

# ORLAND CEMETERY DISTRICT

## PURCHASING AND CONTRACTING FOR PERSONAL PROPERTY, SERVICES, CONSTRUCTION AND SALE OF DISTRICT-OWNED PROPERTY POLICY

### I. CONSTRUCTION:

By resolution, the Board may order the construction work to be done, and if it does so, it shall fix a time for receiving proposals or bids for doing the work, and shall direct the clerk to give notice, inviting sealed proposals or bids. Such a notice shall include a statement that the work is to be done in accordance with the plans and specifications on file, except insofar as such plans and specifications were changed by the Board.

All contracts for the construction or completion of any building, structure, or improvement, when the expenditure required for the work exceeds ten thousand dollars (\$10,000), shall be contracted for and let to the lowest responsible bidder after notice.

*All contracts for the construction or completion of any building, structure, or improvement, when the expenditure required for the work is less than twenty-five thousand dollars (\$25,000), may be let to contract by informal bidding procedures as set forth therein.*

All contracts for the construction or completion of any building, structure, or improvement, when the expenditure required for the work exceeds twenty-five thousand dollars (\$25,000) may be let to contract by formal bidding procedures as set forth therein.

**A. Project Specifications** – Before entering into any contract for a project, the District shall prepare full, complete, and accurate plans and specifications and estimates of cost, giving such directions as will enable any competent mechanic or other builder to carry them out. Plans and specifications shall be sufficiently certain and definite in all of the details of the work which affect its cost to apprise bidders of all the essential and substantial parts of the work and enable them to know with reasonable accuracy the outlay they will have to make in performing the work to be contracted for. The plans, specifications, and estimates shall be approved by the Board and the original draft or a certified copy filed permanently in the office of the District before further action is taken.

**B. Informal Bidding Procedure:**

- i. The District shall maintain a list of qualified contractors, identified according to categories of work. It shall be the responsibility of contractors who wish to be placed on the list to provide the District with a statement of the contractor's qualifications.

- ii. All contractors on the list for the category of work being bid or all construction trade journals specified by the Trade Center Commission, or both, shall be mailed a notice inviting informal bids unless the product or service is proprietary.
- iii. Notice shall also be published in construction trade journals or newspapers of general circulation within the District.
- iv. All mailing notices to contractors and construction trade journals pursuant to subdivision (b) and (c) above shall be completed not less than the ten (10) calendar days before the bids are due.
- v. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submittal of bids.
- vi. If all bids received are in excess of twenty-five thousand dollars (\$25,000), the Board may, by passage of a resolution by a two-thirds (2/3) vote, award the contract at no more than thirty thousand dollars (\$30,000) to the lowest responsible bidder, if it determines that the cost estimate of the District was reasonable.

## **II. FORMAL BIDDING PROCEDURES:**

Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be posted and published at least fourteen (14) calendar days before the date of opening the bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation in the District. A copy or copies of the notice shall be posted and kept posted for five (5) days at or near the door of the District's office. In addition to the notice required hereunder, the District may give such other notice as it deems proper under the circumstances.

**A. Awarding Contracts** – The Board shall, in open session, open and examine the proposals or bids and declare the same. In its discretion, the District may reject any bids presented. The Board may also withdraw the work from competitive bidding at any time prior to the award of the contract.

i. If, after the first invitation of bids, all bids are rejected, after reevaluating its cost estimated of the project, the District shall have the option of either:

1. Abandoning the project or re-advertising for bids in the manner set forth herein;  
or

2. By passage of a resolution by a two-third (2/3) vote of the Board declaring that the project can be performed more economically by the employees of the District, have the project done by force account without further complying with this procedure.

**B.** If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the Board may accept the one it chooses.

- C.** If no bids are received through the formal or informal procedure, the project may be performed by the employees of the District by force account or negotiated without further complying with this procedure.
- D.** The Board may, subject to the provisions of Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code, require the posting of those bonds it deems desirable as a condition of the filing of a bid or the letting of a contract. No proposal or bid shall be considered unless accompanied by such check or such bond as required in the notice for proposals or bids.
- E.** A notice of such an award, attested by the Clerk of the Board, shall be transmitted to the successful bidder by the Clerk of the Board, and shall also be posted in the same manner as the notice inviting proposals or bids.
- F.** Before being entitled to a contract, the bidder to whom the award thereof has been made must advance and pay to the Clerk of the Board the costs and expenses of publishing and posting the resolutions, notices and orders required hereunder which have been made, given, posted, or published in the proceedings.
- G.** If the successful bidder fails neglects or refuses for fifteen (15) days after being awarded the contract, to execute the same, the certified check accompanying his or her bid and the amount thereof shall be declared forfeited to the District.
- H.** If the Board deems it is in the best interests of the District, the Board may, on the refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder, or on the refusal or failure of that bidder to execute the contract, to the third lowest responsible bidder. If the Board deems the acceptance of the lowest responsible bid or bids is not in the best interests of the District, the Board may reject all bids and proceed in any other manner selected by the Board.
- I.** Bids may be received, and contracts awarded on a unit basis, that is, the bids compared upon the basis of estimates of the quantities of the work to be done.
- J.** Contracts shall be let only to the holder of a valid State contractor's license unless such work is exempt from such licensing requirement by any other provision of law. Proof of current and appropriate Liability Insurance coverage and Workers Compensation coverage shall be provided to the District Manager before any work begin.
- K.** In the case of an emergency, the Board may adopt a Resolution by two-thirds (2/3) vote of all the members of the Board declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health or property. The Board may expend any sum required in the emergency for the construction or completion of any building, structure, or improvement without submitting the expenditure to bid.
- L.** The Board hereby authorizes the District Manager to engage independent contractors to perform construction services for the District, with or without furnishing of material, or for the purchase of supplies, material or equipment, when the aggregate cost does not exceed two thousand dollars (\$2,000).
- M.** It is unlawful, for the purpose of evading any requirement herein, to split or separate into smaller units of work or purchase any work or purchase covered by this section.

### **III. PURCHASING OF PERSONAL PROPERTY AND SUPPLIES:**

- A.** The District Manager is hereby authorized to make purchases of personal property and supplies for the District where the cost does not exceed two thousand dollars (\$2,000.00).
- B.** Amounts included in the annual budget approved by the Board for the purchase of specifically identified items of personal property shall constitute spending authority to the District Manager for such items of personal property up to the amounts approved, even in excess, of the two thousand dollars (\$2,000) limit established in (A) above.
- C.** Where the cost of the personnel, property and/or supplies does not exceed two thousand dollars (\$2000.00), price competition shall not be required.
- D.** Where the cost of the personal, property and/or supplies costs between two thousand dollars (\$2,000.00) and ten thousand dollars (\$10,000), price competition must be undertaken by securing at least three (3) oral or written quotations.
- E.** Where the cost of the personnel, property and/or supplies exceeds ten thousand dollars (\$10,000), the Board shall be required to follow the bidding procedure set forth in Section 5 herein.
- F.** Purchase Orders – Procurement of personal, property shall be made only upon the issuance of a purchase order. Purchase orders will be issued only by the District Manager. No other employee of the District may issue a purchase order or otherwise commit to the expenditure of District funds.
- G.** Authorization to Purchase – No purchase may be made without the prior authorization of the District Manager.
- H.** Upon receipt of the materials or equipment purchased, the invoice must be submitted to the District's Office Manager for processing and possible inventory recording under fixed assets.
- I.** All purchasing and procurement shall be performed in the best interest of the District, in accordance with the rules, regulations, and policies herein set forth and all applicable provisions of the law.
- J.** It is unlawful, for the purpose of evading any requirements herein, to split or separate into smaller units of purchase any purchase covered by this section.

### **IV. SPECIAL SERVICE:**

- A.** The Board may contract for special services. These contracts shall be with people specially trained, experienced, expert, and competent for special services. The special services shall be limited to the fields of accounting, administration, architecture, custodial, economics, engineering, finance, insurance, labor relations, law, maintenance, mechanics, medicine, planning, science, technology and other services which are incidental to the operation of the District.
- B.** The Board hereby authorizes the District Manager to enter into agreements, not to exceed two thousand dollars (\$2,000), by which independent contractors provide special services to the District. Any contract which is known at the time of

procurement to exceed two thousand dollars (\$2,000) may be entered into only by the Board.

- C. If so authorized, when the expenditure required for the service contract exceeds ten thousand dollars (\$10,000), the Board shall ensure the service is contracted for and let to the lowest responsible bidder after public notice and bidding. When the projected expenditure is ten thousand dollars (\$10,000) or less, the Board may let the contract go without the necessity of bidding.
- D. It is unlawful, for the purpose of evading any requirements herein, to split or separate into smaller units of purchase any purchase covered by this section.
- E. Notwithstanding the foregoing, contracting for architectural, engineering and surveying services shall be made in accordance with the provisions of the Government Code &&4525, et seq.

#### V. GENEREAL:

- A. Except otherwise allowed herein, when the expenditure required for the purchase of personal property and/or services exceeds ten thousand dollars (\$10,000), the Board shall contract for and let to the lowest responsible bidder the contract for such purchase of personal, property and/or services.
- B. When the personnel property or services is to be secured through competitive bidding, the Board or the District Manager shall direct the Office Manager to give notice of the purchase (s) to be made, inviting sealed proposals or bids. Such notice shall include full, complete and accurate specifications of the property or service to be purchased which are sufficiently certain and definite upon all, of the essential material requirements of the property or service sought to be purchased to enable bidders to know with reasonable accuracy the personal, property or services sought.
- C. The Board may establish procedures under which notice is given exclusively to prequalified vendors and identify other forms and procedures for the issuance of notice. Prequalification shall be based on any available information, including but not limited to information provided by the bidder. A bidder's name may be removed from the list of qualified bidders for any of the following reasons:
  - Failure to respond to questionnaires issued by the District or to provide financial statement or other information as may be requested;
  - Failure to respond to three (3) consecutive invitations or requests for bids or quotations on services or items offered by the bidder;
  - Failure to satisfactorily perform under a previous purchase order or contract;
  - Failure to respond to any inquiry from the District regarding whether the bidder continues to be interested in doing business with the District;

- Submittal to the District by the bidder of a written request to be removed from the list of qualified bidders;
  - Change in the qualifications of a bidder to the extent that he no longer meets the minimum requirements applicable to bidders offering the services or items offered by the bidder.
- D.** The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least ten (10) days before the date of opening the bids. A copy or copies of the notice shall be posted and kept posted for five (5) days at or near the door of the District's office.
- E.** The Board may reject any bids. If the Board rejects all bids, it may either re-advertise or adopt a resolution, by two-thirds (2/3) vote of all, of the District's Trustees, declaring that the service can be performed more economically by the District's employees or obtained at a lower price in the open market. Upon adoption of the resolution, the Board may undertake the service contract without further complying with this section.
- F.** If no bids are received, the Board may undertake the service contract or purchase of personal property without further complying with this section.
- G.** Awards shall be determined by and be based upon the best proposal which, in the discretion of the Board or the District Manager, is the proposal which most adequately meets the needs of the District at the lowest price.
- i.** In determining the best proposal, in addition to price, the Board or the District Manager may consider the quality, availability and functional or other suitability of the personal, property or contractual services to the specific use intended. The Board or the District Manager may also consider other factors, including, but not limited to, the following: the ability, capacity and skill of the bidder to perform the contract or provide the service required; whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the bidder; the quality of performance of previous contracts or services; the previous and existing compliance of the bidder with laws and ordinances relating to the contract or service; the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; the ability of the bidder to provide future maintenance and service for the use of the subject of the contract; the number and scope of conditions attached to the bid.
  - ii.** With respect to acquisitions of title to personal, property or the use of personal property be rental, lease or otherwise, the best proposal shall be, as to products which equally satisfy intended uses, the one submitted by a responsible bidder at the lowest price.
- H.** Purchases may, but need not, be pursuant to competitive proposals under the following circumstances:
- i.** When the aggregate or cumulative price to be paid under the purchase contract is five thousand dollars (\$5,000) or less, unless otherwise required by state law;
  - ii.** When a patent or proprietary item is being purchased;
  - iii.** In the event of an emergency; or

- iv. When the following types of personal property or services are being acquired, obtained, rented or leased: (I) advertising; (II) books, recordings, motion picture films, subscriptions; (III) insurance; (IV) public utility services; (V) travel services; (VI) property or services provided by or through other governmental agencies; or obtainable from suppliers which have in force a current contract with another governmental agency for the same item or service; or (VII) property or services the price of which is fixed by law.
- I. **Patented or Proprietary Items:** When the District requires supplies, materials or equipment which are produced by only one manufacturer, the District Manager may specify manufacturer's make or brand in the invitation to bid but shall seek competitive bids from responsible bidders. If the manufacturer or its representative is the sole responsible bidder or sole source of supply, the District Manager may negotiate an open market order or contract with the manufacturer or its representative at prices and in terms most advantageous to the District, subject to the approval of the Board. When the District requires supplies, materials, or equipment which are patented or proprietary and which are obtainable in two or more equally satisfactory and competitive make, brands, or types, the invitation to bid may indicate such acceptable and competitive make, brands or types. Such invitations to bid shall include the phrase "or approved equivalent" to permit bidders to bid on alternative or additional makes, brands, or types. It shall be incumbent on each bidder to prove to the satisfaction of the District Manager that the alternate or additional make, brand, or type which is offered is equal in quality or performance to those listed in the invitation to bid.
  - J. The District may request the State Department of General Services to make purchases of materials, equipment, or supplies on its behalf in accordance with the provisions of Government Code Section 14814. The District may also utilize the services of the County of Sacramento's purchasing agent pursuant to the procedures established, therefore.
  - K. The Board may delegate to the District Manager the power to enter into and execute on behalf of the District any contracts which do not involve the expenditure of more than five thousand dollars (\$5,000) which relate to purposes previously approved and budgeted by the Board, subject to ratification of such approval and execution by the Board. This delegation shall not apply to:
    - i. The purchase of furnishings, materials, supplies and employment of independent contractors used in construction or repair of any building or facility of the District;
    - ii. Contracts for the construction of any building, facility or other improvement of the District;
    - iii. Contracts which must be awarded after public notice and competitive bidding. Contracts awarded by the District Manager are subject to the following provisions:
    - iv. Any contract let by the District Manager shall contain a provision that such contract terminates upon the date of provision of services or personal, property or incurring of expenses the cumulative total of which exceeds the authorized amount above.

- v. The District Manager shall not, absent prior approval by the Board, let any contract for the rental or lease of personal, property or for the acquisition of services by independent contract or otherwise which exceeds a term of one (1) year.
- vi. Except as otherwise authorized herein, all purchases by the District Manager shall be made pursuant to competitive proposals and shall be let to the party who makes the best proposal as defined in paragraph 5.07 of this section.
- vii. The solicitation of bid proposals by newspaper publication shall not be required. The District Manager shall utilize such processes to advertise intended purchases as are reasonably calculated to provide adequate competition among vendors, including, but not limited to, the direct solicitation of proposals from known vendors.

**L. Policy Violations:**

- i. Any violation of this policy shall render the contract or transaction involved voidable at the sole discretion of the Board.
  - ii. Any person claiming to be aggrieved by a decision of the District Manager or the Board pursuant to this policy may appeal to the Board for a final determination. With regard to any such appeal which relates to a contract award, the appeal must be filed with the District within five (5) days of the date of such award. No contracts may be executed by the District during the five-day period after the date of the award and during any period while an appeal is pending before the Board, unless an emergency exists pursuant to paragraph 5.14 below.
- M.** It shall be District policy that preference be given to local merchants, within the geographical boundary of the District, provided price, quality and service or availability are satisfactory.
- N.** In case of an emergency, the Board may adopt a resolution by two-thirds (2/3) vote of all the members of the Board, declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health, or property. The Board may expend any sum required in the emergency for the purchase of any personal, property, supplies and/or services without submitting the expenditure to bid.
- O.** Prior to performing any services or commencing any construction, the person, company or firm selected to perform such services or construction shall provide, in a form and amounts satisfactory to the District, proof of current insurance coverage for Worker's Compensation (if Contractor employs any employee), and Comprehensive General Liability insurance naming the Orland Cemetery District, its Trustees, Officers and Employees as additional named insured.

**VI. DISPOSITION OF DISTRICT-OWNED PROPERTY**

- A.** When purchasing District property, the District may solicit and accept advantageous trade-in allowances for the District-owned property which has previously been determined by the District to be surplus.



- B. Upon recommendation by the District Manager, the Board may declare specific items of District-owned property surplus and authorize the disposition of such property. The District Manager may purchase advertising and advertise the proposed sale or other disposition of the property in newspapers or, other, periodical. Proceeds from the sale of District-owned surplus property shall be paid into the County Treasury for use of the District.
- C. When District-owned property has been declared surplus by the Board, the disposition of the surplus property may be handled through the County Department of Surplus, at the discretion of the District Manager.
- D. The prohibition against dealing with “financially interested” parties, Section 7.00 below, shall also apply to the sale of surplus District-owned property.

## **VII. FINANCIALLY INTEREST PARTIES:**

The District shall not make any purchase of any personal, property or services from any person or business in which any Board member, officer or employee of the District has a “financial interest”. A person has a “financial interest” if it is reasonably foreseeable that the purchase will have a material effect on the official or employee or a member of his or her immediate family or on:

- i. Any business entity in which the official or employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;
- ii. Any real property in which the public official or employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;
- iii. Any source income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to the official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official or employee within twelve (12) months prior to the time when the decision is made;
- iv. Any business entity in which the official or employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- v. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official or employee within twelve (12) months prior to the time when the decision is made.

For purposes of this section, “indirect investment or interest” means any investment or interest owned by the spouse of dependent child of an official or employee, by an agent on behalf of a public official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a ten (10) percent interest or greater.

Policy Adopted on: \_\_\_\_\_

Vote:

Ayes: ( )

Nays: ( )

Abstain: ( )

---

Staci Buttermore, Secretary  
Orland Cemetery District

---

Rick Beale, Chairman  
Orland Cemetery District