

TOWN OF GREEN MOUNTAIN FALLS

ORDINANCE NO. 2019-04

AN ORDINANCE REPEALING AND REENACTING ARTICLE VII OF CHAPTER 4 OF THE GREEN MOUNTAIN FALLS MUNICIPAL CODE CONCERNING MUNICIPAL PROCUREMENT PROCEDURES

WHEREAS, the Board of Trustees codified the Town's procurement policy by Ordinance No. 10-6-2015B on October 6, 2015;

WHEREAS, the Board of Trustees desires to simplify the Town's procurement and to specify select federal procurement requirements when federal funds are used by the Town; and

WHEREAS, the Board of Trustees determines that repealing and reenacting Article VII of Chapter 4 of the Green Mountain Falls Municipal Code containing the Town's procurement policy is the most efficient way to achieve the above goal.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO:

Section 1. Article VII of Chapter 4 of the Green Mountain Falls Municipal Code is hereby repealed and reenacted, to read as follows:

ARTICLE VII – Municipal Procurement Procedures

Sec. 4-121 – Application and Definitions.

(1) Except as set forth in Subsection (3) below, the procurement procedures set forth in this Article shall apply to every purchase to which the Town is a party, provided that the Town may vary from these procedures when necessary to comply with state or federal grant requirements.

(2) The following words, terms and phrases, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Bids" shall mean either bids or proposals submitted in response to a written invitation for bids or a written request for proposals.

(b) "Town Manager" shall mean the Town Manager and the Town Manager's designee.

(3) The following purchases shall be exempt from the requirements of this Article:

(a) Insurance and Benefits. The procurement of all insurance and benefits, including renewals or extensions and related recordkeeping

services. Insurance and benefits will be procured in a generally competitive manner as determined by the Town Manager.

(b) **Legal Services.** Outside legal services, including related services, obtained by the Town Attorney's Office.

(c) **Cooperative Purchasing.** Products or services for which other public agencies have engaged in a competitive solicitation process and are able to have their bid prices extended to the Town, such as State Bid, GSA, or similar programs. The Town may also participate in joint procurements with other agencies in the Town's best interests. Town Manager approval is not required when cooperative purchases are made.

Sec. 4-122 – General Requirements and Thresholds.

(1) **Written document.** Every purchase shall be evidenced by a written document.

(2) **Purchases of less than \$10,000.** A purchase in an amount of ten thousand dollars (\$10,000) or less may be approved by a Department Director without Town Manager or Town Board action. Competitive bidding is not required. However, even on these items, periodic telephone/online checks should be made to be certain the purchases are obtained at the lowest cost for the quality desired.

(3) **Purchases of \$10,000 - \$25,000.** A purchase in an amount of ten thousand dollars (\$10,000) to twenty-five thousand dollars (\$25,000) must be approved by the Town Manager. At least three written informal quotes must be solicited, unless an exception in Section 3, below, applies. When seeking written informal quotes, all quotes must be tabulated in detail and attached to the winning contract/invoice for future reference. If the recommended quote is not the lowest, an explanation must also accompany the contract/invoice.

(4) **Purchases in excess of \$25,000.** Any item for services, projects, or equipment in this category must be approved by the Town Board of Trustees. The formal bid process set forth in Sections 4 and 5, below, must be followed unless an exception applies. Responsibility for the advertising of formal bids will be that of the Department Director overseeing the purchase.

(5) **Appropriation required.** All expenditures for purchases shall be budgeted and appropriated. If a purchase is contemplated to extend beyond the current fiscal year, it must be subject to annual appropriation (unless otherwise permissible by elector vote or as determined by the Town Attorney).

Sec. 4-123 – Comparative Price Quotations (Between \$10,000 and \$25,000).

(1) When the amount of a purchase is between ten thousand dollars

(\$10,000) and twenty-five thousand dollars (\$25,000), comparative price quotes by telephone, in person, or in writing from at least three (3) vendors or contractors shall be solicited, unless:

(a) The Town Manager determines that the public interest would be best served by negotiated contract with a single vendor or contractor or with specific vendors or contractors possessing unique skills or products or by joint purchase with or from another unit of government; or

(b) The Town Manager determines that the public interest would be best served by obtaining the goods or services through the formal bidding process.

(2) In case of a declared or pronounced emergency affecting the public peace, health or safety, the Town Manager may waive all requirements for price quotes. In such cases, the Town Manager may direct the appropriate Department Director to procure emergency needs by informal, open-market procedures, at no more than current market prices, as expeditiously as possible.

Sec. 4-124 – Formal Bidding Required (In excess of \$25,000).

(1) Formal bidding procedures shall be followed when the amount of a purchase exceeds twenty-five thousand dollars (\$25,000), unless the Town Board determines that the public interest will be best served by negotiated contract with a single vendor or contractor or with specific vendors or contractors possessing unique skills or products, or by joint purchase with or from another unit of government.

(2) In case of a declared or pronounced emergency affecting the public peace, health or safety, the Town Manager, Mayor, or Board of Trustees may waive all requirements for formal bidding. In such cases, the Town Manager, Mayor, or Board of Trustees may direct the appropriate Department Director to procure emergency needs by informal, open-market procedures, at no more than current market prices, as expeditiously as possible. If the Town Manager or Mayor waived such requirements, the Town Manager or Mayor, as appropriate, shall present a full report of the circumstances necessitating the emergency action at the next Town Board meeting with the potential option to extend the waiver of requirements for formal bidding.

