

The Santa Claus Town Council & Santa Claus Town Council met in regular session on September 12, 2022 at the Santa Claus Town Hall located at 90 N Holiday Blvd Santa Claus, In. The meeting was called to order by President, Michael Johannes at 5:30 pm

Pledge of Allegiance

Town Council Present: Jason Little, Patricia Vaal, Michael Johannes, Kevin Burke & Seth Windell

Absent:

Also, Present: Clerk-Treasurer; Kelly Greulich, Town Attorney; Kevin Patmore, Fire Chief; Max Meyer, Park Superintendent; Zach Tischendorf, Police Chief; James Faulkenburg, Building Inspector; Todd Hays, & Superintendent; Russ Luthy

MINUTES

Kevin Burke made a motion to approve the July 11, 2022 regular meeting minutes as written and Jason Little seconded the motion.

Ayes: All Nays: None Motion: Carried

Jason Little made a motion to approve the August 11, 2022 special minutes as written and Kevin Burke seconded the motion.

Ayes: All Nays: None Motion: Carried

Patricia Vaal made a motion to approve the August 31, 2022 special minutes as written and Kevin Burke seconded the motion.

Ayes: All Nays: None Abstain: Seth Windell Motion: Carried

PUBLIC HEARING

Kelly Greulich read the Ordinance information for the 2023 Town of Santa Claus 2023 Budget as follows: the estimated civil maximum levy is \$ 966,365 and the estimated the net assessed value is \$ 154,495,170

- 212 FUND Riverboat-\$ 17,500.00
- 101 FUND General - \$ 860,209.00 CT, TOWN MANAGER, PZ, POLICE, FIRE & SCCC **Tax Rate 0.4410**
- 223 FUND Rainy Day-\$ 75,000.00
- 202 FUND LRS- \$ 60,000.00
- 201 & 203 FUND MVH- \$ 282,650.00
- 204 FUND Recreation- \$ 159,784.00 **Tax Rate .0841**
- 214 FUND Police/Town Marshal Special-\$ 3,000.00
- 233 FUND Law Continuing Ed- \$ 1,500.00
- 239 FUND User Deferral Program- \$ 500.00
- 474 FUND TIF A & C- \$ 530,800.00
- 475 FUND TIF Industrial- \$ 100,000.00
- 444 FUND LIT/CEDIT- \$ 35,000.00
- 473 FUND Redevelopment Commission- \$ 1,681.00
- 408 FUND Industrial Development- \$ 50,000.00
- 219 FUND SC Trails Construction- \$ 32,900.00
- 176 FUND ARPA Grant- \$ 538,423.00

The total amount for the cum funds is \$ 330,000.00 the Net assessed value in the amount of \$ 181,759,024 for the following funds:

- 401 FUND Cum Cap Improvements-\$ 10,000.00
- 402 FUND Cum Cap Development- \$ 225,000.00 **Tax Rate .0500**

425 FUND Cum Cap Building- \$ 75,000.00 Tax Rate .0167

426 FUND Cum Cap Fire-\$ 225,000.00 Tax Rate 0.0186

The total tax rate **0.6104**

For a total budget of all funds excluding water and wastewater of \$ **3,298,947.00**. Greulich explained to those present the budget includes a new fire department pumper truck and a new concession/bathroom facility at Yellig Park. Are there any questions concerning the proposed 2023 Budget.

With no questions Kevin Burke made a motion to close the public hearing and Seth Windell seconded the motion.

Ayes: All Nays: None Motion: Carried

Kevin Burke made a motion to approve the 1st reading of Ordinance 2022-10 as stated in the public hearing and Seth Windell seconded the motion.

Ayes: All Nays: None Motion: Carried

Greulich informed those present the 2nd reading and adoption will be at the October 10, 2022 Town Council meeting.

