

**ORDINANCE NO. 509**

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA AMENDING THE TOWN CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, SECTION 2-51, ESTABLISHMENT OF LOCAL PLANNING AGENCY, ESTABLISHING THE PLANNING AND ZONING BOARD AS THE TOWN'S LOCAL PLANNING AGENCY; AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE III, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, PROVIDING FOR THE TOWN MANAGER, FINANCE OFFICER, AND TOWN CLERK; AMENDING CHAPTER 2, ADMINISTRATION, PROVIDING FOR FISCAL MANAGEMENT; AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IV, EXEMPTION FROM CERTAIN COUNTYWIDE ORDINANCES, RESERVING SECTION NUMBERS 2-123 THROUGH 2-174 PROVIDING FOR SEVERABILITY; SUPERSEDING ALL ORDINANCES OR PART OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, by referendum election held on November 8, 2016, the electors of the Town approved an amendment to the Town Charter removing the competitive purchasing procedures set for in Section 2.07(e) of the Charter to provide that the Town purchasing and procurement policies and procedures shall be established by ordinance consistent with State law; and

**WHEREAS**, the Town's finance department staff have recommended certain policies and procedures it believes will ensure efficiency, safeguard of the Town's funds, provide for the prudent purchasing of commodities or contractual services by the Town, consistent with the requirements with Florida law with respect to procurements by governmental entities and agencies; and

**WHEREAS**, Florida Statute 163.3174 requires the town to establish a local planning agency; and

**WHEREAS**, the Town Commission of the Town of Belleair desires to have the planning and zoning board act as the town's Local Planning Agency; and

**WHEREAS**, in accordance with the approved charter amendment, the Town Commission of the Town of Belleair desires to establish the prospective purchasing policies and procedures for the Town by this ordinance.

**BE IN ENACTED BY THE PEOPLE OF THE TOWN OF BELLEAIR, FLORIDA:**

**SECTION 1. LEGISLATIVE FINDINGS.** The foregoing recitals incorporate herein by reference is the legislative findings of the Town Commission of the Town of Belleair.

**SECTION 2. AMENDING CHAPTER 2, SECTION 2-51.** The Code of Ordinances of the Town of Belleair, Subpart A, Chapter 2, ARTICLE II, DIVISION 2, Section 2-51 is hereby amended as follows:

Sec. 2-51. – Established.

Pursuant to and in accordance with the Charter of the town and F.S. §§ 163.3161 through 163.3211, the Planning and Zoning Board is hereby designated and established as the local planning agency.

**State Law reference** – Local Planning Agency, F.S. § 163.3174

**Charter reference** – Codification, § 5.04

**Cross reference** – Planning and Zoning Board, Ch. 66, Division 3.

**SECTION 3. AMENDING CHAPTER 2, ARTICLE III, DIVISION 1.** The Code of Ordinances of the Town of Belleair, Subpart A, Chapter 2, ARTICLE III, DIVISION 1 is hereby amended as follows:

**Sec. 2-76. Town Manager.**

The Town Manager shall be the Chief Administrative Officer of the town.

**Charter reference** – Codification, § 3.01-3.07, 4.02

**Sec. 2-77. Finance Officer**

- (a) The Finance Officer shall be the Chief Financial Officer of the town;
- (b) Shall be designated by the Town Manager;
- (c) Must be a department head who has been previously confirmed by the town commission; and
- (d) Any references to “Finance Director” within the town’s code of ordinances or associated policies shall be synonymous with “Finance Officer”.

**Charter reference** – Codification, § 3.07

**Cross reference** – FISCAL MANAGEMENT. Ch. 2, ARTICLE V, Establishment of fund. Sec. 42-121,

**Sec. 2-78. Town Clerk**

- (a) Shall be appointed by the Town Manager and confirmed by the Town Commission;
- (b) Shall be the town’s Records Management Liaison Officer; and
- (c) Shall act as supervisor of elections for all town elections.

**SECTION 4. AMENDING CHAPTER 2, ARTICLE IV.** The Code of Ordinances of the Town of Belleair, Subpart A, Chapter 2, ARTICLE IV, is hereby amended as follows:

Secs. 2-123 – 2-174. - Reserved.

