

TOWN OF HIDEOUT
ORDINANCE #2024-O-09

AN ORDINANCE AMENDING SECTIONS OF THE HIDEOUT CODE UPDATING
SECTIONS IN CHAPTER 1.16 PURCHASING

WHEREAS, Town Council wishes to update its code related to its purchasing chapter;

WHEREAS, the Council desires to maintain the most efficient process possible for procurement of services, supplies and equipment while balancing oversight by the administrator, the mayor or the council; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens to update the policy regarding procurement quotation requirements, competitive bid requirements, and removing council approval for requests for proposals and competitive bid openings;

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens to update the policy regarding procurement of services, supplies and equipment.

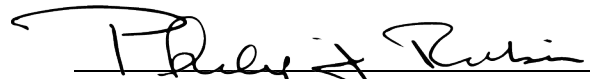
NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF HIDEOUT, UTAH, THAT:

SECTION I: Amendment. Chapter 1.16 Purchasing is hereby amended as redlined in Exhibit A.

SECTION II: Effective Date. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED by the Town Council of Hideout, Utah, this 8th day of August in the year 2024.

TOWN OF HIDEOUT


Phil Rubin, Mayor

ATTEST:

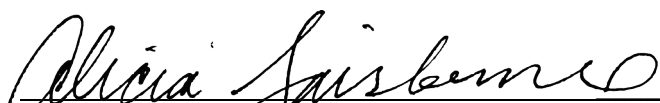

Alicia Fairbourne, Recorder for the Town of Hideout



Exhibit A

1.16 PURCHASING

1.16.010 DEFINITIONS - PURCHASING

Unless the context requires otherwise, the terms as used in this chapter, or in the rules and regulations adopted pursuant to this chapter, shall have the following meaning:

ADEQUATE APPROPRIATION BALANCES: Sufficient fund balance which must exist in the line item appropriation of the account number against which the purchase order is charged

BIDDING: Procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipments and contractual services.

CONTRACTUAL SERVICES: Forecasts of future requirements of supplies, equipment of contractual services submitted by town departments upon request of the mayor or his designee.

LOCAL BIDDER: A firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by or pays sales to, the town.

PROFESSIONAL SERVICES : Professional and other skilled services such as auditing, architecture, engineering, surveying, appraisals, legal service, or counseling, sought or obtained from sources other than regular city employees.

PUBLIC PROPERTY: Any item of real or personal property owned by the town.

RESPONSIBLE BID: An offer, submitted by a responsible bidder, to furnish supplies, equipment or contractual services in conformity with the specifications, delivery terms, conditions and other requirements included in the invitation for bids.

RESPONSIBLE BIDDER: A bidder who submits a responsible bid; a bidder who has furnished, when requested, information and data to prove that his financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of supplies, equipment or contractual services on which he bids; and a bidder who has not violated or attempted to violate any provision of this chapter.

SUPPLIES, MATERIALS: Any and all articles or things which shall be furnished to or used by any town department.

TOWN PURCHASE ORDERS: Official documents used in committing town funds toward the purchase of supplies, equipment and contractual services.

TOWN REQUISITIONS: Standard forms used by departments providing detailed information as to quantity, description, estimated price, recommended supplier and signature authorization for requested purchases.

1.16.020 FINANCE OFFICER

The mayor is hereby appointed the finance officer of the town, and is authorized to exercise the powers conferred upon such finance officer as specified in Utah Code Annotated, as amended, as follows:

1. Authority: The mayor is hereby authorized to:
 1. Approve any payroll checks prepared for an authorized town employee hired in accordance with personnel policies established by town ordinance or resolution. The amount paid to any such authorized employee shall also be in agreement to be specific salary assigned to such employee pursuant to a salary schedule adopted by the governing body or a salary amount assigned by ordinance of the town council.
 2. Give final approval to all claims submitted for the payment of routine expenditures, such as utility bills, payroll related expenses, supplies and materials, which were purchased according to authorized purchasing procedures established by ordinance or resolution.
 3. Give final approval to all claims submitted for capital purchases which were made pursuant to established purchasing procedures, referenced in the budget document and approved by an appropriate resolution adopted for the current fiscal year budget.
2. Restrictions: The above approval authority delegated to the mayor is hereby subject to the following restrictions:
 1. No claim may be approved by the mayor which is not within the duly and legally adopted budget.
 2. No claim may be approved which was not made in accordance with personnel and purchasing procedures established by ordinance or resolution.
3. Verified Claims: The above authorization shall not prevent the governing body from approving all or part of a list of verified claims, including a specific claim in an amount in excess of the stated maximum, where certified by the finance officer.
4. Pre-audit Required: The town clerk shall pre-audit all claims pursuant to state statute requirements and shall not disburse any payments without appropriate approval. Procedures shall be established whereby documented approval is obtained as authorized by this chapter.

