ORDINANCE NO. 007

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY FIRE AUTHORITY REPEALING ORDINANCE NO. 005 AND ESTABLISHING THE PURCHASING RULES AND REGULATIONS OF THE FIRE AUTHORITY

RECITALS

A. WHEREAS, on January 16, 2003, the Orange County Fire Authority adopted OCFA Ordinance No. 005 establishing the Authority’s purchasing rules and regulations of the Fire Authority. Ordinance No. 005 established the general guidelines for all purchasing activities (except Public Works projects) of the Fire Authority; and

B. WHEREAS, Ordinance No. 005 limited more expedited informal bidding processes to contracts of not greater than $5,000, the same limits established when the Fire Authority was established in 1995; and

C. WHEREAS, revising the informal bid limit to $10,000 will help keep pace with the escalating cost of goods and services, and will result in efficiency savings; and

D. WHEREAS, additional improvements in contracting efficiency for the Fire Authority and those contracting with it can be achieved by: changing the award criteria for emergency purchases from “quickest” to “most value-added”; providing an alternate Published Notice requirement to include posting on the OCFA website; allowing for a secure, web-based system to receive formal bids; allowing posting of bid tabulations on the OCFA website; and allowing for posting bid solicitations on the OCFA website.

THEREFORE, the Board of Directors of the Orange County Fire Authority does hereby ORDAIN:

Section 1. Repeal of Ordinance No. 005; Replacement:

As of the effective date of this Ordinance, Ordinance No. 005 is hereby repealed and replaced, in its entirety, with the provisions of this Ordinance.

Section 2. ADOPTION OF PURCHASING SYSTEM

In order to establish efficient procedures for the purchase of services, supplies and equipment; to secure for the Fire Authority supplies, equipment, services at the lowest possible cost commensurate with quality needed; to exercise positive financial control over purchases; to clearly define authority for the purchasing functions; to assure the quality of purchases; and to buy without favor or prejudice, a purchasing system is hereby adopted and shall control the procedure for all purchases except Public Works projects and as otherwise provided by law.
Section 3. DEFINITION OF TERMS

The following terms, whenever used in this Ordinance, shall be construed as follows:

A. Fire Authority: The Orange County Fire Authority.

B. Purchases: Purchases of services, supplies and equipment shall include Master Lease Agreements and other debt service agreements.

C. Purchasing Manager: The official appointed by the Fire Chief for enforcement of this division. The duties of the Purchasing Manager may be combined with those of another position.

D. Services, Supplies and Equipment: Any and all services, articles, things, or personal property furnished to or used by the Fire Authority.

Section 4. A CENTRALIZED PURCHASING PROGRAM

There is hereby created a centralized purchasing program within the Orange County Fire Authority in which is vested authority for the purchase of services, supplies and equipment. The Board of Directors shall adopt by resolution policies setting forth the authority and limitations of the centralized purchasing program.

Section 5. PURCHASING MANAGER GENERAL POWERS

The Purchasing Manager shall direct and supervise the purchasing program. He/she shall appoint such deputies, assistants or other employees as shall from time to time be authorized. The Purchasing Manager utilizing sound professional purchasing practices, shall endeavor to obtain as full and open competition as reasonable on all purchases and shall award all purchases to qualified bidders. He/she shall furnish the Board of Directors with such reports and information as the Board may from time to time require, and shall establish methods and procedures necessary for the proper functioning of the purchasing program in an efficient and economical manner.

Section 6. PURCHASING MANAGER AUTHORITY

The Purchasing Manager shall have the authority to:

A. Purchase Material: Purchase all services, supplies, equipment and other personal property required by the Fire Authority in accordance with the policies and procedures adopted by the Board of Directors, administrative procedures approved by the Fire Chief, or as otherwise provided by law. Except in cases of emergency, pursuant to Section 12 or where the Board of Directors or the Executive Committee has retained authority, no purchase of services, supplies and
equipment by any person other than the Purchasing Manager or his or her appointed designee shall be binding upon the Fire Authority or constitute a lawful charge against Fire Authority funds.

B. Contract Generally: Enter into any contract permitted by law, including but not limited to purchase orders, price agreements, equipment service contracts, lease purchase agreements, professional service contracts and rental agreements, subject to any restrictions set forth in this division or specifically provided for by law.

C. Dispose of Surplus Property: Dispose of all Fire Authority surplus supplies and equipment and any other surplus personal property in accordance with the provisions of Section 13 of this Ordinance.

