bid price in determining the lowest responsible bid. When expending federal monies the considerations contained in Chapter 18 "Federal Procurement Standards" of the Lake County Policies and Procedures Manual Part 2(h) shall supersede the local considerations above.

41.5 *Local Vendor Preference.* A ten (10) percent preference shall be granted to Lake County local vendors on all contracts or purchase orders above fifty thousand dollars (\$50,000). However, in no case shall the amount of the preference exceed twenty thousand dollars (\$20,000.00), unless waived by the Lake County Board of Supervisors when it determines that a waiver would serve the best interests of the County and the public due either to the nature of the goods or services provided, the projected long-term costs to the County, or the ability to respond to the County's needs in a timely manner. This provision shall not apply to contracts required by State or federal statutes and/or regulations to be awarded to the 'lowest responsible bidder,' or otherwise exempted from local preference.

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41.6 If more than one (1) bid is for the same total amount or unit price (after considering the preference hereinabove), and if the public interest will not permit the delay of readvertising for bids, the Board of Supervisors may award the contract or purchase order to one (1) of the bidders by drawing lots in public.

41.7 If the successful bidder does not enter into a contract within fifteen (15) days after mailing of Notice of Award of contract, they shall forfeit in cash, an amount equivalent to the amount of any surety which accompanied their bid, unless the County is responsible for the delay.

41.8 A copy of each fully executed contract shall be filed with the County Auditor.

Sec. 2-42. Emergency Purchases.

42.1 If the need for an emergency purchase occurs, the Using Agency may purchase directly the commodity or commodities required. If the estimated cost of the emergency purchase exceeds five thousand dollars (\$5,000.00), the using agency shall, wherever possible, secure competitive and documented telephone bids and order delivery to be made by the lowest responsible bidder. The Using Agency shall notify the Purchasing Agent or Assistant Purchasing Agent of the purchase as soon practicable.

42.2 On every emergency purchase for materials, supplies, equipment, and contractual services made in excess of one hundred thousand dollars (\$100,000.00), the agency head shall, not later than one (1) week thereafter, submit to the Chairman of the Board of Supervisors a tabulation of bids received if any, a delivery receipt and a written explanation of the circumstances of the emergency. The records of such emergency transaction shall be open to public inspection during regular business hours in the office of the Board of Supervisors. Purchases made under this provision shall be exempt from Section 2-41.

42.3 For purposes of Sections 42.1 and 42.2 hereinabove, an "emergency purchase" is a purchase made in response to an emergency as defined in Section 34.1(k) herein.

Section 3: Sections 2-54 of Article X of Chapter Two of the Lake County Code is hereby amended to read as follows:

Sec. 2-54. Local Hiring for Public Works Contracts.

54.1 *Findings and Purpose.*

(a) *Findings.* The Board of Supervisors of the County of Lake finds and declare as follows:

- (1) The annual average unemployment rate in Lake County is consistently and significantly higher than the state and/or national average and the disparity in the unemployment rates of Lake County and the majority of other counties in California is considerable. Lake County is a beautiful, rural County but it is also a remote location, with a population ranking in the bottom one-third ($\frac{1}{3}$) of all counties in California. The median household income in Lake County is over forty (40) percent less than the state median household income and the

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population in Lake County with advanced education is well under one-half (½) the state average.

- (2) Lake County's economy primarily relies upon agriculture and tourism which results in seasonal fluctuations of its already high unemployment rate. The majority of local businesses are small and, according to state estimates, seventy-seven (77) percent of them employ less than four (4) people. No local construction firm has more than thirty-five (35) regular permanent employees and approximately ninety (90) percent of them have fewer than four (4) employees. The state reports that construction firms in Lake County employ approximately 1.4 percent of the civilian labor force, which is fifty (50) percent below statewide averages for such work as well as being fifty (50) percent below Lake County's historic average.
 - (3) The County of Lake, facing a further reduction in its already low tax base because of the current economic conditions, must create an environment which allows employment opportunities for County residents to expand or the County is at serious and significant risk of becoming unable to economically recover. The construction industry, which is itself presently experiencing growth due to federal stimulus monies, offers immediate employment opportunities for County residents, which will in turn improve the County's economic base, improve the standard of living of our residents, and reduce the need for public assistance.
 - (4) However, residents of Lake County do not presently have an equal opportunity to compete for employment opportunities in the construction industry. Lake County's labor force is not as visible or as organized as the labor force in more urban, heavily populated areas. Given the relatively low concentration of construction jobs in Lake County and the County's remote location, residents have less frequent opportunities to compete for employment in the construction industry than in other locations within the state.
 - (5) As a market participant, the County may encourage and promote local hiring on public projects as a means of advancing County economic development.
 - (6) It is critical to the economic health and well-being of Lake County and its residents that the County develop mechanisms to promote local hiring for public projects, thereby "leveling the playing field," by enhancing the opportunities for local residents to compete for employment while not excluding nonresidents from such opportunities.
- (b) *Purpose.* The purpose of this section is to encourage contractors who receive County public works contracts to hire residents of Lake County to achieve the goals described hereinabove.

