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## **Section 1. Definitions.**

The definitions contained in this section govern the interpretation of this policy.

- a. Authorized Agent – when used with respect to the District, means the General Manager or any person designated by the General Manager.
- b. Change Order – means an amendment modifying the terms, including quantity and quality ordered, of an existing contract.
- c. Competitive Bidding – means a bidding process in which the bid solicitation is advertised as described herein.
- d. Construction – includes the erection, demolition, alteration, repair, replacement, refurbishment or relocation of buildings, infrastructure, or improvements.
- e. Contract – means any written agreement, including purchase orders, to which the District is a party.
- f. Form of Agreement – means the document evidencing the contractual relationship of the District and the successful vendor, supplier, contractor or consultant.
- g. Notice Inviting Bids – means a notice inviting proposals for entering a contract upon the terms of contract documents incorporated in said notice by reference.
- h. Notice Inviting Pre-qualification Information – means a notice inviting prospective bidders to submit information that will permit the Authorized Agent to determine in advance of advertising of a notice inviting bids that a prospective bidder is responsible to perform a proposed contract.
- i. Proposal – means an offer to enter into a contract upon the terms set forth in the contract documents.
- j. Purchase Order – means an authorization, including Field Requisitions, under which the party designated therein as vendor is to provide materials or services for which the District agrees to pay.
- k. Selective Competitive Bidding – means a bidding process in which the District solicits bids only from pre-qualified bidders.
- l. Sole Source Contracts – means contracts issued directly to a vendor, supplier, contractor or consultant that have not been subject to a competitive bidding or selective competitive bidding process.

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## **Section 2. Contract Documents**

- a. General – The contract documents shall consist of such documents as the General Manager may deem desirable in addition to those required by law.
- b. Documents Included – The contract documents may consist of, among others, a notice inviting bids, instructions to bidders, the proposal, bid sheets, contractor's licensing and qualifications statement, list of subcontractors, bidder's bond, certificates of insurance, form of agreement, performance bond, payment bond, non-collusion affidavit, notice to proceed, general conditions, specifications and drawings.
- c. Authority to Carry out Power – Whenever award is made by an authorized agent of the District, such award shall constitute approval of the contract documents and the authorized agent shall be authorized to carry out the powers described in the contract agreements on behalf of the District.
- d. Authorized signers are hereby empowered to sign bid documents, contracts, contract amendments, purchase orders, and change orders via electronic signature.

## **Section 3. Requisitions and Purchase Orders for Equipment, Material, Supplies or Services**

Requisitions for the furnishing of equipment, material, supplies, or services may originate as a result of normal operating need or due to emergency.

- a. Requisitions for normal operating need:
  - i. Include those purchases that originate from the Warehouse, when inventory reorder points are reached and from departments for: regular operating needs, as outlined in the District's operation and maintenance budget; and, capital expenditures, as outlined in the District's capital equipment budget.
  - ii. Authorization is required by the Department Head who has budgetary responsibility for the category of expenditure. For requisitions originating from Operations & Maintenance, including Operations Support, Fleet Services, Pumping Operations, Transmission & Distribution, Collections, and the Water Recycling Plant, authorization by the General Manager and/or the Operations Superintendent is required. For requisitions originating from Engineering, authorization by the General Manager and/or the Engineering Manager is required. In the absence of the General Manager, the Operations Superintendent, or the Chief Financial Officer may provide authorization. For requisitions originating from Administration, authorization by the General Manager or the Chief Financial Officer is required.

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b. Requisitions due to Emergency:

- i. Emergencies include those purchases that originate for unplanned, sudden and unexpected events of a serious nature requiring immediate furnishing of equipment, material, supplies, or services and where the purchase is necessary within a shorter period of time than required for a requisition in a normal operating period.
  - ii. Due to the nature of the emergency, it may not be possible for the supervisor who has budgetary responsibility to obtain complete authorization of a requisition prior to the furnishing of equipment, material, supplies, or services. If this situation arises, an emergency purchase order number shall be issued by an authorized agent. At the earliest convenience, a requisition will be prepared for the emergency purchase including all of the following information: emergency purchase order number, description of and reason for the emergency purchase, vendor information and dollar amounts. All requisitions for emergency needs issued without complete authorization must be brought back to the appropriate authorizing Officer (as described in Section 3.a.ii.A-2) for approval.
- c. All requisitions, regardless of origination, up to \$10,000 require the authorization of either the General Manager, the Chief Financial Officer, the Operations Superintendent, or the Engineering Manager. All requisitions over \$10,000 require the authorization of two of the four approvers, including either the General Manager or the Chief Financial Officer.
- d. Upon receipt of a properly approved requisition, a purchase order may be created. All purchase orders must be signed by an authorized agent of the District.
- e. ~~The General Manager may execute contracts for the furnishing of equipment, material, supplies, or services, regardless of dollar value, which are required for normal operating need, or due to an emergency, as set forth in this policy.~~
- f. In the event that contracts for the furnishing of equipment, material, supplies, or services exceeds 110 percent (110%) of the amount identified in the annual budget for that particular account and sufficient funds are not available within the overall operating budget, the General Manager shall report cost center variances to the Board.
- g. The General Manager shall report to the Board, on a monthly basis, details of purchases which exceed \$50,000.

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#### **Section 4. Invoice Processing and Check Issuance**

Once a service has been completed or material or goods have been received, vendor invoices need to be matched to the original purchase requisition or, if the invoice received is for an ongoing service for which a purchase requisition has not been created, the invoice must be approved and coded to the appropriate account.

- a. Prior to processing, invoices must be reviewed and approved by the employee who received the good, material, or service. Invoices shall be reviewed for accuracy and will then be approved by the initials of the receiving employee. The expense account number(s) and project number(s) with the appropriate amounts will be included as part of the approval process.
- b. Employees are authorized to use an electronic signature for invoices but must have their digital signature certified prior to signing any documents. The signatures on these documents can then be used by Accounting as authorization for payment of invoices, requisitions, check requests, purchase orders, or contracts.
- c. The District will issue checks for approved invoices on a regular basis as determined by the General Manager or his/her designee. Checks that are issued by the District are required to have two signatures from either the General Manager, the Chief Financial Officer, or the Operations Superintendent. Checks may be signed electronically if the District's financial software provides the capability. Checks that are signed electronically may only be issued after an appropriate approval process from two of the three authorized signers noted above.

#### **Section 5. Selective Competitive Bids**

Before entering into a contract for the construction of facilities or for the furnishing of equipment, materials, supplies or services, the authorized agent should ascertain in his/her discretion, the best source of supply. In obtaining the best source of supply, the General Manager may determine, in his/her discretion, that selective competitive bidding should be utilized pursuant to a bid package developed for the particular project.

- a. The following situations will not require selective competitive bidding:
  - i. Contracts for miscellaneous services, such as telephone, light, power and water, where rates or prices are fixed by legislation or by federal, state, county or municipal regulations;
  - ii. Contracts required during an emergency;
  - iii. If the articles are patented, copyrighted or otherwise unique;
  - iv. If within one year previous to the date of execution of a proposed contract, advertising or

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posting for identical articles, or articles of the same general character, has failed to secure responsive proposals, and in the opinion of the authorized agent, further advertising or posting will not alter this result

- v. If the purchase is with any governmental agency;
  - vi. Contracts for insurance or for services of a professional, artistic, scientific, or technical character.
- b. In the event that the General Manager deems it appropriate to procure equipment, material or services without selective competitive bidding (“Sole Source Contracts”), on projects that require the approval of the Board of Directors the Board shall be so informed and the reasons for the Sole Source contract shall be documented in the minutes of the meeting of the Board.
- c. The notice inviting bids shall provide for the District's right to reject any and all proposals.