**SECTION 5. ESTABLISHMENT OF FISCAL MANAGEMENT POLICIES AND PROCEDURES.** The Code of Ordinances of the Town of Belleair, Subpart A, Chapter 2 is hereby amended to establish “Article V. – Fiscal Management”, which shall read as follows:

**Article V – FISCAL MANAGEMENT**

**DIVISION 1. – GENERALLY**

## **Section 2-175. Authority**

The Finance Officer shall ensure adherence the provisions of this article.

Secs. 2-176 – 2-224. - Reserved.

## **DIVISION 2. – PURCHASING**

### **Section 2-225 – Generally**

Except as provided in this Article, it shall be unlawful for any employee to order the purchase of, or make a commitment to purchase materials or services other than through the provisions of this article.

### **Section 2-226 – Definitions.**

The following words, terms, and phrases shall have the meanings ascribed to them in this article except where the context clearly indicates a different meaning:

***Bid*** means an offer by a bidder to do specified work under specified conditions for a specified price. Bids may be written or electronic.

***Bidder*** means any business that offers materials or service for a given price and specified terms. The terms shall include offerors and respondents to solicitations or request for quotes.

***Business*** means a person or entity that is duly licensed, if required, and authorized to transact business in the State of Florida.

***Change order*** means any adjustment to the original quantities or scope of work of a solicited material or service.

***Emergency*** means a state of emergency as formally declared by the Mayor or majority of the Town Commission, the Pinellas County Commission, the Governor of the State of Florida, or the President of the United States.

***Materials*** means and includes anything that tangible product, including but not limited to vehicles, food, computers, and lumber.

***Purchase order*** means a document issued by the finance department that authorizes a purchase transaction when approved and accepted by both the town and a vendor. A purchase order sets forth the descriptions, quantities, prices, discounts, payment terms, date of performance or shipment, other associated terms and conditions, and identifies a specific vendor.

***Quote*** means an estimated price for any service or material. For purposes of this section, it shall also mean price list, advertised price, or any officially offered price. Quotes may be written or electronic.

**Responsible bidder** means a bidder who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.

**Responsive bidder** means a bidder who has submitted a bid which conforms to that bids specifications and requirements.

**Sealed Competitive Bid** means a bid, containing prospective price and terms for a contract submitted to the town by bidders through an open solicitation process, whereby all responses remain sealed until a specific date and time, after which no more responses may be received, are then opened for inspection.

**Service** means intangible products including but not limited to accounting, cleaning, consultancy, and insurance.

**Solicitation** means the act of obtaining a price and/or terms from another for services or materials

**Sole source** means one (1) vendor, supplier, or contractor that possesses a unique and singular ability to meet the town's requirements for equipment, supplies, or services. The term single source shall take on the same definition as sole source.

**Specifications** means any description of the physical or functional characteristics or the nature of materials or services. It may include a description of any requirement for inspecting, testing, or preparing a supply or service for delivery.

### **Section 2-227 – Purchasing**

(a) Purchases shall be made in accordance with the following threshold amounts and processes:

a. CATEGORY ONE: \$0.01 to \$299.99

(1) Purchases may be made in the open market

(2) Purchases may be completed with verbal authority of department making purchase

b. CATEGORY TWO: \$300.00 to \$2,999.00

(1) Two (2) quotes must be solicited prior to a request for purchase order.

(2) Purchases shall not be completed prior to a Purchase Order being approved by the Department Head.

(3) The Finance Officer or Town Manager may reduce the minimum number of quotes required if it is shown that the party requesting the purchase made a concerted effort to obtain quotes, but was not able to meet the minimum required for purchase.

