



TAMALPAIS COMMUNITY SERVICES DISTRICT

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RESOLUTION NO. 2022-12

A RESOLUTION OF THE TAMALPAIS COMMUNITY SERVICES DISTRICT ADOPTING PURCHASING POLICIES

WHEREAS, the Tamalpais Community Service District wants to adopt written policies for purchasing procedures, credit use, and signature authority; and

WHEREAS, such written policies are a best practice and provide clarity to the staff and the Board regarding the purchasing procedures; and

WHEREAS, these written policies may be amended from time to time by the Board.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Tamalpais Community Services District does hereby adopt Exhibit A "Purchasing & Procurement Policies" and authorizes the General Manager to implement the policies and make minor revisions to the policies to address clarity, typos, grammar, and inconsistencies in the document, but not to revise monetary limits or check signing authorities.

I HEREBY CERTIFY that the foregoing resolution is a full, true, and correct copy of a resolution duly and regularly adopted and passed by the Board of Directors of the Tamalpais Community Services District, County of Marin, California, at a meeting thereof, held on the 13th day of July 2022, by the following vote:

AYES: *S. Bartschat, J. Brown, J. Jacobs, S. Levine, M. McMahon*

NAYS: *0*

ABSENT: *0*

A handwritten signature in black ink, appearing to read "S. Bartschat".

Steffen Bartschat, President

ATTEST:

A handwritten signature in black ink, appearing to be a stylized "A" or similar.

Secretary, Tamalpais Community Services District



PURCHASING POLICIES

Tamalpais Community Service District

Adopted by the Board of Directors on July 13, 2022*

*Incorporates revisions requested by the Board.

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1. PURCHASING AND PROCUREMENT POLICY

All purchases of goods and services purchased on behalf of TCSD must be made within the applicable provisions of the California Public Contracts Code, California Government Code, and the District's administrative policies. No District employee may commit payment for goods or services without adherence to the applicable District policies and State laws. District employees are expected to use good judgment, proper regard and the greatest discretion for taxpayer dollars when making purchases for the District.

1.1 DESIGNATION OF PURCHASING AGENT

The General Manager is the designated Purchasing Agent for the District and is charged with the duties and powers described by the applicable laws of the state relating to purchasing agents, this policy, and applicable resolutions of the Board of Directors. When it is not feasible or practical for the General Manager to serve as Purchasing Agent, the Assistant General Manager will serve as Purchasing Agent.

1.2 AUTHORITY TO COMMIT FUNDS

Only the Board of Directors, the General Manager/Purchasing Agent, or their designee may commit District funds for the purchase of goods, equipment or services for District benefit. Said commitment of District funds may be made only where the person making the commitment is authorized to do so by a specific provision of this policy. Except in cases of emergency as hereinafter provided, or in cases where the Board of Directors has made specific provision, no purchase of property by any governing body or person other than the Board of Directors, the General Manager/Purchasing Agent, or their designee will be binding on the District or constitute a lawful charge against District funds. Authorization levels are defined by position or management level in this policy.

1.3 DELEGATION OF AUTHORITY

The Purchasing Agent may delegate the authority for the purchase of goods and supplies and for the procurement of professional service to the District's managers as described herein.

1.4 UNAUTHORIZED PURCHASES

Unauthorized purchases are not considered an obligation of the District and the individual making such purchases will be held personally liable for the cost of the purchase. Unauthorized purchases are defined to include any of the following:

- Any procurement made not in conformance with these policies, including any actions to circumvent the delegation of procurement authority.
- Any procurement where the good or service is intended for personal use and not intended for use by the District.

1.5 DUTIES OF THE PURCHASING AGENT

The Purchasing Agent or his/her designee will:

- Monitor and coordinate District purchases for all materials, supplies, services, furnishings, equipment

and other property in accordance with rules and regulations prescribed by District ordinances, resolutions, policies, and procedures, and as otherwise provided for by law.

- Engage independent contractors to perform services for the District in accordance with the provisions of this policy.
- Engage independent contractors to construct, repair or furnish any building or structure consistent with the authority vested in the Purchasing Agent by this policy.
- When authorized, sell or dispose of surplus property of the District.
- Perform such other services as the Board of Directors may from time to time by resolution require.