1.16.030 REQUISITIONS AND ESTIMATES

All persons responsible for a department in the town shall file with the town clerk, detailed requisitions or estimates of their requirements in supplies and contractual services in such a manner, at such times and for such future periods as the mayor and/or town council shall prescribe.

1.16.035 PROHIBITION AGAINST SPLITTING OR SUBDIVIDING

No contract or purchase shall be split or subdivided so as to avoid the requirements of this chapter.

1.16.037 NOT TO EXCEED AMOUNT

All contracts shall include a not to exceed amount.

1.16.040 CONTRACT, PURCHASE AND SERVICE APPROVAL REQUIREMENTS

- 1. Contract, Ppurchase or service up to ~~one thousand five hundred dollars (\$1,500.00)~~ five thousand dollars (\$5,000) ~~may shall~~ be authorized and must have the approval of the town clerk.
- 1.2. Contract, purchase or service up to five thousand dollars (\$5,000) shall be authorized and must have the approval of the public works department head.
- 2.3. Contract, purchase or service Purchase of up to ~~five thousand dollars (\$5,000.00)~~ twenty thousand dollars (\$20,000) ~~may shall~~ be authorized and must have the approval of the ~~town engineer or~~ town administrator.
- 3.4. Contract, purchase or servicePurchase up to ~~fifteen thousand dollars (\$15,000.00)~~ thirty-thousand dollars (\$30,000) ~~may shall~~ be authorized and must have the approval of the mayor.
- 4.5. Contract, purchase or service Purchase over ~~fifteen thousand dollars (\$15,000.00)~~ thirty-thousand dollars (\$30,000) ~~may shall~~ be authorized and must have the approval of the town council. Purchases allocated as part of the budget have received Council approval through the budget process.

1.16.045 CHANGE ORDERS.

- A. Change orders may be approved by the person in the amounts indicated above, provided the total contract price, including the change order, is within the original budget amount.
- B. If the Change Order increases the amount so that another level of approval is required, that approval shall be sought.
- C. The Mayor or Designee shall provide a full and complete accounting and description to the Council for any change order or series of change orders with respect to a project that are over \$20,000 , or for competitive bids, 20% of the original amount. If a competitive bid change order, exceeds \$30,000, Council must approve the change order.

1.16.050 COMPETITIVE (SEALED) BID OR QUOTATION REQUIREMENTS

A. Specified

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| <p>Purchase of up to \$1000.00 <u>\$5,000</u></p> | <p>No competitive price quotations are required.</p> |
| <p>Purchase from \$1000.00 to \$10,000.00 <u>\$5,000 to \$30,000</u></p> | <p>Informal price quotations shall be obtained prior to purchase. It shall be the responsibility of each department to obtain said quotations. Quotations shall be recorded on an "Informal competitive price quotation record". At least <u>three (3)</u> quotations should be solicited if possible.</p> |

| | |
|--|---|
| Purchases over \$10,000.00 <u>\$30,000</u> | Formal sealed bids must be obtained prior to purchase. Requests for formal bids shall be submitted to the town clerk. The request must receive town council approval prior to the town clerk sending out notice for "formal invitation to bid" . Sealed bids shall be submitted as designed in the notice with the statement "bid for (item)" on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during the regular business hours for a period of not less than 30 days after the bid opening. |
|--|---|

B. Rejection of Bids: In its discretion, the town council may reject, without cause, any/all bids presented, and re-advertise for bids pursuant to the procedure hereinafter prescribed.

C. Award of Contracts: Except as otherwise provided herein, contracts shall be awarded by the town council to the lowest responsible bidder, except that in the event the Town Council, as part of its review and approval of the town budget, has approved a specific line item appropriation for the supplies or services, the contract may be awarded by the Town Administrator, regardless of amount, as long as the approved line item appropriation is not exceeded. In such event, the Town Administrator shall follow applicable bidding requirements before award of the bid.

D. In determining "lowest responsible bidder", in addition to price, the town council shall consider:

1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
6. The sufficiency of the financial resources and the ability of the contract to provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

D.E. Award To Other Than Lowest Bidder: When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the town clerk as directed by the mayor and filed with the other papers relating to the transaction.

