

RESOLUTION NO. 2023-1313

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT ADOPTING UPDATED GUIDELINES FOR THE PROCUREMENT OF GOODS AND SERVICES AND CASH DISBURSEMENTS

WHEREAS, the Trabuco Canyon Water District (“District” or “TCWD”) is a county water district which provides potable water and water service to its customers; and

WHEREAS, as a county water district, TCWD is not obligated to solicit competitive bids on its contracts for goods or services for its construction projects or for contracts for purchase of various goods and services; and

WHEREAS, TCWD’s goal is to acquire needed goods and services for fair and competitive prices from reliable vendors or providers, as applicable; and

WHEREAS, in certain cases, where funds from the United States government are involved, various conditions and requirements are imposed on TCWD for projects and purchase of goods/services and TCWD desires to provide for compliance with such requirements; and

WHEREAS, the Board of Directors of the District (Board) adopted a procurement policy by resolution (2018-1252) concerning the procurement of goods and services, including, but not limited to certain matters relating to public works contracts and concerning funds leaving TCWD’s control;

WHEREAS, the District Board desires to update the adopted policy concerning the procurement of goods and services.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The guidelines for the procurement of goods and services for TCWD, as set forth in Attachment A, attached hereto and incorporated herein by this reference, are hereby adopted.

Section 2. The District’s General Manager, Treasurer/Chief Financial Officer, and District staff and consultants, are authorized to take such other and further actions as are necessary or desirable to carry out the directives set out in this Resolution.

Section 2. This Resolution shall take effect upon adoption.

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ADOPTED, SIGNED AND APPROVED this 16th day of March, 2023.

TRABUCO CANYON WATER DISTRICT

By: Ed Mundich
President/Vice President

By: [Signature]
District Secretary

STATE OF CALIFORNIA)

) ss.

COUNTY OF ORANGE)

I, Michael Perea, District Secretary of the Trabuco Canyon Water District, do hereby certify that the foregoing resolution was duly adopted by the Board of said District at a regular meeting of such Board held on the 16th day of March, 2023, of which meeting all of the members of the Board had due notice and at which a quorum thereof were present and acting throughout and for which notice and an agenda was prepared and posted as required by law and that at said meeting such resolution was adopted by the following vote:

AYES: Mandich, Acosta, Chadd, Safranski

NOES: None

ABSTAIN: None

ABSENT: Dopudja

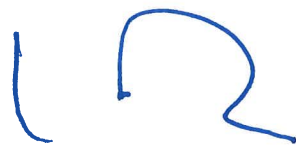


District Secretary,
Trabuco Canyon Water District

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Michael Perea, District Secretary of the Trabuco Canyon Water District, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 2023-1313 of such Board and that the same has not been amended, rescinded or repealed.

Dated this 16th day of March, 2023.



District Secretary,
Trabuco Canyon Water District

ATTACHMENT "A"
PROCUREMENT GUIDELINES

TRABUCO CANYON WATER DISTRICT

PURCHASING POLICY & GUIDELINES

1. Goals/Objectives

1.1 The Trabuco Canyon Water District (“TCWD” or “District”) seeks to obtain, wherever possible, high-quality materials, supplies, and services at a reasonable value and in a timely manner.

1.2 The purposes of this Procurement Policy include: 1) to promote efficiency and clarity in the District's procurement process; 2) to provide guidance on proper standards of conduct by employees, officers, and the Board of Directors of the District; 3) to ensure compliance with applicable laws and regulations; and 4) promote the appropriate transparency in the District's procurement processes to ensure that the District's funds are expended in a reasonable manner. To that end, this Policy has been prepared to provide direction to District personnel engaged in procurement of materials, supplies, and services.

2. Conflicts of Interest

No director, officer, employee or agent of the District shall participate in any procedure, tasks, or decisions relative to initiation, evaluation, award, or administration of a contract if a conflict of interest, real or apparent, exists. A conflict of interest arises when (a) the director, officer, employee or agent, (b) any member of his or her immediate family, (c) his or her business associate, or (d) an organization which employs, or which is about to employ, any of the above described individuals has a financial or other interest in a firm that participates in a District procurement process or that is selected for an award. The standards governing the determination as to whether such an interest exists are set forth in the Political Reform Act (Section 8100 et seq. of the California Government Code) and in Sections 1090, 1091, and 1091.5 of the California Government Code.