1.6 RULES AND PROCEDURES

The Purchasing Agent is charged with the authority and responsibility for coordinating and managing the procurement of goods, supplies, equipment, and services according to applicable law and this policy. This authority includes the responsibility to establish rules and procedures to ensure that applicable laws, regulations and procurement policies are followed.

1.7 LOCAL BUSINESS PARTICIPATION

Local business participation in District contracts is encouraged. The District staff will make every reasonable effort to contract with and obtain price quotations from local businesses for labor, supplies, and materials on all contracts that are not required by law or this policy to be competitively awarded. On all public contracts that are required by law to be competitively bid, the District staff will make every reasonable effort to encourage the participation of local businesses. All notices inviting bids will include language to the effect that it is the District's policy to encourage bidders to utilize local business whenever possible on District projects.

1.8 PURCHASING AUTHORIZATION LEVELS

The General Manager is authorized to make purchases up to \$25,000 (TCSO Resolution 2017-07). The General Manager, at his/her sole discretion, may establish purchasing levels for specific District positions based on their duties/responsibilities, but the purchase limits cannot exceed the General Manager's purchase authority. All purchases above \$25,000 shall require Board approval, unless otherwise authorized by the Board.

Note: Authorization for emergency purchases is covered in the Section *Emergency Procurement*.

1.9 RECURRING CHARGES

The Purchasing Agent may identify vendors and contractors who provide recurring services and exclude them from the standard purchasing process. Some examples of appropriate exclusions would include suppliers of annual software subscription services (e.g., SmartCovers, Innovyze), equipment lease agreements (e.g., Dell Computers, Enterprise Fleet), utility services, freight carriers, postal service, and payments to the District's risk management pool, California Sanitation Risk Management Authority (CSRMA), and to the Central Marin Sanitation Agency (CMSA). This is at the discretion of the Purchasing Agent, who will maintain a list of vendors designated as "Recurring."

1.10 PURCHASE OF GOODS, SERVICES, AND MATERIALS UNDER \$10,000

Competitive quotes for the purchase of goods, services, and materials are not required when the total cost of such goods is under ten thousand dollars (\$10,000). The Purchasing Agent may delegate the authority to purchase goods, services, and materials under ten thousand dollars (\$10,000) to specific District positions, including managers and supervisors.

1.11 PURCHASE OF GOODS, SERVICES, AND MATERIALS \$10,000 OR OVER

- Except as otherwise provided by the policy, at least three quotes will be solicited for the purchase of those goods, services, and materials with a cost of ten thousand dollars (\$10,000) and above, with the contract for purchase awarded to the best value quote. Quotes shall be documented. Good faith efforts shall be made to obtain three quotes. The file should document the efforts made (e.g., 5 vendors contacted).
- Except as allowable through the *Sole Source Procurement* section of this policy, bid/quote 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 or service requirements rather than its formulation, description, or design.
- The Purchasing Agent may delegate the authority to purchase goods, services, and materials over ten thousand dollars (\$10,000) to specific District positions if the adopted fiscal year budget anticipated such expenditures.
- The District reserves the right to reject any or all quotes 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 re-quote any purchase of goods, services, or materials, regardless of any prior actions to request quotes.

1.12 PROCUREMENT OF PROFESSIONAL SERVICES

Professional services are consulting, or professional/technical services not provided by District employees. Professional services include, but are not limited to, financial, economic, accounting, legal, medical, therapeutic, and administrative services.

1.13 PROFESSIONAL SERVICES FOR SELECT PROFESSIONS

Per California Government Code §4526, the selection of a vendor to provide architectural, landscape architectural, engineering, environmental, land surveying, or construction project management professional services will be made on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For these selected professions, there are special procedures for acquiring these services.

1.14 CRITERIA FOR USE OF PROFESSIONAL SERVICE CONTRACTS

Contracted professional services may be used only if any one of the following conditions apply:

- A need which cannot be met by District employees.
- Temporary, intermittent, or irregular services which cannot be performed effectively by District employees.

- Special or highly technical skills which cannot be obtained from District employees.
- Need for an independent opinion, appraisal, audit, or similar services.
- Lack of sufficient personnel to accomplish the work in the required time frame.

1.15 SELECTION OF VENDORS FOR PROFESSIONAL SERVICES – GENERAL

Vendors for professional services other than those identified in California Government Code §4526 are to be selected as follows:

1. Vendor selection will be based on a competitive process whenever reasonably feasible. Professional services may be competitively solicited through informal Requests for Quotes (RFQ) and information Requests for Proposals (RFP) or through formal sealed competitive proposals. The type of service to be contracted for, the anticipated award amount, and the potential risks involved affect the decision whether to use informal or formal purchasing procedures.
2. Professional service contracts may be awarded without competitive solicitation when there is only one person or vendor available or capable of providing the required service, when there are limitations in the availability of potential contractors, when the services required are of such a specialized nature that precludes competitive solicitation, the experience and knowledge of the vendor or firm has working with TCSD, or when other conditions exist such that the appropriate awarding authority determines that it is in the District's best interest to waive competitive solicitation for the required professional services.

1.16 SELECTION OF VENDORS FOR SELECT PROFESSIONAL SERVICES

Vendor selection for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms, as defined in California Government Code §4525 will follow the procedure outlined below:

1. Prospective vendors are requested to submit proposals and statements of qualifications to the District for the required services or proposed project. Proposals and statements of qualifications may be solicited through trade publications and by other means of advertisement. Pricing will be submitted separate from the proposal and will not be considered in the initial review process.
2. District staff will evaluate the proposals, statements of qualifications, and performance data submitted by firms regarding the proposed project, and, when available, select the firms with the top three rated proposals for further evaluation.
3. Based upon the pricing submitted separately from the proposal, District staff will negotiate a contract with the firm submitting the top-rated proposal. Should the District be unable to successfully negotiate a contract with the firm submitting the top-rated proposal, at a price the District deems fair and reasonable, then negotiations with that individual or firm will be terminated. The District will then commence negotiations with the firm submitting the next highest rated proposal. Should the District be unable to negotiate a satisfactory contract with the firm submitting the second highest rated proposal, the District will terminate the negotiations and undertake negotiations with the firm submitting the next highest rated proposal. Should the District be unable to negotiate a satisfactory contract with any of the selected firms, the District will select additional firms in order of the ratings of their proposals and qualifications until an agreement is reached.

1.17 SOLE SOURCE PROCUREMENT – COMPETITION IS PRESUMED

All reasonable attempts should be made to identify multiple vendors or multiple brands prior to any approval of sole source procurement.

1.18 SOLE SOURCE PROCUREMENT DEFINED

Sole source procurement is any acquisition which, by virtue of the specifications required or by the clear and specific restrictions imposed by a provider, restricts the procurement to one vendor or to one brand.

1.19 ALLOWABLE JUSTIFICATIONS FOR SOLE SOURCE PROCUREMENT

Sole source procurements are allowed under the following conditions or when procuring the following goods or services:

- Goods, services, or materials where cost is under ten thousand dollars (\$10,000)
- Professional services performed by vendors on jobs less than twenty-five thousand dollars (\$25,000)
- Maintenance work performed by contractors on jobs less than twenty-five thousand dollars (\$25,000), as long as the price from the contractor is within ten percent (10%) of a District Engineer's or independent engineer's estimate of probable cost
- Property or services, the price of which is fixed by law
- Training seminars or other classes for personnel
- Materials, supplies or equipment or services that can only be obtained from one or two suppliers, generally because of technological, specialized or unique character
- The product is unique in design and/or has features which are required for a specific application
- The product must be compatible with existing equipment
- The product or service is available only from the manufacturer's authorized representative
- Automotive and heavy equipment repairs
- When, in the judgment of the Purchasing Agent, it is in the best interest of the District to negotiate, without engaging in competitive bidding process, an extension of an existing contract for goods or services based upon satisfactory performance, as long as such negotiated price is fair and reasonable
- The Purchasing Agent has determined that "time is of the essence" for the purchase of the materials, equipment, and/or services
- Purchases made from other public agencies by use of joint powers agreement, cooperative purchasing programs, pooling agreements, and other recognized types of agreements used by government agencies for the purpose of combining purchasing requirements in order to reduce cost, increase efficiency, or reduce administrative expenses
- Goods or services on, or provided by vendors on, the California Multiple Award Schedules (CMAS) list, subject to the limitations and provisions of the CMAS program, or other comparable cooperative purchasing program lists
- Materials, supplies or services that are acquired from a vendor based on a contractual arrangement with the vendor that was established pursuant to a California government competitive bid process

