

ORDINANCE NO. 111

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NAPA SANITATION DISTRICT
AMENDING DISTRICT CODE SECTION 2.03 PROCUREMENT POLICIES
TO INCREASE THE INFORMAL BIDDING AND FORCE ACCOUNT THRESHOLDS
AND TO INCREASE THE QUOTE THRESHOLD FOR PURCHASING GOODS AND MATERIALS**

WHEREAS, the California Public Construction Cost Accounting Act (“CPCCAA”) prescribes specific policies and regulations that must be included in an informal bidding ordinance adopted by the local jurisdiction for it to participate in a program, which allows for increased thresholds for informal bidding of public contracts; and

WHEREAS, the Board of Directors of the Napa Sanitation District elected to be subject to the CPCCAA policies and regulations on March 11, 1998; and

WHEREAS, the Board of Directors of the Napa Sanitation District passed Ordinance 93 on September 19, 2012, rescinding Ordinance 85 and establishing the current Procurement Policies, which are now codified under Section 2.03 of District Code; and

WHEREAS, the California State Controller, as authorized by the CPCCAA, revised the Cost Accounting Policies and Procedures Manual earlier in 2019 to increase the informal bidding threshold from \$175,000 to \$200,000, and to increase the limit for public projects performed by public agency employees by force account from \$45,000 to \$60,000; and

WHEREAS, the Board of Directors recognizes that requiring multiple quotes for the purchase of goods and supplies for lower priced items can be inefficient, and that increasing the multiple quote requirement threshold from \$3,000 (established in 2007) to \$5,000 is appropriate; and

WHEREAS, the Board of Directors desires to maintain the District’s informal bidding requirements and purchasing policies by ordinance and in alignment with the California Public Construction Cost Accounting Act, and to direct the Director of Administrative Services to establish and maintain procedures to ensure the effective and efficient compliance with these policies; and

BE IT ORDAINED AND ENACTED by the Board of Directors of the Napa Sanitation District that Section 2.03 of District Code is amended as follows:

SECTION 1. District Code Section 2.03.020 is amended as follows:

2.03.020 Informal Bidding for Construction

- A. **Dollar amount limitations.** Public projects, as defined by the Uniform Public Construction Cost Accounting Act (Section 22000, et seq. of the Public Contract Code), of ~~forty five sixty~~ thousand dollars (~~\$45,000\$60,000~~) or less may be performed by District employees by force account, by negotiated contract, or by purchase order without obtaining competitive bids. Public projects of ~~one hundred seventy five two hundred~~ thousand dollars (~~\$175,000\$200,000~~) or less may be let to contract by informal procedures as set forth in this Section. If all bids received are in excess of ~~\$175,000\$200,000~~, the Board of Directors may, by adoption of a resolution by four-fifths vote, award the contract, at ~~one hundred eighty seven two hundred twelve~~ thousand five hundred dollars (~~\$187,500\$212,500~~) or less, to the lowest responsible bidder, if it determines the cost estimate of the District was reasonable.
- B. **Informal bidding procedures.** Public projects, as defined by the Uniform Public Construction Cost Accounting Act (Section 22000, et seq. of the Public Contract Code) and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.
- C. **Contractors list.** A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
- D. **Notice inviting informal bids.** Where a public project is to be performed that is subject to the provisions of this Section, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 2(C) above, and/or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the District, provided however that:
 - (1) If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
 - (2) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

All notices to contractors and construction trade journals pursuant to this Section shall be issued not less than ten (10) calendar days before bids are due. 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.

- E. **Award of contracts.** The General Manager and the Purchasing Agent are each authorized to award informal contracts pursuant to this Section for projects that have been approved by the Board of Directors in the Capital Improvement Plan. The Board of Directors shall award all other informal contracts pursuant to this Section.

- F. **Change orders.** The General Manager may, without authorization of the Board of Directors, approve change orders for public projects awarded pursuant to this Section 2 that are up to 20% of the initial award amount for projects with an initial award up to ~~\$175,000~~\$200,000, and up to 15% of the initial award amount for projects with an initial award between ~~\$175,000~~\$200,000 and ~~\$187,500~~\$212,500.
- G. **Separation of Work Orders.** The District shall not split or separate into smaller work orders or projects any project for the purpose of evading the provisions this Ordinance or state law requiring work to be done by contract after competitive bidding.

SECTION 2. District Code Section 2.03.040 is amended as follows:

2.03.040 Purchase of Goods and Materials

- A. **Offer and acceptance.** The Uniform Commercial Code establishes that a contract exists when there has been offer and acceptance. Thus, the terms of an agreement to buy or sell are not fixed until offer and acceptance have been established. Written quotes submitted by prospective vendors are recognized as offers and purchase orders or contracts issued by the District serve as acceptance. Verbal offers are not recognized as offers. When verbal quotes are received, the District's issuance of a purchase order is considered an offer and acknowledgement or delivery by the vendor is considered acceptance. A facsimile or email quote is construed to constitute a written offer.
- B. **Purchase of Goods and Materials under ~~\$3,000~~ \$5,000.** Competitive quotes for the purchase of goods and materials are not required when unit cost of such goods or materials is under ~~three~~ five thousand dollars (~~\$35,000~~). The Purchasing Agent may delegate the authority to purchase goods and materials under \$3,000 to specific District positions, including supervisors.
- C. **Purchase of Goods and Materials ~~\$3,000~~ \$5,000 or over**
 - (1) **Award to Low Bid.** Except as otherwise provided by this Ordinance, at least three (3) quotes shall be solicited for the purchase of those goods and materials with a cost of ~~three~~ five thousand dollars (~~\$35,000~~) and above, with the contract for purchase awarded to the low bid. Quotes shall be documented.
 - (2) **Competition.** Except as allowable through Sole Source Procurement section of this Ordinance, bid specifications should be written to allow for competition and not to exclude all but one kind or type of product, and should describe the performance requirements rather than its formulation, description or design.
 - (3) **Delegation.** The Purchasing Agent may delegate the authority to purchase goods and materials under ten thousand dollars (\$10,000) to District department heads.
 - (4) **Reservation of Right to Reject Bids and/or Require Rebid.** The District reserves the right to reject any or all bids in whole or in part and may waive any irregularities or informalities in any bid when, after consideration of all relevant circumstances, such action is considered in the best interest of the District. The District further reserves the right to rebid any purchase of goods or materials, regardless of any prior actions to request bids.

SECTION 3.

1. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable.
2. Within 15 days of adoption, this Ordinance shall be published in the Napa Valley Register, pursuant to California Health and Safety Code Sec. 4766 and California Government Code Section 25124.
3. Following a first reading of the title of this ordinance, which occurred at the regular meeting of the District Board, held on September 4, 2019, the foregoing ordinance was duly:

PASSED AND ENACTED at a regular meeting of the Board of Directors of Napa Sanitation District duly held on the 18th day of September 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jill Techel, Chair
Napa Sanitation District

ATTEST:

Cheryl Schuh, Secretary
Napa Sanitation District