

ORDINANCE NO. 618

AN ORDINANCE OF THE TOWN OF OCEAN RIDGE, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE VI "FINANCE", BY DELETING DIVISION 1 "GENERALLY" AND BY CREATING A NEW DIVISION 1 "PURCHASING CODE" TO PROVIDE FOR REGULATIONS GOVERNING THE PURCHASING OF GOODS AND SERVICES; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Ocean Ridge, Florida (the "Town") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission wishes to establish certain requirements and regulations as it relates to the purchasing of goods and services; and

WHEREAS, the Town Commission wishes to enhance and strengthen the current purchasing policy; and

WHEREAS, the Town Commission has determined that the enactment of this ordinance is for a proper municipal purpose and in the best interests of the residents of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:

Section 1. The foregoing Whereas clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The Town Commission hereby amends Chapter 2 "Administration", Article VI "Finance", Division 1 "Generally", of the Town Code of Ordinances to read as follows (additional language underlined and deleted language ~~stricken through~~):

DIVISION 1. – GENERALLY PURCHASING CODE

~~Sec. 2-216. – Purchasing and bidding threshold.~~

- ~~(a) The town manager may approve all contracts for the purchase of commodities and/or contractual services for amounts up to and including \$10,000.00 for unencumbered budgeted funds.~~
- ~~(b) — Except as provided by subsections (c) and (d) of this section, the town manager shall receive sealed bids for purchases of commodities and/or contractual services in excess of \$10,000.00 and then shall present the bids with a recommendation to the town commission for its approval.~~

~~(c) — The town commission may waive the competitive seal bid of commodities and/or contractual services, or purchase requirements, in the event of one or more of the following:~~

~~(1) An emergency has been declared by the town commission.~~

~~(2) Emergency purchases or contracts, the delay of which would delay the delivery of town services, stop work, or threaten life or property. The town manager shall notify the town commission of such purchases or contracts at its next meeting.~~

~~(3) A bid or proposal has been awarded by another governmental agency pursuant to a competitive sealed bid from which the town can purchase at the same price.~~

~~(4) Sole source or limited source provider.~~

~~(d) — This section shall not apply to the purchase or selection of professional services or other commodities and/or contractual services where the purchase or selection of which is governed by F.S. ch. 287, or other law or regulation of other governmental authority.~~

~~Sec. 2-217. — Commitment of certain expenditures.~~

~~Whenever the town commission seeks to commit or approve expenditures from the general fund, other than duly appropriated items, or from the nonappropriated fund balance, it shall do so at a regular town commission meeting. This provision shall not apply to expenditures from funds other than the general fund and the nonappropriated fund balance, and shall not apply to expenditures from any source, made by the town manager or town commission for bona fide emergencies to protect the health, safety and welfare of the public.~~

Sec. 2-216. — Applicability.

This division applies to the acquisitions of property, goods and services by the town after ~~3/6/2017~~, 2016 as provided for in this division. Any action taken or contracts entered into contrary to the provisions of this division may, in the town's sole discretion, be declared null and void. The town has also adopted a purchasing policy whose regulations shall govern where not in conflict with this division.

Sec. 2-217. — Competitive selection.

(a) *Sealed competitive method.* Acquisitions of or contract for non-real property, goods or services where the expenditure by the town (including expenditures during renewal periods, but no expenditures relating to change orders) is estimated to be twenty-five thousand dollars (\$25,000.00) or greater shall be subject to a sealed competitive method, unless the town utilizes one of the methods that is exempt from the sealed competitive method or from obtaining quotes, as provided in this division or the purchasing policy.

(1) *Competitive bids.* Sealed competitive bids are utilized where price, responsiveness, and responsibility are the sole determining factors.

(2) *Requests for proposals, requests for qualifications, requests for letters of interest.* Requests for proposals, requests for qualifications, and requests for letters of interest are utilized where price, responsiveness, and responsibility are not the sole determining factors. The town

manager may appoint a selection committee to review the submissions received by the town in response to requests for proposals, requests for qualifications, and requests for letters of interest and make a recommendation to the town commission. The selection committee shall terminate upon the award of the contract, or such other time as determined by the town commission.

(3) Submissions. It shall be the sole responsibility of the bidder, proposer or responder to have the bid, proposal or response delivered to the town clerk's office before the specified closing date and time. Bids, proposals or responses received after the closing date and time shall not be considered and shall be returned unopened. The clock in the town clerk's office shall govern. All bids, proposals and responses submitted pursuant to a sealed competitive method shall remain sealed until they are opened publicly on the date and time and location stated in the notice to bidders, proposers or responders, or as may be amended by addendum. All bids, proposals or responses must be sealed. No faxed or emailed bids, proposals or responses shall be accepted.

(4) Town's reservation of rights. The town may utilize a sealed competitive method for any acquisition that the town deems appropriate regardless of the estimated cost of the acquisition.