**Section 6. Pre-Qualifications Procedures**

If the District utilizes a selective competitive bidding process in the procurement of a contract it may be necessary to pre-qualify potential bidders. The pre-qualification procedure may, in the discretion of the authorized agent, provide for one or more of the following:

- a. A pre-qualification procedure for determining the responsibility of potential bidders in advance of receipt of bids and that bidding, in that case, shall be restricted to bidders determined to be responsible pursuant to said procedure.
- b. In determining responsibility, the factors to consider may include, but shall not be limited to, the following:
  - (i) A bidder's experience in the design, construction, fabrication, assembly, or manufacture of works or materials similar to what will be called for under this contract;
  - (ii) The experience of others with the bidder, including references from past projects, in the construction, fabrication, assembly, or operation of similar works or material designed, constructed, fabricated or assembled by the bidder;
  - (iii) The physical plant, facilities, and equipment the bidder proposes to employ in the performance of the contract.
  - (iv) The experience and expertise of a bidder's responsible managing personnel, key staff members, and other employees who would be assigned to the work if the applicant were awarded the contract;

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- (v) The extent to which any part of the contract is to be performed by subcontractors or suppliers;
  - (vi) The financial capability and resources of the bidder to perform the proposed contract; and,
  - (vii) Any other factor bearing on the responsibility of a bidder, which factors shall be set forth in the notice inviting pre-qualification information.
- c. As a result of a pre-qualification procedure, it shall be determined which bidders are responsible/qualified to perform public work contracts. Said procedures may include a time period during which a finding of responsibility/qualification shall be effective. The District may require, in its discretion, that pre-qualified bidders, bidders who have not qualified, and new bidders who need to qualify, to go through the pre-qualification process at any time and from time to time.
- d. "Dun and Bradstreet Report" may be requested as part of the pre-qualifications procedure.

**Section 7. Bonds**

- a. Every construction contract involving more than \$50,000 and any other contract as determined by the authorized agent shall be accompanied by separate performance and payment bonds executed by a corporate surety authorized to do business in California and approved by the General Manager. Both types of bonds shall comply with applicable legal requirements and shall be subject to approval by the General Manager. The performance bond shall guarantee the faithful performance of the contract by the contractor and shall be in the form and amount approved by the General Manager. The payment bond shall contain the provisions required by Civil Code Sections 3225 - et. seq. inclusive, and Sections 3247 - 3252 inclusive.
- b. Bidder's Bond. Bids submitted for construction contracts involving more than \$50,000 through selective competitive bidding may require cash or an unconditional certified or cashier's check drawn on a solvent state or national bank, or bidder's bond executed by a responsible corporate surety authorized to engage in such business in California, made payable to the District. Said bid security or bidder's bond shall be in an amount no less than specified in the notice inviting bids, or, if no amount be so specified, then in an amount not less than 10 percent (10%) of the amount of the bid, and shall guarantee that the bidder will if an award is made to him in accordance with his/her bid, properly execute a contract with the District secure payment of worker's compensation, if required, and furnish satisfactory performance and payment bonds and proof of insurance coverage.

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### **Section 8. Insurance Policies**

As deemed appropriate by the General Manager, contractors, consultants or service providers to whom a contract is awarded shall furnish satisfactory evidence that the requirements of the Insurance Code of the State of California have been observed.

- a. The construction contractor, consultant or service provider shall furnish to the District a liability insurance policy or certificate naming the District as an additional insured in an amount fixed by the General Manager.
- b. The construction contractor and all subcontractors shall cover or insure in accordance with the Workers' Compensation and Insurance Act, Division IV of the Labor Code of the State of California and any Acts amendatory thereof.
- c. The construction contractor shall provide and maintain builder's risk insurance in amounts specified by the contract.