E.F. Tie Bids: If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, the town council shall re-advertise for bids unless the matter is otherwise resolved without controversy.

F.G. Performance Bonds: Before entering a contract, the town council shall have the authority to require a performance bond in such amount as it shall find necessary to protect the best interests of the town. The form and amount of said bond shall be described in the notice inviting bids.

1.16.055 BUILDING IMPROVEMENT OR PUBLIC WORKS PROJECTS AND DESIGN-BUILD SERVICES:

A. Notwithstanding the requirements stated above, if the estimated cost of a building improvement, public works project, or road project exceeds the bid limit (all as defined in UTAH CODE ANN. § 11-39-101, et seq. and UTAH CODE ANN. § 72-6-108 and 109), the City shall request bids as required in UTAH CODE ANN. § 11-39-101, et seq

B. BID LIMIT: The estimated dollar cost of a building improvement or public works project which, if exceeded, requires bids to be requested for the project. The bid limit is as follows:

1. For a building improvement:

a. For the year 2003, forty thousand dollars (\$40,000.00); and

b. For each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of three percent (3%) or the actual percent change in the consumer price index during the previous calendar year; and

2. For a public works project:

a. For the year 2003, one hundred twenty five thousand dollars (\$125,000.00); and

b. For each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of three percent (3%) or the actual percent change in the consumer price index during the previous calendar year.

3. For Class C roads,

a. for the year 2024, \$350,000; and

b. for each year after 2024, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the actual percent change in the National Highway Construction Cost Index during the previous calendar year.

C. The Town hereby adopts by this reference Utah Code Ann. §11-39-103 and § 63G-6a-1205(4)(i), and authorizes the Mayor or Designee to utilize the construction delivery methods known as design build services.

1.16.060 EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS

1. Specialized Contracts which are not adapted to award by competitive bidding or proposals, such as:

a) contracts for additions to, repairs and maintenance of equipment owned by the Town, which may be more efficiently done by a certain person or firm;

b) contracts for a particular brand of equipment or product which is uniquely suited to the town's needs by reason of training of its personnel or compatibility with existing equipment or to assure standardization or a continuation of supplies or services, or

~~1. c) contracts for the purchase of used equipment or items that are unique as to quality, condition and price. Generally: Contracts which by their nature are not adapted to award by competitive bidding, such as contracts for additions to and repairs and maintenance of equipment owned by the town, which may be more efficiently added to, repaired or maintained by a certain person or firm, contract for equipment which, by reason or training of the personnel or an inventory of replacement parts maintained by the town, is compatible with the existing equipment parts maintained by the town, shall not be subject to the competitive bidding requirements of this chapter.~~

2. Sole Source/Purchases made from a single-source provider. The Town Administrator or their designee may procure from a sole source when after conducting a good faith review of available sources, determines that no other sources are reasonably available, or that competition would be unlikely to produce other acceptable offers. The Town Administrator or designee shall put that determination in writing for the file.

3.

~~2.4. Auction, Closeout, Bankruptcy Sales: If the department head determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale or similar sale, and that it if a majority of the town council at a regular or special meeting concurs in such determination and makes the finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, a contract or contracts may be let, or the purchase made, without complying with the competitive bidding requirements of this chapter.~~

5. Public Agency Procurement. Purchases made through the cooperative purchasing contracts administered by the State Division of Purchasing, or any other public agencies of the state, shall not require bids or quotes of any type

~~3. Emergency Purchases:~~

6. Emergency Purchases: The Town Administrator, the Mayor or designee may make emergency procurements when there exists an imminent threat to public health, safety and welfare or circumstances which place the Town or its officers and agents in a position of serious legal liability; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the contractor shall be included in the contract file. The Council shall be notified of any emergency contract which would have normally required their approval at the next regularly scheduled council meeting. Emergency procurements shall be limited to those supplies, services, or construction items necessary to meet the emergency.

