

Town of Emerald Isle
**PURCHASING AND
CONTRACTING POLICY**

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INTRODUCTION

The Emerald Isle Purchasing Policy is intended to serve as a guide for all departments in obtaining supplies, materials, equipment, apparatus, and services. Emerald Isle's purchasing program is based on the principle of competitive bidding. When it is not sought or obtained, the reason must be valid and be documented. In public purchasing and contracting, utmost fairness is required in expending public funds. The practice of favoritism whether to the user department or to the seller is not permissible. Purchasing's primary obligation in a governmental environment is commitment and adherence to fair and open competition.

The Town's purchasing operations are governed by North Carolina General Statutes and, therefore, must seek competitive offers from qualified suppliers unless the items can be obtained through existing contracts established by North Carolina State Purchasing and Contracts Division. Emerald Isle participates in North Carolina State Contracts whenever feasible and cost-effective.

Local government purchasing is recommended by the North Carolina Department of State Treasurer to be a centralized function in order to ensure legal compliance and to obtain the most competitive pricing. The Finance Officer is responsible for issuing all purchase orders for supplies, services, materials, and equipment. Emerald Isle does not currently have a full-time purchasing agent, and must rely on departmental staff to identify their needs, obtain competitive pricing, and follow sound and legal purchasing practices. The Finance Officer and the Town Manager will provide assistance to department heads as needed. Departmental needs should be communicated to the Finance Officer via a purchase requisition on a timely basis and should document the department's efforts to obtain the correct items at the best possible price.

It is recommended that the following steps be taken:

- (1) All department heads should read and understand this policy;
- (2) All employees involved in the purchasing process should become thoroughly familiar with the procedures outlined in this policy;
- (3) This policy should be kept where it is easily accessible for reference;
- (4) Comments concerning this policy or clarification of its contents should be directed to the Finance Officer or Town Manager.

ARTICLE I

GENERAL RULES AND PROCEDURES FOR PURCHASING

Section 1. Purchases Under 1,000

Departments are authorized to purchase small items less than \$1,000 without a purchase order. However, departments must submit a copy of the invoice or other type receipt to the Finance Officer to request payment. When this procedure is used, the department must submit the request for payment to the Finance Officer within ten (10) calendar days following receipt, or may be personally liable for the expense.

Individual purchases for items, supplies, and services that are less than \$1,000 are not required to have price quotes from multiple vendors, and the vendor may be selected based on the department's general knowledge of vendor availability, quality, and pricing in order to complete purchasing transactions in a timely and efficient manner.

Section 2. Purchases Greater Than \$1,000

All purchases of \$1,000 or more (individually or in total) must be made with the use of a purchase order issued by the Finance Officer from a purchase requisition. The department wishing to make the purchase will prepare a purchase requisition and present it to the Finance Officer.

The department should make a good faith effort to obtain price quotes from three (3) vendors when possible, however, the vendor may be selected based on the department's general knowledge of vendor availability, quality and pricing in order to complete purchasing transactions in a timely and efficient manner.

The Finance Officer shall have the authority to approve all purchase requisitions for purchases up to \$5,000.

The Town Manager shall have the authority to approve all purchase requisitions of \$5,000 to \$90,000. The Town Board of Commissioners must grant approval for all purchases greater than \$90,000.

Section 3. Purchases of \$30,000 +

Expenditure of funds totaling or exceeding \$30,000 will be handled in accordance with the North Carolina General Statutes, specifically the informal bid procedures outlined in NC GS 143-131. The department should make a good faith effort to obtain competition, and three bids are encouraged. Contracts in this range may be awarded even if only one bid is received. If the item can be obtained through State Contract, the informal bid procedures are not necessary.

If deemed to be in the public interest, the Town Board of Commissioners may waive competitive bidding in cases of emergency, when performance or price competition is not available, when standardization is the overriding consideration, or when the item is available through the "Piggyback" option. In cases when the waiver of competitive bidding is anticipated, all reasons for taking such action must be documented.

