

**ARTICLE 2:** To see if the Town will vote to enact an ordinance entitled “November 2017 amendments to the Purchasing and Bidding Ordinance.”

**TOWN OF NEWCASTLE  
PURCHASING AND BIDDING ORDINANCE**

~~SECTION I. Establishment~~

~~—The Board of Selectmen’s, is vested with the authority to approve purchases of services, supplies, and improvements on behalf of the Town, or receive authority to do so directly from the residents by specific vote at either the Annual or Special Town Meetings.~~

~~—This authority shall be exercised at all times in the best interest of the Town as to the appropriateness of goods or services being considered, potential vendors of same, and all terms shall be appropriately reviewed prior to executing any purchase agreement or contract which binds the town to a set of terms and conditions as well as payment.~~

~~SECTION II.~~

SECTION I. Applicability

The Board of Selectmen’s shall have the authority to make purchases of any goods or services not approved by the voters at Town Meetings in an amount up to \$25,000 on a direct basis from a selected vendor or by means of a simplified bid process; ~~either or~~ as determined by a majority vote of the Board.

All purchases with an estimated total cost ~~level~~ in excess of \$25,000 shall be subject to the bidding process of the Town described as follows:

- A. The goods, services, or improvements subject to the bid process shall be adequately described in the bid request documents so all potential bidders shall have reasonable understanding of the scope of the goods, services, or improvements to be provided.
- B. The availability of bid specifications shall be advertised in at least one publication with the largest circulation in the local area encompassing the Town of Newcastle for a period of not less than two weeks. The notice shall include a general description of the goods or services to be purchased, the physical location where bid specifications may be obtained, the name of a contact person(s) in the event there are questions concerning the bid specifications, the manner in which the completed bid must be returned, the date and time all bids must be received, and the specific location where bids will be received.
- C. If the cost of the goods, services, or improvements is estimated to exceed \$100,000 the Board of Selectmen’s shall schedule a pre-bid open meeting to allow all potential bidders the opportunity to make inquiries concerning for the proposal. This pre-bid meeting may be convened and conducted by the Town Administrator.
- D. If the cost of the goods, services, or improvements is estimated to exceed \$100,000 the Board of Selectmen’s shall schedule a pre-bid open meeting to allow all potential bidders the opportunity to make inquiries concerning

the proposal. This pre-bid meeting may be convened and conducted by the Town Administrator.

E. The Board of Selectmen may require bids to include a bid bond on any project for which they deem a bid bond necessary or desirable.

F. All bids on infrastructure projects with an estimated cost exceeding \$100,000, shall be accompanied by a bid bond unless the Board should, for any reason, elect to waive the preceding requirements. The Board may waive this requirement by a unanimous vote of the quorum present. If the Board should waive these requirements, their reasons for doing so shall be recorded in the official minutes of a meeting.

~~C. —~~

~~D. All bids on projects with an estimated cost exceeding \$25,000 but no more than \$100,000, shall be accompanied by a bid bond, or an irrevocable letter of credit equal to the Bid Amount, from a commercial banking institution doing business in the State of Maine assigned to the Town of Newcastle, unless the Board should, for any reason, elect to waive the preceding requirements. If the Board should waive these requirements, their reasons for doing so shall be recorded in the official minutes of the meeting before proceeding to advertise for bids. Such requirements for contracts of \$25,000 or less shall be at the sole discretion of the Board of Selectmen's.~~

~~E. A bid bond shall be required on all bids submitted with an estimated completion cost in excess of \$100,000.~~

G. Opening of bids shall occur at the next regularly scheduled meeting of the Board of the Selectmen, may be conducted by the Town Administrator to occur at a time and place publicly noticed and administratively convenient for the Board of Selectmen's review of the results, consistent with its' meeting schedule.

F.H. During At the bid opening, the administrator shall be responsible for the accurate recording record of the proceedings including the date of receipt, the order and results of each bid being opened, which should occur one at a time, with each bid price read aloud and entered into the official minutes of the bid opening meeting. All bidders shall receive notice of the bid opening meeting which is sufficient if included in the advertisement for the bid process.

