

## ORDINANCE NO. 21

### AN ORDINANCE ADOPTING RULES AND REGULATIONS FOR CONTRACTS INVOLVING SUPPLIES AND EQUIPMENT, SPECIAL SERVICES, PROFESSIONAL SERVICES, AND PUBLIC IMPROVEMENT PROJECTS

#### RECITALS

WHEREAS, by Resolution No. 2023-964, adopted April 13, 2023, the District opted to become subject to the Uniform Public Construction Cost Accounting Act (Public Contract Code §§ 22000, et seq.; the “Act”);

WHEREAS, the Clerk of the Board will notify the California State Controller regarding the District’s adoption of Resolution No. 2023-964;

WHEREAS, Public Contract Code section 22034 of the Act requires the District adopt an ordinance establishing informal bidding procedures for public improvement projects below a certain monetary threshold;

WHEREAS, Government Code section 54201 et seq. requires the District adopt a purchasing policy for supplies and equipment; and

WHEREAS, pursuant to Health and Safety Code section 6490, the District desires to consolidate all the rules and regulations for contracts involving supplies and equipment, special services, professional services, and public improvements projects into a single document.

**NOW, THEREFORE**, the Board of Directors of the Montecito Sanitary District does ordain as follows:

#### SECTION 1: DEFINITIONS.

1. “Design-build” means a method of project delivery in which the design and construction services are contracted from a single entity pursuant to Public Contract Code section 22160 et seq.
2. “Supplies and equipment” means equipment, materials, goods, parts, miscellaneous commodities and other supplies which are not included as part of a contract for a public improvement project, professional services, or for special services.
3. “Professional services” means those services provided to the District by independent consultants or contractors including, without limitation, architectural, landscape architectural, engineering, environmental, land surveying, construction management and other similar services under Government Code section 4525 et seq. which are incidental to the operation of the District.
4. “Public Improvement project” shall be defined to mean both a “district project” under Public Contract Code section 20801 and a “public project” under Public Contract Code section 22002.
5. “Special services” means those services provided to the District by independent consultants and contractors including, without limitation, financial, economic,

accounting, engineering, legal, administrative, and other similar services under Government Code section 53060 which are incidental to the operation of the District.

SECTION 2: SUPPLIES & EQUIPMENT.

1. Whenever a contract for supplies and equipment is \$50,000 or less, the General Manager may award the contract without the need to call for bids.
2. Whenever the expenditure required for the purchase of supplies and equipment exceeds \$50,000, the Board of Directors shall award the contract and the District may, in the General Manager's discretion, procure bids for the purchase of supplies and equipment by any one of the following methods:
  - a. By publication of a notice inviting bids at least once in a newspaper of general circulation in the Montecito area or on a virtual bidding platform available to all eligible bidders. Such notice shall state the time and place for the opening of bids and shall state the specifications for the supplies and equipment to be purchased. Said publication must be made at least 10 days prior to the time set for the opening of bids.
    - i. In addition to publication, the General Manager may notify prospective bidders by written correspondence or telephone that bids are being called for.
    - ii. At the time and place fixed for the opening of bids, the bids shall be made available to the public, and the contract presented to the District Board for consideration at the next scheduled meeting.
  - b. In lieu of publication, the General Manager may submit specifications to at least three prospective bidders and request that bids be submitted at a fixed time and place. The General Manager shall open the bids at the time and place set for the same and present them to the District Board for consideration at the next scheduled meeting.

SECTION 3: PUBLIC IMPROVEMENT PROJECTS.

1. Whenever a contract for a public improvement project is \$50,000 or less, the General Manager may award the contract without following the informal or formal bidding procedures.
2. Whenever a contract for a public improvement project is more than \$50,000 and less than \$200,000, the contract shall be awarded by the Board of Directors to the lowest responsible and responsive bidder in accordance with the following informal bid procedures:
  - a. Notice shall be provided pursuant to Public Contract Code section 22034 to all contractors on the District's list of qualified contractors.
  - b. The District shall maintain a list of qualified contractors, identified according to categories of work. The list must be updated no less than annually to remove names of inactive contractors or to add names of contractors that requested listing.
  - c. A name may be deemed inactive if:

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- i. Letters addressed to the contractor at its last known address are returned without a forwarding address;
    - ii. The contractor does not obtain plans for, or bid on, a public project for two years;
    - iii. The contractor's license is revoked or suspended by the California State Licensing Board;
    - iv. The contractor removes its name; or
    - v. For other good cause as determined by the General Manager.
  - d. Before removing a qualified contractor from the Director's bid list, the General Manager must make a good faith attempt to notify the contractor regarding the removal.
  - e. All contractors on the list for the category of work being bid shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailings of notices to contractors pursuant to this paragraph shall be completed not less than 10 calendar days before bids are due.
  - f. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.
3. Whenever a contract for a public improvement project is greater than \$200,000, the contract shall be awarded by the Board of Directors to the lowest responsible and responsive bidder in accordance with the formal competitive bid procedures set out in the Act.

#### SECTION 4: PROFESSIONAL SERVICES AND SPECIAL SERVICES.

1. Whenever a contract for professional services or special services is \$50,000 or less, the General Manager may award the contract without the need to call for bids.
2. Whenever a contract for professional services or special services exceeds \$50,000, the contract shall be awarded by the Board of Directors.
3. The District may, in its discretion, issue a request for proposals or qualifications for such services.

#### SECTION 5: EXCEPTIONS.

1. The following contracts are exempt from the requirement to call for bids.
  - a. Competitive bidding already completed. When the authorized contracting party determines that a competitive bid procedure has been conducted by another public agency and the price to the District is equal to or better than the price to that public agency under Public Contract Code section 10298 et seq.
  - b. Design-build projects.
  - c. Emergencies. Pursuant to Public Contract Code 22035, in the case of an emergency declared under Public Contract Code section 1102, the District may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and

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supplies for those purposes pursuant to Public Contract Code sections 20806 and 22050.

- d. No bids received. Pursuant to Public Contract Code section 22038, subdivision (a), when no bids are received the District Board may have the project done without following the procedures of this policy.
- e. Rejecting all bids. Pursuant to Public Contract Code section 22038, subdivision (c), the District can reject all bids and have the project done by force account.

**SECTION 6: CEQA DETERMINATION.**

This Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Ordinance does not constitute a “project” that requires environmental review (*see* specifically 14 CCR § 15378(b)(2, 5)).

**SECTION 7: SEVERABILITY.**

If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the Board of Directors intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8: PUBLICATION.**

Under Health and Safety Code section 6490, subdivisions (a)–(b), the Clerk of the Board will publish a summary of the proposed ordinance once in a newspaper published in the District within 15 days after the passage and adoption of this Ordinance.

**SECTION 9: EFFECTIVE DATE.**

Pursuant to Health and Safety Code 6490, subdivision (d), this Ordinance will take effect upon expiration of the week of publication.

**PASSED, APPROVED AND ADOPTED** this 13<sup>th</sup> day of April, 2023.

AYES: Directors Johnson, Ohlmann, and Barrett

NAYS: None

ABSENT: Directors Hogan and Martin

A handwritten signature in blue ink, appearing to read "Ellwood Barrett", written over a horizontal line.

Ellwood Barrett, Board President

**ATTEST:**

A handwritten signature in blue ink, appearing to read "Stephen Williams", written over a horizontal line.

Stephen Williams, Clerk of the Board

**APPROVED AS TO FORM:**

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Aleks Giragosian, General Counsel