

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

Golden West Community Services District
P.O. Box 448
El Dorado, CA 95623

02/27/2014, 20140007627

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GOLDEN WEST COMMUNITY SERVICES DISTRICT

RESOLUTION NO. 134 A Resolution Adopting the Golden West Community Services District Contracting and Purchasing Policy

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WHEREAS, Section 61045 subsection (g) of the Government Code (Gov. Code) requires the District Board of Directors to adopt a purchasing policy; and

WHEREAS, Section 61063 subsection (a) requires each district to adopt policies and procedures, including bidding regulations, governing the purchasing of supplies and equipment not governed by Article 43 (commencing with Section 20680) of Chapter 1 of Part 3 of the Public Contract Code and each district shall adopt these policies and procedures by rule or regulation pursuant to Article 7 (commencing with Section 54201) of Chapter 5 of Division 2 of Title 5.; and

WHEREAS, Section 61051 of the Gov. Code delineates the responsibilities of the General Manager, including but not limited to, implementation of Board policies, supervision of the District's "facilities and services" and supervision of the District's finances; and

WHEREAS, Section 61060 of the Gov. Code authorizes the District to "enter into and perform all contracts"; and

NOW, THEREFORE, BE IT RESOLVED that the Golden West Community Services District adopts as it's governing policy Attachment 1 Golden West Community Services District Contracting and Purchasing Policy.

PASSED AND ADOPTED by the Golden West Community Services District on this 25th day of February 2014.

AYES: 3 Board Member(s)

NOES: 0 Board Member(s)

ABSTAIN: 0 Board Member(s)

Rod Miller

Rod Miller, President of the Board of Directors

ATTEST:

Patricia McClintock
Patricia McClintock, Secretary of Board of Directors

GOLDEN WEST COMMUNITY SERVICES DISTRICT
Purchasing and Contracting Policy and Procedures Feb. 2014

Section 1. Purpose

The purposes of this policy are to standardize the purchasing procedures of the Golden West Community Services District, thereby securing for the District the advantages of a centralized and uniform purchasing policy saving the taxpayers money and increasing public confidence in the procedures for District purchasing; to promote the fair and equitable treatment of all consumers and suppliers of goods and services; and to set forth the duties and responsibilities of the General Manager and District staff.

Section 2. Definitions

- A) **Vendors** – means those contractors and seller that provide goods and services to the District.
- B) **Bid Most Advantageous To The District** – means the lowest responsible and responsive bidder on a District project that is subject to Competitive Bidding from among those bids that are deemed to be Responsive to the Specifications and capable of and Responsible for providing acceptable goods and services to the District.
- C) **Board** – means the Board of Directors of the District.
- D) **Capital Expenditure** – means all major expenditures of a non-recurring nature such as new buildings, major remodeling projects and major equipment Purchases that likely have surplus value after five years of purchase. Excluded from this definition shall be all in-house projects unless the cost of the materials alone exceeds \$5,000.
- E) **Competitive Bidding** – means the process of obtaining the Bid Most Advantageous To The District for any Purchase conducted through a Formal Bid or Informal Bid.
- F) **District** – means the Golden West Community Services District.
- G) **Equipment** – means Non-construction related mechanical vehicles, loaders, or tools used in the course of maintaining district roads, property or administrative activities.
- H) **Formal Bid** – means a written quotation obtained in a sealed envelope or through online bid submittal webpage from a potential Vendor, or through District direct solicitation, public announcement, or published advertisement and opened at a specific day, place, and time. Notice inviting bids for any contract requiring Competitive Bidding shall be published at least one time in a local newspaper of general circulation within the District. It is required to have the bid opened publicly at a specified day, place and time.
- I) **Informal Bid** – means a written or oral quotation obtained from a potential Vendor, but not required to be opened publicly at a specified day, place, and time.
- J) **Lowest** – means the smallest bid in monetary terms received by the District for the cost of a project subject to Competitive Bidding.
- K) **Non-construction Supplies** – means goods used for activities other than construction related projects.