G.I. The award of bid shall occur at a regularly scheduled meeting of the Board of Selectmen's no later than thirty (30) days following the deadline for receipt of said bids. The award of a bid or contract resulting from a public bid process shall be identified as an agenda item, including the date, time, and location at which the award will occur. All bidders shall be notified as to the date and time that the Board of Selectmen's will be selecting the successful bidder. The Town Administrator shall be charged with the responsibility of reporting the bid results at this meeting to include a recommendation as to which bidder's response constitutes the lowest and most responsible bid to the specifications.

~~H.J.~~ The selection of the successful bidder shall be left to the sole discretion of the Board of Selectmen's, ~~but they shall be governed by selecting the lowest responsible bidder that is in the best interest of the Town.~~ If they should select a bid other than the lowest submitted they shall document their reasons for doing so by providing a reasonable explanation in the minutes of the Board meeting.

~~I.K.~~ In addition to "bid amount", the lowest responsible bidder shall be selected by consideration of, but not limited to, the following criteria:

1. The ability, capacity and skill of the bidder to perform the bid or provide the services required.
2. Whether the bidder can perform the bid or provide the service promptly, or within the time specified, without delay or interference.
3. The character, reputation and experience of the bidder.
4. The quality of performance under previously awarded bids.
5. The sufficiency of the financial resources and ability of the bidder to perform the bid as specified.
6. The number and scope of conditions attached to the bid.
7. Any other criteria that the Board of Selectmen's may adopt, from time to time, to assist them in their judgment of seeking the most appropriate and responsible bidder.

~~J.~~ If no bids are received by the bid closing deadline for the particular project being contemplated, or if the Board of Selectmen's determine that none of the bidders are qualified, the Selectmen's shall have the option of re-advertising for bids, or proceeding to select an appropriate qualified vendor to perform the work ~~for the Town as follows:~~

~~K.L.~~ ~~If the projected cost of the project is estimated to be \$25,000 or less,~~ the Selectmen's ~~shall be authorized to make said selection~~ by a majority vote of the Board.

~~If the projected cost of the project is expected to exceed \$25,000, the Selectmen's shall be required to submit their choice of vendor to the Finance Committee for review and recommendation. If the Board and Committee fail to agree on the selected vendor, they shall be required to meet in joint session and resolve the issue in the best interest of the Town. If the issue remains unresolved, the final decision will be made by a majority of the Board of Selectmen's.~~

### SECTION III. Exceptions

The bid process shall not apply to:

1. Any purchases determined to be of an emergency nature as determined by a majority vote of the Board of Selectmen's.
2. The goods, services, or improvements are available only from a single source vendor, determined by a majority vote of the Board to have previous experience, knowledge and expertise in a specific area of the Town that provides continuity, reliability and availability and the vendor is in good standing. However, the

Board of Selectmen's shall be required to exercise due diligence in reviewing single vendor relationships at the time of contract renewal to determine whether the goods, services, or improvements being provided may be available from multiple vendors at the time of contract expiration. If it is determined that there are more than a single vendor, the Board shall perform its due diligence in considering whether such other vendors pricing should be solicited accordingly.

3. Professional services related to legal, banking, accounting and audit work contracted from a vendor who has a local reputation of providing quality work, and has served the Town in a similar capacity in the past, and has experience in handling Municipal Government matters considered advantageous and beneficial to the Town.

SECTION III. Multi-year Contracts

Multi-year contracts may not exceed five years. The requirements of this ordinance shall apply to multi-year contracts based on their annual cost, not on the total amount of the contract.

SECTION IV. Definitions

Annual Cost: The total amount paid over the pendency of a contract divided by the number of the Town's fiscal years for which the contract runs.

Infrastructure: Infrastructure are all projects involving roads, bridges, buildings, structures, or physical improvements to town owned properties that require maintenance to remain useable over time. Infrastructure does not include landscaping, statues, or monuments.

ADOPTED: ~~March 30, 2009~~

CERTIFIED BY: \_\_\_\_\_  
~~Lynn Maloney~~Dawn Burns, Town Clerk