

ORDINANCE NO. O-1-22

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 28. FINANCE. ARTICLE II. PURCHASING GUIDELINES. TO UPDATE PURCHASING AUTHORITY LIMITS AND TO GENERALLY UPDATE THE TOWN'S PROCUREMENT CODE FOR OPERATIONAL AND EFFICIENCY PURPOSES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 28 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Commission of the Town of Palm Beach Shores desires to adjust purchasing authority for the Mayor, Town Manager and Department Heads, and otherwise update the Town's procurement code for operational and efficiency purposes; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores believes these amendments to the Town's procurement code to be in the best interest of the health, safety and welfare of the Town, its citizens, and all those doing business with the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Chapter 28. Finance. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Article II. Purchasing Guidelines. to update purchasing authority limits and to generally update the Town's procurement code for operational and efficiency purposes; providing that Chapter 28. Finance. Article II. Purchasing Guidelines. shall hereafter read as follows:

**CHAPTER 28 - FINANCE
ARTICLE II. – PURCHASING GUIDELINES**

Sec. 28-26. - Purpose.

- (a) The purpose of adopting these purchasing guidelines is to:
- (1) Provide the town with a system to obtain quality goods and services, in a timely manner and at a competitive rate; and
 - (2) Ensure equity and fairness to all who deal with the town.

(b) This policy will apply to all purchases of the town irrespective of the source of funding.

(c) Exception. Grant agreements may contain provisions or requirements related to purchasing policies, disposition of fixed assets, etc. that differ from the town's policies. In the event that there is a conflict between a grant provision/requirement and a town policy, the grant provision/requirement will take precedence over the town policy.

Sec. 28-27. - Authority of the town manager, the mayor or the mayor's designee.

(a) Solicit quotations, both verbal and written, and issue invitations to bid, requests for proposals and invitations to negotiate;

(b) Award and renew contracts pursuant to the terms and provisions of this article;

(c) Award and renew contracts and/or purchase orders and agreements when utilizing other government contracts pursuant to the terms and provisions of this article.

Sec. 28-28. - Delegation of purchasing authority.

All town purchases must have proper prior authorization and approval. Department heads of the Town of Palm Beach Shores are designated as follows: ~~Police chief~~, fire chief, public works director, town manager and town clerk. The department heads or their designee(s) are required to approve all purchasing related documents prior to submitting same to the town manager, the mayor or the mayor's designee for processing.

The approval levels are as follows (total purchase):

(1)	\$0.00—\$999.99 499.99	Department head
(2)	\$1,000.00 500.00— \$9,999.99 4,999.99	Department head with signature of town manager, the mayor or the mayor's designee
(3)	\$10,000.00 5,000.00—	Mayor or the mayor's designee

	<u>\$24,999.99</u> 25,000.00	
(4)	Over \$25,000.00— <u>\$49,999.99</u>	Mayor or the mayor's designee if the expenditure has been included in the budget for the current fiscal year, and the actual expenditure does not deviate in an amount that is more than 10% above the budgeted amount. Otherwise the Town commission
(5)	<u>\$50,000.00 and higher</u>	Town Commission

Purchase amounts shall not be artificially divided to circumvent the approval requirements. Willful violation of these rules will result in termination of purchasing authority for the individual and/or department and may further result in disciplinary action against the individual committing the violation.

Sec. 28-29. - Quotations.

The quotation levels are as follows (individual item):

Expand

(1)	\$0.00— <u>\$499.99 00</u>	None; <u>Purchase in best interest of the Town</u>
(2)	\$500.00— <u>\$14,999.99 00</u>	Two verbal quotes
(3)	<u>\$15,000.00—</u> <u>\$99,999.99</u> 25,000.00	Three written quotes
(4)	Over \$25,000.00 <u>\$100,000.00—</u> <u>\$199,999.99</u>	<u>Informal</u> Formal bid, request for proposals or invitation to negotiate, <u>except for public construction contracts as specified in Sec. 28-34 below</u>
(5)	<u>\$200,000.00 and higher</u>	<u>Formal bid, request for proposals or invitation to negotiate</u>

Sec. 28-30. - Processing of contract for the provision of commodities or services.

(a) *Purchase requisitions.* All purchases of goods or services with a total cost less than ~~\$1,000.00~~ ~~\$500.00~~ shall be entered into the purchasing system using purchase requisitions.

(b) *Purchase orders.* All purchases of goods or services that cost \$1,000.00 ~~\$500.00~~ or more shall be entered into the purchasing system using a purchase order.

Sec. 28-31. - Competitive procurement required.

All initial awards of contract for commodities and contractual services exceeding \$99,999.99 ~~\$25,000.00~~ shall be awarded by the town commission through the process of either informal or formal competitive, sealed bidding, competitive requests for proposals, or invitations to negotiate except as otherwise provided herein. Whether informal or formal procedures are utilized depends on the quotation level of the purchase as specified in Sec. 28-29 above.