Section 5. No Purchase Order Required

The following purchases do not require a purchase order:

- (A) Advertising;
- (B) Dues;
- (C) Electricity;
- (D) Equipment Rent – (Short-term under 30 days only);
- (E) Insurance;
- (F) Natural Gas;
- (G) On-going utility charges;
- (H) Postage;
- (I) Telephone;
- (J) Travel arrangements and accommodations.

A purchase order should be used for the above items only if the department has a need for tracking historical data. If a purchase order is requested for an item or service that requires a contract, a copy of the completed contract must be attached to the purchase requisition.

ARTICLE II

SPECIFICATIONS

Section 1. Preparation of Specifications

All specifications should include a clear, concise and accurate statement of the requirements to be satisfied by a product, material, or service. The specifications should also indicate, when appropriate, the procedure to be followed to determine whether the requirements are satisfied. A purchasing specification can be construed as a restriction; that is, it both includes and eliminates by setting limits on what is acceptable, but it cannot be unduly restrictive. Usually, more than one (1) make, brand, or model is satisfactory for a need, and specifications should preserve competition among different makes, brands, or models that are acceptable.

Section 2. Town Manager Approval

The Town Manager must approve all specifications for items greater than \$50,000. Once specifications have been developed for a particular item, they will be reviewed to insure that they are not “vendor restrictive” and that the specifications effectively balance the need against the available budget.

ARTICLE III

PURCHASE REQUISITIONS

Section 1. Requisitions

All supplies, equipment, etc., required by town departments are to be requisitioned through the Finance Officer. The department head must sign all requisitions. It is important that the departments provide the necessary information on the purchase requisition to enable the Finance Officer to generate a purchase order.

Section 2. Merchandise Quality

Public funds are not appropriated to provide “deluxe” or luxurious levels of quality. As a general rule, specifications are developed for standard grades of merchandise which represent a balance between quality and price, but that are consistent with providing adequate and satisfactory levels of service. In preparing requisitions, it is important to draw specifications or otherwise designate requirements with emphasis on performance, function, utility, and economy. Requisitions that call for grades or qualities in excess of normal standards, or quantities in excess of normal requirements, will be subject to review, and may be returned.

Section 3. Processing Time

Requisitions should be submitted far enough in advance of the date needed to enable the Finance Officer to check the competitive pricing provided by requesting departments and insure the goods are received by the time required. Requisitions must include sufficient and correct information. If information is not adequate, delays will be necessary either to obtain missing information or for clarification. Once a requisition is complete, a purchase order will be issued within three (3) business days.

Section 4. Preparation of a Purchase Requisition

The requisition should be sent to the Finance Officer when complete. All requisitions must contain the following information or the Finance Officer or Town Manager will return them to the sending department:

- (A) Account Code – this includes the fund code, department code and object code;
- (B) Date of Request;
- (C) Requesting Employee Signature;

- (D) Department Head Signature;
- (E) Complete item description including quantity – stock or item number, correct name of item if known, color, any specifications and the quantity and unit of the item requested; i.e.

<u>Quantity</u>	<u>Unit</u>
100	Each – EA.
5	Cases – CS.
6	Dozen – DZ.

- (F) Suggested vendors – the department’s choice should be listed under “Vendor A”. The requesting department should make every effort to provide two (2) or three (3) vendors for the requested item(s). The vendor’s complete mailing address will be included on the form.

ARTICLE IV

PURCHASE ORDERS

Section 1. Purpose of Purchase Orders

The purchase order serves as authorization to a vendor to furnish a product or service to the Town at the prices shown thereon. It also serves as the basis for encumbering department funds and assures the supplier that funds are available for the purchase. As a media for encumbering funds, it represents a means for providing management with a much more accurate and complete statement of financial position and is instrumental in preventing departments from overspending their budgets. If there are not sufficient funds in the line item, the order cannot be placed until a budget amendment has been prepared and approved to provide necessary funds.

Section 2. Purchase Order Preparation

All purchase orders are to be prepared by the Finance Officer. Any purchase made that is not in accordance with the procedures outlined in this policy will require approval by the Town Manager. **If approval is not obtained, the employee may be personally liable for the payment.**

Section 3. Changes to Purchase Orders

If the department head fails to notify the Finance Officer of any changes or additions to the purchase order, only the original cost of the purchase order will be paid. Any increase in the price must be fully justified by the department head and approved by the Finance Officer, or for requisitions greater than \$5,000, the Town Manager.

