

**RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO,  
ADOPTING A PROCUREMENT POLICY**

**Town of Basalt, Colorado  
Resolution No. 22  
Series of 2018**

RECITALS

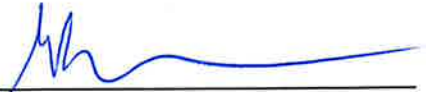
- A. The Town of Basalt maintains a procurement policy for the purpose of setting forth the procedures the Town will follow in the procurement of goods, services, and construction.
- B. The existing procurement policy is in need of updating to reflect changes in purchasing authority, purchasing methods, and other issues to better comport with the Town's operations.
- C. Town Council wishes to repeal the existing procurement policy and replace it with the Procurement Policy set forth in **Exhibit A**, and believes it is in the best interests of the Town to do so.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of Town of Basalt, Colorado, that:

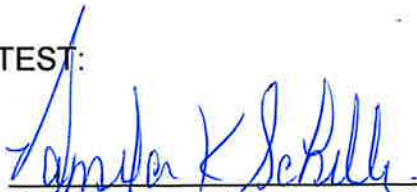
- 1. Recitals. The foregoing recitals are incorporated herein as findings of the Town Council.
- 2. Procurement Policy. Town Council hereby approves and adopts the Procurement Policy set forth as **Exhibit A** and repeals any procurement or purchasing policy that may be in effect prior to the date of this Resolution.

**READ AND ADOPTED** by a vote of 5 to 0 this 28<sup>th</sup> day of August, 2018.

TOWN OF BASALT, COLORADO

By:   
Gary Tennenbaum, Mayor Pro tem

ATTEST:

By:   
Pamela K. Schilling, Town Clerk



**TOWN OF BASALT  
PROCUREMENT POLICY AND PROCEDURES**

**1. SUMMARY.**

<b>ESTIMATED PROCUREMENT AMOUNT</b>	<b>METHOD OF PROCUREMENT</b>	<b>TYPE OF SOLICITATION</b>	<b>AUTHORIZATION</b>
Less than \$5,000	Open Market	Direct Purchase	Purchasing Agent OR Department Head*
\$5,000 - \$49,999	Comparative Pricing	Request for Quote	Purchasing Agent
\$50,000 or more	Competitive Bidding OR Request for Proposal**	Request for Bid OR Request for Proposal**	Town Council

\* Upon delegation and/or authorization by Purchasing Agent.

\*\* For professional services, not including appointed positions.

**2. GENERAL PROVISIONS.**

**2.1. Purpose.** The purpose of this Policy is to set forth the procedures the Town will follow in the procurement of goods, services, and construction.

**2.2. Definitions - General.** As used in this Policy, the following definitions shall apply:

**2.2.1.** *Change Order* means a written order modifying an existing contract to authorize changes within the scope of work, additions or deletions to the work or an adjustment to any other provision of the contract.

**2.2.2.** *Contract* means any agreement enforceable by law between the Town of Basalt and one (1) or more outside parties for procurement of goods, services, or construction, including but not limited to a purchase agreement, services agreement, or construction contract.

**2.2.3.** *Contractor* means any person having a contract with the Town pursuant to this Policy, including but not limited to a vendor, supplier, retailer, or professional.

**2.2.4.** *Department Head* means the person in charge of each major administrative division of the Town.

**2.2.5.** *Local business* means any business whose principal place of business is located in the Roaring Fork Valley.

**2.2.6.** *Lowest responsible bidder* means the bidder with the lowest price and the highest qualifications, based on the following criteria: (1) the ability, capacity and skill of the bidder to perform under the contract or furnish the supplies required; (2) whether the

bidder can perform the contract or furnish the supplies 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 on previous contracts, if any; (5) previous and existing compliance by the bidder with laws, ordinances, and regulations relating to the contract or service; (6) sufficiency of financial resources and ability of the bidder to perform the contract or furnish the supplies; (7) the ability of the bidder to provide future maintenance and service; (8) the extent to which the bidder commits to using local goods and services when practical and efficient to do so; and (9) the response to the invitation for bids.

**2.2.7.** *Policy* means this Town of Basalt Procurement Policy and Procedures.

**2.2.8.** *Procurement* means buying, purchasing, renting, leasing or otherwise acquiring any goods, services, or construction. Procurement shall not include the buying, purchasing, renting, or leasing or sale of real property.

**2.2.9.** *Purchasing Agent* means the Town Manager or such other person as may be authorized by the Town as Purchasing Agent for any particular transaction.

### **2.3. Definitions - Types of Procurement.**

**2.3.1.** *Construction* means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operations, routine repair, or routine maintenance of existing structures, buildings, or real property.

**2.3.2.** *Goods* means all personal property, including but not limited to equipment, materials, supplies, printing, insurance, and leases of personal property, excluding land or permanent interest in land.

