AN ORDINANCE REPEALING CHAPTER 22
OF THE SOLANO COUNTY CODE ENTITLED
"PURCHASING," AND ENACTING A NEW
CHAPTER 22 ENTITLED "PURCHASING AGENT"

The Board of Supervisors of the County of Solano, State of
California, does ordain as follows:

SECTION I.

Chapter 22 of the Solano County Code, entitled "Purchasing,"
is hereby being repealed in its entirety, and a new Chapter 22,
entitled "Purchasing Agent" is hereby enacted to read as follows:

CHAPTER 22

ARTICLE I. GENERAL PROVISIONS.

§ 22-10. Application of chapter.
§ 22-12. Definitions.
§ 22-13. Authority to purchase.
§ 22-14. Persons authorized to requisition.
§ 22-17 Energy conservation considerations.

ARTICLE II. PURCHASES.

§ 22-20. Purchases of personal property.
§ 22-22. Term of contracts.
§ 22-23. Competitive bidding required.
§ 22-25. Award of bids.
§ 22-26. Exceptions to bidding.
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ARTICLE III. SALE OF SURPLUS PROPERTY

§ 22-40. Surplus property.
§ 22-41. Purchases prohibited.
ARTICLE I. GENERAL PROVISIONS.

Sec. 22-10. Application of chapter.

The provisions of this chapter shall apply to the County of Solano and to all "using agencies" as defined in this chapter.

Sec. 22-11. Purchasing agent.

Pursuant to Government Code sections 25500 et seq., there is hereby created the office of purchasing agent. The purchasing agent in this county shall be the director of general services. The purchasing agent shall be vested with such powers, duties and responsibilities as are prescribed by state law and this chapter. The director of general services may delegate all or a portion of the duties to his/her designee.

Sec. 22-12. Definitions.

As used in this chapter, the following terms shall be ascribed the following meanings:

(a) Emergency means an unforeseen circumstance in which an immediate purchase is necessary in order to avoid a substantial hazard to life, health or property, or a serious interruption of the operation of a department of the county or the operation of a non-County public agency.

(b) Patented or proprietary items mean supplies, materials or equipment which are produced by one manufacturer or are available from one source, or services which are available from one provider.

(c) Personal property means materials, supplies, machinery, furnishing, equipment and any other tangible article required for the conduct of business of the county or non-County public agency.

(d) Personal services mean any labor of a specialized or short-term or intermittent nature required in the conduct of operations of the county or non-County public agency which may lawfully be performed by contract with private parties, who have an expertise sought by the county, and which contracts exclude the following:

1. The work of constructing, altering or improving buildings, roads, sewer and drainage facilities and other public works type projects; and
2. Any labor pursuant to any other contracting authority or limitation.

(e) Purchase or purchases mean any contractual arrangement or transaction involving payment:

1. For the acquisition of title to personal property;
2. For the use by rental, lease, or otherwise of personal property;
3. For the provision of services by independent contract or otherwise; or
4. Any combination of the foregoing.
(f) Non-county public agency means any of the following entities which requests the services of the purchasing agent as provided in section 22.16. Any public district, created under the laws of the state; any municipal corporation whose territory lies in the county; or any board, commission, or joint powers agency to which the county or any such district is a party.

Sec. 22-13. Authority to purchase.
Except as otherwise provided by law or this chapter, all purchases, regardless of the source of funding or revenue, shall be made in the name of the county, by written contract, approved by and executed on behalf of either the Board of Supervisors or the purchasing agent.

If an emergency occurs at times other than regular business hours and the services of the purchasing agent are not immediately available, emergency purchases may be made by department heads or employees authorized by them to make such purchases. Any such purchase shall be made by written contract in the name of the county and approved by and executed in behalf of the department head or authorized employee. Each such emergency purchase shall be reported in writing to the purchasing agent as soon as possible, but in no event later than five (5) calendar days following the date on which the purchase is made, and such report shall include a detailed explanation of the nature of the emergency, as well as the reasons necessitating the purchase.

Sec. 22-14. Persons authorized to requisition.
Authority to direct requisitions to the purchasing agent for purchases is vested in the heads of the offices, departments and institutions of the county. Such head may delegate this authority to any of that person's deputies, officers or employees by filing written authorization with the purchasing agent. Each head authorizing such a requisition does so with the representation that there are sufficient funds available in that office, department or agency's budget to support that purchase, and if funds are not available that they will be held personally liable for the budget shortage, unless the purchase is otherwise found to be permissible.