- L) Plans** – means drawings or diagrams made to scale showing the structure or arrangement of a construction project, or a method or program showing a level of service or benefit defined within a contract. Plans will become part of the awarded contract. All bidders will be afforded an opportunity to examine the Plans.
- M) Purchase** – means buying, renting, leasing or otherwise acquiring Supplies or Services for a price.
- N) Responsible** – means the Lowest bidder who possesses the trustworthiness, quality, fitness, ability, capacity, and experience to satisfactorily perform a District project subject to Competitive Bidding. When the Lowest bidder is found not to be Responsible, the District must notify the bidder of this finding and the evidence upon which the finding was based, and the District must afford the bidder an opportunity to rebut such adverse evidence at a District Board Meeting, and permit the bidder to present evidence that the bidder is Responsible.
- O) Responsive** – means a bid received by the District for a project subject to Competitive Bidding that substantially conforms to the bid Specifications and all applicable statutory requirements. A bidder is not entitled to a hearing on the question of Responsiveness, but is entitled to notice and the right to submit materials to the Board or the District's General Manager before a decision is made.
- P) Services** – means all labor furnished to the District by persons, firms, individuals or corporations not part of or connected with the District.
- Q) Sole Source Contractor** – means a contractor or consultant that has been evaluated to provide unique or specialized Services or Supplies that cannot be obtained from other contractors or consultants. Such designation must be approved by the Board.
- R) Specifications** – means standards, including quality, set by the General Manager, supervisory staff or consultants as a guide and as a measure of that which successful vendors must achieve. Specifications shall be either technical specifications for bids, which shall state formulations as broadly as practicable, yet shall be specific enough to describe the requirements of the District or non-technical specification for bids, which shall state the quality required in general terms. Specifications will become part of the awarded contract. All bidders will be afforded an opportunity to examine the specifications.
- S) Splitting Purchases** – means the intentional separation of a District project into smaller portions in order to avoid any of the Purchasing limits established by this policy.
- T) Supplies** – means all materials and equipment.

Section 3. Applicability

This policy shall apply to all Purchases made by the District, except as otherwise specified herein. In implementing this policy, District employees or representatives are prohibited from Splitting Purchases from one supplier, vendor or contractor.

Section 4. Purchase of Construction Supplies

The District must comply with the following Competitive Bidding requirements with respect to the Purchase of Supplies, construction, road work or completion of any building, structure, or improvement when the cost exceeds \$25,000:

- A) Formal Bids.** Contracts for Purchase of Supplies, construction, road work or completion of any building, structure, or improvement when the cost exceeds \$25,000 shall be contracted for and let to the

- Bid Most Advantageous To The District after notice. If two or more bids are the same and the quality is equal, then the Board may accept the one it chooses.
- B) **Notice.** The District shall publish a notice inviting bids for any contract for which Competitive Bidding is required at least one time in a newspaper of general circulation in the District at least one week before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the supplies to be purchased.
 - C) **Alternate Publication.** If the District's General Manager recommends, and the Board determines, that the publication of advertisements of the notice in trade journals and webpage, or papers in lieu of publication in a newspaper of general circulation will increase the number of business enterprises receiving the notice, the Board may by resolution declare that those notices shall be published in trade journals, webpages or papers at least ten days prior to the time specified for receiving bids.
 - D) **Rejection of Bids.** At its discretion, the Board may reject any bids presented and readvertise. The Board may also waive a minor bid irregularity that does not give an unfair advantage to another bidder. However, the Board is under no obligation to waive bid irregularities.
 - E) **Emergencies.** In the case of an emergency, the District may proceed in accordance with Section 8 below.

Section 5. Construction Contracts

The District must comply with the following Competitive Bidding requirements with respect to the construction or completion of any building, structure, or improvement when the cost exceeds \$25,000:

- A) **Formal Bids.** All contracts for the construction or completion of any road work or completion of any building, structure, or improvement when the cost exceeds \$25,000, shall be contracted for and let to the Bid Most Advantageous to the District after notice. If two or more bids are the same and the quality is equal, the Board may accept the one it chooses.
- B) **Notice.** The District shall publish a notice inviting bids for any contract for which Competitive Bidding is required at least one time in a newspaper of general circulation in the District at least ten days before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the work to be done.
- C) **Alternate Publication.** If the District's General Manager recommends, and the Board determines, that the publication of advertisements of the notice in trade journals and webpage, or papers in lieu of publication in a newspaper of general circulation will increase the number of business enterprises receiving the notice, the Board may by resolution declare that those notices shall be published in trade journals, webpages or papers at least ten days prior to the time specified for receiving bids.
- D) **Plans and Specifications.** If Plans and Specifications are prepared describing the work, all bidders shall be afforded an opportunity to examine the Plans and Specifications, and the Plans and Specifications shall be attached to and become a part of the contract, if one is awarded.
- E) **Bid Security.** All bids for construction work shall be presented under sealed cover and shall be accompanied by bidder's security in the form of either cash, a cashier's check made payable to the District, a certified check made payable to the District, or a bidder's bond executed by an admitted surety insurer made payable to the District. Upon an award to the bidder, the security of an unsuccessful

bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the District beyond 60 days from the time the award is made.

- F) **Rejection of Bids.** At its discretion, the Board may reject any bids presented and readvertise. The Board may also waive a minor bid irregularity that does not give an unfair advantage to another bidder. However, the Board is under no obligation to waive bid irregularities.
- G) **Emergencies.** In the case of an emergency, the District may proceed in accordance with Section 8 below.
- H) **Bonds.** The Board may, subject to Civil Code Section 3247 et seq., require the posting of those bonds it deems desirable as a condition to the filing of a bid or the letting of a contract.
- I) **Record.** The District shall keep cost records of the work in the manner provided in Government Code Section 4000 et seq.

Section 6. Purchasing Limits for Other Contracts

The District must comply with the following requirements with respect to Purchases that are not subject to the provisions of Sections 4 and 5 above:

- A) **Formal Bids.** Purchases shall be made by Formal Bid whenever such method is required pursuant to the Public Contracts Code.
- B) **Record of Bids.** The District's General Manager shall keep a record of all bids submitted, and such record shall be open to proper inspection by any interested party within a reasonable amount of time.
- C) **Approval**
 - 1) No Purchase of Supplies or Services exceeding \$5000 shall be made by any District representative or the General Manager without the approval of the District Board.
 - 2) No single Purchase of Supplies or Services exceeding \$25,000 shall be made by the District's General Manager without the approval of the Board.
- D) **Exemptions to Competitive Bidding.** Notwithstanding the basic policy that the procurement of Services and Supplies shall be on a Competitive Bidding basis to the maximum practical extent, Purchases may be negotiated when one of the following circumstances is present:
 - 1) When the total dollar value of the Purchase does not exceed \$25,000.
 - 2) When an emergency exists, the District may proceed in accordance with Section 8 below.
 - 3) When a Sole Source Contractor has been designated.
 - 4) When Competitive Bidding would fail to produce an advantage and/or when the advertisement for Competitive Bidding would be undesirable, impractical, or impossible.
 - 5) When the Purchase is for Professional Services.

E) Purchasing Procedures & Policies. The Purchase of Services, Equipment and Non-construction Supplies shall be on the basis of Competitive pricing to the maximum practical extent. However, whenever Supplies or Services are procured by Competitive Bidding, negotiation, price quotations or other evidence of reasonable prices and other vital matters deemed necessary by the District's General Manager shall be solicited by the maximum number of qualified sources of Supplies or Services consistent with the nature of and requirements for the Supplies or Services to be Purchased, in accordance with the basic policies set forth below:

1) Purchases - Not to Exceed \$5,000. When the General Manager considers prices to be fair and reasonable and when the total amount of the Purchase does not exceed \$5,000 and does not exceed the District budget. Purchase procedures and documentation will be simplified to the maximum degree possible. The General Manager shall establish such rules of procedures for such Purchases as he/she feels necessary to insure against abuse of the public interest.

2) Purchases - \$5,000 to \$25,000. Purchases exceeding \$5,000 but not exceeding \$25,000 in total cost will be supported by a record of price quotations from three (3) different sources or an adequate explanation justifying the absence of such alternate quotes. Such quotations may be obtained in writing, verbally or by such other means as may be prescribed by the General Manager as appropriate to the circumstances. District Board approval of the purchase shall be required. General Manager recommendations shall be written and become part of the supporting documentation for the Purchase.

3) Purchases Exceeding \$25,000. Purchases exceeding \$25,000 in value must be approved by the Board prior to award. Bids shall be solicited by the General Manager. Bids shall be submitted closed. Bid Awards shall be based on price and quality of products. Request for such approval will be accompanied by a full statement of facts justifying the recommendation for award.

F) Rejection of Bids. The Board shall have the authority to reject any and all bids received in response to invitations for bids. The Board may also waive a minor bid irregularity that does not give an unfair advantage to another bidder. However, the Board is under no obligation to waive bid irregularities.

G) Requisitions. Purchases involving the immediate encumbrance of District funds shall be made only based on an invoice. The General Manager may issue a District check made payable to the vendor for the materials and supplies or services requested based on bids and quotes provided pursuant to this policy. For purchases pursuant to this policy where a credit account is necessary the General Manager shall have the authority to apply for credit based the District's approved budget.

Section 8. Emergencies

A) Vote. In the case of an emergency, the District, pursuant to a four-fifths vote of the Board, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary Services and Supplies for those purposes, without giving notice for bids to let contracts.

B) Findings. Before the Board takes any action pursuant to paragraph A) above, it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

C) Delegation. The Board, by four-fifths vote, may delegate, by resolution or ordinance, to the District's General Manager the authority to order any action pursuant to paragraph A) above. The Board may delegate to the District's General Manager the authority to repair or replace a public facility, or take any other related and immediate action, that is necessary to respond to an "emergency situation" as defined in Government Code Section 54956.5(a), and to procure the necessary services and supplies for those purposes without giving notice for bids to let contracts.