COMMENTS FROM THE FLOOR

Todd Grundhoefer was present from the Back 9 Development asking the council to hold off on the zoning changes concerning the properties owned by the Back 9 Development at this time. As you know there was a joint meeting about 10 days ago and are suggestion is to have a third party look at the Ordinance concerning the towns PUD zoning. Michael Johannes stated the council can send the ordinance back to the Advisory Planning Commission (APC) to have the board review the ordinance and make recommendation to the council on changes but at this time we will table the rezoning and it will be brought up when Todd Hays has his report.

COMMENTS FROM THE PRESIDENT

Michael Johannes stated he has not heard from either party Dale Town Council or Riverview concerning the MOU. Johannes introduced Jane Stout of Spencer County Emergency Management along with Murry Stout and Bob Duley are here to acknowledge three officers for their courageous efforts concerning the tragic drowning of the individual in Christmas Lake Village on August 27, 2022. These officers are Santa Claus Police Officer Logan Musgrave, Indiana State Trooper Trey Lyntton and Santa Claus Reserve Office Keegan Kennedy. Each officer was given the Life Saving Award plaque. A round of applause was given to the officers as well.

AUGUST REPORTS FROM DEPARTMENT HEADS

FIRE DEPARTMENT MAX MEYER

First Responder-25 EMR

Fire Alarms-2

Total Activities-27

Meyer informed the council that the fire department was awarded the FEMA Fire Fighter Grant on August 31, 2022. The fire department will have to match 5% of the grant. Bids will go out for the SCBA equipment and we need to have a special meeting to open them. A discussion followed. The council set a special meeting for September 26, 2022 at 5:00 pm to open bids for the SCBA equipment. Truck bids will go out and be due at the October 2022 town council meeting. October 8, 2022 will be the BBQ Dinners from 11:00am until we run out. October 29, 2022 will be Medicine Cabinet Clean Out Day from 8:00 am to 12 noon.

PARKS & RECREATION/COMMUNITY CENTER ZACH TISCHENDORF

SCCC Active Members-99, New Members-10, Daily-33, Big Room Rental-0, Big Room Hourly Rental-0
COMPLETED PROJECTS OF PARK'S DEPARTMENT-North Parking Lot Expansion, added approximately 40 parking spots, dressed natural surface trail with # 92 stone, added 2 loads of sand to the volleyball court, 0222 Touch A Truck approximately 300 people attended and hired Miah Rahman for concessions and Kayla White and David Hurm have resigned from working part-time at the park. Doug Collins is interested in working part-time for the park.

NEW/ONGOING PROJECTS-Community Center remodeling, Yellig Tail Improvements, Fall Sports & Concessions, 2022 Touch a Truck, 2022 Trick or Treat Trail, Parking Lot Lines at SCCC & Park & Concession/Restroom Planning for 2023 is underway.

COUNCIL ITEMS TO DISCUSS-Community Center monthly rentals.

The Park will be receiving a couple large donations for 2 new scoreboards from Spencer County Bank & Winkler Wholesale.

BUILDING INSPECTOR TODD HAYS

Number of Post Hole Inspections	0
Number of Solar Inspections	0
Number of ILPS Issued	5
Number of New Permits	5
Number of Footing Inspection	2
Number of Foundation Inspections	1
Number of Rough in Plumbing Inspections	3
Number of Rough in HVAC Inspections	3
Number of Rough in Electric Inspections	4
Number of CenterPoint Inspections	2
Number of Electrical Permits Issued	0
Number of Gas Inspections	1
Number of General Inspections	5
Number of Framing Inspections	2
Number of Concrete Floors/Slabs	2
Number of Basements Inspections	0
Number of 911 Addresses Assigned	0
Waterproofing Foundations Inspection	0
Number of Underground Plumbing	0
Number of Electric Meter Inspections	0
Number of Final Inspections	3
Number of Certificate of Occupancy	2

Hays stated he has done a final inspection on the total remodel of 726 W Ornament Lane. Looks good and I am sure the neighbors are happier. Michael Johannes stated the council should make a motion to hold off on the rezoning of the Back 9 Development properties and have the APC board review the current ordinance on the zoning of a PUD and have APC come back to the council on recommendation on rewriting the ordinance. Do we have a motion?

Jason Little made a motion to hold off on the rezoning of the Back 9 properties and to have the Advisory Planning Commission review the Ordinance on the zoning of a PUD and bring back their recommendations to the town council and Kevin Burke seconded the motion.

Ayes: All Nays: None Motion carried

Kevin Burke asked Mr. Hays if he had inspected the Back 9 building where the work was being done, Hays stated at this time drywall was hung but was told they are working on rezoning the property. Patmore stated currently the property is R-2 which is residential since it is no longer operating the building under the same use it is not in compliance. Ron Smith spoke up and said we have only done drywall, lights, flooring and paint nothing else.

Kelly Greulich stated that Kevin Patmore and Todd Hays need to meet and go over the permit information concerning permit extensions so everybody is on the same page.

POLICE DEPARTMENT JAMES FAULKENBURG

Off Duty Call Outs-17

Citations TOSC-15

Warnings TOSC-67

Crash Reports-9

Vehicle Inspections-6

Domestic Disturbances-4

Assist another Department-10

Medical Emergencies-6

Disturbances-76

Theft Reports-2

Verbal Warnings-0

Case Reports/Investigations-24/87

Warrant Service-2

Gun Permits-2

Arrests-5

Assist Motorist-6

Reserve Hours for the month of August are as follows: Jazyk-16 hrs, Luker-8 hrs, Kennedy-21 hrs, Goffinet-8 hrs.

Kevin Burke stated the new decals on the SUVs look much better especially at night.

TRAILS RUSS LUTHY

Patricia Vaal asked about the painting on the crosswalk at the corner of Casey and the raven parking lot it very confusing, she gave Luthy a picture he will investigate the matter. A discussion followed about the plant growth in the landscaped areas on the trail. Luthy stated the areas will be thinned down and cleaned up. Greulich suggested the town could possibly take all those plants out and put in a small evergreen or holly bushes or boxwoods that stay green all year round. They are slow growing and would only require a little pruning each year plus they would aesthetically look better.

JIM YELLIG PARK-hard surface to replace gravel areas of the trail, contractor began work on June 21, 2022. Foot bridge installed, grade work and gravel begun on west segment of Trail A.

EASTSIDE TRAIL-Project substantially completed on 7-22-22, will need to find additional funding for CE (Inspection of Clark-Dietz) awaiting word on NOT from IDEM.

Greulich stated pay request # 2 Quality Craft in the amount of \$ 28,025.80 for the DNR portion of Yellig Trail for council consideration. Luthy has signed off on the work completed.

Seth Windell made a motion to approve pay request # 2 from Quality Craft Construction in the amount of \$ 28,025.80 for work completed on the Jim Yellig Trail on the DNR Grant and Jason Little seconded the motion.

Ayes: All Nays: None Motion carried

Luthy stated he has a change order for the west side of the Yellig trail, drainage issues are a concern Quality Craft has brought to our attention drainage that will need to be fixed otherwise it will continue to be an issue they have submitted two different adjustments option # 1 in the amount of \$ 7,656.08 includes tree cutting chipping and removal or option # 2 in the amount of \$ 4,369.85 includes tree cutting and blocking.

Seth Windell made a motion to approve change order/adjustment option # 2 in the amount of \$ 4,369.85 and Jason Little seconded the motion.

Ayes: All Nays: None Motion carried

A discussion followed about the added expense and that since the project went over the overage will come out of the TIF A & C. Redevelopment will have to approve the expenses.

STREET DEPARTMENT

STREET OPEN ACTION ITEMS

Mowing- Yes

Sign-replace/repair/install- No

Complaints- Yes

Street Repairs- Yes

Assist other departments as needed, culvert inspections, monitor CR 850 culvert, vehicle/equipment maintenance repairs, road inspections, pothole patrol, respond to instances of flooding (over the road) during heavy rainfall periods.