Section 7. PURCHASING REQUIREMENTS

Purchases of services, supplies, and equipment shall be made and accomplished in conformity with Section 8, except:

A. When the amount is less than ten thousand dollars ($10,000); or

B. When the Purchasing Manager determines that an emergency exists which requires that an order be placed with the most value-added source of supply; or

C. When an emergency exists pursuant to Section 12; or

D. When the Purchasing Manager, with the approval of the Fire Chief, determines that the services, supplies, and equipment needed can feasibly be obtained from one source only; or

E. When the Board of Directors has contracted for or transferred the authority to make the purchase of services, supplies and equipment to another governmental agency or officer thereof pursuant to lawful authority; or

F. When the Board of Directors finds that the public interest and convenience require the purchase of services, supplies, and equipment utilizing purchasing agreements maintained by the county, state or other public agencies; or

G. When the Board of Directors determines to dispense with such bidding and other procedures in any individual instance upon finding that it would be impractical, useless or uneconomical in such instance to follow the bidding or other procedures, and that the welfare of the public would be promoted by dispensing with the same.
Section 8. BIDDING - PROCEDURES

The bidding procedure for the Orange County Fire Authority shall be one of the following:

A. Formal Written Bid Process:

A formal written bid shall be processed as indicated below for all purchases where required by state and/or federal laws or when required by action of the Board of Directors or Executive Committee, but shall not apply to public works contracts. The process shall include the following components:

1. NOTICE INVITING BIDS. Notices inviting bids shall include a general description of the articles to be purchased and shall state where the bid documents and specifications may be secured and the time and place for opening bids.

   a. Published Notice: The first notice inviting bids shall be published at least ten days before the opening of the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the County of Orange; or the notice may be posted on the Fire Authority’s website at least ten days prior to the opening of bids.

2. BIDDERS’ SECURITY. When deemed necessary, or when required by state and/or federal law, bidders’ security will be prescribed in the public notices inviting bids. The security shall be returned upon rejection of a bid, provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the award of contract has been mailed, unless the Fire Authority is responsible for or agrees to the delay. The Board of Directors may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsive and responsible bidder. If the Fire Authority awards the contract to the next lowest responsive and responsible bidder, the amount of the lowest bidders’ security shall be applied by the Fire Authority to the difference between the low bid and the second lowest bid, and the surplus, if any shall be returned to the lowest bidder or to the surety if a bidder’s bond is used.

3. BID OPENING PROCEDURE. Sealed bids shall be submitted to the Fire Authority and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices.
A secure, web-based system or other appropriate media may be used in lieu of sealed bids opened in public, provided that the Purchasing Manager has approved the system for accuracy, confidentiality, and reliability.

A tabulation of all bids received shall be posted on the Fire Authority’s website; or, open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.

4. REJECTION OF BIDS. At its discretion, the Board of Directors may reject all bids presented and re-advertise for bids.

5. AWARD OF CONTRACTS. Contracts shall be awarded to the lowest responsive and responsible bidder, except as otherwise provided herein.

6. TIE BIDS. If two or more bids received are for the same total amount or unit price with equal quality and service, and if the public interest will not permit the delay of re-advertising for bids, the Fire Authority shall accept the bidder whose business is located within the OCFA service areas, or accept the one it chooses, or accept the lowest responsive and responsible bid made by negotiation with the tie bidders.

7. PERFORMANCE BONDS. The Board of Directors shall have the authority to require a performance bond before entering into a contract in such amount as it shall find reasonably necessary to protect the best interests of the Fire Authority. If the Fire Authority requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids or in the contract specifications.

B. Open Market Process:

Purchase of services, supplies, and equipment shall be made by the Purchasing Manager following the open market process described herein where neither state and federal laws nor action of the Board of Directors or Executive Committee require the use of the formal written bid process, or where these procedures are not otherwise exempted. This process shall include the following:

1. MINIMUM NUMBER OF BIDS. Open market purchases shall, whenever possible, be based on at least three bids.

2. SOLICITING BIDS. The Purchasing Manager shall solicit bids from prospective vendors by written request, FAX, telephone, or by public notice posted on the Fire Authority’s website.
3. AWARD OF PURCHASE. Open market purchases shall be awarded to the most qualified bidder as determined by the Orange County Fire Authority.

Section 9. RECORD RETENTION

The Purchasing Manager shall maintain records of all sealed written bids and open market orders resulting therefrom for a period of one year after the submission of the bids or the placing of orders. This record, while so kept, shall be open to public inspection during regular business hours.