3. Competitive Procurement

3.1 It is TCWD’s goal to utilize a competitive procurement process when reasonably possible, whether by informal bidding or formal bidding. The method of procurement, such as informal bids or formal competitive bidding shall be appropriate for the type of procurement and in the best interest of the District.

3.2 Where possible, the District will obtain a minimum of three quotes, bids or proposals, as applicable, prior to the procurement of goods and/or services. The receipt of less than three quotes, bids or proposals shall not invalidate the solicitation process or require the solicitation of additional quotes, bids or proposals. Some goods and services may only be available from fewer than three vendors/providers. Where this is the case, the goal shall be to obtain more than one quote, bid or proposal where possible; subject to Section 3.4 and 3.5.

3.3 The District may purchase items or services without further competition under the following conditions:

3.3.1 If the District rejects bids received in connection with a procurement of materials, supplies and equipment requiring formal competitive bidding, or

3.3.2 When no responsive bids or proposals are received in response to an Invitation to Bid or Request for Proposals, in which case the General Manager is authorized to procure the required item or services through direct negotiations with a vendor or to resolicit as appropriate.

3.4 Notwithstanding anything to the contrary in this Policy, it is expressly acknowledged that the District is a county water district, organized and operating in accordance with Water Code Sections 30000 and following, that is not mandated by State law to bid competitively and that, to the extent the District determines that competitive bidding is unavailing or not in the best interest of the District, the District may choose not to utilize competitive bidding for construction projects, contract for design-build work, enter into cooperative agreements with private entities for the design, construction and maintenance of public works, utilize job-order contracting, or undertake any other form of contracting determined to be in the District's best interest, except as otherwise expressly restricted by law.

3.5 Sole source procurement must be deemed appropriate by the General Manager. In the event it is necessary for a good or service to be sole sourced, a written memo shall be provided by, or written to, the General Manager for approval. The memo must include a complete and specific justification of the sole source procurement for the referenced project(s). The TCWD Board of Directors (Board) will be notified annually of all sole sourced contracts entered into by TCWD.

4. Authority. The General Manager is authorized to procure goods and services in accordance with the budget approved by the District's Board of Directors and with the limits established in this Section.

4.1 Board Authority is required for all procurements over \$100,000.

4.2 The General Manager is authorized to approve all procurements, execute agreements, amend agreements and change orders in an amount up to \$100,000.

4.3 Change Orders. When the original contract exceeds \$100,000 (and has been approved by the board), the General Manager may approve subsequent amendments and change orders up to a total cumulative amount not to exceed \$100,000.

4.3.1 If the cumulative change orders are anticipated to exceed \$100,000, there will be no further change orders until the Board authorizes additional funds for the project under the terms of the agreement (subject to change order terms). The Engineering/Operational Committee shall review all requests for additional construction funds.

4.3.2 The General Manager is authorized to approve an emergency field change order when failure to authorize the change order will cause TCWD to incur significant additional

costs and/or significant delays, even if the change order will exceed the General Manger's delegated authority. The General Manager will promptly inform the Board of such action(s). The Engineering/Operational Committee will review the change order and the Board will consider ratification of the General Manager's decision(s).

4.3.3 All change orders shall be in written form and executed by the General Manager or the General Manager's designee(s).

5. Written Agreements

Written Agreements or Purchase Orders are required for the acquisition of all goods and services, and District staff will adhere to the following threshold limits for the respective purchase types:

- Purchase orders for supplies, equipment, and materials up to \$100,000.
- Purchase orders for professional/non-professional/construction work under \$50,000 with a current on-call services agreement.
- Negotiated Agreements for professional/non-professional/construction work over \$50,000.

The above thresholds are intended as general guidance to the District, and the District may substitute a negotiated agreement in place of a purchase order any time the circumstances warrant, such as a complex or unique procurement.

The General Manager is authorized to approve and execute all agreements for the acquisition of goods and services in accordance with the approved annual budget. Written agreements, within the limits set by the annual budget, may be for one-year, or multi-year with annual renewals. It is TCWD's policy that contracts shall not normally include terms for automatic renewal(s).

6. Public Works Contractor Registration Certification Requirements

6.1 Pursuant to Labor Code Sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the California Department of Industrial Relations (DIR) if the small project exemption is not met. The small project exemption applies for all public works projects that do not exceed twenty-five thousand dollars (\$25,000) for new construction, alteration, installation, demolition, or repair and fifteen thousand dollars (\$15,000) for maintenance. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information. All parties involved should be aware that for federally funded projects, contractors and subcontractors must be registered to perform public work pursuant to Labor Code section 1725.5 at the time the contract is awarded.