Sec. 22-15. Purchasing procedures.
The purchasing agent shall establish methods and procedures for the functioning of the purchasing division.

(A) The purchasing agent shall prepare a purchasing procedure manual which sets forth the rules and regulations for the administration of this chapter. Upon approval by the board of supervisors and filing a copy of the procedures manual with the clerk to the board, by and through the purchasing agent, the rules and regulations contained in the manual shall have the same force and effect as the provisions of this chapter.

The purchasing procedure manual shall include such rules and regulations as are necessary to implement the provisions of this chapter, including, but not limited to the following:
1. Procedures under which purchases without competitive bidding will be considered, approved and authorized.
2. Procedures for the identification and approval, without competitive bidding, of purchases of patented or proprietary items.
3. Procedures for the competitive bidding of personal property obtained in two or more equally satisfactory and competitive makes, brands, or types.
4. Procedures for the standardization of personal property common to the needs of, and required by two or more county departments or using agencies.
5. Procedures for the establishment and maintenance of lists of bidders, prequalified or otherwise.
6. Procedures for providing reasonable notice soliciting bid proposals.
7. Procedures for providing equal access to businesses owned by minorities, women, and disabled persons (WBE/DBE).
8. Procedures for the award of bid.
9. Procedures for the implementation of joint purchasing policies with other public agencies.

The manual shall be completed within a reasonable time following the approval of this ordinance. The completion date for the manual shall be set by the county administrator, acting through the purchasing agent.

All provisions of the manual shall be subject to modification by the board of supervisors through the adoption of a resolution. Any modification to the manual by the board shall take effect immediately.

(B) The purchasing agent shall develop and maintain standard purchasing forms, conditions of invitations to bid, purchase orders, and purchase contracts, with approval as to form and legal sufficiency by the county counsel.

Sec. 22-16. Purchasing for non-county public agencies.
The purchasing agent shall perform any or all of the services provided for in this chapter on behalf of non-county public agencies, upon their request, and subject to the following provisions:

(A) A resolution which requests the purchasing agent to make purchases for or on behalf of the non-county public agency shall be adopted by the governing body of the non-county public agency and filed with the purchasing agent. The resolution shall:

(1) set forth competitive bidding limits, advertising requirements and any other restrictions or requirements specified by state law governing purchases by the non-county public agency; and

(2) provide that for the period of participation the non-county public agency shall:

(a) make all purchases in its own name, for that agency only.
(b) be responsible for payment directly to the vendor and for tax liability, and will hold the county harmless.
(c) not have and will not have in force any other contract for like purchases.
(d) Not have obtained and does not have under consideration written bids or quotations from other vendors for like purchases.

(B) Unless otherwise authorized by law, when making purchases in behalf of a non-county public agency, the purchasing agent shall follow the limits and requirements set forth in state statutes, this chapter and the purchasing procedure manual.
(C) The board of supervisors may, in its sole discretion, terminate such participation at any time after ten (10) days advance written notice mailed to the non-county public agency.

(D) A charge may be made for the services performed under this section.

Sec. 22-17. Energy conservation considerations.
Prior to the purchase of all new equipment, except in the case of an emergency, the purchasing agent or any other county officer or employee authorized to purchase such equipment shall evaluate and consider the energy consumption level and the anticipated operating costs over the useful life of the new equipment in addition to the initial cost of such equipment, whenever practical and feasible.

ARTICLE II. PURCHASES.

Sec. 22-20. Purchases of personal property.
The purchasing agent shall be authorized and is hereby required to make purchases of personal property for the county, county officers or departments, and non-County public agencies.

Sec. 22-21. Purchases of services.
The purchasing agent is authorized to enter into agreements by which independent contractors provide services to the county, county officers or departments, and non-County public agencies.
The purchasing agent shall let personal service contracts identified by Government Code section 31000; provided, however, that the amount of any such contract shall not exceed the amount prescribed by Government Code section 25502.5.
Any contract which is known at the time of bidding to exceed pertinent statutory limitations shall be subject to approval by the board of supervisors. Any other contract for such services let by the purchasing agent 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 equals said statutorily prescribed amount.
Sec. 22-22. Term of contracts.
The purchasing agent shall not, absent prior approval by the board of supervisors, let any contract which exceeds a term of three years for the rental or lease of personal property, or for the acquisition of services by independent contract. No such contract shall exceed one (1) year unless the purchasing agent finds, and such findings are recited in the body of the contract, that a term longer than one (1) year is required in order to promote efficiency and economy, or for other reasons that a term of one (1) year is otherwise impractical.