**2.3.3.** *Services* means the performance of maintenance or the furnishing of labor, time, effort, or expertise by a contractor. The term services includes professional services, except where professional services are specifically identified.

**2.3.4.** *Professional services* means the furnishing of labor, time, effort, or expertise by a contractor with specialized knowledge in a field including but not limited to architecture, engineering, medicine, finance, accounting, appraisal, and land surveying.

**2.4. Delegation and Authority.** The Town Council hereby authorizes and delegates the Purchasing Agent to exercise procurement for the Town in accordance with this Policy. The Purchasing Agent may delegate purchasing duties to Department Heads or members of the Town staff under his supervision and direction. The Town Council hereby delegates authority to the Purchasing Agent to execute contracts, work orders, notices to proceed, and other documents in connection with procurements authorized in accordance with this Policy.

## **3. METHODS OF PROCUREMENT/AUTHORITY.**

**3.1. Open Market.** The open market method may be used for procurement of goods, services, or construction less than \$5,000. The open market method utilizes an informal evaluation of price, quality, convenience, and service from any source, and the exercise of sound decision-making by

the Purchasing Agent or Department Head based on such information. The Purchasing Agent and Department Heads are authorized to make open market procurement.

**3.2. Comparative Pricing.** The comparative pricing method shall be used for procurement of budgeted goods, services, or construction in the amount of \$5,000 to \$49,999. Comparative pricing utilizes a request for quotes (“RFQ”) process, in which Purchasing Agent shall solicit quotes from no less than three (3) contractors, unless it is impracticable under the circumstances to obtain three (3) quotes. Quotes may be solicited by telephone, fax, email, or in writing, in the discretion of the Purchasing Agent. The Purchasing Agent is authorized to make comparative pricing procurement.

**3.3. Competitive Bidding.** The competitive bidding method shall be used for procurement of goods, services, or construction of \$50,000 and greater. Competitive bidding utilizes a request for bids (“RFB”) process, as follows.

**3.3.1. Request for Bids -Notice to Bidders.** A RFB shall be published by any one or more of the following methods: (a) advertisement in a local newspaper of general circulation at least once; (b) posting on the Town's official website; and/or (c) posting at Town Hall and all other official public posting sites. The notice shall be published at least ten (10) days prior to the date for bid opening. The Purchasing Agent shall have the authority to give informal notice of the invitation for bids to such potential vendors as the purchasing agent deems appropriate.

**3.3.2. Request for Bids – Content of Notice:** The RFB shall include: (a) a general description of the goods, equipment, materials, and/or services to be procured; (b) the place where bid blanks and specifications may be obtained; (c) the closing date and time for acceptance of bids; (d) a statement where and how the bids should be submitted; (e) the time and place for opening bids; (f) the need for bonding, if applicable; (g) the reservation by the Purchasing Agent of the right to reject any and all bids; and (h) any other pertinent information in the discretion of the Purchasing Agent.

**3.3.3. Bid Requirements.** To be considered as a qualifying bid, each bid shall comply with the following: (a) a signed, written bid, enclosed in a sealed envelope, and filed with the Town by the deadline stated in the invitation for bids; (b) only one (1) bid will be accepted per bidder; and (c) where bonded bids are required, the bid shall be accompanied by a certified check or bid bond equal to five percent (5%) of the bid, to be forfeited to the Town if a bid is accepted and the bidder fails to sign a contract within fifteen (15) days of acceptance.

**3.3.4. Withdrawal/Correction of Bids.** Bids may be withdrawn up to twenty-four (24) hours prior to expiration of the deadline for submitting bids. An otherwise low bidder shall be permitted to correct a material mistake in his or her bid, including price, when the intended bid is obvious from the bid document or is otherwise supported by proof that has evidentiary value as determined by the purchasing agent. A low bidder shall not be permitted to correct a bid for mistakes or errors in judgment.

**3.3.5. Waiver of Informalities in Bids.** The Purchasing Agent may waive informalities in a bid if: (a) the item is only a matter of form or is an immaterial variation from the exact requirements of the invitation for bids; (b) the item being waived has trivial or no effect on price, quality, quantity, delivery, or performance; and (c) such a waiver would not affect the relative standing of bidders or otherwise prejudice other bidders.