c. CATEGORY THREE: \$3,000.00 to \$9,999.99

(1) Three (3) quotes must be solicited prior to a request for purchase order

- (2) Purchases shall not be completed prior to a Purchase Order being approved by the Finance Officer or Town Manager
  - (3) The Finance Officer or Town Manager may reduce the minimum number of quotes required if it is shown that the party requesting the purchase made a concerted effort to obtain quotes, but was not able to meet the minimum required for purchase.
- d. CATEGORY FOUR: \$10,000.00 to \$34,999.99
- (1) Bids must be solicited prior to a request for purchase order.
  - (2) Town provided specifications shall be approved by the Finance Officer and publicly noticed for a minimum of 10 days prior to award.
  - (3) Purchases shall not be completed prior to a Purchase Order being approved by the Finance Officer and the Town Manager
- e. CATEGORY FIVE: \$35,000 and greater
- (1) Purchases in this category require sealed competitive bids.
  - (2) Town provided specifications shall be approved by the Finance Officer
  - (3) Solicitations under CATEGORY FIVE will occur in a manner consistent with Section 2-229.
  - (4) The Finance Officer may supplement the requirements of 2-229 as needed.
  - (5) Purchases shall not be completed without the approval of the Town Commission.
  - (6) *Exceptions.*

The Town Commission may waive formal solicitation procedures, under the following conditions:

- a. Purchases made from the State of Florida term contracts, or Federal GSA Contracts as well as contracts awarded by any local, state, or national government agency, cooperative purchasing organizations, purchasing associations or other professional associations;
  - b. Work prescribed can be made by a business with a valid continuing contract pursuant to F.S. 287.055.
  - c. If for demonstrated good cause shown, the expenditure is best negotiated and is impractical to award on a bid basis.
- (b) No contract or purchase shall be subdivided to avoid the requirements of this section.
- (c) Purchases may only be made using the following instruments; Claim Checks, Electronic

Claim Checks, Purchase Orders, Purchasing Card, Net Terms billing and Petty Cash under \$50.

(d) Purchases should be made with the same considerations as Section 2-229(d).

### **Section 2-228 – Exemptions**

(a) The solicitation requirements identified in Section 2-227 shall not apply to the following:

1. Inter-agency agreements and memorandum of understanding between the Town Commission and non-profit organizations or governmental entities;
2. Services provided by another governmental entity.
3. Procurement of dues and memberships in trade or professional organizations;
4. Subscriptions to periodicals and newspapers;
5. Purchases of CATEGORY FOUR or less from the State of Florida term contracts, or Federal GSA Contracts as well as contracts awarded by any local, state, or national government agency, cooperative purchasing organizations, purchasing associations or other professional associations;
6. Advertisements;
7. Postage;
8. Water, sewer, gas, electrical, and other utility services;
9. Copyrighted materials;
10. Fees and costs of job-related travel, seminars, tuition, registration and training.
11. Parts and service from original equipment manufacturers (OEM)
12. Items for resale;
13. Used equipment
14. Professional medical services;
15. Recreational service providers;
16. Procurement of music ensembles (bands), artists, and other entertainment providers;
17. Amusement parks;
18. Certified Public Accountants;
19. Employment agreements;

20. On-going payments of fees for maintenance and support of existing software/technology which has been purchased via a competitive process in accordance with this division;
21. Purchase of construction materials included in the scope of an awarded construction contract in order to realize sales tax savings, in accordance with F.S. 212.08(6); Rule 12A-1.094, F.A.C.
22. Animals;
23. Abstracts and academic research;
24. Sole Source Purchases upon certification by the Finance Officer stating the conditions and circumstances necessitating the purchase.
25. Purchases made under a federal, state, or local declaration of emergency or other emergency purchase as defined in section 2-230.
26. Surplus property by any federal, state, or local entity.

## **Section 2-229 – Sealed Competitive Bid Procedure**

### *(a) Notice*

Notice of solicitation for sealed competitive bids shall be subject to the following requirements:

1. *Town Hall Posting.* All solicitations shall be advertised by a notice posted on a public bulletin board in Town Hall; and
2. *Newspaper.* All solicitations will be advertised at least one (1) time in a newspaper of general circulation within the region of the town, calling for sealed bids to be received no earlier than fourteen (14) days from the publication of notice of the notice; or
3. *Electronic notice.* Notification of solicitation may be provided electronically provided it is posted at least one (1) time electronically and calls for sealed bids to be received no earlier than fourteen (14) days from the publication of the notice. For the purposes of this section, electronic notice shall mean the posting of the solicitation information to the town's website or through the use of a third party electronic procurement entity.

