



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 6904, **Version:** 1

Subject:

Legislation Intent and Permission to Advertise Revisions to Ordinance No. 98-37, also known as Chapter 2, Article VII of the Brevard County Code of Ordinances, entitled "Construction and Improvement of Public Buildings."

Fiscal Impact:

No fiscal impact.

Dept/Office:

Central Services/Purchasing Services

Requested Action:

It is requested that the Board of County Commissioners approve legislative intent and grant permission to advertise a public hearing on revisions to Chapter 2, Article VII, Brevard County Code or Ordinances, "Construction and Improvement of Public Buildings."

Summary Explanation and Background:

Ordinance No. 98-37 ("Ordinance"), "Construction and Improvement of Public Buildings," codified as Chapter 2, Article VII, Brevard County Code of Ordinances, was adopted by the Board of County Commissioners ("Board") on July 7, 1998. Since the adoption of this Ordinance, there have been a number of changes to Section 255.20, Florida Statutes, which generally provide guidelines and standards for local bids and contracts for public construction works. For example, Section 255.20, Florida Statutes requires certain projects to be competitively procured based on minimum thresholds, identifies which qualifications responsive bidders should have depending on certain projects, and provides for certain exemptions to the procurement requirements depending on factors like acts of God or whether the proposed work qualifies as repair or maintenance. The proposed Code changes are generally summarized as follows:

1. Section 1. Chapter 2, Article VLL, Section 2-226, entitled "Definitions," is amended to include or amend the following terms -
 - a. Audited Financial Statements - added this term.
 - b. Competitive Solicitation or Solicitation- added this term.
 - c. County - added this term.
 - d. Maintenance - added this term.
 - e. Public Construction Works - added this term.
 - f. Qualified Bidder - moved to alphabetical order.
 - g. Repair - added this term.
2. Section 2. Chapter 2, Article VII, Section 2-227, entitled "Award of contract generally,"

amended this Section to remove “in accordance with general accounting principles” since the definition in the revised Ordinance “Public Construction Works” mirrors the definition in Section 255.20(1), Florida Statutes. The revised Ordinance also includes increased construction costs from \$50,000 to \$200,000. The \$200,000 threshold aligns with Section 255.05, Florida Statutes, pertaining to the dollar threshold established for bonds, and Board Policy BCC-27, “CONSTRUCTION CONTRACTS,” contractor bonding requirements.

3. Section 3. Chapter 2, Article VII, Section 2-228, entitled “Prequalification and competitive bidding,” includes an update in language and the County Manager's established procedures for the affected party appeal process to Section 4. Chapter 2, Article VII, Section 2-229, entitled “Qualifications of bidders.”
4. Section 4. Chapter 2, Article VII, Section 2-229, entitled “Qualifications of bidders,” has been revised to include prequalification by the Florida Department of Transportation (FDOT), added documents required for contractors that are not FDOT qualified to perform County “Public Construction Works” on County projects, and established procedures for any affected party allegedly aggrieved to any recommendation or finding made pursuant to this article. This language is also in the County’s procurement documents.
5. Section 5. Chapter 2, Article VII, Section 2-230, entitled “Debarment,” only minor grammatical changes were made.
6. As required by Section 125.66(3), Florida Statutes, provides that a business impact estimate must accompany a proposed county ordinance unless the ordinance is otherwise exempt from such a requirement. The proposed edits to the Ordinance appear to be exempt, at least in part, from this requirement because the changes are procurement related. See Section 125.66(3)(c)6., Florida Statutes. With that being said, considering the changes to the Ordinance impact more than procurement related issues, the business impact estimate has been completed as follows:
 - a. Public Purpose: Pursuant to Section 255.20, Florida Statutes, and to ensure that a contractor is qualified to perform public works construction projects such as work required by the County to construct or improve bridges, roads, streets, and highways, over \$200,000 and to provide the public an opportunity to comment on these procedures in a public hearing prior to the Board of County Commissioners adoption.
 - b. The Direct Economic Impact: Contracting with a qualified contractor to perform public works construction projects will provide greater security to the public through the County’s ability to review resumes and references, the Contractor’s ability to obtain a Public Construction Bond, and greater reliability on the public works project. Additionally, potential bidders may not have to incur the expenses of gathering certain documentation to establish they prequalify for projects that they otherwise would have been expected to provide due to the increased dollar threshold.
 - c. New Charges or Fees: The County’s current ordinance (Ordinance 98-37) d and the proposed revisions thereto, do not provide charges or assessment to determine a bidder’s qualifications.

- d. The Number of Businesses that will be Impacted by this Ordinance: The current ordinance (Ordinance 98-37) established a prequalification of the County's public construction works projects of more than \$50,000. The revisions to this Ordinance will increase the threshold for public construction works projects of more than \$200,000. This will decrease the number of contractors required to be prequalified by the County before performing the public construction work project.

Clerk to the Board Instructions: