

**ORDINANCE NO. 23-255**

**AN ORDINANCE OF BOARD OF DIRECTORS OF THE BEAR VALLEY COMMUNITY SERVICES DISTRICT AMENDING AND RESTATING DISTRICT CODE TITLE 1, CHAPTER 8, SECTION 6, TITLE 1, CHAPTER 8, SECTION 8, AND TITLE 1, CHAPTER 8, SECTION 9 TO MODIFY THE PURCHASING PROCEDURES AND PURCHASING AUTHORITY OF THE DISTRICT GENERAL MANAGER**

The Bear Valley Community Services District Board of Directors ordains as follows:

**SECTION 1. Findings.** The Board of Directors finds as follows:

- A. Section 6 of Chapter 8 of Title 1 of the District Code establishes certain procedures for purchase of supplies, equipment and contractual services.
- B. The Board desires to repeal and replace Section 6 of Chapter 8 of Title 1 of the District Code in order to clarify the authority of the Purchasing Agent to select specific vendors for the purchase of supplies, nonprofessional services, materials and equipment that do not exceed five thousand dollars (\$5,000) without obtaining multiple bids.
- C. Section 8 of Chapter 8 of Title 1 of the District Code establishes procedures for the procurement of supplies, materials, equipment, and contractual services of a value between five thousand dollars (\$5,000) and twenty-five thousand dollars (\$25,000)
- D. The Board desires to repeal and replace Section 8 of Chapter 8 of Title 1 of the District Code in order to revise the purchasing authority to exempt professional services contracts from the bidding requirements found in this section and to instead rely upon the requirements of Government Code section 53060.
- E. Section 9 of Chapter 8 of Title 1 of the District Code establishes certain exemptions from the centralized purchasing procedures.
- F. The Board desires to repeal and replace Section 9 of Chapter 8 of Title 1 of the District Code in order to add an exemption from the centralized purchasing procedures for contracts paid with grants funds in order to ensure that the District strictly adheres to the purchasing provisions set forth in particular grant agreements or other applicable laws.

**SECTION 2. Amendment to District Code Chapter 1-8-6.** Section 6 of Chapter 8 of Title 1 of the Bear Valley Community Services District Code is amended and restated to clarify the authority of the Purchasing Agent as follows:

**1-8-6: PURCHASING:**

- A. **Applicability:** This section shall apply to either contracts not covered by the Public Contract Code or contracts covered by the Public Contract Code only to the extent that the Public Contract Code does not provide guidance.

B. Centralized Purchasing System: In order to establish efficient procedures for the purchase of supplies, materials and equipment, and to secure for all departments of the district supplies, materials and equipment at the lowest possible cost commensurate with the quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing functions, and to assure the quality of purchases, a centralized purchasing system is adopted. Other than as described in section 1-8-9 of this chapter, there shall be no exemption from centralized purchasing and no district department shall be authorized to purchase or contract for the purchase of supplies, services or equipment independently.

C. Purchasing Agent: The purchase and sale of all supplies, nonprofessional services, materials and equipment shall be the responsibility of the general manager who shall be the purchasing agent. The purchasing agent shall have the authority to select a specific vendor and place an order without obtaining competitive bids for any purchases not exceeding five thousand dollars (\$5,000). The purchasing agent will justify acquisition of any capital items over five thousand dollars (\$5,000.00) and related expenditures and ensure that all the district's bills are paid on time.

D. Estimates Of Requirements: All departments shall file detailed estimates of their requirements for supplies, materials and equipment in such manner, at such time, and for such future periods as the purchasing agent shall prescribe.

E. Requisitions: All departments shall submit requests for supplies, materials and equipment to the purchasing agent on standard requisition forms.

F. Purchase Orders: Purchases of supplies, materials and equipment shall be made only by purchase order and signed by the purchasing agent.

G. Encumbrance Of Funds: The purchasing agent shall not issue any purchase order for supplies, materials or equipment unless there exists an unencumbered appropriation in the department or fund against which the purchase is to be charged.

H. Purchases Made By Credit Card: The general manager, assistant general manager, chief of police, superintendent of public works, finance director and district secretary are authorized to use a district credit card issued in their names. Purchases made by credit card will be limited to items for which issuing a check is impractical, such as travel expenses or online purchases. All purchases made by credit card must be preapproved by the general manager. At the close of each billing cycle (monthly), individual monthly credit card statements will be received and reconciled by the district. Individual card holders are responsible for providing all pertinent receipts and other documentation necessary for a full reconciliation. A report shall be maintained in the district files and include the following information: name of purchaser, item purchased, date and amount of purchase. Purchases made during the preceding month shall be published in the District's Register of Warrants and shall list the purchaser, item purchased, date, and amount of purchase.

