

**TOWN OF RED CLIFF, COLORADO
ORDINANCE 9, SERIES 2015**

AN ORDINANCE REVISING ARTICLE 3 OF CHAPTER 4 OF THE TOWN OF RED CLIFF MUNICIPAL CODE REGARDING MUNICIPAL CONTRACTS.

WHEREAS, the Town of Red Cliff (“Town”) is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

WHEREAS, Article 3 of Chapter 4 of the Town’s Municipal Code (“Code”) addresses municipal contracts and the process by which the Town enters into contracts to which it is a party; and,

WHEREAS, the Town’s Board of Trustees (“Board”), in consultation with staff, has determined that Article 3 of Chapter 4 of the Code should be revised to clarify staff authority with respect to certain contractual commitments, to promote the Board’s continuing oversight and control of significant contractual commitments and to ensure that the Town’s contracting process complies with applicable statutory requirements.

NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:

Section 1: Section 10 of Article 3 of Chapter 4 of the Code is amended to state in its entirety:

Sec 4-3-10 Public improvements by contract.

(a) All work done by the Town in the construction of works of public improvements of five thousand dollars or more shall be done by contract awarded to the lowest responsible bidder on open bids or proposals after ample advertisement.

(b) The Town is not required to advertise, request proposals or receive bids for such technical, professional or incidental assistance it may deem wise to employ in guarding its interests.

(c) Even if not required by this Article 3, the Board of Trustees may direct that any contract of the Town for work, services, equipment, supplies or other things be awarded to the lowest responsible bidder on open bids or proposals after ample advertisement in accordance with this Article 3.

Section 2: Section 20 of Article 3 of Chapter 4 of the Code is amended to state in its entirety:

Sec 4-3-20 Negotiated contracts.

(a) Except as otherwise required by § 4-3-10, the Town Administrator shall have the right to enter into negotiations for and contracts of the Town for work, services, equipment, supplies or other things without submitting it for bids or proposals and without obtaining the previous approval of the Board of Trustees if the value of the contract is not greater than two thousand dollars.

(b) Except as otherwise required by § 4-3-10, the Town Administrator shall have the right to enter into negotiations for and contracts of the Town for work, services, equipment, supplies or other things without submitting it for bids or proposals and with

the prior approval of the Board of Trustees if the value of the contract is greater than two thousand dollars.

Section 3: Section 30 of Article 3 of Chapter 4 of the Code is amended to state in its entirety:

Sec. 4-3-30 Bidding and requests for proposal procedure

Whenever the Town is required by this Article or the Board of Trustees deems it desirable to award any contract of the Town for work, services, equipment supplies or other things on open bids or proposals after ample advertisement, the procedure for obtaining and awarding such bids shall be as follows:

(a) *Notice.* The Town Clerk shall cause notice of the Town's requests for bids or proposals to be published in a newspaper of general circulation within the Town for two publications or posted in three conspicuous places within the Town. Notice of the Town's request for bids or proposals may also be (1) published in any other publication deemed desirable by the Town Clerk or designated by the Board of Trustees or (2) mailed to a reasonable number of person who could reasonably be expected to make a bid or submit a proposal if deemed desirable by the Town Clerk or directed by the Board of Trustees. All notices shall describe the subject of the request for bids or proposals, the place where the specifications for and proposed terms of the contract may be obtained or examined, the time and place for submission of bids or proposals and the time and place for the opening of the bids or proposals.

(b) *Reservation.* All notices issued pursuant to subsection (a) shall state that the Town reserves the right to reject any or all bids or proposals and, upon rejection of all bids or proposals, other bids or proposals may be advertised for or negotiations may be entered into for the contract.

(c) *Making of Bids and Proposals.* All bids or proposals shall be in writing, identify the principal place of business of the person submitting the bid or proposal, state the amount of the bid or proposal, set forth any other information required by the notice, plans or specifications and be signed by the person submitting the bid or proposal. All bids and proposals shall be sealed in an envelope and submitted to the Town Clerk within the required time at the required place.

(d) *Opening Bids and Proposals.* Bids and proposals submitted to the Town Clerk in compliance with subsection (c) shall not be opened until the time for opening specified in the notice. All persons submitting a bid or proposal may be present at such time and place specified in the notice and inspect all bids and proposals.