D) Report. If the District's General Manager, pursuant to the authority delegated by the Board under paragraph C) above, orders any action specified in paragraph A) above, that person shall report to the Board, at its next meeting, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

E) Review.

1) If the Board orders any action specified in paragraph A) above, the Board shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue this action.

2) If the District's General Manager, pursuant to the authority delegated by the Board under paragraph C) above, orders any action specified in paragraph A) above, the Board shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless the District's General Manager has terminated that action prior to the Board reviewing the emergency action and making a determination pursuant to this paragraph.

3) When the Board reviews the emergency action pursuant to paragraph E)1) or E)2) above, it shall terminate the action at the earliest possible date completed by giving notice for bids to let contracts.

Section 9. Scope of General Manager's Authority

The District's General Manager shall purchase or contract for all Supplies, Services, and Capital Equipment needed in accordance with procedures prescribed by this adopted policy and such additional lawful rules, not inconsistent herewith, as the District General Manger shall employ for the efficient internal management and operation of the District.

A) Exceptions

1) **Exceptions Prohibited.** The authority of the General Manager to make all purchases for the District shall not be abridged unless, by order of the Board, such exception is granted for a specific purpose.

2) **Temporary Absences.** During periods of temporary absences of the General Manager, the authority to implement the provisions of these regulations will be held by a District staff member so appointed by the General Manager and approved by the Board for the period of the absence.

B) Tax Exemptions. The General Manager shall act to procure for the District all Federal and State tax exemptions to which the District is entitled.

C) Cooperative Purchasing. The General Manager shall have the authority to join other units of government including Federal, State, County, Municipal and Municipal sub-divisions, such as Water Districts, Sewer Districts, School Districts, Special Districts and Councils of Government in cooperative purchasing plans when the best interests of the District would be served thereby and when such action is in accordance with and pursuant to law.

D) Other Duties. The District's General Manager shall perform such other duties related to the functions, duties, and authorities set forth herein, as may be prescribed by the Board and by any applicable state or local laws or ordinances.

Section 10. Miscellaneous

- A) Local Purchases.** The District will make every effort to Purchase from businesses located within the District's service area if the Purchase provides the best overall value for the District.
- B) Conflict of Interest.** No District employee or Board member authorized to act on behalf of the District shall enter into any agreement, contract, or solicit bids with any individual, firm, corporation, or organization in which said employee, Board member, or relative of same has a financial interest. This shall also include the acceptance of any gift or gratuity, directly or indirectly, from any person, firm, corporation, or organization to which any purchase or contract is, or might be, awarded, any rebate, gift, or anything of value whatsoever, except where given for the express use of benefit of the District. Inexpensive advertising items, bearing the name of a vendor, such as pens, pencils, paper weights, cups, candy, calendars, etc., are not considered articles of value or gifts in relation to this policy.
- C) Non-collusion Affidavit.** The Bidder declares, by signing and submitting a formal bid proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the vendor has not directly or indirectly induced or solicited any other vendor to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any vendor or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the vendor has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the vendor or any other bidder, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other vendor, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the vendor has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
- D) Supersedes Other Policies.** This purchasing policy and procedures supersedes any inconsistent prior policies adopted by the Board. Where conflicts occur between this policy and the Road Policy on contracting matters this policy shall apply. No individual contract or group of contracts shall encumber the District beyond available cash on hand minus a reserve for emergencies.
- E) Contract Content.** Contracts awarded pursuant to this policy shall be executed by the President of the District Board as the legal bind authority of the District. Contract shall include provision which protect the interests of the District and shall include the following:
1. A detailed scope of work that clearly describes the work to be performed by contractors in such a way that multiple contractors can completely and competently perform required work even if new to projects. The scope of work shall use to maximum extent practical standard construction industry terminology and specifications. The scope of work shall identify the specific part of the district where work will be performed.
 2. Contract wording that limit the district's liability for project work.
 3. Contract wording that require the contractor to maintain insurance coverage and for contracts in excess of \$10,000 to specifically name the District as additional insured.
 4. Contract wording requires contractors to indemnify, defended and hold harmless the City and its officers, officials, employees, agent and volunteers from any and all liabilities, claims, demands,

damages, losses and expense (including without limitation defense costs and attorney fees of litigation) which may arise or which the City may incur as a consequence of any occurrence arising out of this contract, except such loss or damage which was caused by the sole negligence or willful misconduct of the City or its officers, officials, employees, agents, and volunteers.

5. Precise compensation wording for specific job, scope of work, or unit of work. The compensation description shall limit to the maximum extent practicable open ended cost and cost overruns.
6. Contract wording that describes the effective period of the contract and termination provisions.