In all competitive selection purchases, the town reserves the following rights:

(i) Rejection of bids, proposals or other responses. If the town manager determines that it is in the best interests of the town to do so, the town manager may reject any or all bids, proposals or other responses requested in whole or in part. Bids, proposals or other responses requested that are submitted after the due date and time will be disqualified from further consideration.

(ii) Waiver of irregularities. The town manager shall have the authority to waive all nonmaterial irregularities on any and all bids, proposals or other responses requested. Nonmaterial irregularities are those irregularities which do not substantially affect price and/or competition.

(iii) A request for bid, RFP, ITN or other competitive selection procedure utilized by the town may be canceled, in whole or in part, by the town manager when it is in the best interests of the town.

(iv) All costs and fees incurred by any party in preparing and responding to a request for bid, RFP, ITN or other competitive selection procedure used by the town are the sole responsibility of the responding party including all costs and fees related to a protest.

(b) Exemptions from purchasing by the sealed competitive method or by obtaining a written quote.

(1) Professional services. Except as otherwise provided for in Florida law, contracts for professional services (which include but is not limited to services provided by architects, engineers, surveyors, attorneys, accountants, actuaries, lobbyists and financial advisors) may be made or entered into by the town manager without utilizing a sealed competitive method or obtaining written quotes. Acquisitions of professional services where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be ten thousand dollars (\$10,000.00) or greater shall be subject to approval by the town commission.

(2) Specialty goods and services. Acquisitions of or contracts for specialty goods and services (including but not limited to performing artists, artwork, special events, entertainment, and food and beverage) may be made or entered into by the town manager without utilizing a sealed competitive method or obtaining written quotes. Acquisitions of specialty goods and services, where the expenditure by the town is estimated to be ten thousand dollars (\$10,000) or greater, shall be subject to approval by the town commission.

(3) Emergency acquisitions. The town manager may acquire or contract for non-real property, goods, or services required in contemplation of, preparation for, or during an emergency without utilizing a sealed competitive method or obtaining written quotes regardless of the amount. Emergency acquisitions of non-real property, goods or services where the expenditure by the town is estimated to be ten thousand dollars (\$10,000.00) or greater shall be subject to ratification by the town commission as soon as practicable.

(4) Sole source and town standard.

a. Sole source. The town may acquire or contract for non-real property, goods or services that are available to the town from only one source without utilizing the sealed competitive method or obtaining written quotes. Sole source acquisitions where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be ten thousand dollars (\$10,000.00) or greater shall be subject to approval by the town commission.

b. Town standard. Where the town has determined that a particular style, brand, make, or model is the only type that meets the town's requirements for performance, consistency, compatibility or other salient characteristics, and such determination has resulted in there being only one source available to the town, the town may acquire or contract for such goods without utilizing a sealed competitive method or obtaining written quotes. Town standard acquisitions where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be ten thousand dollars (\$10,000.00) or greater shall be subject to approval by the town commission.

(5) Utilization of other governmental entities' contracts.

a. The town may acquire or contract for non-real property, goods or services without utilizing a sealed competitive method or obtaining written quotes where the desired goods or services are the subject of a contract with the state, its political subdivisions or other local governmental entities in the state, with associations in Florida affiliated with state and/or local governmental entities or departments (such as the Florida Sheriffs' Association and the Florida Fire Chiefs' Association) or with the United States government or national cooperatives, provided that the contract is based strictly on competitive bidding and not on any preference, and provided that the form of the contract is acceptable to the town attorney. Acquisitions utilizing other governmental entities' contracts where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be ten thousand dollars (\$10,000.00) or greater shall be subject to approval by the town commission.

b. Utilization of other government entities' contracts shall only be permitted during the term of the other governmental entity's contract or for one year from the date the other governmental entity awards the bid, whichever is longer.

c. If the town desires to utilize another governmental entity's contract, the town shall require the vendor to certify that the price or rate represents the lowest price or rate for the non-real property, goods or services of any contract between the vendor and any other governmental entity within the state.

(6) Cooperative acquisitions. The town may acquire or contract for non-real property, goods or services without utilizing a sealed competitive method or obtaining written quotes where the town participates in joint procurement of non-real property, goods or services with other public entities within the state, including, but not limited to acquisitions made pursuant to interlocal agreements entered into with other governmental entities in accordance with F.S. Ch. 163. Cooperative acquisitions where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be ten thousand dollars (\$10,000.00) or greater shall be subject to approval by the town commission.

(7) Utilities. Water, sewer, gas, electrical, and other utility services may be acquired without utilizing a sealed competitive method or obtaining written quotes and without town commission approval.

(8) Resale. Food, beverages and merchandise purchased for resale, may be acquired without utilizing a sealed competitive method or obtaining written quotes and without town commission approval.

(9) Employee benefits and health services. Employee benefits, including payroll processing services, and health related services may be procured/renewed directly through a negotiating process conducted by town staff and/or an expert in the field, or to maintain continuity of employee-health records, and is not subject to competitive procurement methods.

