

DISTRICT CODE

CHAPTER 4

AN ORDINANCE OF THE RANCHO MURIETA COMMUNITY SERVICES DISTRICT ADOPTING CHAPTER 4 OF THE DISTRICT CODE, CONCERNING PURCHASING AND BIDDING PROCEDURES

BE IT ORDAINED by the Board of Directors of the Rancho Murieta Community Services District as follows:

SECTION ONE

Chapter 4 is added to the District Code and reads as follows:

DIVISION I. GENERAL PROVISIONS

Section 1.01 Purposes

The purpose of this policy is to secure for the taxpayers of the Rancho Murieta Community Services District the advantages and economies which will result from the centralized control over the expenditures of District funds for supplies, materials, and equipment and contractual-and personal services; from the application of modern, businesslike practices and methods to such expenditures; and from better utilization of the articles procured at public expense.

Section 1.02 Administration of Policy

The General Manger shall be responsible for the proper administration of the rules contained in this Chapter, and shall take steps as are necessary, reasonable and proper to ensure compliance with the terms and intent of this Chapter.

Section 1.03 Promulgation or Procedures

The General Manager may prepare procedural regulations to amplify the provisions of this Chapter, including but not limited to:

- a. The procedures for inspection of deliveries of supplies, materials, equipment and contractual and personal services.
- b. The procedures for submitting requisitions for supplies, materials, equipment and contractual and personal services by District employees.
- c. The procedures for receipt and examination prior to audit of invoices for supplies, materials, equipment and contractual and personal services delivered.

- d. The procedures for control and safeguarding of supplies, materials and equipment at storage points, including the maintenance of an inventory system for such articles.
- e. The General Manager shall submit such procedural regulation to the Board of the Rancho Murieta Community Services District for its review, prior to their implementation. The Manager shall be authorized to thereafter carry out and enforce such regulations except insofar as they may be modified or disapproved by the Board, in the course of its review.

Section 1.04 Bulk Orders

It shall be the responsibility of the General Manager, when practicable, to reduce the number of purchase transactions by combining them into bulk orders for commonly used or purchased items.

Section 1.05 Availability of Funds

Except in emergencies as defined in Division IV of this Chapter, no notice of award of contract shall be issued, no contract shall be signed, and no open market purchase made, until the General Manager has determined that there is an unexpended balance of funds appropriated by the Board of the District for the contract or purchase and such unexpended balance, is sufficient to defray the amount of such contract or purchase, or until provision for such an appropriation is made.

Section 10.6 Use of Department of General Services

As appropriate, the Office of Procurement, California Department of General Services, is authorized to purchase miscellaneous equipment and supplies for the District pursuant to Government Code Section 14814. The Manager is authorized to sign and deliver all necessary requests and other documents in connection therewith.

DIVISION II. DEFINITIONS

As used in this Chapter, the following words and phrases shall have the following meanings:

Section 2.01 Bidders' List

Bidders' list shall mean a current file of sources for supply of articles for each category of commodities purchased for District use.

Section 2.02 Board

Board shall mean the Board of Directors of the Rancho Murieta Community Services District.

Section 2.03 Commodity

Commodity shall mean supplies, materials and equipment.

Section 2.04 Competitive Bid or Competitive bidding

Competitive bid or competitive bidding shall mean an offer, or the process leading to an offer, submitted pursuant to a public notice inviting suppliers to provide the District with specified commodities or contractual services, or to purchase personal property which has been found by the Board not to be required for public use, and which offers are submitted as sealed bids, or by voice at public auction.

Section 2.05 Contractual Services

Contractual services shall mean any and all telephone, gas, water, electric, light and power services; rental of equipment and machinery; and all other types of agreements under which the contractor provides services or the construction of any unit of work which is required by the District. contractual services shall not include Personal Services as defined herein.

Section 2.06 District

District shall mean the Rancho Murieta community Services District.

Section 2.07 Force Account

Force account shall mean any work of construction performed by the District or day's labor under District superintendence.

Section 2.08 Irresponsible Bidder

Irresponsible bidder shall mean a bidder or prospective bidder who fails to furnish, upon written request, proof of the bidder's responsibility; who has, as a vendor or contractor with the District, repeatedly made slow or unsatisfactory deliveries; or who has violated or attempted to violate the provisions of this Chapter.

Section 2.09 Manager

Manager shall mean the General Manager of the Rancho Murieta Community Services District.

Section 2.10 Open Market Purchase or Open Market Transaction

Open market purchase or open market transaction shall mean the purchase of commodities or contractual or personal services, or the sale of personal property which has been found by the Board not to be required for public use, without the need for soliciting sealed bids for awarding to the lowest responsible bidder.

Section 2.11 Personal Services

Personal services shall mean the services of attorneys, physicians, architects, engineers, consultants or other individuals or organizations possessing a high degree of technical and professional skills.

Section 2.12 Responsible Bid

Responsible bid shall mean an offer, submitted by a responsible bidder in ink or typewritten form, to furnish supplies, materials equipment or contractual services in conformity with the necessary quality, specifications, delivery terms and conditions and other requirements included in the invitation for bid.

Section 2.13 Responsible Bidder

Responsible bidder shall mean a bidder who submits a responsible bid; who has furnished, when requested, information and data to prove that the bidder's financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, or equipment and to meet the requirements of this Chapter.

Section 2.14 Supplies, material and Equipment

Supplies, materials and equipment shall mean any and all articles or things which shall be furnished to or used by the District for the reasonable and necessary operation of the District.

DIVISION III. AUTHORIZED POWERS AND DUTIES

Section 3.01 Powers and Duties of General Manager

The General Manager shall, under the direction of the Board and subject to the provisions of this Chapter and applicable provisions of state law:

- A. Purchase all supplies, materials, equipment, contractual and personal services required by the District in amounts or estimated amounts of ten thousand dollars (\$10,000) or less.
- B. Submit to the Board for award, and thereafter execute together with the President, contracts for all purchases of supplies, materials, equipment, contractual and personal services in amounts or estimated amounts over ten thousand dollars (\$10,000).
- C. Use standard specifications wherever applicable or desirable to purchase orders and contracts and ensure compliance with such specifications through adequate inspection of deliveries.
- D. Exchange, trade-in or sell those supplies, materials and equipment which are surplus, obsolete or unused in accordance with Division V and which are found by the Board not to be required for public use.
- E. Develop standards, forms and conditions of invitations to bid, purchase orders and contracts; develop and prescribe the use of other forms and procedures as may be required or proper in carrying out the provisions of this Chapter.

Section 3.02 Delegation of Responsibility

The General manager may delegate the duties and responsibilities assigned by this Chapter as the General Manager finds proper.

DIVISION IV. EMERGENCY PURCHASES

Section 4.01 Existence of Emergency

An emergency shall be deemed to exist when unforeseen circumstance arise which threaten life or substantial damage to property.

Section 4.02 **Authority of General Manager to Make Purchases**

If an emergency occurs, the General Manager is authorized to purchase the required commodity or services, without regard to the limitations of Division V or Division VI of this Chapter.

Section 4.03 Authority of Other Employees to Make Purchases

If the General Manager is unavailable, the department or division supervisor or acting supervisor needing the emergency commodity or services may make the necessary purchase, securing competitive quotations if possible.

The supervisor making the emergency purchase shall, by the next business day, submit to the General Manager a tabulation of bids received, if any, a delivery receipt, and a written explanation of the circumstances constituting the emergency.

Section 4.04 Report to Board Concerning Purchase

On every emergency purchase made which exceeds ten thousand dollars (\$10,000), the General Manager shall promptly report to the Board of Directors the amount of the purchase and the circumstances constituting the emergency. If possible, the Manager shall obtain the prior approval of the Board for an emergency purchase exceeding ten thousand dollars (\$10,000).

DIVISION V. COMPETITIVE BIDDING

Section 5.01 Purchase of Contractual Services or Commodities or Sale of Personal Property not Exceeding \$10,000

If the amount of the expenditure for a contractual service or for a commodity or for a sale of personal property which has been found by the Board not to be required for public use, does not exceed \$10,000 competitive bids may be solicited by public notice.

Section 5.02 Purchase of Contractual Services or Commodities or Sale of Personal Property Over \$10,000

If the amount of the expenditure for a contractual service or for a commodity, or for a sale of personal property which has been found by the Board not to be required for public use, is estimated to exceed ten thousand dollars (\$10,000), competitive bids shall be solicited by public notice and written contracts shall be awarded.

Section 5.03 Public Notice of Competitive Bids

When using competitive bidding procedures, the General Manager shall give public notice by advertising in such newspaper(s) as may be available and suitable for a period of not less than two (2) consecutive weeks. The notice shall include a general description of the services or commodities to be purchased or the commodities to be sold, shall specify the time and place for opening bids, and shall specify where contract bids and specifications may be obtained.

Section 5.04 Solicitation of Bids

The General Manager may, in addition, solicit bids from prospective bidders as listed in the bidders list by sending them copies of the newspaper notice or such other notice as will acquaint them with the proposed purchase of sale.

Section 5.05 Surety for Bids

Bids may, and where required by law shall, be accompanied by a surety in the form of a certified or cashier's check or bid bond in such amount as shall be prescribed in the invitation for bids or contract bid form.

Section 5.06 Tabulation of Bids

A tabulation of all bids received, whether accepted or rejected, shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

Section 5.07 Uniform Bidding Discouraged

It shall be the duty of the General Manager to discourage uniform bidding by every possible means and to endeavor to obtain as full and open competition, as possible, on all purchase and sales.

Section 5.08 Advance Disclosure of Bids

Any disclosure to, or acquisition by, a competing bidder, in advance of the opening of the bids, of the terms and conditions of the bids submitted by another bidder shall render the proceedings void-able at the District's discretion.

Section 5.09 Inapplicability to Purchase Through Department of General Services

This Division shall not apply to purchases made under an interagency purchasing agreement with the State Department of General Services.

DIVISION VI. AWARDING OF CONTRACTS

Section 6.01 Rejection of all Bids

The Board of Directors may reject any and all bids for any or all commodities or contractual services included in the bid form and may re-advertise when the public interest will be served thereby.

Section 6.02 Tie Bids

If more than one bid under consideration is received for the same total amount, and if the public interest will not permit the delay of re-advertising for bids, the Board may authorize the Manager to award a contract to one of the tie bidders by drawing lots in public or to purchase the commodities or contractual services in the open market, provided the price paid in the open market shall not exceed the lowest contract bid price submitted for the same commodity or contractual service.

Section 6.03 Award of Contracts for Sale

Contracts for sales of personal property which exceed ten thousand dollars (\$10,000) shall be awarded in accordance with Division V to the highest responsible bidder.

Section 6.04 Award to Lowest Responsible Bidder

In all cases other than set forth in Sections 6.01, 6.02, 6.03, and 6.06, the contract shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, the Board will take into consideration the quality offered and its conformity with the specifications, the delivery and discount terms and conditions of the bidder, and such other information and data as the Board may require to determine responsibility. However, when price and quality are equal, preference may be given to local responsible bidders.

Section 6.05 Forfeiture for Failure to Enter Contract

If the successful bidder does not enter into a contract within then (10) days after notification of award of contract, the bidder shall forfeit in cash an amount equivalent to the amount of any surety which was required to accompany the bid, unless the District is responsible delay.

Section 6.06 Award When No Bids Received

When no bids are received for commodities or contractual services for which the District has duly noticed the bids pursuant to Division V, the Board may determine to have the work performed by force account or commodities sold or purchased by an open market transaction.

DIVISION VII. SELECTION OF CONSULTANTS AND CONTRACTS FOR PERSONAL SERVICES

Section 7.01 Need for Personal Services

When personal services are needed which required the selection of a consultant, the General Manager shall study the proposed needs so as to be able to familiarize the Board of Directors with what is required and expected of the consultant.

Section 7.02 Solicitation of Consultants

The General Manager may solicit and consider the qualifications of several consultants who appear to be capable of meeting the requirements which brought about the need for such personal services.

