

AN ORDINANCE TO AMEND TOWN CODE SECTIONS 16-116, 16-200, 16-203, 16-204, 16-207 AND 16-506, AND TO ADD A NEW SECTION 16-123, TO UPDATE THE TOWN PROCUREMENT CODE AND INCORPORATE PROVISIONS FROM THE VIRGINIA PUBLIC PROCUREMENT ACT

BE IT ORDAINED by the Council of the Town of Blacksburg:

1. That Blacksburg Town Code §§ 16-116, 16-200, 16-203, 16-204, 16-207 and 16-506 are amended and re-ordained and a new § 16-123 is added as follows:

Section 16-116. ~~When town council to authorize contract.~~ Procurement authority; notice.

~~Town council shall authorize the award of any contract:~~

~~(1) For legal services provided by outside counsel reasonably expected to exceed twenty-two thousand five hundred dollars (\$22,500.00). Council authorization shall not be necessary for legal services required for the issuance of bonds.~~

~~(2) For the construction or remodeling of any building in excess of eighty thousand dollars (\$80,000.00).~~

~~(3) For professional services in excess of eighty thousand dollars (\$80,000.00) in the aggregate for any one (1) project.~~

(a) (i) *The purchasing agent shall have the authority to award contracts for goods and services procured pursuant to this chapter.*

(ii) *The purchasing agent is authorized to promulgate procedures for the orderly administration of the Virginia Public Procurement Act and the provisions of this chapter, including procedures for small purchases, as defined in Code of Virginia 2.2-4303; provided, however, that such small purchase procedures shall provide for competition whenever practical.*

(b) *The purchasing agent shall post notice of awards of the following contracts on the town's website:*

(i) *Contracts for the construction or remodeling of any building greater than eighty thousand dollars (\$80,000.00); and*

(ii) *Contracts for professional services greater than eighty thousand dollars (\$80,000.00) in the aggregate for any one (1) project.*

The failure to post notice of the award of a contract shall not affect its validity.

- (c) *The town manager shall execute all contracts procured pursuant to this chapter, unless the town manager shall have delegated such responsibility, in writing, to a designee.*

Section 16-200. Methods of procurement.

- (a) Any contracts with non-governmental contractors for (i) the purchase or lease of goods, or (ii) for the purchase of services, insurance or construction, shall be awarded according to the methods of procurement authorized by Code of Virginia § 2.2-4303, the terms of which are incorporated by reference. ~~after competitive sealed bidding or competitive negotiation, unless otherwise authorized by law.~~
- ~~(b) The purchasing agent may establish written small purchase procedures not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods or services other than professional services if the aggregate of all phases is not expected to exceed fifty thousand dollars (\$50,000.00); however, the small purchase procedures shall provide for competition wherever practicable. Similarly, the purchasing agent may establish written small purchase procedures not requiring competitive negotiation for single or term contracts for professional services if the aggregate of all phases is not expected to exceed eighty thousand dollars (\$80,000.00); however, the small purchase procedures shall provide for competition wherever practicable. Purchases that are expected to exceed thirty thousand dollars (\$30,000.00) shall require the written informal solicitation of a minimum of four (4) bidders.~~
- ~~(c) No person or firm who has been engaged as an architect or engineer for a project shall be eligible to bid on such contract or to have same awarded to him or it.~~
- ~~(d) No bid from any bidder who is not properly licensed under Virginia Code (1950), Title 54, Chapter 7 as amended, shall be received or considered.~~
- ~~(e) Upon a determination made in advance by the town manager and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The town manager shall document the basis for this determination in writing.~~
- ~~(f) Construction shall be procured by competitive sealed bidding, except that competitive negotiation may be used upon a written determination made in advance by the town manager that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:~~
- ~~(1) For the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than five hundred thousand dollars (\$500,000.00);~~

~~(2) For the construction of highways and any draining, dredging, excavation, grading or similar work upon real property; or~~

~~(3) As permitted by Virginia Code § 2.2-4308 for design-build or construction management contracts.~~

Section 16-203. Exceptions to requirement of competitive procurement—Sole source.

~~Notwithstanding any other provisions of this chapter, contracts may be entered without competition for goods, professional services, services or construction *as permitted by Code of Virginia § 2.2-4303(E), the terms of which are incorporated by reference.* where there is only one (1) source practicably available for the needed goods, professional services, services or construction. This determination must document the basis for the decision and be made in writing. The town manager or designee must post a written notice stating that only one source was determined to be practicably available, and identifying that which is to be procured, the contractor selected, the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the town awards or announces its decision to award the contract, whichever occurs first.~~

Section 16-204. Same—Emergency procurement.

~~Notwithstanding any other provisions of this chapter, in the case of an emergency, a contract may be awarded without competitive sealed bidding or competitive bidding *as permitted by Code of Virginia § 2.2-4303(F), the terms of which are incorporated by reference.* , however, such procurement 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 particular contractor shall be included in the contract file. In addition, the town manager or designee shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the town awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable.~~

Section 16-207. Same—Sheltered workshop.

Notwithstanding any other provisions of this chapter, contracts may be entered without competition for goods or services (i) produced or performed by a nonprofit sheltered workshop or other nonprofit organization which offers transitional or supported employment services serving the handicapped, or by (ii) persons, schools or workshops under the supervision of the Virginia Department for the *Blind and Vision Impaired. Visually Handicapped.*

Section 16-506. Contractual disputes.

(a) Contractual claims, whether for money or other relief, shall be submitted in writing *and considered according to the provisions of Code of Virginia § 2.2-4363, the provisions of which are incorporated herein.* ~~no later than 60 days after occurrence of the event giving rise to the claim. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.~~

~~(b) The contractor shall provide such information in writing as the town may require in order to make a determination on the claim. The contractor shall make available to the town such books and records for inspection and copying as the town may require in order to arrive at a determination on the claim.~~

~~(c) The town manager shall make a final determination in writing on the validity of any contractual claim within 60 days following receipt of the claim. The town manager shall state his or her reasons in writing.~~

~~(d) The dispute resolution procedure contained in this section shall be included in all contracts with the town, and may be incorporated by reference.~~

Section 16-123. Contract terms inconsistent with state law.

The provisions of the Code of Virginia § 2.2-4311.3 regarding public contracts for the acquisition of information technology goods and services are hereby incorporated by reference.

2. That this ordinance shall be effective upon adoption.

Mayor

ATTEST:

Town Clerk

Introduction: _____

Public Hearing & Action: _____

APPROVED AS TO CONTENT:

Finance Department

APPROVED AS TO LEGAL SUFFICIENCY:

Town Attorney