54.2 *Definitions.*

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- (a) *Awarding Authority* means those individuals authorized to approve a contract or purchase order in accordance with the limitations established in this section.
- (b) *Contractor* means any legally qualified person or entity, which, pursuant to a written agreement or purchase order, provides labor on public projects for the County.
- (c) *Days* means calendar days unless otherwise specified.
- (d) *Public project* means a project of public works improvement which is let by contract pursuant to provisions of 22032 et seq. of the Public Contract Code.
- (e) *Construction labor force* means those persons who are performing their work on the actual site of the public project.
- (f) *Resident of Lake County* means an individual domiciled within the boundaries of Lake County at the time immediately preceding the advertisement of the bid for a project, who can verify their domicile upon request of the contractor or County by producing documentation such as a rent/lease agreement, telephone and utility bills, a valid California driver's license or identification card, or other similar reliable evidence that verifies that the individual is domiciled in Lake County.
- (g) *Qualified local person* means a resident of Lake County who is specially trained, skilled, experienced and licensed (if required) in the work, trade, or craft specified for the portion of the public work of improvement to be performed.
- (h) *Local workforce* means qualified local persons who are working on the construction labor force.

54.3 *Local Hiring Goals—Local Workforce Participation Discount.*

- (a) Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for a public works project, all County contracts for public works projects shall provide that a discount, as specified hereinafter, shall be applied to any contractor's bid which voluntarily meets the County's local workforce participation goals as provided herein below.
 - (1) Bid solicitations for public projects which include a certification of thirty (30) percent local workforce participation of contractor's total construction labor force, including any subcontractor workforce, measured in contract labor hours to be expended on a public project shall receive five (5) percent bid discount.
 - (2) Bid solicitations for public projects which include a certification of twenty-five (25) percent local workforce participation of contractor's total construction labor force, including any subcontractor workforce, measured in contract labor hours to be expended on a public project shall receive four (4) percent bid discount.
 - (3) Bid solicitations for public projects which include a certification of twenty (20) percent local workforce participation of contractor's total construction labor force, including any subcontractor workforce, measured in contract labor

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hours to be expended on a public project shall receive three (3) percent bid discount.

- (4) Bid solicitations for public projects which include a certification of fifteen (15) percent local workforce participation of contractor's total construction labor force, including any subcontractor workforce, measured in contract labor hours to be expended on a public project shall receive two (2) percent bid discount.
- (5) Bid solicitations for public projects which include a certification of ten (10) percent local workforce participation of contractor's total construction labor force, including any subcontractor workforce, measured in contract labor hours to be expended on a public project shall receive one (1) percent bid discount.
- (6) Notwithstanding the foregoing bid discounts, in no instances shall the total dollar amount of any said bid discount exceed fifty thousand dollars (\$50,000.00).
- (b) Notwithstanding the force account limitation set forth in Section 22032(a) of the Public Contract Code, the Purchasing or Assistant Purchasing Agent may apply the provisions of this section to public projects with an estimated cost less than the statutory force account limitation.
- (c) For the purpose of calculating whether a contractor's construction labor force is comprised of qualified local persons, such persons whose primary residence or business address is outside of California shall not be included in the calculation.
- (d) Discounts are solely a means to establish to whom the bid is awarded and shall not impact the bid or contract amount.
- (e) The County Purchasing Agent shall establish procedures sufficient to verify a participating contractor's compliance with its voluntary local workforce participation certification.
- (f) Contractor shall retain ultimate discretion to hire, discharge or reject its employees and subcontractors.

54.4 *Required Documentation.* During the performance of the contract, the contractor shall keep and provide to the Awarding Authority, an accurate and certifiable record on a standardized form(s) acceptable by the County, an accurate and certifiable record that shows the name, residence address, trade classification, hours employed, per diem wages and benefits of each person employed by the contractor and the contractor's subcontractors, on the specific public project, including full-time, part-time, apprentices, permanent and temporary employees. All such records must have an original signature and be signed by an authorized officer of the company under penalty of perjury. Contractor shall make contractor's and subcontractor's records available to the County, upon request, within five (5) working days.

54.5 *Bid Requirements.*

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- (a) Certification of Voluntary Local Workforce Participation. Every bidder who wishes to obtain a local workforce discount off the bid price must complete and sign under penalty of perjury a Certification of Voluntary Local Workforce Participation on the form prescribed by the County Purchasing Agent which shall be provided in the County's bid package which must be submitted no later than the time bids are due.
- (b) Prior to submitting a bid, bidder shall ensure that any and all subcontractors listed in its bid are not currently debarred nor have been declared an Irresponsible Bidder pursuant to Section 2-44 herein within the last twelve (12) months. Prospective contractors may consult the list, available from the Purchasing Agent, of contractors and subcontractors, if any, who are currently disqualified.

