

ORDINANCE NO. 16

AN ORDINANCE ADOPTING BIDDING AND CONTRACTING REQUIREMENTS FOR PUBLIC WORKS CONTRACTS IN THE MONTECITO SANITARY DISTRICT.

The Board of Directors of the Montecito Sanitary District (the “District”) does ordain as follows:

SECTION 1: The Board of Directors finds and determines as follows:

- A. By Resolution No. 2020-929 adopted November 12, 2020, the District opted to become subject to the Uniform Public Construction Cost Accounting Act (Public Contract Code §§ 22000, *et seq.*; the “Act”);
- B. The Clerk of the Board will notify the California State Controller regarding the District’s adoption of Resolution No. 2020-929; and
- C. In order to take advantage of the informal bidding procedures set forth in the Act, Public Contract Code (“PCC”) § 22034 requires that the District adopt an ordinance establishing bidding procedures for public projects.

SECTION 2: New bidding and contracting requirements are adopted for public works projects as follows:

PUBLIC WORKS CONTRACTS

PW010:	Purpose.
PW020:	Applicability.
PW030:	Definitions.
PW040:	Soliciting Bids and Awarding Contracts.
PW050:	Qualified Contractors.
PW060:	Notice Inviting Bids.
PW070:	Bid Security.
PW080:	Bid Opening.
PW090:	Award.
PW100:	Bonds and Insurance.

PW01 Purpose.

These regulations are adopted pursuant to Public Contract Code § 22034, and any succeeding or related statutes, for the purpose of implementing the informal bid procedures set forth in the Uniform Public Construction Cost Accounting Act (Public Contract Code §§ 22000, *et seq.*).

PW02 Applicability.

Montecito Sanitary District
Ordinance No. 16
Page 2 of 5

These regulations may be used for public projects with a value equal to or less than the amounts set forth in Public Contract Code § 22032, and will be increased automatically as authorized in any successor statute or regulation, or, when applicable, as established pursuant to Public Contract Code § 22020.

PW03 Definitions.

Unless the contrary is stated or clearly appears from the context, the definitions in Public Contract Code § 22002 and set forth below will govern the construction of the words and phrases used in this ordinance:

“General Manager” means the General Manager or designee.

PW04 Soliciting Bids and Awarding Contracts.

The General Manager may solicit bids, award contracts up to \$60,000, and execute contracts for public projects without approval from the Board of Directors. Contracts for public projects costing more than \$60,000 and up to \$200,000 may be subject to informal bidding procedures and must be awarded by the Board of Directors. Contracts for public projects costing over \$200,000 require formal bidding procedures in accordance with the Public Contract Code and must be awarded by the Board of Directors.

PW05 Qualified Contractors.

The District will maintain a list of qualified contractors, identified according to categories of work. Any licensed contractor requesting to have its name placed on this list must be included. The list may be periodically revised to remove inactive names. A name may be deemed inactive if:

- A. Letters addressed to the contractor at its last known address are returned without a forwarding address;
- B. The contractor does not obtain plans for, or bid on, a public project for two years;
- C. The contractor’s license is revoked or suspended by the California State Licensing Board;
- D. The contractor removes its name; or
- E. For other good cause as determined by the General Manager.

Montecito Sanitary District
Ordinance No. 16
Page 3 of 5

Before removing a qualified contractor from the District's bid list, the General Manager must make a good faith attempt to notify the contractor regarding the removal.

PW06 Notice Inviting Bids.

- A. The notice inviting bids must describe the project in general terms, indicate how to obtain more detailed information regarding the project, and state the time and place for submitting bids.
- B. Unless the product or service is proprietary, not less than 10 calendar days before the date set for opening bids, the General Manager must notify contractors using one or both of the following methods:
 - 1. Mail notices to each contractor on the list for the category of work to be performed;
 - 2. Mail notices to each of the construction trade journals specified in Public Contract Code § 22036.

PW07 Bid Security.

- A. Bid Security is required for all bids on public projects when the public works director estimates that the price will exceed \$60,000. Bid security may be a bond issued by a licensed and duly qualified corporate surety, or the equivalent in cash, money order, cashier's check, certified check, unconditional letter of credit, or other form approved by the General Counsel. Nothing in this section prevents the District from requiring bid security on public projects less than \$60,000 when the General Manager believes such security is needed to protect the District's interests.
- B. Bid security must equal at least 10% of the bid amount.
- C. If the notice inviting bids requires a bid security, noncompliance or defective, inadequate, or incomplete security will render the bid nonresponsive.
- D. Bid security will be forfeited or paid to the District should the bidder fail to execute a contract within the time specified in the notice inviting bids.

PW08 Bid Opening.

The Clerk of the Board, or designee, will publicly open all bids in the presence of one or more witnesses at the time and place specified in the invitation for bids. Late, misplaced, or unsealed bids cannot be considered. If no bids are received, the District may proceed as set forth in Public Contract Code § 22038.

PW09 Award.

- A. The contract may be awarded to the lowest responsible bidder if the General Manager or Board of Directors considers the bid to be reasonable, sufficient funds are appropriated for the public project, and the bid is within the limits specified by Public Contract Code § 22032 or, if applicable, Public Contract Code § 22020.
- B. Should all qualified bids exceed the limits in Public Contract Code § 22032, the Board of Directors may, by adopting a resolution upon four-fifths vote, award the contract, provided the award is expressly authorized by Public Contract Code § 22034(d).
- C. Nothing in this section restricts the District from taking any action set forth in Public Contract Code § 22038.

PW10 Bonds and Insurance.

Contractors awarded a contract under this chapter are required to provide sureties and insurance in forms approved by the General Counsel and conforming with the contract documents.”

SECTION 3: 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 4: *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 5: *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the Board of Directors’ intent that the provisions of this

**Montecito Sanitary District
Ordinance No. 16
Page 5 of 5**

Ordinance be interpreted or implemented by the District and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 6: *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 7: The Clerk of the Board, or her duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the Montecito Sanitary District's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 8: This Ordinance will take effect on the 30th day following its final passage and adoption.

ORDINANCE NO. 16 HAD ITS FIRST READING ON NOVEMBER 12, 2020, ITS SECOND READING ON _____, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT AT ITS REGULAR MEETING OF _____.

_____, Board President

ATTEST:

Elizabeth Byrne, Clerk of the Board

APPROVED AS TO FORM:

Karl H. Berger, General Counsel