6.2 As defined by California Labor Code Sections 1720 et seq., "public works" includes construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Maintenance work is also included in this definition as a public work. A public works project greater than one thousand dollars (\$1,000) triggers the registration requirement and further requires that not less than the general prevailing

rate of per diem wages be paid to all workers employed on the public work, but does not require registration with the DIR. A public works project that exceeds (\$25,000) for new construction, alteration, installation, demolition, or repair and fifteen thousand dollars (\$15,000) for maintenance triggers the registration requirement with the DIR.

6.3 No bid or proposal will be accepted, nor any contract entered into without proof of the contractor's and subcontractor's current registration with the DIR to perform public work unless the small project exemption shall apply; provided however, for federally funded projects, contractors and subcontractors must be registered to perform public work pursuant to Labor Code Section 1725.5 at the time of contract award.

7. Prequalification of Contractors/Vendors

7.1 The District may periodically establish a list of contractors for various types of work by requiring each prospective contractor to complete and submit to the District a standardized questionnaire and financial statement including a complete statement of the prospective contractor's experience in performing public works or specific types of public works projects. The District shall determine, using standard criteria, whether a contractor/vendor is qualified for the performance of such work for the District. If the District has prequalified contractors and/or vendors, the District shall update each list of qualified vendors for various types of work periodically as necessary, but not less than every five (5) years. For federally funded contracts, vendors shall be permitted, to the extent required by applicable federal law and/or regulations, to be qualified up until the date and time set for receipt of bids/proposals and have provided proof of registration certification with the DIR (as described herein) if the project does not meet the small project exemption.

7.2 For federally funded contracts, vendors shall be permitted, to the extent required by applicable federal law and/or regulations, to be qualified up until the date and time set for receipt of bids/proposals and have provided proof of registration certification with the DIR if the project does not meet the small project exemption.

8. Capital Construction Projects

For capital construction projects, the following procedures will apply:

8.1 **Bid and Award.** The Engineering/Operational Committee will review all bids on a project when TCWD staff proposes to recommend approval of a bid for a project that is greater than \$50,000, or the General Manager's signing authority. The Board may award the bid and authorize an amount for the project/construction that may include a contingency. Unless otherwise directed by the Board, the General Manager shall execute approved construction contracts.

9. Professional Services

When professional services are required, the following procedures will apply:

9.1 Professional service providers are defined as attorneys, engineering consultants, real property consultants/appraisers, water quality consultants, architects, auditors, actuarial

consultants, financial advisors, human resource consultants, information systems/technology consultants, meeting facilitators and firms hired to perform construction inspection, construction management and/or engineering surveying.

9.2 If the work of a professional service provider is anticipated to cost more than \$50,000 per year, the selection of the professional service provider will be reviewed by the appropriate Board Committee and will be subject to approval by the Board. The Board will authorize a budgeted amount for the specified work. Unless otherwise specified by the Board, the General Manager is authorized to approve and execute the agreement between TCWD and the approved professional service provider.

9.3 If the cost of the work is anticipated to exceed the amount authorized by the Board there will be no further work until the Board authorizes additional funds. The appropriate Board Committee will review all requests for additional funds.

10. Emergencies

In the case of any sudden, unexpected occurrence that poses a clear and imminent danger or requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public service, the Board authorizes the General Manager full authority to commit TCWD funds in excess of the approved budget limits, or reallocation of funds within those limits, in accordance with, and subject to the limitations set out in Resolution No. 2018-1252.

11. Federal Procurement Addendum for Supplies, Equipment, and Materials Purchase Orders, or Services Contracts

In the event a contract for goods and/or services includes federal funding, TCWD shall require the proposed vendor to comply with any applicable laws and procedures, in addition to fulfilling any procurement requirements of non-federally funded purchase orders or service contracts.

12. Guidelines for Disbursements

12.1 The use and expenditure of all TCWD funds is subject to Resolution No. 2018-1252: Delegation of Authority to the General Manager.

12.2 Wherever in this policy the General Manager is delegated authority, such authority will include the designee of the General Manager.