ARTICLE V

BLANKET PURCHASE ORDERS

Section 1. Blanket Purchase Order Preparation

This procedure is to provide an additional purchasing tool for obtaining items when the amount of paperwork involved or the nature of the purchase makes it impractical to use regular purchasing procedures. The Finance Officer and departments shall work together to use this procedure when it appears to be in the Town's best interest. The procedure for use of a blanket purchase order is as follows:

- (A) The department must make a request to the Finance Officer (by requisition) giving the following information:
 - (1) Account Code – this includes the fund code, department code and object code;
 - (2) Date;
 - (3) Requesting Employee Signature;
 - (4) Department Head Signature;
 - (5) Complete item description including quantity – stock or item number, correct name of item if known, color, any specifications and the quantity and unit of the item requested; i.e.

<u>Quantity</u>	<u>Unit</u>
100	Each – EA.
5	Cases – CS.
6	Dozen – DZ.

- (6) Period of the request (Example: July 1, 2003 through June 30, 2004)
 - (7) Maximum amount anticipated to be purchased in a month.
 - (8) Suggested vendors – the department's choice should be listed under "Vendor A". The requesting department should make every effort to provide two (2) or three (3) vendors for the requested item(s). The vendor's complete mailing address will be included on the form.
- (B) The Finance Officer will review and must approve requisitions for blanket purchase orders.
 - (C) Maximum monthly expenditures will be provided on the blanket purchase order. Such maximums will be established with the individual department.
 - (D) Requisitions for blanket purchase orders will be reviewed and approved initially, and will be valid for the requested time period or the remainder of the fiscal year, whichever occurs

first. An example of this would be a blanket purchase order issued for twelve (12) months for the period July 1, 2003 through June 30, 2004 for the purchase of office supplies. The Finance Officer will automatically generate a monthly purchase order reflecting the maximum monthly amount established.

- (E) The maximum amount of the monthly purchase order will be encumbered until the encumbrance is liquidated. Departments are not to exceed the total amount in funds encumbered for the period of the purchase order. It is the responsibility of each department to insure that purchases made against all blanket purchase orders do not exceed the total dollar amount of the purchase order. Each department will monitor purchases against purchase orders for their department to insure compliance.
- (F) The vendor will invoice the Town at the end of each month.
- (G) The total amount specified on the purchase order shall not be exceeded, unless an amendment to the blanket purchase order is approved by the Finance Officer.
- (H) Blanket purchase orders are intended for items that the vendor has in stock only. Items that the vendor must order should be handled through regular purchasing procedures. This eliminates paying shipping costs or special order costs from the vendor.
- (I) No blanket purchase orders will be issued for items that can be purchased more effectively and economically through normal purchasing procedures.

ARTICLE VI

SMALL PURCHASES (PETTY CASH)

Section 1. Use of Petty Cash

Petty cash should be used to obtain small quantities not available under existing contracts, and/or to buy very limited quantities when the value is less than \$25.

Section 2. Examples

Examples of acceptable petty cash purchases include the following:

- (A) Meeting supplies;
- (B) Special event supplies;
- (C) Office supplies;

- (D) Other small items.

ARTICLE VII

EMERGENCY PURCHASES

Section 1. Emergency Defined

According to the North Carolina General Statutes, an emergency is defined as an immediate and present condition involving the health and safety of people and/or their property and not one that may or may not arise in the future or one that is apt to arise or may be expected to arise.

