

PURCHASING

Dept/Div:	Finance	Approved By:	Resolution No. 2024-18
Effective Date:	August 8, 2024	Applicability:	District Wide
Supersedes:	Resolution Nos. 2023-16, 2023-29		

1.0 General Policy

- 1.1 This Yorba Linda Water District Purchasing Policy ("Policy") establishes Board-approved policies and procedures for the District to (a) bid and Purchase Supplies and Materials, pursuant to Government Code Section 54201 *et seq.*, (b) bid and Purchase Services, and (c) bid and award Public Works.
- 1.2 This Policy also establishes Board-approved policies and procedures for the Procurement of Supplies and Materials, Services, and Public Works projects, including expenditure authorization and limits, competitive proposal and bidding requirements, and general Procurement procedures. All Purchases of Supplies and Materials, Services, and Public Works to be paid by the District must adhere to the authority level and dollar limits of this Policy as set forth in Section 2.0, except as otherwise provided in this Policy.

2.0 Authorization

- 2.1 This Policy is in accordance with the County Water District Law at California Water Code §§ 30000 *et seq.*, including but not limited to Sections 31004, 31005, 30578 – 30579.5.
- 2.2 By adopting this Policy, the Board is authorizing the General Manager and certain staff members to exercise certain duties and responsibilities that are essential for the day-to-day operation of the District.
- 2.3 The General Manager may delegate the Procurement of Services, Supplies and Materials, and Public Works projects to those staff members given specific authority consistent with the terms of this Policy.
- 2.4 Delegation of Purchasing authority may be through the authorized use of Purchasing Cards, Purchase Orders, check requests, or other written authorization. All such Purchases will be made in conformity with the policies and procedures prescribed within this Policy.
- 2.5 Consistent with Section 4.5 of this Policy, the Board-established Procurement limits and Contract signing authority are listed in Table 1 below. These limits are applicable on a per-expenditure/per-Contract basis, not on an aggregated basis for unrelated activities.

TABLE 1

Procurement Limits and Contract Signing Authority		
Title	Expenditures	Contract Signing Authority
General Manager	Up to \$100,000	\$100,001 and over with Board Authorization; up to \$100,000 without Board Authorization.
Assistant General Manager	Up to \$75,000	Up to \$75,000
Department Managers	Up to \$50,000	Up to \$50,000
Accounting Supervisor, Budget Analyst, Customer Service Billing Administrator, Principal Engineer, Public Affairs Officer, Records Management Administrator, Senior Engineer, Senior Executive Assistant, Senior IS Administrator, Superintendents	Up to \$5,000	None
Administrative Personnel	Up to \$2,000	None

3.0 Definitions

The terms referenced in this Policy shall have the meanings as defined below:

- 3.1 Administrative Personnel** – District administrative employees authorized by the General Manager to Purchase miscellaneous items, food, and travel in support of District functions includes Executive Assistant, Human Resources Analyst, Operations Lead Staff, and any other administrative employee authorized by the General Manager.
- 3.2 Amendment** – A written change to an existing Contract which, when properly and fully executed, effectuates the change to the Contract.
- 3.3 Board** – The Board of Directors of Yorba Linda Water District.
- 3.4 Change Order** – A written change to the scope of (1) services, work, time, or price for Non-Professional Services or Public Works under an existing Contract or (2) Supplies and Materials under a Purchase Order.
- 3.5 Consultant** – Any person, firm, or entity that provides or offers to provide Professional Services to the District.
- 3.6 Contract** - Written agreement with the District authorizing a Contractor or Consultant to provide Services, Supplies and Materials, or Public Works, in accordance with specified terms and conditions.
- 3.7 Contractor** – Any person, firm, or entity that enters a Contract with the District for the Procurement of Supplies and Materials, Non-Professional Services, or Public Works. This term also includes any person who conducts business as an agent or representative of the contractor.

