

**TOWN OF NEW CASTLE, COLORADO
ORDINANCE NO. 2015-01**

AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL AMENDING THE TOWN
PROCUREMENT CODE.

WHEREAS, the Town of New Castle's procurement code, Municipal Code Chapter 3.36, requires the Town's purchasing agent to procure for the Town the highest quality supplies and services at the least reasonable expense to the Town;

WHEREAS, pursuant to the State procurement code, state purchasing agents are under a similar obligation to award bids to the low responsible bidder whose bid meets the State's needs and the bid invitation requirements;

WHEREAS, in situations where all bids for a particular project exceed a project's available funds, C.R.S. § 24-103-202(7) allows a state purchasing agent to negotiate with the low responsible bidder to bring the bid within the amount of available funds and award the contract thereafter;

WHEREAS, the New Castle procurement code is currently silent on the issue of bid negotiations in the event that all bids on a particular project exceed a project budget;

WHEREAS, C.R.S. § 31-15-712 states that a city may enter into negotiations with a bidder in the event that all bids for a particular public improvement project are too high; and

WHEREAS, in order to be consistent with the State procurement code, to allow the Town purchasing agent to fully perform his duties, and to clarify that a similar approach is authorized under the New Castle Procurement Code, the Town Council seeks to amend the Town procurement code as set forth below:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Town Council.
2. Amendment. New Castle Municipal Code, Chapter 3.36.040(F)(6) shall be amended as follows with added language in CAPITAL LETTERS AND UNDERLINED:

3.36.040(F)(6):

6. Bid Evaluation; Award. The purchasing agent shall perform a review and analysis of all tabulated bids. Evaluation criteria include price, quantity and/or quality offered, qualifications of the bidder, 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 qualified bidder, as defined above. IN THE EVENT THAT, IN THE OPINION OF THE PURCHASING AGENT,

OR, ALTERNATIVELY, IF TOWN COUNCIL DETERMINES BY VOTE AT A PUBLIC MEETING THAT ALL BIDS RECEIVED FOR A PARTICULAR PRODUCT OR SERVICE ARE TOO HIGH, THE PURCHASING AGENT MAY ENTER INTO NEGOTIATIONS WITH THE LOWEST BIDDER TO AGREE ON TERMS MORE FAVORABLE TO THE TOWN. HOWEVER, NO NEGOTIATED PRICE SHALL EXCEED THE LOWEST RESPONSIBLE BID PREVIOUSLY RECEIVED. All awards shall be made by the awarding authority (town council or purchasing agent) by written notice to the bidder. Alternate bids may be awarded whenever deemed necessary by the purchasing agent. Other than for bonded competitive bids, the town need not award a bid to the lowest responsive and 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 chapter.

INTRODUCED on _____, 2015, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the Town of New Castle, Colorado, on _____, 2015, read by title and number, passed with amendment as set forth herein, approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO

By: _____
Bob Gordon, Mayor

ATTEST:

Melody Harrison, Town Clerk