Sec. 22-23. Competitive bidding required.
Except as authorized by section 22-26, all purchases by the purchasing agent shall be made pursuant to competitive proposals, and shall be let to the party who makes the best responsible proposal as defined in section 22-25.

(a) The solicitation of bid proposals by newspaper publication shall not be required. The purchasing agent shall utilize such processes to advertise intended purchases as are reasonably calculated to provide adequate competition among vendors within the county, including, but not limited to, the direct solicitation of proposals from bidder lists.

(b) The purchasing manual may contain procedures under which notice is given exclusively to prequalified vendors, and identify other forms and procedures for the issuance of notice.

Sec. 22-24. Disadvantaged/women/local business enterprise program.
(a) Policy. The board of supervisors hereby implements Public Contract Code section 2000 allowing the county in the awarding of contracts to the lowest responsible bidder to require that a contract be awarded to the lowest responsible bidder who also meets goals and requirements established by the county relating to participation in the contract by minority business enterprises and women business enterprises. If the bidder does not meet the goals and requirements established by the county for that participation, the county shall evaluate the good-faith effort of the bidder to comply with the established goals and requirements. The good-faith effort of a bidder to meet the established goals and requirements shall be evaluated in accordance with the following criteria:

(1) The bidder attended any presolicitation or pre-bid meetings that were scheduled by the county to inform all bidders of the minority and women business enterprise program requirements for the project for which the contract will be awarded. The county may waive this requirement if it determines that the bidder is informed as to those program requirements.

(2) The bidder identified and selected specific items of the project for which the contract will be awarded to be performed
by minority or women business enterprises to provide an opportunity for participation by those enterprises.

(3) The bidder advertised, not less than ten (10) calendar days before the date the bids are opened, in one or more daily or weekly newspapers, trade association publications, minority or trade-oriented publications, trade journals, or other media specified by the county, for minority or women business enterprises that are interested in participating in the project. This paragraph applies only if the county gave public notice of the project not less than fifteen (15) calendar days prior to the date the bids are opened.

(4) The bidder provided written notice of his or her interest in bidding on the contract to the number of minority or women business enterprises required to be notified by the project specifications not less than ten (10) calendar days prior to the opening of bids. To the extent possible, the county shall make available to the bidder, not less than fifteen (15) calendar days prior to the date the bids are opened, a list or a source of lists of enterprises which are certified by the county as minority or women business enterprises. If the county does not provide that list or source of lists to the bidder, the bidder may utilize the list of certified minority or women business enterprises prepared by the Department of Transportation pursuant to section 14030.5 of the Government Code of the state for this purpose.

(5) The bidder followed up initial solicitations of interest by contracting the enterprises to determine with certainty whether the enterprises were interested in performing specific items of the project.

(6) The bidder provided interested minority and women business enterprises with information about the plans, specifications, and requirements for the selected subcontracting or material supply work.

(7) The bidder requested assistance from minority and women community organizations; minority and women contractor groups; local, state, or federal minority and women business assistance offices; or other organizations that provide assistance in the recruitment and placement of minority or women business enterprises, if any are available.

(8) The bidder negotiated in good faith with the minority or women business enterprises, and did not unjustifiably reject as unsatisfactory bids prepared by any minority or women business enterprises, as determined by the county.

(9) Where applicable, the bidder advised and made efforts to assist interested minority and women business enterprises in obtaining bonds, lines of credit, or insurance required by the county or the contractor.

(10) The bidder's efforts to obtain minority and women business enterprise participation could reasonably be expected by the county to produce a level of participation sufficient to meet the goals and requirements of the county.

(11) The performance by a bidder of all the criteria specified in subsection (a)(1) through (a)(10) of this section
shall create a rebuttable presumption, affecting the burden of producing evidence, that bidder has made a good-faith effort to comply with the goals and requirements relating to participation of minority and women business enterprises established by the county.

(b) Goals and requirements. The county administrator shall establish, subject to the approval of the board of supervisors, goals and requirements not in conflict with Public Contract Code section 2000 to assist the county in meeting goals relating to participation in public contracts by minority business enterprises, women business enterprises, and local business enterprises.

Sec. 22-25. Award of bids.

Awards shall be determined by and be based upon the best proposal which, in the discretion of the purchasing agent, is the proposal which most adequately meets the needs of the county, officer, department, or non-County public agency at the lowest price.