- 3.8 District** – Yorba Linda Water District.
- 3.9 Emergency** – A situation in which unforeseen circumstances (a) present an immediate risk of harm or damage to real or personal property, the public health, safety, welfare, or District personnel or property, or (b) threaten serious interruption of District operations.
- 3.10 General Manager** – General Manager of the District or their designee.
- 3.11 Invitation for Bid** - A document and formal process for soliciting bids from prospective Contractors.
- 3.12 Multiple Year Contract** - A Contract for the Purchase of Services, Supplies and Materials, or Public Works (a) for a multiple year term and/or (b) that may contain provisions to extend performance by exercising optional renewal periods in which the District awards task orders to the selected Contractor or Consultant that authorizes the Contractor or Consultant to provide Services, Supplies and Materials, or Public Works described in the task order. A Multiple Year Contract does not obligate the District beyond the initial award period and shall not provide for a cancellation payment to the Contractor or Consultant if options are not exercised.
- 3.13 Non-Discretionary Purchases** – Payments to utilities, temporary employment services, insurance providers, healthcare providers, and national, federal, state, or local agencies that relate to routine obligations and expenses essential to the District's ability to provide service to customers and that have been approved in fiscal year operating or capital budgets.
- 3.14 Non-Professional Services** – Services other than Professional Services, including, but not limited to, construction, rehabilitation, repair and maintenance work or services.
- 3.15 Procurement (or Purchase)** – The term Procurement or Purchase shall include both buying and leasing.
- 3.16 Procurement Card** - A form of charge card (also referred to as a P-Card (Cal-Card) or Purchasing Card) that allows for goods to be Purchased without using a Purchase Order. Designated District staff are issued a US Bank Cal-Card for their use on miscellaneous Purchases (refer to Section 5.3) of this Policy.
- 3.17 Professional Services** – Any type of special service or advice in financial, economic, accounting, engineering, legal, or administrative matters by persons specially trained and experienced and competent to perform the special services required. (Gov't Code § 53060.) Such services include but are not limited to architectural; engineering; environmental; financial; land surveying; construction management; audits; training services; legal services; preparation of planning or studies; SCADA integration; technology application development; and personnel, job classification, and benefit studies.
- 3.18 Public Works** – Public works is work performed for irrigation, utility, reclamation, and improvement districts, and other districts of this type, and includes work performed by “blue collar” workers (i.e., laborers, workers, mechanics), not “white collar” workers (i.e., accountants, lawyers, and other professionals). [See *Kaanaana v. Barrett Business Services* (2021) 11 Cal.5th 158 (interpreting Labor Code Section 1720(a)(2)).] In addition, as defined by California Public Code Section 22002, public works are public projects,

which include construction, reconstruction, alteration, renovation, improvement, demolition, and/or repair under Contract and paid for, in whole or in part, with public funds.

3.19 Purchase Order (PO) – An authorization under a standardized form in which the individual or entity designated as the “provider” is to provide Supplies and Materials in exchange for payment from the District.

3.20 Request for Proposal or Quotes (RFP) - A solicitation used for the Procurement of Services and/or Supplies and Materials in which prospective Contractors or Consultants submit proposals or quotes based on information requested by the District.

3.21 Request for Qualifications (RFQ) – A solicitation used to qualify Consultants or Contractors.

3.22 Requisition (REQ) – The procedural method by which District departments may request a PO for the Purchase of Supplies and Materials. Requisition forms are entered into the District's ERP system application.

3.23 Services – Services means both Professional Services and Non-Professional Services.

3.24 Single Source Purchase – Noncompetitive Procurement where: (a) there is a compelling reason for only one source, such as a preferred brand of Supplies and Materials, or homeland security Supplies and Materials or Services, to be procured; or (b) the commodity is unique, including, but not limited to, acquisition of data processing, and telecommunications;; or (c) the Purchase of a specific brand name, make or model is necessary to match existing District equipment or facilitate effective maintenance and support; (d) an Emergency will not permit a delay resulting from competitive solicitation; (e) the Purchase is expressly authorized by the federal agency awarding the funds or the pass-through entity; (f) competition is determined by the District to be inadequate after solicitation; or (g) when it is in the best interest of the District either (i) to extend or renew a Contract from a previous contract period, based on satisfactory service, reasonable prices, avoidance of start-up costs, avoidance of interruptions to District business, or good business practices; or (ii) to initiate a new Contract based on satisfactory service, reasonable prices, avoidance of start-up costs, interruptions to District business, and/or for good business practices (e.g., 'find and fix' projects or well rehabilitation projects).

3.25 Sole Source Purchase – Noncompetitive Procurement where only one viable source exists, which may be due to legal restrictions of patent rights and copyrights, a proprietary process, warranty issues, original equipment, or other reasons that are determined by the District to be in the best interest of the District.

