

ANNABELLA TOWN, SEVIER COUNTY, UTAH
RESOLUTION 2022-03

A Resolution of Annabella Town repealing Resolution 1998-1 and adopting Resolution 2022-03 prescribing the manner Annabella Town shall procure goods and services.

General Provisions

1. Purchasing Agent Designated. The Town Clerk is hereby appointed and designated as the Annabella Town purchasing agent. The Purchasing Agent may from time to time appoint another person to undertake all or some of the duties of the Purchasing Agent set forth herein or appointed.
2. Authority to Enter into and Execute Contracts. All contracts are to be approved by the Town Council. No department, office, advisory or policy board or other organization of Annabella Town, nor any officer or employee thereof, shall be empowered to execute any purchase order or contract except as specifically authorized in this resolution or by other applicable law. All contracts in violation of this provision are considered void and may result in the personal obligation and liability of persons at fault for such violations.
3. Conflict of Interests Prohibited. No officer, employee, agent, representative or member of any committee of the Town shall have a financial interest in any contract, bid, or proposal; receive any compensation or gift from any bidder or proposer; or have any other conflict of interest (See Utah Code 67-16 and 17-16a).
4. Competitive Procurement. Unless exempted by this policy, all purchases and contracts shall be awarded on a competitive basis, as required by this Resolution and applicable State and Federal law.
5. Exceptions to Competitive Procurement. Contracts which by their nature are not adapted to award by competitive bidding, such as contracts for the services of individuals possessing a high degree of professional skill, where the ability of the fitness of the individual plays an important part, shall not require competitive bids.
 - a. Products for services currently defined and contracted for open purchase by the State of Utah shall not require competitive bids.
 - b. Products of goods or services where the provider is the sole source or where a good or service proves a desirable benefit on available from other providers, then competitive bids shall not be required.
6. Emergency Procurement: Notwithstanding any of the provisions of these rules and regulations, when there exists a threat to public health, welfare or safety under emergency conditions, the Town Council may make or authorize others to make emergency procurements, provided that emergency procurements shall be made with as much competition as practicable under the circumstance
 - a. A written determination of the basis for the emergency and the selection of the contractor shall be included in the contract file.
7. Participation in State Procurement Unit Agreement and Contracts. Pursuant to Utah Code 63G-6a-2105, Annabella Town may make purchases from or participate in state public procurement unit agreements and contracts, pursuant to the terms of said agreements and contracts without soliciting additional procurement options.

8. Unethical Purchasing Practices. Failure of any agent, officer or employee to comply with ethical purchasing requirements may result in suspension, termination, being personally liable for the purchase and/or criminal prosecution. All agents, officers and employees engaged in the procurement process for Annabella Town will maintain high ethical behavior in agreement with Utah Code 67-16, Utah Public Officers' and Employees' Ethics Act and avoid the following practices:
 - a. Dividing a procurement to avoid following policy (see Utah Code 63G-6a-2404.3)
 - b. Kickbacks and Gratuities (see Utah Code 63G-6a-2404, 67-16-5 through 67-16-6)
 - c. Failure to Disclose conflicts (see Utah Code 63G-6a-1205 & 67-16-9)
 - d. Cost-plus-a-percentage-of-cost contracts (see Utah Code 63G-6a-1205)
9. Annabella Town purchases are not subject to sales tax. For vendors requiring documentation of tax-exempt status, a TC-712G Exemption Certificate for Governments and Schools may be obtained from the Town Clerk.
10. When a procurement involves the expenditure of State or Federal funds, Annabella Town shall comply with the applicable State and Federal laws and regulations.

Authorization Requirements for Purchases

1. Purchases up to \$1,000. All procurements of services and goods in an amount up to \$1,000 may be approved by the department supervisors provided such procurements have been budgeted for within the department and are in line with the budgeted purposes and responsibilities of said department.
2. Purchases over \$1,000. All procurements of services and goods in an amount over \$1,000 require approval by the councilmember over the specific department.
3. Purchases over \$5,000. All procurements of services and goods in an amount over \$5,000 must be approved by the Councilmember over that department, Purchasing Agent, and Town Council. Documentation of the solicitation of three quotes or reference to the exemption of those requirements must be attached. (See telephone quote sheet at the end of this policy).
4. Purchases over \$15,000. All procurements of services and goods in an amount over \$15,000 must be put out for competitive bid to be prepared and approved by the Councilmember over the department, Purchasing Agent and Town Council (See section of Competitive Bids for requirements). Purchases over \$15,000 require a written contract to be approved in an open meeting.
5. Avoidance of approval and written contract requirements. Purchases shall not be divided into smaller purchases for the purpose of evading the approval process required by this policy, or for the purpose of avoiding the need to obtain a written contract.
6. Competitive Sealed Bids – When Required