(a) In determining the best proposal, in addition to price, the purchasing agent may consider the quality, availability, and functional or other suitability of the personal property or contractual services to the particular use intended. The purchasing agent may also consider other factors, including, but not limited to, the following:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
(2) Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;
(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
(4) The quality of performance of previous contracts or services;
(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
(6) The sufficiency of the financial resources, and ability of the bidder to perform the contract or provide the service;
(7) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
(8) The number and scope of conditions attached to the bid;
(9) The bidder's good-faith compliance with the provisions of section 22-24 of the chapter pertaining to disadvantaged, women, and local business enterprise programs.

(b) With respect to acquisitions of title to personal property or the use of personal property by rental, lease, or otherwise, the best proposal shall, as to products which equally
satisfy intended uses, be the one submitted by a responsible bidder at the lowest price.

(c) When two or more proposals for the sale, rental, or lease of personal property are the same, the purchasing agent shall give preference to the lowest responsible bidder within the County of Solano who offers to supply items raised, grown, manufactured, fabricated, processed or assembled in Solano County if price, quality, service and other factors are equal.

**Sec. 22-26. Exceptions to bidding.**

Purchases may, but need not be, let pursuant to competitive proposals under the following circumstances:

(a) When the aggregate or cumulative price to be paid under the purchase contract is ten thousand dollars ($10,000) or less, unless otherwise required by state law; or

(b) When a patented or proprietary item is being purchased; or

(c) In the event of an emergency; or

(d) When the following types of personal property or services are being acquired, obtained, rented or leased: (1) advertising; (2) books, recordings, motion picture films, subscriptions; (3) election supplies; (4) insurance; (5) public utility services; (6) travel services; (7) property or services provided by or through other governmental agencies; or (8) property or services, the price of which is fixed by law.

**Sec. 22-27. Splitting prohibited.**

It is unlawful for bidding purposes, to split or separate into smaller units of purchase any purchase covered by this chapter in order to evade bidding requirements.

**ARTICLE III. SALE OF SURPLUS PROPERTY**

**Sec. 22-40. Surplus property.**

The purchasing agent, or an authorized representative thereof, shall sell, lease, exchange, trade in, or otherwise dispose of unneeded or surplus personal property of the county or any non-County public agency which has an estimated value of more than five hundred ($500) dollars to the highest responsible bidder in accordance with procedures set forth in state law. Bids may be received in writing in the form of competitive proposals, by auction conducted by the purchasing agent or authorized representative thereof, of both.

Surplus property having a value of less than five hundred ($500) dollars shall be disposed of by the purchasing agent, or an authorized representative thereof, pursuant to the policy established and contained in the purchasing policy manual.
Sec. 22-41. Purchase prohibited.

No officer, agent or employee of the county assigned to the purchasing function or responsible for surplus property declarations shall either directly or indirectly submit a bid for or purchase unneeded surplus personal property.

SECTION II.

Pursuant to provisions of Government Code Section 25124(b)(1), a Summary of this Ordinance shall be published once, at least FIVE (5) DAYS prior to the meeting of the Board of Supervisors at which the Ordinance is to be finally considered for adoption (second reading), and a summary of this Ordinance, with the vote of the members of the Board of Supervisors thereon, shall also be published once before the expiration of FIFTEEN (15) DAYS after adoption of the Ordinance. Both publications shall be in the DAILY REPUBLIC, a newspaper of general circulation, printed and published in the County of Solano, State of California, and shall be in full force and effect THIRTY (30) DAYS after its passage.

A certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk to the Board of Supervisors at least FIVE (5) DAYS prior to the meeting of the Board of Supervisors, at which the Ordinance is to be finally considered for adoption (second reading). A certified copy of the final Ordinance shall be posted in the Office of the Clerk to the Board of Supervisors, at least FIFTEEN (15) DAYS after adoption of the Ordinance, and the posting shall include the vote of the Supervisors for or against the Ordinance.

ATTEST:

LINDA TERRA, Clerk to the Board of Supervisors

I, LINDA TERRA, Clerk to the Board of Supervisors of the County of Solano, State of California, do hereby certify that the above and foregoing Ordinance was introduced at a regular meeting thereof held the 23rd day of November, 1993.

On the motion of Supervisor Kondylis and the Second of Supervisor Carroll, this Ordinance was
adopted at a regular meeting of said Board on December 14, 1993, by the following vote:

AYES: SUPERVISORS Carroll, Kondylis, Schlenker, Thomson and Chairman Caddle

NOES: SUPERVISORS None

ABSTAINED: SUPERVISORS None

ABSENT: SUPERVISORS None

WITNESS my hand and the Seal of said Board this 14th day of December, 1993.

LINDA TERRA, Clerk to the Board of Supervisors

By Deputy