3.26 Supplies and Materials – The term 'Supplies and Materials' is defined as supplies, materials, and equipment.

4.0 General Procurement Policies

4.1 Procurement practices shall comply with laws, regulations, and guidelines of the State of California and any other applicable law and provisions of grant or funding contracts, if applicable.

4.2 Any employee/individual affecting any Procurement outside of the policies and procedures established by this Policy and without General Manager or Board

authorization to do so, may be subject to disciplinary action and/or termination in accordance with District policies.

- 4.3** Except as otherwise provided in this Policy, expenditures and Contract awards must be authorized by the appropriate authorization level indicated in Table 1.

4.3.1 Separating or dividing Contracts into smaller Procurement for the purpose of bringing the cost of one or more Contracts below any specified sum to avoid a requirement in any section of this Policy or any policy incorporated herein is strictly prohibited. Contracts may be divided only to meet unique scheduling of a project or to accommodate necessary time frames. In addition, no specifications shall be drafted in such a manner as to limit competitive bidding or solicitation directly or indirectly to any one specific vendor, or any specific brand, product, thing, or service, except for those items that are approved as exempt from competitive bidding or solicitation requirements as provided in Section 7.1.2.

- 4.4** Purchase amounts include taxes and the cost of shipping, freight fees, and any other charges billed by the supplier or Contractor for purposes of the signing authorization limits under Table 1 of this Policy.

- 4.5** Consistent with Section 2.5 of this Policy, Purchase authorization and expenditure limits in Table 1, and competitive solicitation requirements in Table 2 and as further set forth in this Policy, are on a per Purchase/per Contract basis and shall not be applied as an aggregate limit to any vendor, supplier, Contractor, or Consultant.

- 4.6** With the exception of the General Manager, in the absence of an authorized signatory for a given request, authorization will be obtained from the next highest authority in Table 1. In the case where the next highest authority is absent, then authorization will be obtained by an authorized signatory in order of rank and availability.

- 4.7** The District may use electronic commerce whenever practicable or cost-effective. The District may accept electronic signatures and records in connection with the District Procurement, as permitted by applicable law.

5.0 Procurement Methods

The following methods are available to initiate a Purchase Order or to pay for Non-Professional Services and Supplies and Materials :

- 5.1 Requisition/Purchase Order** – Staff that require Non-Professional Services and Supplies and Materials to carry out the defined duties of their positions shall submit Requisitions, in advance, for Purchases in accordance with this Policy and other applicable procedures and policies of the District. Staff will generate a Purchase Order from the Requisition.

- 5.1.1** Complete the Requisition form or Requisition data entry screen to request that Non-Professional Services or Supplies and Materials are ordered.

5.1.1.1 Allow at least two (2) working days of lead time.

5.1.1.2 Provide complete name and address of selected vendor.

5.1.1.3 Indicate the purpose of the Purchase Order.

- 5.1.1.4** Describe the Non-Professional Services or Supplies and Materials clearly and specifically. Include make, model, manufacturer's part number, catalog number, or vendor catalog page number, if available. Indicate color, size, or any option required.
 - 5.1.1.5** Indicate the quantity and unit price for each Non-Professional Service or Supplies and Material.
 - 5.1.1.6** Note whether the Non-Professional Services or Supplies and Materials are taxable.
 - 5.1.1.7** Note any freight charges.
 - 5.1.1.8** Must indicate a valid General Ledger account number(s), and correct projects number(s).
 - 5.1.1.9** Indicate the date the Non-Professional Services or Supplies and Materials are needed.
 - 5.1.1.10** Attach any required price quotes and data that supports the requested Purchase, if available.
 - 5.1.1.11** Seek appropriate approvals as required in Table 1.
 - 5.1.1.12** Purchases shall not be split to circumvent Contract signatory authorizations as set in Table 1.
 - 5.1.1.13** Submit Purchase Order for processing.
 - 5.1.2** Upon approval and receipt of a fully executed Purchase Requisition form, the Purchase Order will be systematically assigned the next consecutive number.
 - 5.1.2.1** The original Purchase Order will be given back to the originator or sent to the vendor.
 - 5.1.2.2** A copy of the approved Purchase Order, and any supporting documents, will be forwarded to Accounts Payable for processing.
 - 5.1.2.3** A copy of the approved Purchase Order will be forwarded to the Warehouse pending receipt of the Supplies and Materials.
 - 5.1.2.4** An electronic record of the Requisition form/Purchase Order will be kept within the purchasing system for historical purposes.
- 5.2 Check Request** – A check request can be used to initiate payment for certain limited Non-Professional Services, Professional Services from other agencies (e.g. plan checking and permitting), and/or Supplies and Materials without a Purchase Order. Check requests can be used to request payment for, among other things, Non-Discretionary Purchases, services rendered, subscriptions, membership dues, workshop/seminar/conference registrations, use of facilities, and return unspent money to developers/customers for deposit accounts.