- a. All procurements of goods which are reasonably anticipated to exceed \$15,000 shall be obtained by competitive sealed bidding. The Town Council may also require competitive sealed bidding for the procurement of goods and services for any amount.
- b. In the event that bids exceed available funds and the lowest responsive and responsible bid does not exceed funds available by more than ten] percent, the Board may, where time or economic considerations preclude re-solicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.
- c. Content of Invitation for Bids. An invitation for bids shall:
 - i. State that the Annabella Town is seeking bids for a procurement;
 - ii. Contain information on how to contact the person with the most knowledge about the procurement;
 - iii. State the period of time during which bids will be accepted;
 - iv. Describe the manner in which a bid shall be submitted;
 - v. State the address at which a bid may be submitted, and the person to whom the bid should be submitted;
 - vi. Describe the goods or services sought to be procured;
 - vii. List or refer to the objective criteria that will be used to evaluate the bids.
 - viii. To the extent possible, include or reference significant contractual terms and conditions.
 - ix. State the date, time and place for the public opening of all bids.
 - x. An invitation to bid may require attendance at a pre-bid meeting for the purpose of obtaining additional information relevant to the bid. The invitation shall list the time, date and place of any pre-bid meeting that will take place.
 - xi. An invitation to bid may require that a bidder obtain additional specifications and objective criteria too lengthy to publish in the invitation for bids. The invitation to bid shall indicate where such information may be obtained.
- d. All invitations for sealed bids shall be published at least once in a newspaper of general circulation at least 15 days prior to the deadline for submission of a bid.
- e. All sealed bids shall be opened by the mayor or designated representative in an open public meeting, before one or more witnesses, at the time and place indicated in the invitation for bids. The name of the bidder and the amount of each bid shall be recorded and made available to the public. Bids shall not be accepted after the time for submission of a bid has expired.
- f. The Town Council shall reject bids from further evaluation that are: incomplete, illegible, conditional, modify bid requirements, contain additional terms or conditions, divide bid into parts, failed to attend required pre-bid meetings, fail to confirm requirements or specifications, the bidder has a pending dispute with the Town of Annabella on a previous project or where

the Town Council reasonably concludes that the bidder is unable to satisfactorily fulfill the bid requirements or has engaged in unlawful or unethical conduct in attempting to secure the bid. Any bidder whose bid has been rejected may obtain from the Town Council a written finding stating the specific reason the bid was rejected.

- g. The Town Council shall award the bid/contract to the lowest qualified bidder or the bidder who best satisfies the objective criteria described in the invitation for bids which may include: Experience, performance ratings, inspection of workmanship, suitability, quality, likely compatibility with existing assets or practices, availability, warrantee, references, licensure, proximity or other criteria reasonably specified in the invitation to bid.
- h. Tied bids may be resolved using any reasonable criteria and at the sole discretion of the Town Council.
- i. Annabella Town may cancel the bid process or reject all bids in whole or in part if it determines that; no bids met bid requirements, there are insufficient funds, the item is no longer needed, or the specifications or timing does not meet Annabella Town's current needs or long-term plans. In the event of a bid cancelation the Town Council shall publicly state the reason for the cancellation and make that information available for public inspection.
- j. Exemptions from competitive bid requirements may include the following: Sole source providers, service contracts with professionals or specialists, emergency purchases. The Town Clerk shall sufficiently document the reason for not competitively bidding the procurement and have it approved by the Town Council.
- k. Protests to the bidding process shall be submitted to the Town Clerk in writing within 5 business days. The Town Clerk will respond to the protest within 5 business days of receiving the complaint. The Town Clerk's decision may be appealed to the Town Council in writing within 5 days. The Town Council may address the appeal at its next regularly scheduled meeting or hold a special meeting to evaluate the merits of the protest appeal.

This resolution may be amended from time to time as needed by the Annabella Town Council.

PASSES, APPROVED, AND ADOPTED by the Mayor and the Town Council of the Town of Annabella, this 11th day of May, 2022

Brent Christensen

Brent Christensen, Mayor

ATTEST:

Tina Mitchell

Tina Mitchell, Clerk

