

ORDINANCE NO. 186

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, ESTABLISHING POLICIES AND PROCEDURES FOR PURCHASING; PROVIDING DEFINITIONS; PROVIDING PURCHASING LIMITATIONS; PROVIDING FOR PURCHASE ORDERS; PROVIDING OPEN MARKET PURCHASING PROCEDURES; PROVIDING COMPETITIVE BID PROCEDURES; PROVIDING EMERGENCY PURCHASING PROCEDURES; PROVIDING FOR PAYMENT OF OPERATING EXPENSES AND CONTRACTUAL SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Cinco Bayou, Florida that:

Section 1. A new chapter 3 of the Code of Ordinances of the Town of Cinco Bayou, Florida is hereby created as follows:

CHAPTER 3 PURCHASING

3-1. Purchasing Policies and Procedures.

(a) The following policies are hereby established for purchasing all commodities and services necessary for the operation of the affairs of the town;

(1) All purchases shall be of that quality to suit the intended purposes of the town at the least expense.

(2) All purchases shall be made in accordance with the policies and procedures as established by this chapter.

3-2. Purchase of Commodities and Services.

(a) Definitions.

(1) **Commodity** means any of the various supplies, materials, equipment, goods, merchandise and all other personal property purchased or otherwise contracted for by the town.

(2) **Contractual Services** means and includes construction, renovation and demolition of buildings; public works projects; rental, repair or maintenance of equipment, machinery and other town-owned property, including land and buildings; landscaping and maintenance services; cleaning services; insurance; and other like services. The term "contractual services" shall not for the purpose of these purchasing policies include professional services which are unique in their nature such as legal and accounting services.

(3) **Invitation to Bid** means a written solicitation for sealed competitive bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, group of commodities or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is normally 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.

(4) **Request for Proposals** means a written solicitation for sealed proposals with the title, date, and hour of the public bid opening designated. The request for proposals is normally used when it would be difficult for the town to specifically define the scope of work for which the commodity, group of commodities, or contractual services required and when the town is requesting that a qualified vendor propose a commodity, group of commodities or contractual service to meet the needs of the town. A request for proposal may include, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposed

instructions, and evaluation of criteria. The request for proposals should state the relative importance of price and any other evaluation criteria.

(b) Purchasing Limitations.

(1) The Town Manager/Clerk is authorized to make purchases in an amount of up to Five Hundred and 00/100 (\$500.00) Dollars .

(2) All purchases of Five Hundred One and 00/100 (\$501.00) Dollars and up to Ten Thousand and 00/100 (\$10,000.00) Dollars shall require the approval of the Town Council.

(3) All purchases in excess of Ten Thousand and 00/100 (\$10,000.00) 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.

(4) Nothing contained herein shall be construed to prevent the town from purchasing commodities and/or services under the provisions of state purchasing contracts pursuant to F.S. §287.042 (2) as the same may be amended from time to time from vendors at federal contract prices, and from any other vendors so long as purchases are at or below listed state/federal contract prices; or for purchasing specialized items from sole source vendors without competitive bids.

(c) Purchase Orders.

All purchases as authorized by the Town Manager/Clerk of up to Five Hundred and 00/100 (\$500.00) Dollars shall be made by purchase order. The purchase order shall be maintained by the town Manager/Clerk for all such expenditures. The Town Manager/Clerk shall certify for each purchase order prior to its issuance that the funds required for the purchase order are available in the approved town budget. The Town Manager/Clerk shall maintain a register of purchase orders. No purchase orders may be split in order to avoid

compliance with these purchasing policies.

(d) Open Market Purchasing Procedure.

(1) All purchases of commodities and contractual services of a total estimated value of more than Five Hundred and 00/100 (\$501.00) Dollars and less than Ten Thousand and 00/100 (\$10,000.00) Dollars may be made in the open market without newspaper advertisement and without observing the procedure as described in this chapter for competitive bidding.

(2) All open market purchases shall be based on at least three (3) written quotations. In the event that the Town Manager/Clerk cannot obtain three (3) written quotations for any such purchase, the Town Council may authorize the purchase based upon a lesser number of quotations if it is determined to be in the best interest of the town.

(3) The Town Manager/Clerk may solicit written quotations by:

- (a) Direct mail request to prospective vendors.
- (b) Telephone.
- (c) In person.

(e) Competitive Bid Procedure.

(1) Upon determination by the Town Council that a competitive bid procedure shall be used to purchase commodities and/or contractual services there shall be implemented a procedure to purchase by formal written contract and/or purchase order from the lowest and most responsible bidder, after due public notice inviting bids or proposals.

(2) The procedure for inviting bids or proposals shall be as follows:

(a) Notice inviting bids or proposals shall be published once in at least one (1) official newspaper having general distribution in the town at least ten (10) working days proceeding the

last day set for the receipt of such bids or proposals.