### **Section 9. Specifications and Drawings**

- a. Specifications and necessary drawings for construction or for the furnishing of equipment, materials, supplies, or services shall be prepared by, or under the direction of, the Department Head responsible for seeing the work performed.
- b. Specifications, including drawings, if any, shall be sufficient to clearly describe the work required to be done, the quality and properties of materials to be furnished, the results and performance required, and the method of payment for the work done and material and equipment furnished.



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### **Section 10. Posting and Advertising**

- a. General – Unless waived by the General Manager, no Notice Inviting Bids for any contract subject to selective competitive bidding or competitive bidding shall be posted or advertised unless there is first prepared a complete set of contract documents detailing the agreement and the work to be performed.
- b. Advertised Projects – If the General Manager deems it appropriate to publicly advertise a competitively bid project, a Notice Inviting Bids shall be posted in a public place within the District and shall be published not less than once in a construction periodical designated by the General Manager at least five days, exclusive of Saturday, Sunday and holidays, before the time for opening bids.
- c. Projects Conducted Without Advertising – Whenever the District elects not to publicly advertise a contract or to award a contract upon competitive bidding, selective competitive bids may be obtained from three or more firms or in any other manner as the General Manager determines to be appropriate.

### **Section 11. Evaluation**

The General Manager shall compare all bids received pursuant to any Notice Inviting Bids or other solicitation for compliance with the terms of the notice inviting bids or other solicitation and shall determine the lowest responsible bid of all those received and, when award of contract is to be made by the Board, make a recommendation in writing to the Board.

### **Section 12. Rejection of Bids**

The Board of Directors, or the General Manager, as applicable for the particular contract, reserves the right to accept or reject any or all bids and to waive any defects in bids.

### **Section 13. Award of Contracts**

- a. By Board – Award of contracts shall be approved by the Board when the amount of the contract is over \$50,000.
- b. By General Manager – In all cases other than those referred to in Section 132a hereof, award of contracts may be made by the General Manager unless otherwise directed by the Board.

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#### **Section 14. Execution of Contracts**

After award, all contracts shall be executed on behalf of the District by the General Manager unless otherwise directed by the Board.

#### **Section 15. Urgent Contracts**

The General Manager is delegated the authority to waive applicable procedures and to execute contracts that exceed \$50,000 and take any directly related and immediate action required by an emergency when said contracts are determined by the General Manager to be of urgent necessity, subject to the following requirements:

- a. General Manager shall report to the Board not later than its next regularly scheduled meeting the details of the emergency and reasons justifying the actions taken.
- b. At each regularly scheduled meeting following the emergency action, the Board shall determine by majority vote whether the emergency still exists and the need for authorization of the General Manager in such an emergency.

#### **Section 16. Change Orders**

- a. Unless superseded by provisions of the applicable contract or as otherwise directed by the Board, the following procedures shall apply to change orders:
  - (i) Change orders for the furnishing of equipment, material, supplies, or services. The General Manager is authorized to execute change orders for contracts providing for the furnishing of equipment, material, supplies, or services. Change orders are not required if the additional amount payable is for sales tax or shipping and handling charges in connection with the furnishing of equipment, material or supplies. If the amount payable is more than the contract amount but does not exceed 10% of the contract amount, a change order is not required for the furnishing of equipment, material, supplies, or services. Change orders are not required if completed contracts are less than the face value of contract.
  - (ii) Change orders for professional and consulting services – The General Manager shall not, without prior Board approval, issue change orders totaling more than \$50,000, or a change order that would cause the amount payable under a contract for professional and consulting services to exceed the limit established by Section [132](#).
  - (iii) Change orders for the construction of public works and facilities – The General Manager shall not, without prior Board approval, issue change orders totaling more than \$50,000, or a change order that would cause the amount payable under a contract for construction of works or structure to exceed the limit established by Section [132](#).

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**Section 17. Approval by General Counsel**

The General Counsel shall approve, in writing, the District's standard contract form. In the event that the District's standard contract form is not applicable, the General Manager, at his discretion, may direct the District's General Counsel to review and approve any other contract form.