- 3.3.6. *Bid Opening.*** All bids shall be confidential and not open to public inspection prior to the bid opening. Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified, together with the name of each bidder shall be recorded. The record and each bid shall be open to public inspection.
- 3.3.7. *Bid Evaluation.*** The Purchasing Agent shall perform a review and analysis of all tabulated bids. The Purchasing Agent shall form an Evaluation Committee of three (3) or more persons, including the Purchasing Agent, to aid in the evaluation of the procurement. If possible, Committee members shall have expertise in the subject matter of the procurement. Evaluation criteria include a combination of price, quantity and/or quality offered, and capacity to fulfill all requirements of the contract. For bonded competitive bids, unless all bids are rejected, the award shall be made to the lowest responsible bidder. Other than for bonded competitive bids, the Town need not award a bid to the lowest responsible bidder, but rather the bid shall be awarded to the bidder who, in the sole discretion of the awarding authority, provides the best overall value to the Town based on the evaluation criteria described in this Policy.
- 3.3.8. *Award.*** Except as stated elsewhere in this Policy, Town Council must approve all procurements by competitive bidding. Written notice of an award shall be provided to the bidder. Alternate bids may be awarded whenever it is deemed necessary by the Purchasing Agent. In the event that, in the opinion of the Purchasing Agent or Town Council, that all bids received are too high, the Purchasing Agent may enter into negotiations with the lowest responsible bidder to agree on terms more favorable to the Town; however, no negotiated price shall exceed the lowest responsible bid previously received.
- 3.3.9. *Rejection of Bids.*** The Purchasing Agent may reject all or any part of a bid (unless the bid expressly excludes the ability to partially accept the bid) when it is determined to be in the best interest of the Town, or if the bidder is in default on the payment of taxes, license fees, or other sums due to the Town.

**3.3.10. *Nonresponsive Bidder.*** Any bidder who fails to comply with the terms of an awarded contract, quote or purchase order, or the required specifications contained in the bid, may be declared a nonresponsive bidder by the purchasing agent. Any nonresponsive vendor/bidder may be removed by the purchasing agent and/or the awarding authority from all vendor and bid lists compiled by the town for a period not to exceed three years.

**3.3.11. *Bonded Bids; Conditions.*** Bonded competitive bids are required for procurements for construction exceeding \$100,000 or in the discretion of Purchasing Agent. For a contract awarded based on a bonded competitive bid, the successful bidder shall be required at the time the contract is executed to deliver to the Town a contractor's performance bond or a labor and material payment bond in the amount of one hundred percent (100%) of the contract price, with a good and sufficient surety, for approval by the Purchasing Agent. Such contractor shall promptly perform all work required by the contract on behalf of the Town and shall promptly pay all amounts lawfully due to all persons supplying or furnishing labor or materials used or performed in the prosecution of the work provided for in such contract. Further, the contractor shall indemnify and hold the Town harmless for all payments or liabilities arising from the execution of the terms of the contract.

**3.4. Requests for Proposals.** The request for proposal (RFP) method shall be used for the procurement of professional services \$50,000 or greater, not including appointed positions. RFPs shall be in writing and be distributed to a minimum of three (3) firms or individuals, unless it is impracticable under the circumstances to obtain three (3) proposals. The Purchasing Agent shall also have the discretion to solicit RFPs through the following methods: (a) advertisement in a local newspaper of general circulation as at least once; (b) posting on the Town's official website; and/or (c) posting at Town Hall and all other official public posting sites. The RFP may, but does not need to be, directed to the public at large. The Purchasing Agent shall reserve the right to reject any and all proposals. Town Council shall be required to approve all awards of professional services \$50,000 or greater.

#### **4. EXEMPTIONS/DEVIATION FROM PROCEDURES.**

**4.1. Sole-Source Procurement.** Procurements subject to comparative pricing or competitive bidding may be made without competition when the Purchasing Agent reasonably determines, after conducting a good faith review of available sources, that there is only one viable and reasonable source within the relevant supply area for the required supply, service, or construction item. The purchasing agent shall conduct negotiations, as appropriate, as to price, delivery, and terms.

#### **4.2. Recurring Procurement.**

**4.2.1.** In any case where the Town has, within the preceding two (2) years, pursuant to comparative pricing, competitive bidding, or RFP process awarded a contract for the procurement of any good, service, or construction on a unit price basis, the Purchasing Agent may negotiate with the successful bidder for the purchase of additional quantities of the good (including updated or newer version of such good), units of service, or construction. No such procurement shall be made at a price higher than 10% of the previous award.

**4.2.2.** After initial award of a contract through the comparative pricing, competitive bidding, or RFP process, a contract may be renewed annually by the Town in its discretion by the Purchasing Agent, providing the service has been deemed satisfactory and the increase in the cost of renewal does not exceed 10% of the original contract amount. A maximum of three (3) renewals are allowed.