Section 2. Emergency Purchase Procedures

When an emergency does arise, and can be rectified only by immediate purchase or rental of equipment, supplies, materials, or services, the following procedures must be followed:

- (A) Secure a purchase order from the Finance Officer by telephone. If the emergency occurs when offices are closed, the department should proceed to acquire only the materials or services necessary to meet the emergency;
- (B) On the next working day, the department head must submit a requisition to the Finance Officer with the following information:
 - (1) Nature of the Emergency;
 - (2) Itemized list of the purchases made;
 - (3) Cost per item;
 - (4) Vendor's name and address;
 - (5) Account number;
 - (6) Authorizing signature of the Department Head;
 - (7) Purchase Order Number (if one was given).
- (C) The Finance Officer will prepare a confirming purchase order and send the requesting department a copy of the purchase order. The employee receiving the requested items should verify that the purchase order information is correct. The employee should also make sure that the vendor knows who to invoice and the correct address for billing. All invoices should be made out to the appropriate Town department.

No emergency purchase orders will be issued unless it is an emergency as described above.

ARTICLE VIII

PURCHASE OF VEHICLES AND OTHER LARGE EQUIPMENT

Section 1. State Contracts

The purchase and acquisition of vehicles and other large equipment shall be coordinated by the department head and the Finance Officer and approved by the Town Manager. The Town of Emerald Isle participates in the North Carolina State Contract for the purchase of vehicles and other large equipment when feasible and cost effective. Due to the time required to evaluate proposals by the State, the vehicle contracts usually do not become available until the Fall of each year. The State Contract usually remains open until the following Spring.

All vehicles and other large equipment purchases, including those purchased through State Contract, shall require a purchase requisition and purchase order. Purchase requisitions for vehicles purchased through State Contract are not required to include documentation of competitive price quotes.

Section 2. "Piggyback" Purchases

In 1997, the General Assembly enacted legislation making several changes in the competitive bidding laws that apply to local government contracts. This law created a new exception, commonly referred to as the "piggyback" exception.

The Town of Emerald Isle will utilize the "piggyback" exception for the purchase of vehicles and other large equipment that are required to utilize the formal bid process (\$90,000 or greater in value) when feasible and cost-effective. The "piggyback" exception allows North Carolina local governments to purchase apparatus, supplies, materials, or equipment from any person or entity that has, within the previous 12 months, after having completed a public, formal bid process, contracted to furnish the apparatus, supplies, materials, or equipment to:

- (1) The United States of America or any federal agency;
- (2) The State of North Carolina or any agency or political subdivision of the State; or
- (3) Any other state or any agency or political subdivision of that state, if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency.

Any purchase made with the "piggyback" exception must be approved by the Town Board of Commissioners at a regularly scheduled meeting no fewer than 10 days after publication of notice, in a newspaper of general circulation in the area, that a waiver of the formal bid procedure and the use of the "piggyback" exception will be considered. The public notice will contain the following information:

- (1) a general description of the items(s) to be purchased and the anticipated quantity
- (2) the identity of the supplier;

(3) the city, state, or other agency with whom the supplier has contracted within the past 12 months and the date that contract was entered into; and

(4) the date of the regular board meeting at which the Town Board of Commissioners will consider the waiver of bidding.

(5) the name and phone number of a person within the Town to contact for more information.

A sample notice might read as follows:

“The Emerald Isle Board of Commissioners will consider a waiver of competitive bidding under G.S. 143-129(g) at its regular meeting on November 18, 2003 for the purchase of two front end loaders from Heavy Duty Equipment, Inc., the seller having agreed to extend to Emerald Isle the same or more favorable prices and terms set forth in its contract with the Town of Atlantic Beach entered into on June 10, 2003. For additional information, contact Town Employee at 252-354-3424 or email at townemployee@emeraldisle-nc.org. ”

Section 3. Vehicle Title Work

The Finance Officer and the Town Clerk will handle all necessary forms for title work on new vehicles.

ARTICLE IX

MISCELLANEOUS PURCHASING PROVISIONS

Section 1. Cancellation of Purchase Orders

All purchase order cancellations are to be handled by the Finance Officer. If a department desires to cancel a purchase order, the request should be made directly to the Finance Officer. The request should include the reason for cancellation and the appropriate signature. Cancellations can be conducted over the phone provided that the department head is the person who requests the cancellation. The Finance Officer and/or the department head will notify the vendor of the cancellation and the reason. Outstanding purchase orders will be reviewed periodically and those over six months old will be cancelled.