Kevin Patmore stated he and attorney Jeff Lindsey are going over the interlocal agreement with the roads and should have it finalized and ready for approval by county commissioners, county council and Santa Claus town council soon. Once completed an application will be sent to INDOT on the changes and they can approve the changes.

Vaal stated an email came out today, Russ Luthy stated in the email that he would be more specific in a new report concerning the incident in May. Luthy attached to the email his report and a follow up action SOP and policy for relating to unattended vehicles and equipment. Vaal asked Luthy are you going to fill out that form the council approved? Luthy stated no he sent the information for the file in the email. Johannes asked Vaal if she read the email, yes, I did read all of it but the council established that form to be used. Luthy stated the employee is not being disciplined for the incident. Luthy stated he thinks for form is an appropriate form to use but not for this incident. Luthy stated he wanted to be involved in the process. Greulich stated it is the council decision not your decision or mine. The council approved the PTO sheets, the manual and all forms that are used. Johannes said I think in this instance when we started this process it was to make sure there was a meeting with that employee, an acknowledge of signatures of the employee and the supervisor. Vaal suggested Luthy look over the form and see where we can go from there. Luthy stated the PTO sheets are a waste of a lot of ink and are redundant. Greulich spoke up and stated there is required information that must be on the PTO sheets Russ. Luthy said a lot of mumbo jumbo on those PTO sheets, Greulich stated from an HR standpoint it is not mumbo jumbo and maybe Luthy should take the time and read the town employee manual.

WASTEWATER

PLANT INFORMATION: Treatment August 2022 17.03 MG, August 2021 10.23 MG

Precipitation August 2022 6.91 Inches, August 2021 2.32 Inches

OPEN ACTION ITEMS: Process control testing, plant O & M, monitoring new Phosphorous treatment, QA/QC testing complete (lab), work continues AMP project. Note other items on file at WW Plant.

SSO(s)- 0

COLLECTION SYSTEM: Routine station maintenance checks, sewer main and lateral rehab ongoing, begin LS rehab/capital projects, work began on LS # 1 new ww set, valve and manhole, Jet lines, monitor manhole on Evergreen Dr, assist with ditch rebuild on walnut, new pump for LS # 26 (lighting strike) and other items on file at WWTP.

LATERAL INSPECTIONS: Revolving total lateral inspections-27, New in August-4, COC's completed -4, requiring repairs-1, no repairs-3, exempt laterals-0.

YEAR TO DATE: Requiring repairs-11, no repairs-13, exempt-3.

Luthy stated Deig Brothers has a pay request for lift station # 1 in the amount of \$ 138,605.00 for council approval. Midwestern has signed off on the work that has been completed in this pay request. Midwestern pay request # 6 for engineering on the wastewater project in the amount of \$ 10,984.14 for council approval.

Seth Windell made a motion for pay request on lift station # 1 in the amount of \$ 138,605.00 for Deig Brothers from the capital project fund and Jason Little seconded the motion.

Ayes: All Nays: None Motion carried

Seth Windell made a motion to approve pay request # 6 for Midwestern Engineers in the amount of \$ 10,984.14 and Jason Little seconded the motion.

Ayes: All Nays: None Motion carried

Luthy stated Melchior south will be closed in the area of LS # 1 for the 2 weeks until the work is complete.

OSHA

No lost time injuries, 5- field hazard assessments: 3 new water services, grout manhole & ditch repair.

WATER RUSS LUTHY

Work Orders-Total Received- this information was not filled in on the report

Work Orders Completed-“ “

Work Orders Pending- “ “

OPEN ACTION ITEMS: all pads and piers are complete for elevated water tank, well # 3 has been developed and testing is complete, platform is scheduled to be installed this week.