5.3 CAL-Card and Other Procurement Cards – Designated staff may be assigned a CAL-Card for miscellaneous Purchases. Purchases using the CAL-Card are subject to the terms and conditions of the District Cardholder Procurement Card Agreement and any other applicable District procurement card policies or procedures. Other than Professional Services from other agencies (e.g. plan checking and permitting), and/or Supplies and Materials, Professional Services are not to be acquired on CAL-Cards due to, among other reasons, lack of insurance and indemnification language associated with these services. CAL-Card limits may be increased for a specific authorized user with the approval of the General Manager subject to the authorization limits in Table 1. Use of all other Procurement Cards are subject to the terms of this Policy and to any set terms provided at the time of card issuance to the designated staff and any subsequent Amendments to such terms, and other applicable District policies (Refer to Exhibit A).

5.4 Contracts – Provisions shall be made, either through specifications or procedures established by the District, for verification of the references and financial responsibility of the contracting parties prior to the award of a Contract. After award, all Contracts shall be executed on behalf of the District by the appropriate authorized signatory indicated in Table 1. In no case shall any Contract be made if sufficient funds are not budgeted and appropriated and not available to make payment promptly upon delivery or completion, or in accordance with a progress payment schedule, unless otherwise authorized and approved by the Board or approved by the General Manager as provided for in Section 6.2 (Emergency).

5.4.1 Contracts for (a) Non-Professional Services that exceed \$1,000 and (b) Professional Services in any amount shall be executed (except in the event of an Emergency).

6.0 Exceptions to Pre-Authorization

6.1 Non-Discretionary Purchases – Non-Discretionary Purchases do not require Board approval for payment, including those that exceed the General Manager limit in Table 1. Purchase Orders are not required for Non-Discretionary Purchases that pertain to payments to utilities, insurance providers, health care providers, payroll, and national, federal, state, or local agencies that relate to routine obligations and expenses essential to the District's ability to provide service to customers and that have been approved in fiscal year operating budgets.

6.2 Emergency Services/Supplies and Materials – The General Manager, Assistant General Manager, or the assigned Operations or Engineering Manager may authorize Emergency expenditures for Services and/or Supplies and Materials where the cost exceeds the General Manager's signing authority in Table 1 without prior Board approval. The Board shall be notified of any expenditures for Emergency Services and/or Supplies and Materials exceeding the General Manager's authorization limit within 72 hours of said expenditure.

6.3 Inventory Purchase– Inventory Purchases to replenish the District's warehouse inventory within established inventory re-order levels require no prior authorization or signatory approval under Table 1.

7.0 Competitive Selection Process

7.1 General – A competitive selection process for Procurement of Professional Services, Non-Professional Services, Supplies and Materials, and for Public Works projects, is required in

accordance with the limits as set forth in Table 2 below subject to certain exceptions, qualifications, or limitations as further set forth in Section 7.1.2 below.

TABLE 2

Competitive Solicitation Process – Requirements	
Purchase Amount	Solicitation Requirement
\$50,000 and under	One Quote or One Proposal
\$50,001 - \$75,000	Two Quotes or Two Proposals
\$75,001 - \$100,000	Three Quotes or Three Proposals
\$100,001 and over	RFP or Invitation for Bid Process Required

7.1.1 Competitive Solicitation – Submission

- 7.1.1.1** All quotes, bids, and proposals must be in writing. An email is acceptable for expenditures of \$100,000 and under.
- 7.1.1.2** RFP, RFQ, and Invitation for Bid submissions must be in writing and be in substantial compliance with terms in the solicitation, or as otherwise required by law, or may be disqualified.
- 7.1.1.3** Quotes, bids, qualifications and proposal documentation shall be retained pursuant to the District's record retention policy.