Section 2. Purchase Returns

To insure proper credit is obtained for items being returned to vendors, it is important that the proper procedures be followed.

- (A) The user department may return supplies to the vendor but should first notify the Finance Officer.

- (B) In all cases the user department should send written notice to the Finance Officer indicating which items are being returned, the date of the return, and the signature of the appropriate employee.

Section 3. Partial Payment Procedures

It shall be the Town's policy to make partial payments whenever partial shipments are made providing the goods are received in proper condition.

Section 4. Payment Procedures

Invoices received by the department receiving the apparatus, goods, supplies, services, etc. shall be thoroughly reviewed by the department head to insure that apparatus, goods, supplies, services, etc. have been received in the correct quantities, in an acceptable condition, and/or completed satisfactorily. The department head shall sign the invoice with a notation indicating that payment is approved and forward the invoice to the Finance Officer for review, approval, and processing. Invoices received by the Finance Officer shall be routed to the appropriate department head for review and approval prior to review, approval, and processing by the Finance Officer.

No invoices shall be processed without signature approval from the department head and Finance Officer.

The following invoices do not need approval by the department head, and may be approved by the Finance Officer only:

- A) Electricity;
- B) Insurance;
- C) Natural Gas;
- D) On-going utility charges;
- E) Postage;
- F) Telephone;
- G) Other central administrative invoices.

Section 5. Federal and State Funds

Contracts funded with Federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). When procuring using Federal funds, the Town will follow the policies which are set forth in this document and applicable State law, except to the extent that the Federal requirements are more restrictive than the Town policies and State Law. The most restrictive procurement guidelines of the Town, State, and Federal guidelines will be adhered to.

When purchases of equipment, supplies and materials are to be made with funds obtained from federal and state government, the **exact source** of funding must be noted on the requisition form. If a purchase is made with federal or state government funds, and upon auditing it is determined that the purchase was not in compliance with federal or state regulations, the Town may have to repay the granting government for the amount of the purchase.

Section 6. Charge Accounts

Charge accounts may not be established without the approval of the Finance Officer. The Finance Officer must sign all applications.

Section 7. Credit Cards

Town-issued credit cards may be utilized to expedite purchases and/or provide greater ease in purchasing. The use of Town-issued credit cards for purchases does not eliminate the need to follow purchasing procedures outlined in this policy, and the use of competitive pricing, purchase requisitions, and purchase orders is still required.

The Finance Officer shall retain all Town-issued credit cards and distribute these cards for use on a case-by-case basis when requested, unless the permanent issuance of a credit card is authorized by the Town Manager. Town personnel shall request use of a Town-issued credit card through the Finance Officer, and town personnel shall be required to sign-out the credit card before usage. The credit card shall be returned to the Finance Officer after use, along with receipts for all transactions completed using the credit card.

Town personnel placing credit card orders via telephone or the internet, thus requiring only the credit card number, must still request the use of the credit card through the Finance Officer. Town personnel shall be required to sign-out the credit card in the same manner as if the actual card is used. Orders placed using the Town credit card via telephone or the internet shall be documented with an order confirmation obtained via facsimile transmission or by printing the order confirmation from the internet. The order confirmation shall be submitted to the Finance Officer after the order has been placed.

Section 8. Employee Private Gain Prohibited

Purchases from or through employees of the Town or purchases from or through companies in which Town employees have financial interest, either directly or indirectly, is not permitted. The purchasing power of the Town shall not be used for private advantage or gain.

(A) Conflicts of Interest - In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the Town may participate directly or indirectly in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

- a. the employee, officer, or agent involved in the selection, award, or administration of a contract;
- b. any member of his or her immediate family;

- c. his or her partner; or
 - d. an organization which employs or is about to employ any of these parties.
- (B) Gifts - In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of the Town are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value which fall into one of the following categories may be accepted:
- a. promotional items;
 - b. honorariums for participation in meetings; or
 - c. meals furnished at banquets.
- (C) Violations- Any officer, employee, or agent who with an actual, apparent, or potential conflict of interest; or with an acceptance of a gift or favor of nominal value shall report the occurrence to his or her immediate supervisor. Conflicts of interest must be disclosed in writing to the Federal grant agency if applicable. Employees in violation of the prohibition of private gain as described above will be subject to discipline up to and including termination.