INDUSTRIAL PARK

Patmore stated a check in the amount of \$ 89,650.00 from Winkler Wholesale has delivered to his office.

TOWN ATTORNEY KEVIN PATMORE

Patmore stated no update on Gosnell lawsuit at this time.

Patmore has for a 2nd reading and adoption the council ORDINANCE 2022-06 AN ORDINANCE AMENDING SECTION 6.08.101(4)(C) OF THE MUNICIPAL CODE OF THE TOWN OF SANTA CLAUS, INDIANA CONCERNING OPERATION OF GOLF CARTS AND OFF-ROAD VEHICLES.

Seth Windell made a motion for the 2nd reading and adoption of ORDINANCE 2022-06 AN ORDINANCE AMENDING SECTION 6.08.101(4)(C) OF THE MUNICIPAL CODE OF THE TOWN OF SANTA CLAUS, INDIANA CONCERNING OPERATION OF GOLF CARTS AND OFF-ROAD VEHICLES and Patricia Vaal seconded the motion.

Ayes: All Nays: None Motion carried

Patmore has for the 2nd reading and adoption for the council ORDINANCE 2022-09 AN ORDINANCE ADOPTING PURCHASING AND PROCUREMENT REQUIREMENTS FOR A FEDERAL PROJECTS.

Seth Windell made a motion for the 2nd reading and adoption of ORDINANCE 2022-09 AN ORDINANCE ADOPTING PURCHASING AND PROCUREMENT REQUIREMENTS FOR A FEDERAL PROJECTS and Jason Little seconded the motion.

Ayes: All Nays: None Motion carried

Patmore has ORDINANCE 2022-08 AN ORDINANCE AMENDING SECTION 11.04.040 OF THE MUNICIPAL CODE OF THE TOWN OF SANTA CLAUS, INDIANA CONCERNING FLOOD HAZARD AREAS it comes to the council with a favorable recommendation from the APC Board.

Seth Windell made a motion for the 1st reading of ORDINANCE 2022-08 AN ORDINANCE AMENDING SECTION 11.04.040 OF THE MUNICIPAL CODE OF THE TOWN OF SANTA CLAUS, INDIANA CONCERNING FLOOD HAZARD AREAS and Jason Little seconded the motion.

Ayes: All Nays: None Motion carried

Patmore informed the council he had a draft ordinance ready for a noise ordinance but noticed an email went out from Michael Johannes stating the state has guidelines our town of Santa Claus police department already follow. At this time no ordinance is needed the police department will continue to follow the state guidelines.

CLERK TREASURER KELLY GREULICH

Kelly Greulich stated the office and Local Government Resources continue to make headway on the bank reconciliation. At the last online class from the SBOA the council will now be required to approve all payroll vouchers for all departments of the town. The report will show regular hours and all overtime hours. This will be emailed out on the Friday before the meeting along with the other vouchers to review. Jon Goldsberry of the Park Board has filed a Conflict-of-Interest form, Jon works for Mulzer Crushed Stone and the park does on occasions bid out rock/sand for the park. The Council President, must sign the form and it will be recorded at the County Clerks office.

MISCELLANEOUS:

Michael Johannes stated the video of the trails is almost complete.

VOUCHERS:

Jason Little made a motion to approve general vouchers in the amount of \$ 87,599.38 and Seth Windell seconded the motion.

Ayes: All Nays: None Motion carried

Jason Little made a motion to approve payroll vouchers in the amount of \$ 80,575.81

Jason Little made a motion to approve wastewater vouchers in the amount of \$ 286,974.20 and Seth Windell seconded the motion.

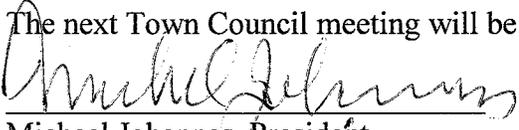
Ayes: All Nays: None Motion carried

ADJOURNMENT

Seth Windell made a motion to adjourn the town council meeting at 6:45 P.M. and Patricia Vaal seconded the motion.