54.6 *Nonresponsive Bids.* The Awarding Authority may declare a bid to be nonresponsive under the provisions of this article for good cause including, but not limited to, the following circumstances:

- (a) If a bidder or a subcontractor listed by the bidder is currently debarred or has been declared an Irresponsible Bidder pursuant to Section 2-44 herein within the last twelve (12) months.
- (b) If a bidder claims to be eligible for a local workforce discount but fails to provide Certification of same at the time of submission of their bid package.

54.7 *Rescinding Bid Award.* Subsequent to bid award but prior to contract approval by the Awarding Authority, the County may rescind the bid award if upon investigation, it determines that reasonable evidence exists to indicate a contractor whose bid was discounted as a result of a Certification of Voluntary Local Workforce Participation will fail to perform the contract in accordance with that Certification. Any such determination shall be made only after consultation with the County Administrative Officer or their designee and shall result in issuance of written findings which may include a declaration of irresponsibility and may disqualify the contractor from bidding or being listed in any bid on any County contract for a public project or a reasonable period, provided however, that the contractor may appeal the determination to the Board of Supervisors.

54.8 *Use of Apprentices.*

- (a) A contractor's use of Lake County residents as apprentices on a County public works project in accordance with Section 1777.5 of the California Labor Code may be included in the calculation to determine eligibility for a local work force discount but may not exceed the ratios provided in Section 1777.5.
- (b) On projects in excess of one hundred twenty-five thousand dollars (\$125,000.00), prior to commencement of work, the prime contractor shall submit a plan acceptable to the Awarding Authority which outlines how the apprenticeship requirements will be met by all contractors working on the project.
- (c) At any time during the term of the contract and for a period of thirty (30) days thereafter, the prime contractor shall, within five (5) days of request by the Awarding Authority, provide evidence of compliance with Section 1777.5.

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54.9 *Exceptions.* The provisions of this section shall not apply under any of the following circumstances:

- (a) Whenever a state or federal law, regulation or terms of a federal or state grant prohibits the provision of a local hire goal.
- (b) Whenever the County, in accordance with the requirements of this Code or state law, determines that the contract is necessary to respond to an emergency which endangers the public health, safety, or welfare.
- (c) Whenever the Purchasing Agent or Assistant Purchasing Agent determines that a suitable pool of licensed persons providing specialized skills does not exist locally for a specific public project.

54.10 *Reduction of Certified Local Workforce Participation.* The Awarding Authority reserves the right to reduce the contractor's certified local workforce participation during construction period when the Awarding Authority determines there is high impracticality of complying therewith for particular subcontracts. High impracticality may be evidenced by serious unforeseen circumstances, new government regulations, national or natural disasters and other events that the Awarding Authority may reasonably determine.

54.11 *Rules and regulations.* The County Administrative Officer may prescribe rules, regulations and procedures relating to the application, administration and interpretation of the provisions of this article. The rules, regulations and procedures shall be consistent with the provisions of this article, and may specify forms to be used.

Section 4: It can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment.

Section 5: All ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 6: This Ordinance shall take effect on the 1st day of July, 2024, and within fifteen (15) days after adoption of the Ordinance, the Clerk of the Board of Supervisors shall publish a summary of the Ordinance with the names of those supervisors voting for and against the ordinance and the Clerk shall post in the office of the Clerk to the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the Ordinance.

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The foregoing Ordinance was introduced before the Board of Supervisors on the 19th day of March, 2024, and passed by the following vote on the 26th day of March, 2024.

AYES: Supervisors Simon, Crandell, Green, and Pyska

NOES: Supervisor Sabatier

ABSENT OR NOT VOTING: None

ATTEST: SUSAN PARKER
Clerk to the Board of Supervisors

COUNTY OF LAKE

By: Johanna Delong
Johanna Delong (Mar 27, 2024 15:08 PDT)
Deputy

Bruno Sabatier
Bruno Sabatier (Mar 27, 2024 18:44 PDT)
Chair, Board of Supervisors

APPROVED AS TO FORM:
LLOYD GUINTIVANO
County Counsel



AUDITOR ACCOUNTING REVIEW:
JENAVIVE HERRINGTON
Auditor-Controller

Lloyd Guintivano
Lloyd Guintivano (Mar 14, 2024 12:46 PDT)

Jenavive Herrington
Jenavive Herrington (Mar 14, 2024 12:49 PDT)









ARTICLE_X.____PURCHASING Resolution 3.19.24

Final Audit Report

2024-03-14

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"ARTICLE_X.____PURCHASING Resolution 3.19.24" History

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