ARTICLE X

SURPLUS PROPERTY

Section 1. Finance Officer and Town Clerk Notified

Department heads are to notify the Finance Officer and the Town Clerk of surplus property that needs to be disposed of. Departments may transfer property to other departments provided that the Finance Officer and the Town Clerk have been notified and the Town Manager has approved the transfer.

Section 2. Sale of Personal Property (Less than \$30,000)

The Town Manager is authorized to dispose of any personal property owned by the Town of Emerald Isle, whenever he/she determines, in his/her discretion, if:

- (A) The item or group has a fair market value of less than \$30,000;
- (B) The property is no longer necessary for the conduct of public business; and,
- (C) Sound property management principles and financial consideration indicate that the interests of the Town would best be served by disposing of the property.

The Town Manager may dispose of any such surplus personal property by any means which are judged to yield the highest attainable sale price in money or other consideration, in accordance with North Carolina General Statutes.

The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the Town if greater value may be obtained in that manner, and the Town Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager may retain the property, obtain any reasonable salvage value, or cause it to be disposed of as waste material.

The Town Manager shall, on or before the first day of February, report in writing to the Town Board of Commissioners on any property disposed of under these provisions from January 1 through December 31 of the previous year. The written report shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for sale or exchange since the last such report was submitted.

Section 3. Sale of Real Property or Personal Property (Greater than \$30,000)

The Town Board of Commissioners must authorize the disposal of any real property or surplus personal property valued at greater than \$30,000. Private negotiation and sale may be used for personal property valued at less than \$30,000 for any one item or group of similar items. Real property, of any value, and personal property valued at \$30,000 or more for any one item or group of similar items may be sold through sealed bid, negotiated offer and upset bid, and public auction procedures, as outlined in the North Carolina General Statutes.

Section 4. Employee Purchases / Sales

The Town of Emerald Isle will not purchase items and or services from its employees. Likewise, when the Town of Emerald Isle has surplus property to be sold, the practice of selling such property to employees is prohibited. This shall include selling such property by private negotiation and sale or sealed bids, but this shall not apply to property that is sold during a public auction.

ARTICLE XI

CONTRACTS FOR SERVICES

Section 1. Establishment of Contracts for Services

Contracts for services may include, but are not limited to maintenance contracts, construction contracts, repair contracts, service contracts, professional consulting contracts, etc. The need for such contracts is based upon the requirements of the department and/or project, and must have the approval of the Town Manager or the Town Board of Commissioners.

Section 2. Authorizing Authority

The Town Manager is authorized to sign contracts committing Town funds for any purposes, provided the dollar amount of the contract does not exceed \$30,000. Contracts greater than \$30,000 must be authorized by the Town Board of Commissioners. Any contract that pledges the faith and credit of the Town, in any form is neither acceptable nor permissible unless authorized by the Town Manager or the

Town Board of Commissioners. The original copy of the executed contract must be filed with the Finance Officer and Town Clerk.

The Town Manager is authorized to amend contracts, provided the dollar amount of the contract amendment does not exceed \$20,000. Contract amendments greater than \$20,000 must be authorized by the Town Board of Commissioners.

Section 3. Real Property

All leases and/or contracts for real property (purchase, lease, or rental) shall be negotiated through the Town Manager and must be approved by the Town Board of Commissioners.

Section 4. Proof of Liability and Workers Compensation Insurance

All contractors performing work for the Town with a dollar value greater than \$1,000 shall be required to submit documentation of adequate liability and workers compensation insurance coverage. Such documentation shall be kept on file in the office of the Town Clerk.

ARTICLE XII

COMPETITIVE BIDDING

Section 1. Finance Officer / Department Head Responsibility

In preparing and issuing bid solicitations and requests for proposals, and in issuing contract and purchase orders, the Finance Officer and department heads are authorized to employ such terms and conditions as they deem advantageous and which are not inconsistent with the North Carolina General Statutes and these rules and regulations.