7.1.2 Exceptions from Competitive Solicitation Process – Generally, solicitation of bids or proposals is preferable whenever practicable. In addition to the exceptions stated under Section 7.3.2, the competitive solicitation requirements established in Table 2 may be waived when any of the following criterion is applicable:

- 7.1.2.1** Sole Source Purchase.
- 7.1.2.2** Single Source Purchase.
- 7.1.2.3** Emergency Expenditure.
- 7.1.2.4** Inventory Purchase.
- 7.1.2.5** After a reasonable attempt has been made to obtain competitive bids, quotes, proposals, and qualifications, and it has been determined that (a) no additional Contractors or Consultants can be located; (b) the District has a lack of response from suppliers/providers/ Contractors/Consultants to a competitive solicitation; or, (c) when sufficient, satisfactory bids quotes, proposals, and qualifications are not received, based on the District's sole discretion.
- 7.1.2.6** For Services estimated to cost \$50,000 or less, staff may request a proposal or quote from one (1) qualified Contractor or Consultant.
- 7.1.2.7** For Public Works projects where the project is scheduled in phases, Services may be negotiated with the Consultant that performed the

Services for a prior phase if (a) the Consultant performed satisfactory Services on the prior phase(s) in terms of quality, schedule, and estimated costs and (b) a satisfactory Contract can be negotiated.

7.1.2.8 For Services in which it is impracticable to comply with the selection process because of the unique, exploratory, or experimental nature of the project, staff may request a proposal or quote from one (1) qualified Contractor or Consultant.

7.1.2.9 As provided by law.

It shall be at the discretion of the General Manager or Assistant General Manager and the initiating Department Manager(s) to determine whether an expenditure meets a criterion listed herein to be exempt from a competitive solicitation. Such expenditures that meet a criterion will be presented to the Board of Directors at a publicly held meeting.

7.2 Public Works – Contracts for Public Works projects shall conform to applicable requirements for Public Works Contracts under State law, including but not limited to requirements relating to (a) listing of subcontractors, (b) posting of a payment bond in an amount not less than 100% of the total Contract amount for all Public Works Contracts over \$25,000, and (c) payment of prevailing wages for all Contracts for Public Works exceeding \$1,000 or as otherwise required by statute.

Unless specifically waived by the District with the approval of the General Manager and District's legal counsel, the District shall require performance bonds for all Public Works Contracts in an amount not less than 100% of the total Contract amount. Public Works Contracts let by an Invitation for Bid may be awarded (a) to the lowest responsive bid and responsible bidder, and/or (b) in accordance with (i) State law, (ii) the District's standard Public Works Contract documents, and/or (iii) Section 12.0 below.

7.3 Professional and Non-Professional Services – Professional Services may be Procured in accordance with California Government Code §4525 et seq. Both Professional and Non-Professional Services may be procured, including via Multiple Year Contracts, on the basis of (a) demonstrated competence and qualifications for the types of Services to be performed and (b) fair and reasonable prices to the District.

7.4 Rejecting Competitive Responses – In response to an Invitation for Bid, RFQ, or RFP, the District may, in its sole discretion, reject a bid, quote, or proposal which is in any way incomplete, irregular, amplified, unqualified, conditional, or otherwise not in compliance with the solicitation documents in all material respects and in accordance with law. The District may, in its sole discretion, (a) waive any informality, irregularity, immaterial defects, or technicalities in any bids, quotes, or proposals received; and/or (b) cancel an Invitation for Bid or RFP/RFQ, or reject all bids, quotes, or proposals for any other reason, which provides for the cancellation or rejection of all bids, quotes, or proposals is (i) in the best interest of the District, and (ii) in accordance with law. Rejection of all bids, quotes, or proposals or cancellation of competitive solicitations, including determinations to re-bid, or re-solicit are subject to the same level of authority which is required to award a Contract as provided under Table 1, and as required by law.

7.5 Awarding Contracts – Consistent with Section 12.0 below, the District reserves the right to award Contracts based upon the best interests of the District as determined by the District in its sole discretion.

8.0 Multiple Year Contracts for Professional and Non-Professional Services (On-Call Contracts and Multiple Award Task Order Contracts)

8.1 Multiple Year Contracts, such as On-Call Contracts or Multiple Award Task Order Contracts (MATOCs), are allowed when in the best interest of the District as determined by the General Manager. The District may (a) solicit RFPs and Invitation for Bids for Multiple Year Contracts for Professional and Non-Professional Services and (b) enter such Multiple Year Contracts in accordance with this Section 8.