Sec. 28-32. - Exemptions from the competitive procurement requirement.

The following are exempt from the requirements of informal and formal competitive procurement:

(1) Sole source procurement; however, all sole source procurements where the cost of the commodity or contractual service exceeds \$50,000.00 (or exceeds \$25,000.00 for non-budgeted expenditures, or deviates more than 10% from budgeted expenditures less than \$50,000.00 as specified in Sec. 28-29 above) ~~\$25,000.00~~ shall be authorized by the town commission.

(2) Non-emergency exemptions to this process must be approved by the town commission if over \$50,000.00 (or if over \$25,000.00 for non-budgeted expenditures, or deviates more than 10% from budgeted expenditures less than \$50,000.00 as specified in Sec. 28-29 above) ~~\$25,000.00~~.

(3) Emergency procurements. The town manager, the mayor or the mayor's designee may make or authorize emergency procurements of commodities or services when there exists a clear and present threat to public health, property,

welfare, safety, or other substantial loss to the town. The town clerk will notify the town commission immediately of all emergency expenditures over \$50,000.00 ~~\$25,000.00~~.

(4) Purchases under contracts of the federal government, the State of Florida and/or its political subdivisions. All purchases of commodities or contractual services under the provisions of local, state, and federal purchasing contracts shall be exempt from the quotation and competitive procurement requirements, however such contracts must be approved by the town commission if over \$50,000.00 (or if over \$25,000.00 for non-budgeted expenditures, or deviates more than 10% from budgeted expenditures less than \$50,000.00 as specified in Sec. 28-29 above) ~~\$25,000.00~~.

(5) Exempt contractual goods and services not subject to the quotation and competitive procurement requirement. This category shall include services involving special skill, ability, training, or expertise which are in their nature, unique, original, or creative, in accordance with F.S. § 287.057(5)(f).

Sec. 28-33. - Formal competitive procurement procedure.

(a) *Public notice.* Public notice of the invitation to bid, request for proposals, or invitation to negotiate shall be provided a minimum of ten calendar days prior to the date set forth in the notice for the opening of the bids, proposals, or replies. Such notice shall be provided by publication in a newspaper of general circulation in the town, by posting on the town's website, by posting on Demandstar or a comparable internet-based procurement platform, and/or by any additional means that may be warranted by the particular invitation or request, at the town's discretion. The notice shall state the place, date and time of the bid, proposal or reply opening.

(b) *Bid, proposal, and reply submission.* Bids, proposals, and replies shall be submitted pursuant to all invitation or request instructions in a sealed envelope which shall be clearly identified as a bid, proposal or reply on the exterior of the envelope and delivered to the town clerk's office.

(c) *Bid security; performance or payment bonds.* The town shall require bid security and performance or payment bonds for all contracts for construction of public buildings and capital projects costing over \$2300,000.00, or electrical work on public buildings or capital projects costing over \$75,000.00; and reserves the right to require same for construction contracts on public buildings or capital projects or any other contracts costing less than \$2300,000.00, or electrical work on public buildings or capital projects or any other contracts costing less than \$75,000.00.

(d) *Bid opening.*

(1) Bids shall be opened publicly by the town clerk and shall be witnessed by the deputy town clerk or designee at the time and place designated in the public notice of the invitations to bid.

(2) Bids shall be read aloud and a tabulation of all bids received shall be made available for public inspection after the opening of the bid.

(3) No late bids shall be accepted or opened if received after the date and time specified in the public bid notice. All late bids shall be returned, unopened to the bidder or offeror.

(e) *Proposal opening.* When the request for proposals or invitation to negotiate procedure is utilized, the proposals or replies shall be opened at the time and place designated in the public notice. A register of proposals or replies shall be prepared and maintained by the town clerk containing the name of each offeror.

(f) *Modification to solicitation documents.* Any modification of the invitation to bid, the request for proposals, or the invitation to negotiate made prior to the opening of the responses to those solicitation documents shall be by addenda provided in writing to the same businesses to which the original solicitation documents were mailed or otherwise provided.

(g) *Documents become property of the town.* All bids, proposals, or replies along with accompanying documentation received from bidders or offerors in response to the invitation to bid, request for proposal, or invitation to negotiate shall become the property of the town and will not be returned. In the event of contract

award, everything produced as part of the contract shall become the exclusive property of the town.

(h) *Rejection of bids, proposals or replies.* The town may reject any and all bid(s), proposal(s) or replies, for any of the following reasons, as exercised by the town in its sole discretion:

(1) If the evidence submitted by the bidder or offeror or the investigation of such bidder or offeror fails to satisfy the town that such bidder or offeror is properly qualified to carry out the obligations and complete the work contemplated therein.