Sec. 4-125 – Formal Bidding Procedures and Selection Criteria

(1) When formal bidding is required pursuant to Section 4, at least ten (10) days prior to the deadline for receipt of bids, a request or invitation for sealed bids shall be published at least once in an area newspaper, sent to three (3) or more potential bidders, or posted via electronic solicitation.

(2) The Board of Trustees or Town Manager may pre-qualify vendors or contractors who wish to bid on Town purchases and limit acceptance of bids from such pre-qualified entities when determined to be in the best interests of the Town.

(3) Sealed bids shall be opened in public at the time and place stated in the public notice, unless all bidders have been notified of a change in such time or place by written addendum. A tabulation of all bids received shall be available for public inspection.

(4) After the bids have been reviewed, if the purchase will exceed the Town Manager's purchasing authority of twenty-five thousand dollars (\$25,000), the Town Manager shall submit a report to Town Board that contains an analysis of the bids, a recommendation for an award, and the reasons for the recommendation. The contract shall be awarded to the lowest responsible bidder meeting the bid specifications, unless it is determined that the public interest would be better served by accepting another bid. Unless otherwise prohibited by federal or state law, bidders which have maintained a physical location inside the limits of El Paso County for a period of more than 365 days prior to bid submission shall receive a 2% preference with respect to bid price and bidders which have maintained a physical location inside the limits of the Town of Green Mountain Falls for a period of more than 365 days prior to bid submission shall receive an additional 2% preference with respect to bid price.

(5) In determining whether the public interest would be better served by accepting a bid other than the lowest bid, the following factors shall be considered:

(a) The bidder's skill, ability, and capacity to perform the services or to furnish the materials, equipment or supplies required;

(b) Whether the bidder can perform the services or furnish the materials, equipment or supplies promptly, or within the time period specified, without delay or interference;

(c) The bidder's character, integrity, reputation, judgment, experience and efficiency;

(d) The quality of the bidder's previous performance;

(e) The bidder's previous and current compliance with statutes, ordinances and rules relating to the purchase;

(f) The sufficiency of the bidder's financial resources necessary to perform the services or deliver the goods;

(g) The bidder's ability to provide future maintenance or service;
and

(h) The number and nature of any conditions attached to the bid.

(6) All bids may be rejected if it is determined that such action is in the public interest. Negotiations may be entered into with one or more bidders in an attempt to adjust the services, products, or bid price as the Town deems in the public interest, and no additional bidding shall be necessary.

Sec. 4-126 – Amendments to Purchase Agreements.

(1) The Town Manager shall have authority to approve an amendment to a purchase agreement when the change order does not exceed 10% of the original agreement price and combined with the original agreement does not exceed the approved appropriation for said purchase.

(2) All other amendments to a purchase agreement previously approved by Town Board shall be approved or ratified by Town Board.

Sec. 4-127 – Principles and Ethics.

Every officer and employee of the Town is expressly prohibited from knowingly:

(1) Seeking or accepting any personal gift or money directly or indirectly, from any person, company, firm or corporation in connection with a purchase.

(2) Underestimating or exaggerating requirements to a prospective bidder for the purpose of influencing bids.

(3) Misrepresenting the quality of a bidder's products or services.

(4) Influencing the Town to make a purchase that will benefit the officer or employee, either directly or indirectly.

(5) Approving a purchase in which any employee, elected or appointed officer of the Town has an interest, without the approval of the Town Manager or Town Board.

(6) No single purchase transaction shall be subdivided for the purpose of circumventing the dollar value limitations of this Policy.

Sec. 4-128 - Special rules for procurements using federal funds.

(1) No local or geographical preference shall be given to any vendor for projects in which the Town will receive or anticipates seeking federal funds as reimbursement for or contribution toward a Town contract or project. However, nothing in this Subsection prevents the Town from requiring a vendor to comply with any applicable state licensing laws or from applying such preference when

federal law expressly mandates or encourages it. When contracting for architectural or engineering services, geographic location may be considered, provided that such consideration leaves an appropriate number of qualified firms to compete for the contract.

(2) Whenever the Town will receive or anticipates seeking federal funds as reimbursement for or any other form of payment or contribution toward a Town contract or project, the Town and any party contracting with the Town for such work shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(e) Using the services and assistance of the small business administration, and the minority business development agency of the department of commerce; and

(f) Requiring general contractors, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (2)(f) of this Section.

Section 2. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Green Mountain Falls, that it is promulgated for the health, safety and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall be effective thirty (30) days after passage.

INTRODUCED AND ORDERED PUBLISHED the 4 day of June, 2019, at the Green Mountain Falls Town Hall, 10615 Green Mountain Falls Road, Green Mountain Falls, Colorado.

ADOPTED AND ORDERED PUBLISHED the 6 day of August, 2019.

Jane Newberry
Jane Newberry, Mayor

ATTEST:

Laura Kotewa
Laura Kotewa, Town Clerk/Treasurer

Published in the Pike Peaks Courier, August 14 2019.