1.20 FORMAL BIDDING FOR CONSTRUCTION

The District complies with all sections of the California Public Contract Code as they apply to agencies

organized under the Sanitary District Act of 1923 (California Health & Safety Code, §6400 through §6830). The General Manager and District Engineer are responsible for ensuring compliance with bidding for public projects as defined by the Public Contract Code.

1.21 UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

The District adopted the Uniform Public Construction Cost Accounting Act (UPCCAA) procedures for formal and informal bidding procedures for projects defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code.

The current limits are as stated below in this section, but shall automatically adjust with future amendments to the UPCCAA:

- Public projects of \$60,000 or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
- Public projects of \$200,000 or less may be let to contract by informal procedures as set forth in the Public Contract Code.
- Public projects of greater than \$200,000 shall, except as otherwise be provided in the Public Contract Code, be let to contract by formal bidding procedure.

1.22 EMERGENCY PROCUREMENT – AUTHORITY TO AWARD

In the event of an emergency, District funds may be spent for a project without following the statutory procedures for competitive bidding pursuant to the provisions of this policy.

1.23 EMERGENCY DEFINED

For the purpose of this policy, “emergency” is defined as follows:

1. A sudden unexpected occurrence that poses a clear and eminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services; and
2. The necessity is such that time does not permit following the normal bid process of Public Contract Code §20804.

1.24 BOARD ACTION

In the event of an emergency, the District, upon the adoption by the Board of a four-fifths vote of a resolution declaring an emergency pursuant to this policy and Public Contract Code §20806, may take any directly related and immediate action required by the emergency and procure the necessary equipment, services, and supplies for those purposes without giving notice for bids to let contracts. If the Board of Directors orders any action as a result of an emergency, the Board of Directors will review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the action is terminated, to determine, by four-fifths vote, whether there is a need to continue the action.

1.25 GENERAL MANAGER’S AUTHORITY TO ACT

If the nature of the emergency does not permit a Board meeting to adopt a Resolution of Emergency, the General Manager may take the action as set forth in this policy. If the General Manager orders any action

pursuant to this section, the General Manager will report to the Board of Directors, at its next meeting, the reasons justifying why the emergency does not permit a delay resulting from a competitive solicitation for bids and why the action was necessary to respond to the emergency. The Board of Directors will initially review the emergency action taken by the General Manager no later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not less than fourteen (14) days after the action and at least at every regularly scheduled meeting thereafter, until the action is termination, to determine, by four-fifths vote, whether or not there is a need to continue the action unless the General Manager has terminated the action.

1.26 TERMINATION OF EMERGENCY ACTION

When the Board of Directors reviews the emergency action, it will terminate the action at the earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

1.27 PROTEST AND APPEAL OF PROCUREMENT ACTIONS

Vendors may protest any procurement actions involving formal sealed bids and competitive sealed proposals. The following procedures apply:

1. Any directly affected party who is aggrieved in connection with the solicitation or award of a purchase order or contract issued through a formal sealed bid procedure may protest the procurement action taken.
2. Such protests must be filed in writing with the District within five working days from the time of the occurrence giving rise to the protest. Protest received after this time will not be considered.
3. Any protest will include the date and action taken resulting in a protest, and identify the material issue, including a detailed explanation of the basis for the protest, and the remedy sought. Specification related protests must be fully supported by technical data test results, or other pertinent information.