8.2 Entering a Multiple Year Contract qualifies the on-call Consultant/Contractor to perform Services for the District on a task order basis, but it does not entitle the on-call Consultant/Contractor to any compensation or a right to perform Services on any scope of work or particular task order for the District. When the District needs Services for task(s), it will request a task proposal from the on-call Consultant/Contractor. If the on-call Consultant/Contractor's task proposal is selected by the District, the on-call Consultant/Contractor represents and warrants to District that it is fully qualified and available to perform the Services for, and as requested by, the District. The District may repeat this selection process until an on-call Consultant/Contractor is selected for the Services/task(s).

8.3 For purposes of contract signing authority in Table 1, the dollar value of a Multiple Year Contract shall be the total potential Contract value, including optional renewal periods. Once the Multiple Year Contract is initially approved in accordance with Table 1, any optional renewals may then be authorized by the authorized signatory in Table 1 based on the corresponding amount of the renewal. Multiple Year Contracts for Procurement of Services are competitively bid/selected in accordance with Table 2.

8.3.1 For Multiple Year Contracts for Procurement of Professional Services, task orders for such Multiple Year Contracts may be authorized by the General Manager, Assistant General Manager, or Department Managers up to the dollar value of the total Contract value, regardless of the dollar amount of the task order.

8.3.2 For Multiple Year Contracts for Procurement of Non-Professional Services, task orders for such Multiple Year Contracts (a) may be via Single Source or Sole Source Procurement and (b) are authorized according to the authorization limits in Table 1. For non-Emergency, Non-Professional Services over the General Manager's Procurement authorization in Table 1, a task order shall be presented to the Board for consideration to approve.

8.4 Multiple Year Contracts for Procurement of both Professional Services and Non-Professional Services shall not exceed five (5) years in duration with up to two 5-year extension options unless the terms of the Contract specifically and for good cause provide otherwise. At the expiration of the five (5) year period and any applicable extensions, the Multiple Year Contract shall be presented to the Board for consideration or shall comply with the Competitive Selection Process set forth in Section 7.0.

9.0 Change Orders

9.1 Change Orders may be issued from time to time as required by changes in the specifications or conditions of a Public Works, Services performed, or Supplies and Materials to be issued.

9.1.1 Change Orders – PO Only - Change Orders up to 10% (to a maximum additional \$1,000) of the original PO amount may be issued by the appropriate Department Manager without further approvals. A revised Purchase Order Requisition must be completed and approved at the appropriate authorization levels under Table 1 for any Change Order request exceeding the original amount by more than 10% or the \$1,000 limit.

9.1.2 Change Orders –Contracts

9.1.2.1 Except as described in Section 9.1.3 below, for Contracts under \$100,000:

- Change Orders up to 10% of the original Contract amount can be approved by the appropriate authorization levels as outlined in Table 1 up to a maximum total Contract amount of \$100,000 without Board approval.
- Board approval is required for Change Order requests exceeding the original Contract amount by more than 10%, or resulting in a total Contract amount over \$100,000.

9.1.3 Change Order Exceeding Limits

A Change Order exceeding the Change Order limits set forth in this Section 9 may be authorized by the General Manager prior to Board approval if, in the General Manager's determination, any of the following circumstances exist:

9.1.3.1 A delay in Change Order authorization could result in a negative financial impact to the District.

9.1.3.2 A delay in Change Order authorization could result in damage to or impairment of the operations of a District facility.

9.1.3.3 An Emergency exists which requires immediate work/Services.

The Board shall be notified of any Change Order authorization exceeding the General Manager's authorization limit at the next regularly scheduled Board meeting.

10.0 Ethical Procurement Conflict of Interest

10.1 Board members, District officers, and employees shall not be financially interested in any Contract made by them in their official capacity. (Government Code Sections 1090 and 1091.5). Board Members, District officers, and employees shall not participate in any way to influence a governmental decision in which he/she knows or has reason to know that he/she has a financial interest. (Government Code Section 87100 et seq.)

