

**Laketown, Utah
ORDINANCE 2021-10**

**AN ORDINANCE OF LAKETOWN AMENDING THE ADMINISTRATION OF
LAKETOWN CODE TITLE 1 ADDING CHAPTER 10 PROCUREMENT POLICY
PRESCRIBING THE MANNER THE TOWN OF LAKETOWN SHALL PROCURE
GOODS AND SERVICES**

WHEREAS, the town council desires to prescribe the manner the Town of Laketown shall procure goods and services to ensure transparency in the public procurement process; to ensure the fair and equitable treatment of all persons who participate in the public procurement process; to provide increased economy in the town procurement activities; and to foster effective broad-based competition within the free enterprise system; and

WHEREAS, the state of Utah auditor's office recommends this addition and the town council conducted a public hearing for this amendment.

NOW THEREFORE, BE IT ORDAINED by the Laketown Town Council that the Laketown code Administration Title 1 be amended to add chapter 10 Procurement Policy.

SECTION 1: Language to be added.

1-10 Procurement Policy

An Ordinance of Laketown prescribing the manner the Town of Laketown shall procure goods and services.

General Provisions

1. "Purchasing Agent" means a person duly authorized by the governing body of the town to make purchases for the town and is usually the department supervisor. 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 to him/her.
2. Authority to Enter into and Execute Contracts. All contracts are to be approved by the Laketown Mayor. No department, office, advisory or policy board or other organization of the Town of Laketown, nor any officer or employee thereof, shall be empowered to execute any purchase order or contract except as specifically authorized in this ordinance 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 ordinance and applicable State and Federal law.
5. Participation in State Procurement Unit Agreement and Contracts. Pursuant to Utah Code 63G-6a-2105, the Town of Laketown 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.
6. 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 the Town of Laketown 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)
7. The Town of Laketown 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 at clerk@laketownutah.com.
8. When a procurement involves the expenditure of State or Federal funds, the Town of Laketown 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 less than \$1,000 may be approved by the department supervisor, 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 must have purchase approval by the department supervisor prior to the purchase.
3. Purchases over \$5,000. All procurements of services and goods in an amount over \$5,000 must have purchase approval by the department supervisor and the Laketown Town Council. Documentation of the solicitation of three quotes or reference to the exemption of those requirements must be attached. (See 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 Laketown 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 Laketown 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 five percent, the Laketown Town Council 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 Town of Laketown 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 posted at least once in conspicuous view in the Laketown Town Office in Laketown, Utah, outside the office door, and inside and outside of the Laketown post office, at Dee's Service Station, and on the Utah Public Notice website at <http://pmn.utah.gov>, and on the Laketown website at www.laketownutah.com at least 15 days prior to the deadline for submission of a bid.
 - e. All sealed bids shall be opened by the Laketown 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 Laketown 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 Laketown on a previous project or where the Laketown 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 clerk a written finding stating the specific reason the bid was rejected.
- g. The Laketown 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 Laketown Town Council.
- i. The Laketown Town Council 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 the Town of Laketown's current needs or long-term plans. In the event of a bid cancelation the Laketown 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 Purchasing Agent shall sufficiently document the reason for not competitively bidding the procurement and have it approved by the Laketown Town Council.
- k. Protests to the bidding process shall be submitted to the Laketown Town Council in writing within 2 business days. The Laketown Town Council will respond to the protest within 5 business days of receiving the complaint. The Laketown Town Council's decision may be appealed to the Laketown Mayor in writing within 2 business days. The Laketown Mayor may address the appeal at the next regularly scheduled Laketown Town Council meeting or hold a special meeting to evaluate the merits of the protest appeal.

QUOTE SHEET

Product or Service Requested: (Include specific project requirements such as required completion date etc.)

Vendor #1:

Company Name:

Person Contacted: _____ Date Contacted:

Method of Contact: Phone E-mail In-person Other:

Contact Information: Phone: _____ Address: _____

Amount Quoted: (Or attach vendor's written proposal or bid) _____

Vendor #2:

Company Name:

Person Contacted: _____ Date Contacted: _____

Method of Contact: Phone E-mail In-person Other:

Contact Information: Phone: _____ Address: _____

Amount Quoted: (Or attach vendor's written proposal or bid) _____

Vendor #3:

Company Name:

Person Contacted: _____ Date Contacted: _____

Method of Contact: Phone E-mail In-person Other:

Contact Information: Phone: _____ Address: _____

Amount Quoted: (Or attach vendor's written proposal or bid) _____

SECTION 2: This ordinance shall take effect upon adoption.

PASSED and ADOPTED THIS 7th day of April 2021.

Town of Laketown:

Burdette W. Weston
Laketown Mayor

TOWN COUNCIL VOTE AS RECORDED:

	Aye	Nay
Council Member Clark:	_____	_____
Council Member Ogilvie:	_____	_____
Council Member Robinson:	_____	_____
Council Member Wight:	_____	_____
(In event of a tie vote of the Council):		
Mayor Burdette W. Weston	_____	_____

ATTEST:

Amber Droesbeke
Clerk