1.28 RESOLUTION PROCESS

Upon receipt of protest, the Purchasing Agent or designee will convene, at the earliest possible convenience, discussions between the protesting party and the appropriate District staff to seek informal resolution and/or to clarify the issues. If the protest is not resolved by mutual agreement, the Purchasing Agent or designee will provide a written response to the protesting party within fifteen (15) working days following the information meeting. The response will state the Purchasing Agent's or designee's decision the facts supporting the decision and will inform the protesting party of its right to appeal the decision to the Board of Directors.

In the event the informal resolution procedure is unsuccessful, the protesting party may request an appeal hearing before the Board of Directors by filing a written request with the General Manager no later than five working days after notification of the Purchasing Agent's or designee's decision. Any appeal hearing will be scheduled within thirty (30) working days from the date the request is received by the General Manager. The General Manager will notify the appellant of the scheduled hearing date by placing such notice in the U.S. Mail, 1st class, not less than ten working days from the date of hearing. The appellant will have the right to testify at the hearing, to be represented by counsel, to present witnesses on his/her

behalf, and to present oral and written documents and evidence on the issue. The hearing will be conducted in an informal manner and the rules of evidence will not apply. After the conclusion of the hearing, the Board of Directors will make findings of fact and a decision concerning the issue(s).

In the event of a timely protest under this section, the District will not proceed further with the solicitation or the award of the contract or purchase order until the protest is resolved, unless the Purchasing Agent, in consultation with the manager of the requisitioning department and District Counsel, makes a written determination that the award of the purchase order or contract without further delay is necessary to protect a substantial interest of the District.

2 CREDIT CARD USE POLICY

2.1 CREDIT CARDS

The General Manager shall designate those employees authorized to use a general-purpose District credit card issued in their name. The General Manager shall establish the purchasing limits for each card depending on the needs of the employee's duties and responsibilities. The purchasing limit for all employees cannot exceed the General Manager's purchasing authority as established by Board resolution. Each cardholder is responsible for entering into a Cardholder Agreement with the District. A copy of the Cardholder Agreement is kept in the cardholder's personnel file. Each cardholder must surrender the card immediately upon retirement, termination, or upon request of the General Manager. Use of the card after privileges are revoked is prohibited.

2.2 RESPONSIBILITIES OF THE DISTRICT

The District assumes responsibility for the payment of all charges incurred on the credit cards.

2.3 RESPONSIBILITIES OF THE EMPLOYEE/CARDHOLDER

Each cardholder is responsible for the security of the card and for all purchases made with the card. Each cardholder is required to review and attest to the accuracy of each monthly statement. A receipt/invoice is required to substantiate every purchase made using the credit card. Receipts/invoices must contain the following information:

- Description of items/services purchased
- Amount of sales tax and shipping
- Quantity purchased
- Total purchase amount
- Price per item

Employees are to use the District credit card for purchases related solely to District business. Lost or stolen cards must be reported to the credit card company and the Programs & Finance Manager or General Manager within one day of discovery. Failure to comply with District's Purchasing Policies may result in the credit card being placed on hold and/or cancelled. Employees who inadvertently use the credit card for non-TCSD business must report the purchase to the General Manager and/or their supervisor within one business day of the discovery of the inadvertent charge and must reimburse TCSD prior to the payment of the charge by TCSD or within three business days, whichever is sooner.

2.4 AUTHORIZATION TO ESTABLISH CREDIT CARD ACCOUNTS

The General Manager is authorized to select a provider of credit card services and establish accounts that comply with the restrictions set forth in this policy.

2.5 REVIEW AND APPROVAL OF CHARGES

All individual cardholder credit card statements will be reviewed and approved by the General Manager and/or his/her designee prior to payment.

3 SIGNATURE AUTHORITY

3.1 DESIGNATED SIGNATORS

The General Manager, Assistant General Manager and Board members are designated as signators for TCSD checks.

3.2 CHECK PREPARER RESTRICTIONS

The person who prepares the check cannot be a signator to the check.

3.3 SIGNATURE REQUIREMENTS

| Check Amount | Signature Requirement |
|---------------|-------------------------|
| Up to \$5,000 | One signature required |
| Over \$5,000 | Two signatures required |