- 4.3. Cooperative Procurement.** The Purchasing Agent is authorized to participate in coordinated or joint bidding with other public agencies or entities when deemed to be in the Town's best interests. The Purchasing Agent may waive the requirements of this Policy for cooperative procurement, in his or her sole discretion, and may use pricing schedules of higher governmental entities to purchase goods and services based on bids established for that purpose.
- 4.4. State Bid.** State bid awards made by the Purchasing Division of the State of Colorado are available for use by local government agencies to purchase goods and services often at a reduced price. The Purchasing Agent may waive the requirements of this Policy for state bid procurement, in his or her sole discretion, and may use such pricing schedules to purchase goods and services based on bids established for that purpose.
- 4.5. Emergency Procurement.** The Purchasing Agent may make or authorize others to make emergency procurement of goods, services, or construction items when there exists a threat to public health, safety, or welfare and when the purchase cannot reasonably be delayed for review by the Town Council. All emergency procurements shall not exceed the sum of \$100,000.00 in any single fiscal year; provided that the Town Council may increase this limitation at any time by resolution for the current and/or future fiscal years, subject to all budgeting and appropriation requirements. The Purchasing Agent shall encourage competition for emergency procurements to the extent practicable under the circumstances, but strict compliance with any other procurement method described in this Policy not be required. All emergency procurements shall be reported to the Town Council at the next available meeting of the Town Council.
- 4.6. Appointed Positions.** The process for appointed positions (auditor, attorney, engineer, municipal judge) shall be determined by Town Council utilizing whatever method or procedure the Town Council deems appropriate in its sole discretion or pursuant to applicable law.
- 4.7. Town Council Waiver of Procedures.** Upon a majority vote, the Town Council may approve a waiver of any of the provisions of this Policy, after consideration of the particular facts and circumstances necessitating the request for waiver. All of the procedures herein may be modified to prevent the loss of any gift or grant to the Town.

**4.8. Miscellaneous Exemptions.** A contract may be awarded for goods, services, or construction item without compliance with this Policy when the Purchasing Agent determines in writing that one (1) or more of the following conditions exist:

**4.8.1.** Procurement from federal, state or other local government entities (e.g. state bid).

**4.8.2.** Services for repair of equipment;

**4.8.3.** A particular good or service is required in order to standardize or maintain standardization for the purpose of reducing financial investment or simplifying administration.

**4.8.4.** The good is perishable.

**4.8.5.** The good qualifies as an object of fine art.

**4.8.6.** A particular good is required to match goods in use.

**4.8.7.** A particular good is required to enable use by a specific individual.

**4.8.8.** A particular good is prescribed by a professional advisor.

## **5. OTHER PROVISIONS.**

**5.1. Change Orders.** The Purchasing Agent shall have authority to approve and execute written change orders with respect to any procurement authorized by this Policy; provided that the aggregate sum of all change orders for a given contract shall not exceed \$50,000 without approval by Town Council. All other change orders must be submitted to the Town Council. If a contract was approved through competitive bidding (i.e. \$50,000 or greater), and if one or more change orders will increase the total contract price by more than fifty percent (50%) of the original contract price, then Town Council may, in its sole discretion, require that the change order be treated as a separate contract subject to new bidding in accordance with this Policy. Additionally, or in the alternative, Town Council may require that the contractor solicit new competitive bids from subcontractors and/or suppliers prior to approving any change order.

**5.2. Local Preference.** The Town shall give preference to a local business if its bid is: (a) within five percent (5%) of the lowest responsible bidder on procurements up to \$100,000; and (b) within two percent (2%) of the lowest responsible bidder on procurements over \$100,000. No local preference will be applied in the competitive bid process subject to grant funds which expressly prohibit the use of such local preference.

**5.3. Environment and Sustainability.** The Town is committed to sustainable and low impact uses. The Town will strive to reduce energy impacts and carbon emissions by utilizing local goods, local equipment, and local services when practical and efficient to do so. The Town will endeavor to make purchases of recycled materials and other goods that preserve, to the maximum extent possible, the environment and minimize energy consumption for their production or use.

**5.4. Division of Contracts Prohibited.** No procurement shall be divided to avoid the procedural requirements in this Policy.



**5.5. Conflicts.** The Town Code of Ethics contained at Chapter 2, Article VIII of the Municipal Code shall apply to the award of public contracts.

**5.6. Unbudgeted Expenditures.** All unbudgeted expenditures shall be subject to a supplemental budget to be presented to the Town Council prior to the end of the fiscal year in accordance with budgetary procedures.

**5.7. Type of Contract.** The Town shall generally use purchase agreements for procurement of goods, professional services agreements for procurement of services, and construction contracts for procurement of construction. To the extent allowed by this Policy and law, any type of contract (e.g., fixed price, cost plus fixed fee, item rate, contract/schedule contract, etc.) which will promote the best interests of the Town may be used; provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited without Town Council approval. A cost-reimbursement contract may be used only when a determination is made in writing that such a contract is likely to be less costly to the Town than any other type or that it is impracticable to obtain the supplies, services or construction required except under such a contract.

**5.8. Forms.** The Purchasing Agent shall, with the assistance of the Town staff or appointed professionals, draft and review bid forms, contracts, plans, specifications, and other documents needed in connection with procurements.