

M E M O R A N D U M

TO: Tom Harmer, Town Manager

From: Carolyn Brown, Director, Support Services
Kari Kennedy, Procurement Manager

Report Date: September 15, 2022

Meeting Date: October 3, 2022

Subject: Ordinance 2022-07, Amending Chapter 38, Purchasing Procedures

Recommended Action

Pass Ordinance 2022-07 on first reading and forward it to the November 7, 2022, Regular Meeting for second reading, public hearing, and adoption.

Background

Article III, Section 4(i), of the Town Charter, designates the Town Manager to serve as purchasing agent for the Town. In staff's on-going efforts to provide consistency throughout the Town Code, maintain compliance with statutory requirements, remove obsolete regulations, and provide for consistency with procurement practices currently in use, staff, in conjunction with the Town Attorney's office, has completed a comprehensive review of Chapter 38, Purchasing Procedures, of the Town Code.

Chapter 38 of the Town Code complies with the requirements pursuant to Chapter 287, Florida Statutes, as follows:

“fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism, and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured.”

It has been approximately seven years since changes were made to Chapter 38 of Town Code. The following outlines the proposed amendments to bring the Code up to current standards/statutory requirements. Minor revisions, including, but not limited to, capitalizations, renumbering, and reorganization of various sections, have largely been omitted from this list. In addition, throughout the document, the Town's Purchasing Manager position as designated under Chapter 38, is being retitled as the Town's Procurement Manager, and in multiple places the word “purchasing” has been replaced with “procurement.” If there are non-substantive (N/S) changes to a particular section, the list below will reflect N/S.

Proposed revisions include:

- Chapter Title – Changed from Purchasing to Procurement Procedures.
- Section 38.01 – Purpose – Inclusion of language to enhance description.
- Section 38.02 – Definitions - Inclusion of additional definitions including Contract and Signature; updated Department names; clarified public notice requirements; expanded “Procurement/purchase” definition.

- Section 38.03 – Waiver of Provisions – Addition of language referencing the Commissions ability to waive provisions subject to provisions outlined in the Town Charter.
- Section 38.10 – Authority of Town Manager – Addition of language referencing the Town Charter that the Town Manager serves as the Purchasing agent for the Town.
- Section 38.11 – Authority of the Purchasing Manager – Clarified Procurement Manager reporting requirements.
- Section 38.12 – Delegation of Authority by the Town Manager – Provided language for additional delegation of duties, if needed.
- Section 38.13 – Duties of the Purchasing Manager – Provided authority for adoption of internal procedures/supplemental processes.
- Sections 38.14 - Encumbrance of Funds; 38.15 - Department Head Purchasing Authority; and 38.16 - Public Access to Procurement Information - N/S.
- Section 38.17 – Application and Exclusions – Revisions and clarification of additional exclusions when the Chapter does not apply to subparagraph (B); clarifying language to subparagraph (D); revision of language in subparagraphs (G) and (H); and addition of new exclusions outlined as subparagraphs (K) through (P).
- Section 38.18 – Procedure for Securing Quotes and Bids – Revision and clarification of procedures, changed / increased threshold requirements, and modified written quote requirements from six to three.
- Section 38.19 – Bidder Qualifications – Deleted subsection (B), Prequalification of general contractors, as this is an outdated practice.
- Section 38.20 – Bid and Contract Security – Revision and clarification of procedures adding reference to Florida Statute requirements.
- Section 38.21 – Source Selection – N/S.
- Section 38.22 – Competitive Sealed Bidding – Revision and clarification of procedures for public notice of bid invitations referencing Florida Statute requirements.
- Section 38.23 – Competitive Sealed Proposal Process – Revision and clarification of procedures in subsection (H).
- Section 38.24 – Sole Source Purchases – Changed Sole Source to Single Source. Revision and clarification of procedures/language for single-source purchases.
- Section 38.25 – Emergency Purchases – N/S.
- Section 38.26 – Contracting for Designated Professional Services - Revision to language in subsections (B), (I), (L), (M) and (O). (Note: Subsection M moved to Section 38.17).
- Section 38.27 – Procedures for Award of Design-Build Contracts – Revision and clarification to subsection (C).

- Section 38.30 – Retention of Procurement Records - N/S.
- Section 38.31 – Suspension and Debarment – Revision and clarification of procedures in subsection (B) and deletion of language in subsection (C).
- Section 38.32 – Protest Procedures – Revision and clarification of procedures and language and increased filing fee cost from \$2500 to \$5000.
- Section 38.33 – Inspection and Test – N/S.
- Section 38.37 – Procedures – Revision and clarification of language; modification to timeframe for submittal of appraisals (subsection {B}{2}) from three to ten days.
- Subchapter Title 38, Purchasing Manual – Modified title and added descriptive language. Changed duration time for appraisals to B(2).
- Section 38.38 – Procurement manual changes – Revision and clarification of procedures.

Adoption of Ordinance 2022-07 will update Chapter 38 of the Town Code to provide consistency with other Town Code and statutory provisions and provide for consistency with procurement practices currently in use.

Staff Recommendation

Pass Ordinance 2022-07 on first reading and forward it to the November 7, 2022, Regular Meeting for second reading, public hearing, and adoption.

Attachments (Available in Town Clerk’s Office)

- A. Ordinance 2022-07 (version with edits)
- B. Ordinance 2022-07 (clean version with edits included)
- C. PowerPoint Presentation

End of Agenda Item