- ~~1. In the case of actual emergency, the head of any department may purchase directly any supplies whose immediate procurement is essential to prevent delays in the work of the department which may virtually affect the life, health or convenience of any employee or citizen of the town.~~
- ~~2. The head of the department shall send to the mayor a full written report of the circumstances of the emergency. The report shall be filed with the town council as provided above.~~

4. **1.16.065 PROCUREMENT OF PROFESSIONAL SERVICES AND REQUEST FOR PROPOSALS:** The procurement of professional services shall be based upon qualifications ~~and shall be secured on a competitive basis to the maximum practical extent except as noted below:~~

| Amount Of Contract | Request For Proposals |
|--|---|
| Up to \$30,000 10,000.00 per fiscal year | No RFP <u>is</u> required; competitive quotes recommended |
| Over \$30,000 10,000.00 in one fiscal year | Formal request for proposals <u>required</u> |

~~The town council shall approve the award of contracts for professional services exceeding fifteen thousand dollars (\$15,000.00) in any single fiscal year.~~ Awards shall be made to the individual or firm whose proposal is determined to be the most advantageous to the town, taking into consideration price and the evaluation factors set forth in the request for proposals. Awards shall be authorized under the same requirements as 1.16.040 PURCHASE AND SERVICE APPROVAL REQUIREMENTS above.

1.16.070 PROHIBITED ACTS AND ACTIVITIES

1. Conflicts Of Interest: Elected officials, officers and employees that own a substantial interest in a business which does or anticipates doing business with the town must disclose such interest prior to discussion by the governing body.
2. Collusion Among Bidders: Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bid of such bidders void.
3. Advance Disclosures: Any disclosures in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the town council or a town employee, shall render void the advertisement or request for bids.
4. Gratuities: The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the town from any vendor, contractor or prospective vendor or contractor, shall be cause for removal or other disciplinary action.

~~5. Competitive Bid Required for Building Improvements:~~

1.—~~Bid Requirements: All purchases and contracts, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent, except as noted below:~~

| Amount Of Purchase | Bid Required |
|--------------------------------------|---|
| Up to \$1,000.00 | No bid required-competitive quotes recommended |
| \$1,001.00 to \$40,000.00 | No bid required-competitive quotes recommended |
| Over \$40,000.00 | Formal bid required |

2.—~~Amounts In Excess Of Forty Thousand Dollars:~~

1.—~~If the improvement is a building improvement and the estimated cost of the improvement is in excess of forty thousand dollars (\$40,000.00), the town shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the town at least five (5) days prior to the opening of bids.~~

2.—~~The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the lowest bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.~~

3.—~~When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.~~

4.—~~The town shall send out all bids based on the information provided by staff and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The town shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the staff and the town clerk.~~

3.—~~Amounts Up To Forty Thousand Dollars But In Excess Of One Thousand Dollars: If the improvement is a building improvement and the estimated cost of the improvement is forty thousand dollars (\$40,000.00) or less, but in excess of one thousand dollars (\$1,000.00), the town may make the improvement without calling for bid, except as otherwise provided within this chapter.~~

~~4.—Purchases Up To One Thousand Dollars: Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the staff to obtain supplies and services, which have been approved as part of the budget.~~

~~1.—Written competitive bids are not required, but staff are encouraged to obtain competitive quotations.~~

~~2.—The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition.~~

~~6.—Competitive Bid Required for Public Works Projects:~~

~~1.—Requirements: All public works projects, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent except as noted below:~~

| Amount Of Purchase | Bid Requirement |
|----------------------------|---|
| Up to \$1,000.00 | No bid required – competitive quotes required |
| \$1,001.00 to \$125,000.00 | Informal bids required (2 if possible) |
| Over \$125,000.00 | Formal bid required |

~~2.—Amounts In Excess Of One Hundred Twenty Five Thousand Dollars:~~

~~1.—If the improvement is a public works project and the estimated cost of the improvement or maintenance of existing facilities is in excess of one hundred twenty five thousand dollars (\$125,000.00), the town shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the town at least five (5) days prior to the opening of bids. The cost shall be estimated by the town engineer.~~

~~2.—The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the low bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.~~

~~3.—When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.~~

~~4.—The town shall send out all bids based on the information provided by the staff and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The town shall also receive all bids and keep a list~~

~~of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the staff and the town clerk.~~

- ~~3.—Amounts Up To One Hundred Twenty Five Thousand Dollars, But In Excess Of One Thousand Dollars: If the improvement is a public works project and the estimated cost of the project is one hundred twenty five thousand dollars (\$125,000.00) or less, but in excess of one thousand dollars (\$1,000.00), the town may make the improvement without calling for bid, except as otherwise provided within this chapter.~~
- ~~4.—Purchases Up To One Thousand Dollars; Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the department head to obtain supplies and services, which have been approved as part of the budget.
 - ~~1.—Written competitive bids are not required, but the staff are encouraged to obtain competitive quotations.~~
 - ~~2.—The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition.~~~~