12.3 All checks, wires, electronic funds transfer authorizations and other documents (except petty cash requests) containing instructions that cause funds to leave TCWD's control shall have two authorized signatures. Authorized signers are:

Members of the Board of Directors
General Manager
District Secretary
Treasurer/Chief Financial Officer
Assistant Treasurer

12.4 Electronic or facsimile signatures may be used on routine payments provided adequate safeguards are used to protect the signature plates, chip, or other source. Such safeguards shall be set out in writing.

12.5 An authorized manager or supervisor can approve petty cash requests subject to the limits of TCWD's current petty cash policy.

12.6 The General Manager, or his/her designee, District Treasurer, and Senior Accountant may authorize inter-bank transfers for purposes of satisfying payroll requirements.

12.7 The Finance/Audit Committee shall review and sign, or approve, as applicable, checks, wires and electronic fund transfer authorizations that meet the following criteria:

12.7.1 \$50,000 or more will leave TCWD's control except when paying for:

- (a) Payroll or payroll related expenses, including employee benefits;
- (b) Utilities;
- (c) Chemicals used in water treatment; and./or

(d) Water and water related costs to the Municipal Water District of Orange County or other agencies from which the District may purchase water or water related services.

12.7.2 \$1,000 or more payable to employees or members of the Board for any purpose other than payroll, except when the reimbursement request has been previously approved through the Finance/Audit Committee process. All reimbursements to Board members shall be subject to TCWD's current Board Reimbursement Policies.

13. NON-DISCRETIONARY EXPENSES

Non-discretionary Expenses are items that do not require Board Action for payment, even when such expenses exceed the General Manager's approval limit of \$100,000. Non-Discretionary Expenses include, but are not limited to, those listed below.

Bond Related/Contractual Agreements/Budgeted Expenses

Arbitrage Rebate Payment

Bank Fees

Bonds

Cash Management Fees for Bond funds – Investment Portfolio Manager

Cash Management Fees for Operating funds – Investment Portfolio Manager

Computer System Maintenance Contracts, including HVAC Equipment/Support and IT Systems

County Regional Participation – OC LAFCO Costs

County Tax Collection Fees – including, but not limited to, General Fund and Bond Funds

Customer Bill Processing and Distribution

Debt Service Payments

Payments related to Joint Powers Agreements, including, but not limited to, the District's participation in the South Orange County Wastewater Authority (SOCWA)

Loans

Operating Leases:

- Baker Water Treatment Plant Operating & Maintenance
- Chiquita System Quarterly Operating & Maintenance

State Regulatory Fees – Permit Fees for Dams and other District Facilities

Trustee Fees

Essential Expenses

Drinking Water for Treatment Plants

Chemicals/Media

Employee Payroll and Benefits Payments, including, but not limited to:

- CalPERS Pension/Health Benefit Payments/OPEB Trust/Pension Trust
- Dental & Vision Benefit Payments
- Flexible Spending Plan Payments
- Life Insurance Payments

Federal and State Employee Taxes

Fuel: bulk and gasoline credit card purchases

Medicare Tax

Metering Equipment

Sales and Use Tax Payments

Solids and Residual Disposal

Trash Disposal

Utilities (includes power, gas, phone, mobile phones, postage, & data lines/communications)

Water Purchases

Trabuco Canyon Water District Procurement Reference Sheet

Supplies, Equipment and Materials	Contract Form	Delegation of Authority
Less than \$50,000	Purchase Order	General Manager
\$50,000 - \$100,000	Purchase Order or Agreement	General Manager
Greater than \$100,000	Purchase Order or Agreement	Board of Directors
Non-Professional Services		
Non-Professional Services	Contract Form	Delegation of Authority
Less than \$50,000	Purchase Order	General Manager
\$50,000 - \$100,000	Purchase Order or Agreement	General Manager
Greater than \$100,000	Agreement	Board of Directors
Professional Services		
Professional Services	Contract Form	Delegation of Authority
Less than \$50,000	Purchase Order	General Manager
\$50,000 - \$100,000	Agreement	General Manager
Greater than \$100,000	Agreement	Board of Directors
Construction		
Construction	Contract Form	Delegation of Authority
Less than \$50,000	Purchase Order	General Manager
\$50,000 - \$100,000	Agreement	General Manager
Greater than \$100,000	Agreement	Board of Directors

Procurement Process, non-capital expenditures: where possible, but not required, obtain a minimum of three bids for competitive bidding or informal bidding process.

Contracts for Capital Expenditures over \$50,000 must be competitively bid, except as provided in Section 9.2.1 of the District's rules and regulations.