Section 2. Prospective Bidders

Town departments will maintain a file of prospective bidders on various categories of materials, equipment, and services. Prospective bidders may be included on or removed from this list after taking into consideration financial standing and responsibility, facilities for production, distribution and services, length of time successfully in business, responsiveness, performance, and other factors deemed pertinent and reasonable.

Section 3. Bid Error Clarifications

If a bid appears to contain an obvious error or when an error is suspected, the circumstances may be investigated, and then may be considered and acted upon under the procedure for reviewing bids and awarding contracts. Any action taken shall not prejudice the rights of the public or the bidders. If bids are submitted substantially in accordance with the invitation but are not entirely clear as to the intent or to some particular fact or other ambiguities, clarification may be sought and accepted; provided that in doing so, changes which would improve the competitive position of a bid are not permitted.

Section 4. Bid Awards

In determining bid awards, responsive bids and proposals will be considered and evaluated as provided by North Carolina General Statutes and by this policy. Non-acceptance of the proposal is not to be construed as outright rejection or that it lacks merit, but that another is deemed more advantageous.

Section 5. Soliciting Bids

The purpose of soliciting bids is both to seek and to obtain competition; the responsibility is dual. If only a single bid or single acceptable bid is received, or if reasonable and available competition is not obtained, the reason shall be ascertained and made a matter of record.

Section 6. Employee Private Gain Prohibited

Purchases from or through employees of the Town or purchases from or through companies in which Town employees have financial interest, either directly or indirectly, is not permitted. The purchasing power of the Town shall not be used for private advantage or gain.

ARTICLE XIII

BIDDING PROCEDURES

Section 1. Informal Bid Procedures

Informal proposals involve the solicitation of informal bids, either verbal or written, from qualified suppliers. Informal proposal procedures must be utilized for purchases of apparatus, supplies, materials, or equipment expected to require an expenditure equal to or greater than \$30,000 but less than \$90,000. Requests for informal proposals do not have to be advertised. Informal bids do not have to be publicly opened. Whenever possible, the department head will solicit three or more proposals from representative suppliers based on previous experience and knowledge of the market. It is not permissible to divide a proposal in order to avoid formal bid requirements in favor of informal bids.

If bids are unsatisfactory or under conditions when effective competition is not available, purchases or leases may be made or services acquired by direct negotiation.

Section 2. Formal Bid Procedures

Formal bid procedures involve solicitation of sealed bids from qualified vendors. Formal bid procedures must be utilized for purchases of apparatus, supplies, materials, or equipment expected to require an expenditure equal to or greater than \$90,000. Requests for formal bids must be legally advertised. Formal bid procedures may be used for purchases totaling less than \$90,000 if deemed advantageous to secure the best pricing. It is the responsibility of the Town Clerk and the department head to open and read bids publicly prior to the award of the contract. The Town Clerk and the department head will also make known to any interested person the names of the bidders, the manufacturers and catalog numbers of the items the bidders have offered, and the prices, delivery schedules, and terms specified in the bids. After the bids

have been opened, they are analyzed and compared with respect to compliance with specifications, quality and suitability of the products, time of delivery, and any other pertinent factors.

During the period of evaluation and prior to the award, possession of the bids and accompanying information is limited to Town personnel directly involved in the project and to those in user agencies who are responsible for participating in the evaluation. Vendor participation, or furnishing information to vendors on the status of bid evaluation, is not permitted.

After award of the contract, the complete bid file with the exception of trade secrets, test information, or similar proprietary information as provided by statute and procedures will be available to any interested person(s).

Section 3. Bids for Construction, Renovation, or Repairs

If a proposal involves construction, renovation, or repairs, the following guidelines apply:

- (A) \$30,000 - \$500,000.
 - (1) Informal bids required
 - (2) Written proposals or quotes

- (B) \$500,000 +
 - (1) Formal bids required
 - (2) Single prime and/or separate prime
 - (3) HVAC, Plumbing, Electrical, General – if the cost of subdivision is less than \$25,000, then it may be incorporated into one of the other subdivisions.
 - (4) A minority business participation goal of 10% is hereby established for all formal bid solicitations for construction, renovation, or repair contracts, consistent with North Carolina General Statutes. It shall be the Town's policy to include all statutorily–required MBE notices and affidavits in all formal bid solicitations for construction, renovation, or repair contracts.