(2) If there is reason to believe collusion exists among bidders or offerors.

(3) If the bid, proposal, or reply is not responsive, not properly delivered, not properly signed or is unsigned, shows serious omissions, alterations in form, additions not called for, conditions or unauthorized alterations, or irregularities of any kind. The town reserves the right to waive such technical errors as may be deemed in the best interest of the town.

Sec. 28-34. - Informal competitive procurement procedure.

(a) *Public notice.* Public notice of the request for proposals or invitation to negotiate may be provided within a reasonable amount of time form the targeted contract award date in the town's sole discretion. Such notice may be provided by publication in a newspaper of general circulation in the town, and/or by posting on the town's website, and/or by any additional means that may be warranted by the particular invitation or request, solely at the town's discretion. Alternatively, or additionally, the Town may actively solicit proposals or replies from vendors known to the town to be responsive and responsible, in the town's best interest and sole judgment.

(b) *Proposal and reply submission.* Proposals and replies shall be submitted pursuant to all request instructions. Such proposals and replies are not sealed and are not protected by public records exemptions in the same manner that formal sealed bids, proposals, or replies are protected.

(c) Construction contracts on public buildings and capital projects. The town shall not utilize the informal competitive procurement procedure for construction contracts on public buildings or capital projects. Formal competitive procurement shall be utilized for all public construction and capital projects contracts with a cost of \$100,000.00 or more.

(d) Proposal and reply opening. Informally procured proposals or replies shall be opened at the time and place designated in the public notice, or designated by the town during the solicitation process. A register of proposals or replies shall be prepared and maintained by the town clerk containing the name of each offeror. Selection of the successful vendor shall be based on the needs and best interest of the Town, considering all relevant circumstances, in the Town's sole discretion.

(e) Documents become property of the town. All proposals or replies along with accompanying documentation received from bidders or offerors in response to the invitation to bid, request for proposal, or invitation to negotiate shall become the property of the town and will not be returned. In the event of contract award, everything produced as part of the contract shall become the exclusive property of the town.

(f) Rejection of proposals or replies. The town may reject any and all proposals or replies, for any reason or no reason (convenience) in the town's sole discretion.

Sec. 28-35 34. - Award of contract.

(a) *Competitive bid procedure.* To be used when the town is capable of specifically defining the scope of work for which a contractual service is required or when the town is capable of establishing precise specifications defining the actual commodity or group of commodities required. The contract shall be awarded with reasonable promptness to the most responsive, responsible bidder whose bid meets the requirements and criteria set forth in the invitation to bid except as otherwise provided herein.

(b) *Tie bids.* Tie bids will be decided by the town on a basis of quality, delivery time and other criteria as determined for the specific project.

(c) *Request for proposals procedure.* To be used by the town when the purposes and uses for which the commodity, group of commodities or contractual services being sought can be specifically defined and the town is capable of identifying necessary deliverables. The award shall be made to a responsible offeror whose proposal is determined to be the most advantageous to the town taking into consideration price and the evaluation factors and criteria set forth in the request for proposal.

(d) *Invitation to negotiate procedure.* To be used by the town to determine the best method for achieving a specific goal or solving a particular problem and to identify one or more vendors with which to negotiate in order to receive the best value. Negotiations shall be commenced with one or more vendors whose reply is determined by the town to be within the competitive range established in the selection criteria contained in the invitation. After negotiations are conducted, the award shall be made to the responsible and responsive offeror that the town determines will provide the best value to the town, based on the selection criteria.

Sec. 28-~~36~~ 35. – Contracts for professional services.

All contracts for professional services as that term is defined in the Consultants Competitive Negotiations Act, F.S. § 287.055, as amended from time to time, shall be awarded in accordance with the procedures set forth in that Act and any town procedures adopted in furtherance of that Act.

Secs. 28-~~37~~ 36—28-39. - Reserved.

Section 2: Each and every other section and subsection of Chapter 28. Finance. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.


FIRST READING this 24th day of January, 2022.

SECOND AND FINAL READING this 28th day of February, 2022.

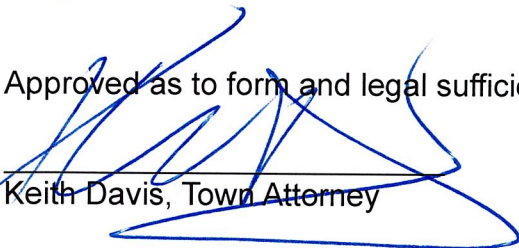
TOWN OF PALM BEACH SHORES


Alan Fiers, Mayor

ATTEST:


Jude Goudreau, Town Clerk

Approved as to form and legal sufficiency.


Keith Davis, Town Attorney