Section 10. ENCUMBRANCES OF FUNDS

Except in cases of emergency, or in cases where specific authority has been first obtained from the Fire Chief, the Purchasing Manager shall not issue any purchase orders for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged. All purchases, regardless of encumbrances, shall be made in conformance with the policies established by this Ordinance.

Section 11. INSPECTION AND TESTING

The Purchasing Manager may inspect supplies and equipment delivered to determine their conformance with the specifications set forth in the order or contract. The Purchasing Manager shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine compliance with specifications.

Section 12. EMERGENCY PURCHASES

In the event services, equipment or supplies are immediately necessary for the preservation to life or property, emergency purchases may be made without compliance with Section 8 by:

The Fire Chief and/or his designee who shall provide a full report of the circumstances of all emergency purchases in excess of the Fire Chief’s delegated authority. Such purchases require prior approval of the Chair or Vice-Chair and shall be reported at the next meeting of the Executive Committee.

Section 13. SURPLUS SUPPLIES AND EQUIPMENT

The process for the disposition of surplus supplies and equipment shall be as follows:

A. Disposition of Surplus Property: The approved disposition process for surplus property will be determined by the Purchasing Manager and shall be in accordance with guidelines as established in the OCFA Purchasing Handbook.
B. **Donated Property:** If the surplus property has an estimated value of less than $5,000 and it is proposed that the property may be donated, the Purchasing Manager has the authority to determine whether the proposed donation of the surplus property to another local agency or non-profit organization is in keeping with the intent of the California Constitution. Under the California Constitution, when a public agency gives a surplus item to another organization, the item must be used for a public purpose of interest and benefit generally to the people of the agency’s jurisdiction and in keeping with the agency’s purpose. Said donations shall require the prior approval of the Fire Chief and a release of liability to OCFA from the agency accepting the surplus property. Donations of surplus property with an estimated value of $5,000 or more must require prior approval of the Executive Committee or Board of Directors.

C. **Historical Surplus Property:** Surplus Property deemed to have historical significance, by the Fire Chief and/or his designee, will be transferred and placed in the custody of a designated section manager for safe keeping.

D. **Surplus Property:** The Purchasing Manager shall provide an annual report of surplus property disposition to the Assistant Chief of Business Services.

**Section 14. SEVERABILITY**

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of the entire Ordinance or any of the remaining portions.

**Section 15. PRECEDENCE**

This Ordinance shall supercede the provisions of any previously adopted ordinance, resolution or policy inconsistent herewith.

**Section 16. EFFECTIVE DATE; PUBLICATION.**

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage. Before the expiration of fifteen (15) days after its passage, it or a summary of it shall be published once, with the names of the members of the Board of Directors voting for and against the same in the Register, a newspaper of general circulation published in the County of Orange.
PASSED, APPROVED, AND ADOPTED this 23rd day of April 2009.

DONALD W. McCAY, CHAIR
Board of Directors

ATTEST:

SHERRY A. WENTZ, CMC
Clerk of the Authority
I, SHERRY A.F. WENTZ, Clerk of the Orange County Fire Authority, do hereby certify that the foregoing Ordinance No. 007 was duly introduced and placed upon its first reading at a regular meeting of the Orange County Fire Authority Board of Directors on the 26th day of March 2009, and that thereafter, said Ordinance was duly adopted and passed at an adjourned regular meeting of the Board of Directors of the Orange County Fire Authority held on the 23rd day of April 2009, by the following vote, to wit:

AYES:  
Joe Aguirre, Alternate, Placentia  
Bill Campbell, County of Orange  
Dr. Steven S. Choi, Irvine  
Trish Kelley, Mission Viejo  
Janet Nguyen, County of Orange  
Brad Reese, Villa Park  
Martin Rhodes, Alternate, Laguna Woods  
Todd Seymore, Cypress  
David Sloan, Seal Beach  
Mark Tettener, Lake Forest  
Steven Weinberg, Dana Point  
Neil Blais, Rancho Santa Margarita  
Henry Charoen, La Palma  
Troy Edgar, Los Alamitos  
Don McCay, Buena Park  
Jim Palmer, Alternate, Tustin  
Nancy Rikel, Yorba Linda  
R. Craig Scott, Laguna Hills  
David Shawver, Stanton  
Tri Ta, Westminster  
Dr. Londres Uso, San Juan Capistrano

NOES:  
None

ABSTAIN:  
None

ABSENT:  
Carmen Cave, Aliso Viejo  
Greg Sowards, Placentia  
Doug Davert, Tustin  
Gary Capata, Laguna Niguel  
James Dahl, San Clemente

[Signature]
SHERRY A.F. WENTZ, CMC
Clerk of the Authority