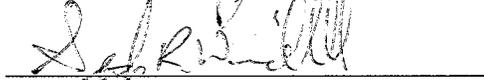
Ayes: All Nays: None Motion carried

The next Town Council meeting will be October 10, 2022 at 5:30 pm

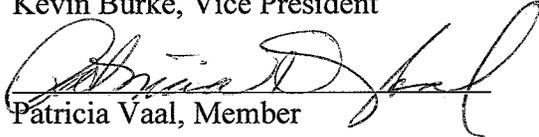


Michael Johannes, President

Kevin Burke, Vice President



Seth Windell, Member

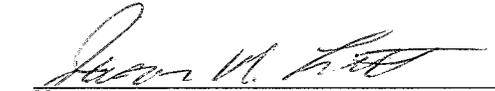


Patricia Vaal, Member

ATTEST:



Kelly K. Greulich, Santa Claus Clerk-Treasurer



Jason Little, Member

ORDINANCE 2022-06

AN ORDINANCE AMENDING SECTION 6.08.101(4)(C) OF THE MUNICIPAL CODE OF THE TOWN OF SANTA CLAUS, INDIANA CONCERNING OPERATION OF GOLF CARTS AND OFF ROAD VEHICLES

WHEREAS, the Town Council previously adopted Section 6.08.101 of the Municipal Code, concerning the use of golf carts and off-road vehicles upon certain streets and roadways within the Town; and,

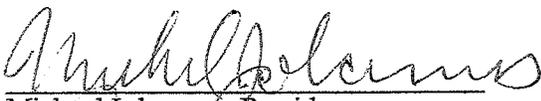
WHEREAS, the Town Council has determined it advisable to alter Section 6.08.101(4)(c) of the Municipal Code concerning the requirements for operation of such vehicles.

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Santa Claus, Indiana, that Section 6.08.101(4)(C) of the Municipal Code is hereby amended to read as follows:

“C. Only persons possessing a valid driver's license issued by the State of Indiana, another state of the United States of America or an international agency shall be permitted to operate a Golf Cart or Off-Road Vehicle on Permitted Streets. Persons holding a probationary driver's license shall comply with any and all limitations and/or restrictions imposed by law on holders of a probationary driver's license concerning hours of operation, permitted passengers and any other restrictions.”

PASSED AND ADOPTED by the Town Council of the Town of Santa Claus, Indiana this 12th day of September, 2022.

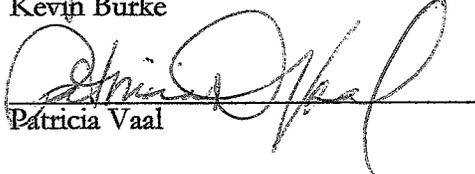
SANTA CLAUS TOWN COUNCIL


Michael Johannes, President


Jason Little


Seth Windell


Kevin Burke


Patricia Vaal

Attest:


Kelly Greulich, Clerk-Treasurer

ORDINANCE 2022-09

**AN ORDINANCE ADOPTING PURCHASING AND PROCUREMENT
REQUIREMENTS FOR FEDERAL PROJECTS**

WHEREAS, Section 1.06.360 of the Municipal Code of the Town of Santa Claus establishes certain policies and procedures for the purchase of equipment, supplies and other necessary items; and,

WHEREAS, 2 CFR §200.318 *et seq.* require certain procedures be implemented in purchasing using Federal funds and awards.

NOW, THEREFORE BE IT ORDAINED, by the Town Council of the Town of Santa Claus, Indiana that:

1. A new Section 1.06.360(10) is hereby added to the Municipal Code of the Town of Santa Claus, as follows:

“10. Purchasing Procedures and Requirements when Utilizing Federal Funds. Any and all Purchasing Agents, the Town Council and all other Boards of the Town shall comply with the following procedures and requirements when using Federal funds or awards to procure goods and/or services, whether received directly or as a sub-recipient:

- A. No employee, officer, or agent of the Town may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Violation of this requirement shall result in disciplinary action against the employee in violation. This policy shall not apply in situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. Prior to any participation in the selection, award of administration of a contract, the employee shall disclose any financial interest to the Town Council for a determination if such interest is substantial.