**SECTION 3. Amendment to District Code Chapter 1-8-8.** Section 8 of Chapter 8 of Title 1 of the Bear Valley Community Services District Code is amended and restated to revise the purchasing authority to exempt professional services contracts from the bidding requirements found in this section and to instead rely upon the requirements of Government Code section 53060 as follows:

1-8-8: OPEN MARKET PURCHASES:

A. Purchase of supplies, materials, equipment and nonprofessional services of a value between five thousand dollars (\$5,000.00) and twenty five thousand dollars (\$25,000.00) may be made by the purchasing agent in the open market, in accordance with the following procedure:

The purchasing agent or designee shall secure favorable pricing for the procurement of supplies, equipment, and nonprofessional services. This shall include obtaining at least three bids based upon identical specifications from different vendors prior to purchasing supplies, equipment and nonprofessional services costing between five thousand dollars (\$5,000) and twenty-five thousand dollars (\$25,000). Bids may be received by informal price checking, in writing, in person, or via the telephone and shall be documented and maintained in a file with the final awarded contract. The competitive bidding procedures as described in Section 20161 et seq. of the Public Contract Code may be utilized when not otherwise required, at the discretion of the purchasing agent. Award shall be made to the vendor offering the lowest acceptable bid. This requirement shall not apply to the purchase of supplies and equipment for which less than three vendors exist.

B. The purchase of professional services, such as architectural, landscape architectural, engineering, environmental, land surveying, legal, financial consultants or construction project management contractors shall be made on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required and in accordance with Government Code section 53060 as may be amended from time to time.

**SECTION 4. Amendment to District Code Chapter 1-8-9.** Section 9 of Chapter 8 of Title 1 of the Bear Valley Community Services District Code is amended and restated to add an exemption from the centralized purchasing procedures for contracts paid with grants funds as follows:

1-8-9: EXEMPTIONS FROM CENTRALIZED PURCHASING:

A. **Emergency Purchase:** In the case of an emergency, which is so urgent as to preclude advance action by the board of directors, the general manager may secure in the open market at the lowest obtainable price, any supplies, materials, equipment or contractual services needed. This emergency authority shall extend to all purchases, irrespective of the fact that the amount might exceed the authorized limitation for open market purchases. In all instances a full written explanation of the emergency circumstances shall be filed with the board of directors.

B. **Used Equipment:** In the case of the purchase or contract for used supplies, materials or equipment, the purchasing agent is not required to comply with the centralized purchasing policy. However, when the used supplies, materials or equipment are valued in excess of fifteen thousand dollars (\$15,000.00), the purchasing agent shall file a report with the board of directors justifying the purchase or contract for the used supplies, materials or equipment. The board of directors shall approve the purchase or contract for the used supplies, materials or equipment in excess of fifteen thousand dollars (\$15,000.00) prior to the purchase or entering into the contract for the used supplies, materials or equipment. (Ord. 09-230, 1-8-2009)

C. Grants: Notwithstanding the foregoing, any contract which is paid with grant monies shall strictly adhere to those purchasing provisions set forth in the applicable grant agreement and pursuant to any applicable state or federal law or regulation.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6. CEQA.** CEQA requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (CEQA Guidelines, § 15378.) As reflected in State CEQA Guideline 15061 (b) (3), an activity is not subject to CEQA, "[where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment...]" The proposed amendments are not a "project" within the meaning of CEQA because the amendments seek to provide clarification of purchasing procedures and authority of the General Manager of the District, address inconsistencies between definitions, and delete text that is no longer necessary. Because no expansion of uses or activities is reasonably anticipated, no possibility exists that the ordinance will result in a significant effect on the environment. Thus, the proposed ordinance is not subject to the requirements of CEQA. However, in the event that adoption of the ordinance is considered a CEQA project, it would nonetheless qualify for categorical exemptions as set forth below.

CEQA Guidelines Section 15061(b)(3) states that a project is exempt from CEQA "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The approval of the code amendments set forth in the proposed ordinance does not approve any physical development and it would not result in a direct or indirect physical changes in the environment. Any specific development projects that may result from these changes will be subject to environmental review. For these reasons, the proposed amendments would not have the potential to result in individually or cumulatively significant effects on the environment and these District Code amendments are exempt from review under CEQA and no further environmental review is necessary.

**SECTION 7. EFFECTIVE DATE.** The Secretary of the Board of Directors is directed to cause this ordinance to be published in the manner required by law. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

**PASSED AND ADOPTED** by the Board of Directors of the Bear Valley Community Services District on the 14th day of September, 2023 by the following vote:

**AYES:** Cagle, Frevert, Grace, Hernandez, Jensen

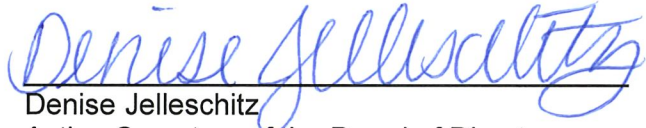
**NOES:** None

**ABSENT:** None


**ABSTAIN:** None

  
\_\_\_\_\_  
John Grace, Board President

ATTEST:

BY:   
\_\_\_\_\_  
Denise Jelleschitz  
Acting Secretary of the Board of Directors

APPROVED AS TO FORM:

BY:   
\_\_\_\_\_  
Palmer Hilton  
District Interim General Counsel

STATE OF CALIFORNIA     )  
COUNTY OF KERN         ) ss.

I, Denise Jelleschitz, Acting Secretary of the Board of Directors of the Bear Valley Community Services District, do hereby certify that the foregoing Ordinance was introduced by the Board of Directors of the Bear Valley Community Services District at a regular meeting held on July 27, 2023, and duly adopted at a regular meeting held on September 14, 2023, by the following vote:

AYES:                         MEMBERS: Cagle, Frevert, Grace, Hernandez, Jensen

NOES:                         MEMBERS: None

ABSENT:                     MEMBERS: None

ABSTAIN:                   MEMBERS: None

  
Denise Jelleschitz, Acting Board Secretary

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