

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, AMENDING CHAPTER 3, PURCHASING, SECTION 3-2. PURCHASE OF COMMODITIES AND SERVICES, SECTION (B), PURCHASING LIMITATIONS, SUBSECTION (2), SUBSECTION (3), AND SECTION (D), OPEN MARKET PURCHASING PROCEDURE, SUBSECTION (1) OF THE CODE OF ORDINANCES; ESTABLISHING \$35,000 AS THE THRESHOLD AMOUNT REQUIRING COMPETITIVE BID PROCEDURES; PROVIDING FOR AUTHORITY; PROVIDING LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR A PURPOSE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA ("TOWN"), AS FOLLOWS:

SECTION 1: AUTHORITY.

The authority for the enactment of this Ordinance is Sections 166.021 and 166.041, Florida Statutes and Section 101.75, Florida Statutes and other applicable Florida law.

SECTION 2: LEGISLATIVE FINDINGS AND INTENT.

WHEREAS, this Ordinance amends CHAPTER 3, PURCHASING, of the Town of Cinco Bayou, Code of Ordinances, by establishing \$35,000.00 as the threshold amount triggering the required use of competitive bid procedures regarding the municipal purchase of commodities and services; and,

WHEREAS, the Town Council wishes to reduce expenses for the Town wherever feasible, while maintaining the integrity of the competitive procurement processes; and,

WHEREAS, the Town Council has determined that establishing \$35,000.00 as the triggering threshold for competitive bid procedures is required to prevent the recurring protracted and expensive competitive bid procedures that unnecessarily apply to many common commodities and services that have increased in price due to inflation and competitive markets over the last 9 (nine) years since the adoption of the original purchasing procedures ordinance; and,

WHEREAS, The Florida Legislature has established \$35,000.00 as the amount triggering the use of competitive bid procedures for all executive branch agencies. FLA. STAT. § 287.057(1); and,

WHEREAS, public hearings have been conducted regarding this ordinance by the Town Council after due public notice; and,

WHEREAS, the Town Council has determined that this ordinance is in the best interests of the Town and its citizens.

SECTION 3: PURPOSE.

The purpose of this Ordinance is to amend the purchasing limitations governing the purchase of commodities and services. Currently, all purchases in excess of \$10,000.00 are required to go through a lengthy competitive bid procedure. The threshold of 10,000.00 was a proper amount in 2004 when the ordinance was adopted. However, due to inflation and the general increase in all goods and services, \$10,000.00 is no longer an appropriate threshold to trigger competitive bidding procedures because too many rudimentary and fundamental municipal purchases are requiring the protracted and expensive procedures. The competitive bid procedures are causing undue delay and expense to the Town of Cinco Bayou regarding otherwise ordinary and uncomplicated purchases that can be approved competently and efficiently by a vote of the town council. The selection of \$35,000.00 as the threshold to trigger competitive bid procedures is based upon the current competitive bid threshold established by the Florida Legislature for the purchase of commodities or services by executive branch agencies.

SECTION 4: AMENDING, CHAPTER 3, PURCHASING, OF THE CODE OF ORDINANCES.

CHAPTER 3, PURCHASING, Section 3-2. Purchase of commodities and services, section (b), Purchasing limitations, section (2), section (3), and subsection (d), Open market purchasing procedure, subsection(1) of the Code of Ordinances, Town of Cinco Bayou, Florida, are hereby amended as follows:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

a. Sec. 3-2(b)(2)-(3) Purchase of commodities and services, Purchasing limitations, is hereby amended as follows.

(b) Purchasing limitations.

(2) All purchases of \$501.00 and up to ~~\$10,000.00~~ \$35,000.00 dollars shall require the approval of the town council.

(3) All purchases in excess of ~~\$10,000.00~~ \$35,000.00 dollars shall be accomplished through the competitive bid procedure under this chapter using either an invitation to bid or a request for proposals, depending upon which alternative is deemed by the town council to be in the best interest of the town.

b. Sec. 3-2(d)(1) Purchase of commodities and services, Open market purchasing procedure, is hereby amended as follows.

(d) Open market purchasing procedure.

(1) All purchases of commodities and contractual services of a total estimated value of more than \$501.00 dollars and less than ~~\$10,000.00~~ \$35,000.00 dollars may be made in the open market without newspaper

advertisement and without observing the procedure described in this chapter for competitive bidding.

SECTION 5: INCORPORATION INTO CODE OF ORDINANCES.

This ordinance shall be incorporated into the Town of Cinco Bayou's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6: CONFLICTING PROVISIONS.

Town Ordinances and Town Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 7: SEVERABILITY.

If any section, phrase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 8: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its final passage and adoption by the Town Council and signature of the Mayor.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF CINCO BAYOU, FLORIDA ON THIS 9th DAY OF MAY 2013.

ATTEST:

BY: Nell Dykes
Nell Dykes, Town Manager/Clerk

THE TOWN OF CINCO BAYOU, FLORIDA

BY: Theresa Farley
Theresa Farley, Mayor

[SEAL]

The form and legal sufficiency of the foregoing has been reviewed and approved by the Town Attorney.

C. Jeffrey McInnis
C. Jeffrey McInnis,
Town Attorney