- B. All purchasing shall avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
 - C. To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the Town shall consider state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.
 - D. The Town shall consider using Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
 - E. The Town shall consider using value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
 - F. The Town shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
 - G. The Town shall maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
 - H. The Town may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to the Town is the sum of:
 - i. The actual cost of materials; and
 - ii. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract with the Town must set a ceiling price that the contractor exceeds at its own risk. Further, the Town shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- I. The town shall be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.
 - J. All procurement transactions for the acquisition of property or services required under a Federal award shall be conducted in a manner providing full and open competition consistent with the standards of this section and 2 CFR §200.320.

- K. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
- i. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - ii. Requiring unnecessary experience and excessive bonding;
 - iii. Noncompetitive pricing practices between firms or between affiliated companies;
 - iv. Noncompetitive contracts to consultants that are on retainer contracts;
 - v. Organizational conflicts of interest;
 - vi. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
 - vii. Any arbitrary action in the procurement process.
- L. The Town shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- M. All solicitations for bids or quotes by the Town shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement.
- N. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals
- O. The Town shall ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The Town shall not preclude potential bidders from qualifying during the solicitation period.
- P. Methods of procurement to be followed. The Town may use the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.
- i. Informal procurement methods. When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in 2 CFR § 200.1, formal procurement methods are not required. The Town may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

a. Micro-purchases.

Distribution. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in 2 CFR § 200.1). To the maximum extent practicable, the Town should distribute micro-purchases equitably among qualified suppliers.

Micro-purchases may be awarded without soliciting competitive price or rate quotations if Town considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases pursuant to Chapter 1.11 of the Municipal Code.

b. Small purchases.

The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the Town Council. The Simplified Acquisition Threshold ("SAT") shall be \$50,000.00, unless a higher amount may hereafter be required by Federal regulation, rule or order.

- ii. Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with 2 CFR § 200.319 or this Section. The following formal methods of procurement are used for procurement of property or services above the SAT:

Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

In order for sealed bidding to be feasible, the following conditions should be present:

- a. A complete, adequate, and realistic specification or purchase description is available;
- b. Two or more responsible bidders are willing and able to compete effectively for the business; and
- c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- c. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance.
- b. Proposals must be solicited from an adequate number of qualified offerors.
- c. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- d. The Town shall conduct technical evaluations of the proposals received and making selections by a committee of three persons;
- e. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the Town, with price and other factors considered; and
- f. The Town may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

- iii. Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
 - a. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
 - b. The item is available only from a single source;
 - c. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
 - d. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the Town;
 - or
 - e. After solicitation of a number of sources, competition is determined inadequate.

Q. The Town shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps shall include:

- i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.
- R. As appropriate and to the extent consistent with law, the Town, to the greatest extent practicable under a Federal award, shall provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

- i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

- S. The Town shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- T. The Town shall perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- U. The Town shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- V. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the Town under Federal regulations.
- W. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.
- X. For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the Town provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
- i. A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - ii. A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
 - iii. A payment bond on the part of the contractor for 100 percent of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Y. The Purchasing Agent or other Employee in Responsible Charge shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders."

2. Effective Date. This ordinance shall be in full force and effect after passage by the Town Council.

PASSED AND ADOPTED by the Town Council of the Town of Santa Claus, Indiana this 12th day of September, 2022.

SANTA CLAUD TOWN COUNCIL

Michael Johannes, President

Jason Little

Seth Windell

Attest:

Kelly Greulich, Clerk-Treasurer

Kevin Burke

Patricia Vaal