(e) *Award.* If any bid or proposal is accepted by the Board of Trustees, it shall award the contract to the person who submitted the successful bid or proposal upon such person's compliance with all terms and conditions specified by the Board of Trustees or set forth in the notice.

Section 4: Section 40 of Article 3 of Chapter 4 of the Code is amended to state in its entirety:

Sec. 4-3-40 Rejection of bids and proposals; bidder default

(a) If no bids or proposals are received or if, in its opinion, all bids or proposals received are too high, the lowest bidder was not reliable or responsible or the subject of the bids or proposals could be effectuated for less by negotiated contract, the Board of

Trustees may (1) reject all bids and direct that the project be put out again for bids or proposals or (2) reject all bids and direct the Town Administrator to attempt to negotiate a contract that may be more favorable to the Town.

(b) If the person whose bid or proposal is accepted by the Town fails to enter into a contract, the Board of Trustees may then accept the bid or proposal of the next lowest responsible bidder or reject all bids and proceed in accordance with subsection (a).

(c) No negotiated contract price shall exceed the lowest responsible bid or proposal previously received.

Section 5: Section 50 of Article 3 of Chapter 4 of the Code is amended to state in its entirety:

Sec 4-3-50 Interests in contracts.

(a) Members of the Town's Board of Trustees, Town officers and Town employees shall not be interested in any contract made by them in their official capacity.

(b) For purposes of subsection (a), the phrase "be interested in" does not include a minority interest in a corporation, limited liability company or other recognized entity form.

(c) For purposes of subsection (a), the term "contract" does not include:

(1) Contracts awarded to the lowest responsible bidder based on competitive bidding or proposal procedures;

(2) Merchandise sold to the highest bidder at auction;

(3) Investments in deposits in financial institutions which are in the business of loaning or receiving moneys;

(4) A contract with an interested party if, because of geographic restrictions, the Town could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that the Town could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than ten percent of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.

(5) A contract with respect to which any member of the Board of Trustees, Town officer or Town employee has disclosed a personal interest to the Board of Trustees and has not voted thereon.

Section 6: Findings. The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper to protect the public peace, health, safety and welfare of the Town of Red Cliff and its inhabitants.


Section 7: Severability. If any section, paragraph, clause, provision or part of this Ordinance is for any reason held to be invalid or unenforceable, the remainder of this Ordinance shall continue in full force and effect, it being the intent of the Board of Trustees that this Ordinance would have been adopted even if such invalid or unenforceable matter had not been included therein. It is further declared that if any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is

held invalid, the remainder of the Ordinance and the application thereof to other persons shall not be affected thereby.

Section 8: Effective Date. This Ordinance will become effective thirty days after publication thereof following final passage.

INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING AND ORDERED POSTED IN FULL THIS 6TH DAY OF OCTOBER 2015. A public hearing on the SECOND READING of this Ordinance will be held at the regular meeting of the Board of Trustees of the Town of Red Cliff on the 20th day of October 2015 at 7:00 p.m. in the Town Hall of the Town of Red Cliff.

TOWN OF RED CLIFF, COLORADO



M. Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Clerk

ADOPTED AND ORDERED PUBLISHED on this 20th day of October 2015.

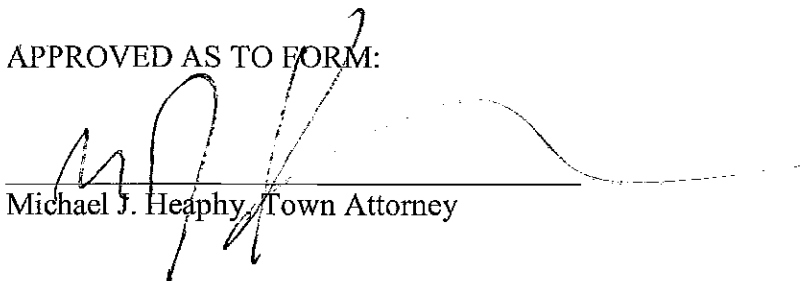
TOWN OF RED CLIFF, COLORADO


M. Scott Burgess, Mayor

ATTEST:


Barb Smith, Town Clerk

APPROVED AS TO FORM:


Michael J. Heaphy, Town Attorney