Section 7.03 Evaluation of Consultants

A. If, following the procedure set forth in Section 7.02, the General Manager together with such others as may be appropriate shall evaluate the consultant or consulting firm on the following criteria:

1. The firm or the individual consultant shall be of high ethical and professional standing and must be prepared to submit references from persons of known repute.
2. When applicable, a principal member of the firm, or the individual consultant, shall have significant recent experience in the area of work or services required.
3. The firm or the individual consultant must have the professional, technical, and financial resources adequate to accomplish the work efficiently, effectively and responsibly in the required time.

B. Following evaluation of the criteria set forth in Subsection A, the General Manager shall rate the consultants in the order of their desirability.

Section 7.05 Negotiation of Terms and Conditions

The General Manager shall discuss the requirements and needs of the District in detail with the firm or individual consultant considered to be the best qualified, and negotiate terms and compensation.

Section 7.06 Contract for Personal Services

When all professional matters and the charges therefore have been agreed upon, a contract shall be drafted embodying the scope of the assignment and all terms, conditions and charges. The contract shall be presented to the Board of Directors for final approval; provided, however, the services in amounts or estimated amount of ten thousand dollars (\$10, 000) or less, shall be governed by Section 8.01 of this Chapter.

DIVISION VIII. OPEN MARKET PURCHASES AND SALES

Section 8.01 Expenditures of \$10,000 or Less

If the amount of expenditures for commodities or contractual or personal services is estimated to be less than ten thousand dollars (\$10,000), it shall be an open market transaction or force account work and not subject to Division V and Division VI of this Chapter. However, all such open market transactions should, wherever practicable, be based on market competition.

Section 8.02 Sale of Personal Property for \$10,000 or Less

If the amount of a sale of personal property which has been found by the Board not to be required for public use is less than ten thousand dollars (\$10,000), it shall be an open market transaction and shall not be subject to the requirements of Division V and Division VI of this Chapter. A minimum selling price for surplus properties may be determined by resolution of the Board at the time the item is declared surplus to the needs of the District.

DIVISION IX. PATENTED OR PROPRIETARY ARTICLES

Section 9.01 Purchase of Equipment Produced by Only One Manufacturer

When the District requires supplies, materials or equipment which are produced by only one manufacturer, the District Manager may conduct open-market negotiations with authorized dealers or distributors of such manufacturer to secure the lowest responsible quotation for the purchase, without regard to the limitations of Division V or Division VI of this Chapter

Section 9.02 Purchase of Equipment Produced by Two or More Manufacturers

- A. When the District requires supplies, materials or equipment which are patented or proprietary and which are obtainable in two or more equally satisfactory and competitive makes, brands, or types, the General manager shall list an acceptable and competitive make, brand, or type in the invitation to bid, followed by the phrase "or equal" to permit bidders to bid alternative or additional makes, brands, or types.
- B. It shall be the responsibility of each such bidder to prove to the satisfaction of the District that the alternative or additional make, brand or type which the bidder offers is equal in quality and/or performance to the listed in the invitation. The General Manager may additionally engage the services of any laboratory facilities deemed necessary to conduct tests appropriate to the determination.

DIVISION X. UNLAWFUL PURCHASES

Section 10.01 Unlawful Purchase Void

If any supplies, materials, equipment or contractual or personal services are purchased or contracted for contrary to the provisions established pursuant hereto, such purchase or

contract shall be void and of no effect. If the amount of such purchase or contract has already been paid out of District funds, the amount may be recovered in the name of the District in an appropriate action therefore.

Section 10.02 Splitting of Transaction Unlawful

It shall be unlawful to split requirements for supplies, materials, equipment and contractual services into amounts or estimated amounts of less than ten thousand dollars (\$10, 000) in order to avoid the provisions of Division V and Division VI of this Chapter.

DIVISION XI. REJECTION OF IRRESPONSIBLE BIDDER

Section 11.01 Decision to Bar Irresponsible Bidder

The General Manage may declare a bidder to be irresponsible for the reasons cited in Section 2.08 of this Chapter, and may remove the bidder's name from the bidders' list and bar the bidder from bidding for a reasonable period of time. The barred bidder shall be furnished with a written statement of the reasons therefore, and may appeal such decision to the Board of Directors which can affirm, reverse, modify or amend the decision.