(b) The newspaper notice shall include all information as required by this chapter for an **Invitation to Bid** and/or for a **Request for Proposals**.

(c) The Town Manager/Clerk is authorized in addition to placement of the **Invitation to Bid** or **Request for Proposals** in the newspaper to solicit sealed bids or proposals from all responsible perspective vendors or suppliers who have requested their names be added to a bidder's list which the Town Manager/Clerk may maintain by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase.

(d) The Town Council may authorize purchases under tag-on bids with other governmental entities without formal open market bid procedures.

(3) When deemed necessary by the Town Council, a bid deposit shall be prescribed in the bid specifications. When required, bids shall be accompanied by a certified check or bond, made payable to the town in the amount stipulated in the specifications. Unsuccessful bidders shall be entitled to a return of surety where the town has required such. A successful bidder shall forfeit any surety required by the town upon failure on its part to enter into a contract within ten (10) days after a written contract is presented by the town to the successful bidder for execution.

(4) Procedural requirements for submission and acceptance of bids or proposals is as follows:

(a) Sealed bids or proposals shall be submitted to the Town Manager/Clerk and shall be identified as bids or proposals on the outside of the envelope.

(b) Bids or proposals shall be opened in public at the time and place stated in the public notices. When the bids or proposals are opened, they shall be read aloud publically.

(c) A tabulation of all bids or proposals received shall be made and shall be available for public inspection.

(5) The rejection of bids or proposals and negotiation shall be

as follows:

(a) The Town Council shall have the authority to reject any and all bids or proposals.

(b) If the lowest and best bid or proposal exceeds the budgeted amount and the Town Council does not make additional funds available, the items will be re-advertised for bidding or receipt of proposals after making changes in the project plans to bring the cost within the limit of the money available. The Town Council may waive this requirement of re-advertising and negotiate a contract with the lowest and most responsive and responsible bidder or proposer when it determines that such negotiation would be in the best interest of the town.

(c) The Town Council shall have the authority to waive any and all irregularities in any and all formal bids or proposals.

(6) All contracts for the purchase of commodities or contractual services which have been subjected to these competitive bid procedures by the Town Council shall be awarded by the Town Council to the lowest and most responsible bidder. In determining the lowest and most responsible bidder, in addition to price, there shall be considered the following:

(a) The ability, capability and skill of the bidder/proposer to perform the contract.

(b) Whether the bidder or proposer can perform the contract within the time specified, without delay or interference.

(c) The character, integrity, reputation, judgment, experience and efficiency of the bidder or the proposer.

(d) The Quality of performance of previous contracts.

(e) The previous and existing compliance by the bidder or proposer with laws and ordinances relating to the contract.

(f) The sufficiency of the financial resources and ability of the bidder or proposer to perform the contract or to provide the service.

(g) The quality, availability and adaptability of the supplier of the commodities or contractual services to the particular

uses required by the town.

(h) The ability of the bidder or proposer to provide future maintenance and service for the use of the subject of the contract.

(i) The number and scope of conditions attached to the bid or proposal.

(j) The conformity of the bid or proposal to the specifications.

(k) The best interest of the town.

(l) Failure to specify all or part of the contract that shall be let to a subcontractor.

(m) Failure of bidders or proposers to comply with requirements of the U.S. Labor Department when the contract is in part or totally supported by U.S. government funds.

3-3. Emergency Purchasing Procedures.

The Town Manager/Clerk, with the approval of the Mayor, shall have the authority to make emergency purchases for commodities and/or contractual services without competitive bids under circumstances where the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the town. All such emergency purchases shall be reported to the Town Council at its next regularly scheduled meeting and shall be supported by a statement setting forth the nature of the emergency conditions and why the regular bid procedure, as prescribed in this chapter, would have caused a delay which could have been contrary to the public interest. Full documentation of the procedures used in making the emergency purchase shall be delivered to the Town Council during that same meeting.

3-4 Payment for On-going Operating Expenses and Contractual Services.

The Town Manager/Clerk shall be authorized to make payment on invoices for those on-going monthly overhead and other operating expenses of the town and for those contractual services including all professional services for the town once such items have been approved in the annual budget and/or contracts have been issued by the Town Council for the same. This authority of the Town Manager/Clerk to make such on-going payments shall not be restricted by other purchasing limitation amounts as contained in this chapter.

3-5 - 3-15. Reserved.

Section 2. Repeal of Conflicting Ordinances and Resolutions. All Ordinances and Resolutions of the governing body in conflict herewith are hereby repealed.

Section 3. Effective Date. This Ordinance shall apply prospectively and shall become effective immediately upon its final passage and adoption.

ADOPTED this 12th day of April, 2001.

ATTEST:

THE TOWN OF CINCO
BAYOU, FLORIDA

BY:

Agnes J. Webb
Agnes J. Webb
Town Manager/Clerk (Seal)

BY:

Randall P. Drabczuk
Randall P. Drabczuk
Mayor