### *(b) Bid Responses*

1. Bids shall be submitted in the manner identified in the bid solicitation notice.

### *(c) Bid Disqualification*

1. A bid may be disqualified by the Finance Officer for any of the following reasons:
  - a. Untimely filing of the bid documents;

- b. Failure to meet the minimum qualifications contained in the procurement bid;
- c. Failure to complete and sign any portion of the bid documents;
- d. Failure to submit materials or information required by the bid;
- e. Being listed on any convicted vendor list as provided by the Florida Department of Management Services; or
- f. Being currently suspended or debarred by the town or any other agency.

(d) *Basis of Award*

- 1. Award should be made to the lowest, most responsive, and most responsible bidder. Consideration should be given, but not limited to:
- 2. The ability, capacity and skill of the bidder to perform under the terms of the bid documents.
- 3. The quality of workmanship and performance of previous services to the town and/or other entities.
- 4. The previous compliance by the bidder with laws and ordinances of the town.
- 5. Timeliness of delivery or completion
- 6. When the award is not given to the lowest responsive bidder, a statement of the reason for awarding the bid elsewhere shall be prepared and made a part of the record.
- 7. The Town Commission shall have the authority to accept any bid, reject all bids, or reject parts of all bids.
- 8. The Town Commission may award the entirety of, or individual parts of a bid to multiple responsive and responsible bidders.

(e) *Bid Protest*

- 1. A respondent who is disqualified for any reason outlined in section 2-229(c) shall not have the right to protest the disqualification.

(f) *Alternative Solicitation Method*

- 1. Should the Town Manager determine that the use of the bid process is either not practicable or not advantageous, an alternative solicitation method may be used.
- 2. Alternative solicitation methods must be approved at a town commission meeting with all rules and parameters being presented at that time.



## **Section 2-230 – Emergency Procurement**

- (a) Subject to requirements of section 4.08 of the town charter, Emergency purchases may be made from any unencumbered funding source as follows:
- (b) In the event of a federal, state, or local declaration of emergency, normal purchasing procedures and requirements shall be suspended, and the following procedures shall apply:
  - 1. The Town Manager shall be authorized to make any purchases he finds necessary to the continued operations of the town.
  - 2. If the cost of any purchase would have normally fallen within CATEGORY FOUR or CATEGORY FIVE, a full report of such purchase shall be made to the Town Commission at the earliest available commission meeting.
  - 3. Waiver of purchasing procedures shall only pertain to purchases directly related to the emergency and restoration operations. At the time the declaration of emergency is lifted, normal purchasing procedures will resume.
- (c) In the event of a situation which does not rise to the level of a declaration of emergency, but has a detrimental impact on the safety and operations of the town if not rectified immediately,
  - 1. The Town Manager shall be authorized to make purchases he finds necessary to alleviate the safety or operational issue.
  - 2. If the cost of any purchase would have normally fallen within CATEGORY FOUR or CATEGORY FIVE, a full report of such purchase shall be made to the Town Commission at the earliest available commission meeting.
  - 3. Such purchases are limited to those directly associated with the specific issue.

## **Section 2-231 – Change Orders**

- (a) All change orders will be provided to the Finance Officer prior to the change occurring.
- (b) Change orders which reflect a 5% or greater increase in the original unit price or the overall dollar value require approval prior to making such order.
- (c) Approval for change orders governed by 2-231(b) shall occur by the same method as the original purchase threshold required, unless the change order causes the contract or purchase order to extend into the next purchasing category.
- (d) Change orders that cause a contract or purchase order to extend into the next purchasing category shall require approval by the same means as the higher purchasing category.
- (e) No change order will occur unless funds have been sufficiently appropriated and are unencumbered.

**SECTION 4. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

**SECTION 5. SUPERSEDING CLAUSE.** All ordinances, resolutions or parts thereof in conflict or inconsistent with this ordinance are hereby superseded insofar as there is conflict or inconsistency.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its final passage and adoption.

**PASSED ON THE FIRST READING:** *\*March 7, 2017*

**PASSED ON THE SECOND AND FINAL READING:** *\*March 21, 2017*

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**Mayor**

**ATTEST:**

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**Town Clerk**