- (C) North Carolina General Statutes exempt the competitive bidding requirements on construction and labor that involves less than \$125,000, or if the total cost of labor on the project does not exceed \$50,000, when the work is to be done by employees and officers of a government agency.

- (D) North Carolina General Statutes require that repairs exceeding \$300,000 for the repair of any building not including major structural change, or \$100,000 for the repair of a public building affecting life safety systems, or \$135,000 for the repair of public buildings when such repairs includes major structural change in framing or foundation support systems, or

\$135,000 for the construction of, or additions to, public buildings be designed by an architect or engineer.

Section 4. Minimum Number of Bids for Public Contracts

No formal bid contract for construction or repairs shall be awarded by the Town Board of Commissioners unless at least three (3) competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor. If at least three (3) competitive bids are not received, bids will be solicited again, and the Town Board of Commissioners will have the option of awarding the contract to the lowest responsible bidder of the second bid solicitation, regardless of the number of bids received.

Section 5. Rejection of Bids

In requesting proposals any and all offers received may be rejected in whole or in part. The Town of Emerald Isle will accept and make award to the lowest responsible bidder. Basis for rejection may include:

- (A) The proposal being deemed unsatisfactory as to quantity, quality, delivery, price or service offered;
- (B) The proposal not complying with the specifications or with the intent of the proposed contract;
- (C) Lack of competitiveness, by reason of collusion or otherwise, or knowledge that reasonably available competition was not received;
- (D) Errors in specifications or indication that revision would be to the Town's advantage;
- (E) Cancellation of or changes in the intended project or other determination that the proposed requirement is no longer needed;
- (F) Limitation or lack of available funds;
- (G) Circumstances which prevent determination of the lowest responsible or most advantageous bid;
- (H) A determination that rejection would be for the best interest of the Town.

ARTICLE XIV

ARCHITECTURAL / ENGINEERING / SURVEYING SERVICES

Section 1. Procurement of Professional Architectural / Engineering / Surveying Services

Although professional services are not subject to competitive bidding requirements, North Carolina General Statutes (NCGS 143-64.31) and include special requirements for the procurement of architectural,

engineering, and surveying services, among other services. The Town of Emerald Isle will select architectural, engineering, and surveying firms for Town projects based on the firm's qualifications for the project, and will attempt to negotiate an acceptable contract with the best qualified firm. The Town of Emerald Isle will not award contracts for architectural, engineering, and surveying services on the basis of price alone.

Section 2. Architectural / Engineering / Surveying Contracts Greater than \$50,000

All contracts greater than \$30,000 must be authorized by the Town Board of Commissioners. The Town of Emerald Isle shall follow the process outlined below to identify the best qualified firm for the project when contracts are anticipated in excess of \$50,000:

- (1) The need for architectural / engineering / surveying services shall be announced by the Town of Emerald Isle via direct notice, advertisement, posting on the Town's web site, or other acceptable means.
- (2) The Town will solicit statements of qualifications from interested firms. These statements, personal interviews, and references from similar clients shall be the basis of determining the best qualified firm for the project.
- (3) The Town will then attempt to negotiate a mutually acceptable contract with the best qualified firm. If the Town is unable to negotiate a mutually acceptable contract with the best qualified firm, the Town will commence negotiations with the next best qualified firm.

Section 3. Architectural / Engineering / Surveying Contracts Less than \$50,000

The Town Manager is authorized to enter into architectural, engineering, and surveying contracts less than \$30,000. Contracts greater than this amount must be authorized by the Town Board of Commissioners. The Town Board of Commissioners exempts the Town from the statutory requirements (NCGS 143-64.32) for contracts less than \$50,000, and the Town Manager is authorized to select a qualified architectural, engineering, or surveying firm for any such contract upon a determination that the selected firm can perform the design work necessary for the project.

ARTICLE XV

FORMS

Purchase Requisition

Request for Check

Budget Transfer