(10) Property, casualty, workers compensation, liability, automobile insurance. Insurances may be procured/renewed directly through a negotiating process conducted by town staff and/or an expert in the field, or to maintain continuity of insurance records, and is not subject to competitive procurement methods.

(11) The following goods and/or services are approved as exempt purchases when they are included in the adopted annual budget. Exempt purchases are exempt from the competitive selection and written quotation purchase requirements set forth in this purchasing code.

(1) Utilities—water, sewer, electrical, telephone, solid waste disposal fees and any other utility service where competition is not available.

(2) Postage and postage meter permits.

(3) Recording fees.

(4) Pension benefit payments.

(5) Debt service payments.

(6) Unemployment compensation.

(7) Tax withholding payments (FICA, Medicare, Federal Tax Withholding).

(8) Payroll deduction liability payments-including but not limited to-voluntary insurance policies, credit union deductions, Section 457 (deferred compensation) contributions, Roth IRA contributions, union dues, flex medical and flex dependent contributions, and garnishments (IRS, child support, court orders).

(9) Pension plan contributions.

(10) Memberships, dues, subscriptions, publications.

- (11) Advertisements for legal, promotional or informative matters.
- (12) Abstracts of titles or appraisals for real property.
- (13) Court reporting services.
- (14) Expert witnesses.
- (15) Bank analysis fees.
- (16) Merchant fees (credit card processing charges).
- (17) Job related seminars, training and related travel and per diem expenses.
- (18) Tuition reimbursements in accordance with town employment regulations.
- (19) Vehicle tag, title and registration fees.
- (21) Licensed computer software and services where competition is not reasonably available.
- (22) Licensed computer software maintenance renewals.
- (23) Authorized payment of donations or scholarships.
- (24) Payments to service providers needed to maintain village operations such as plumbers, electricians, temporary employment services, computer consultants or air conditioning repair services (this does not include the replacement of capital equipment).
- (27) Goods and/or services provided by governmental agencies.
- (28) Services required by proprietary ownership such as FPL and original equipment manufacturers (OEMs).

(12) *Best interest acquisitions.* The town may acquire or contract for non-real property, goods or services without utilizing a sealed competitive method or obtaining written quotes, as set forth in this code or the town's purchasing policy, where the town commission declares by at least a four-fifths (4/5) affirmative vote that the sealed competitive method or obtaining written quotes is not in the best interest of the town. The town commission shall make specific factual findings that support its determination, and such contracts shall be placed on the regular town commission agenda. This provision may not be used when the purchasing or procurement method is prescribed by state law, such as F.S. § 287.055 or 255.20, as amended.

Sec. 2-218. – Direct acquisitions.

(a) The town manager may approve all contracts for the acquisition of goods and services in an amount up to and including \$10,000.00 provided the funds are included in an adopted budget.

(b) *Acquisitions greater than ten thousand dollars (\$10,000.00).* Acquisitions of or contracts for non-real property, goods or services where the expenditure by the town (including expenditures during renewal periods, but not expenditures relating to change orders) is estimated to be greater than ten thousand dollars (\$10,000.00) shall be subject to prior approval by the town commission except for emergency acquisitions, which are subject to subsequent ratification by the town commission pursuant to subsection 2-217(b)(3).

(c) *Multiple acquisitions from a vendor exceeding ten thousand dollars (\$10,000.00) in any fiscal year.* Acquisitions of or contracts for non-real property, goods or services from the same vendor exceeding the aggregate sum of ten thousand dollars (\$10,000.00), per project, shall not

be permitted from the same vendor during the course of any fiscal year, unless the acquisition is first approved by the town commission.

Sec. 2-219. - Cone of silence.

Any person participating in a competitive solicitation issued by the town shall comply with section 2-355 of the Palm Beach County Code of Ordinances, as amended.

Section 3 – Codification: The ordinance shall be codified in the Code of Ordinances of the Town of Ocean Ridge, Florida.

Section 4 - Repeal of Conflicting Ordinances: All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5 - Severability: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 6 - Effective Date: This Ordinance shall become effective immediately upon adoption.

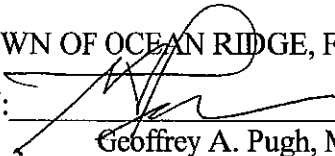
FIRST READING this 6th day of February, 2017.

SECOND AND FINAL READING this 6th day of March, 2017.

Commissioner Bonfiglio offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner Coz and upon being put to a vote, the vote was as follows:

GEOFFREY A. PUGH, Mayor	<u>Aye</u>
JAMES BONFIGLIO, Vice-Mayor	<u>Aye</u>
GAIL ADAMS AASKOV, Commissioner	<u>Aye</u>
STEVE COZ, Commissioner	<u>Aye</u>

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 6th day of March, 2017.

TOWN OF OCEAN RIDGE, FLORIDA
BY: 
Geoffrey A. Pugh, Mayor

ATTEST: 
Tracey L. Stevens, Town Clerk