- 10.2** Any District employee (other than Administrative Personnel not under Designated Positions in the District's Conflict of Interest Code) authorized under this Policy to make or enter into Purchases on behalf of the District will complete a Statement of Economic Interests (Form 700) and comply with the District's Conflict of Interest Code.
- 10.3** Confidential or proprietary information must be handled with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- 10.4** Purchasing activities must be performed in accordance with all applicable laws and District policies.
- 10.5** Any employee/individual who violates the standards set forth in this Section may be subject to disciplinary action consistent with the District's Ethics Policy and Employee Memorandum of Understanding or Personnel Manual in effect.

11.0 Emergency Procurement Procedures

- 11.1** In the event that the District declares an Emergency, the District may Procure the necessary Services, Public Works, and Supplies and Materials in response to that Emergency by Single Source Procurement and without following the signing authority in Table 1.

11.2 General Manager Authority

- 11.2.1** The Board hereby authorizes the General Manager to declare an Emergency and approve Emergency Procurements described in Section 11.1. If the State or County declares an emergency, then the Board hereby authorizes the General Manager to approve Emergency Procurements described in Section 11.1.

- 11.2.2** If the Emergency Procurement exceeds the General Manager's approval authority in Table 1, the General Manager shall report to the Board, at its next meeting, the reasons justifying why the Emergency did not permit time to comply with the District's Purchasing requirements and why the Purchase was necessary to respond to the Emergency.

11.3 Board Ratification

- 11.3.1** After the District makes an Emergency Procurement, it shall make a finding based on substantial evidence set forth in the agenda report and/or minutes of its meeting that was an Emergency, and that the Purchase was necessary to respond to the Emergency.

11.4 Federally Declared Emergencies; Procurement and Contracting Requirements

- 11.4.1** In the event of an Emergency declared by the President of the United States, the District must comply with Federal procurement standards as a condition of receiving public assistance funding from the Federal Emergency Management Agency (FEMA) for Contract costs for eligible work. FEMA funding is governed by Title 2 of the Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

11.4.2 Federal Emergency Procurement Procedures**11.4.2.1 Micro Purchases**

- Purchases within the micro-Purchase threshold (e.g. currently set at Purchases of \$10,000 or less but periodically adjusted for inflation) may be awarded without soliciting competitive quotations if the District considers, in its sole discretion, the price to be reasonable.
- To the extent practicable, the District must distribute micro-Purchases equitably among qualified suppliers.

11.4.2.2 Small Purchases

- Purchases within the simplified acquisition threshold (e.g. currently set at Purchases of \$250,000 or less) shall not be required to be formally bid.
- Price quotations must be received from no less than three (3) sources.

11.4.2.3 Formal Sealed Bidding

- Formal, sealed bidding is required for Purchases greater than the simplified acquisition threshold, which is currently set at \$250,000, or as may be adjusted by the Federal Acquisition Regulation, pursuant to 48 CFR Section 2.101.
- The District must publicly advertise the Invitation for Bids and publicly open all bids at the time and place prescribed in the Invitation for Bid.
- Any Contracts awarded pursuant to this procedure may be to the lowest responsible bidder submitting a responsive bid and shall be for a firm fixed price.

11.4.2.4 Solicitation of Competitive Proposals

- When the nature of a Procurement does not lend itself to formal, sealed bidding (e.g. Professional Services), the District may solicit competitive proposals.
- A Request for Proposals (RFP) must be publicly advertised, and the District must solicit proposals from an adequate number of sources. The RFP must identify all evaluation factors and their relative importance; however, the numerical or percentage ratings or weight need not be disclosed.
- Any Contract awarded using the RFP or Request for Qualifications process may not be based exclusively on price or price-related factors.

If a Contract is awarded, it may be to the responsible proposer whose proposal is most advantageous to the District ("best value"), with price and other factors considered.

11.4.3 Federal Emergency Noncompetitive Procurements

11.4.3.1 Contracts may be procured through a noncompetitive proposal only when:

- The item is only available from a Single Source;
- The public exigency or Emergency will not permit the time for competitive solicitation;
- The District authorizes noncompetitive proposals, as otherwise permitted by this Policy; or
- Competition is deemed inadequate after the solicitation of a number of sources.

11.4.4 Federal Emergency Contracting with Small and Minority Firms, Women's Business Enterprises, and Labor Area Surplus Firms

11.4.4.1 The District must conduct all necessary affirmative steps to ensure the use of minority businesses, women's business enterprises, and labor surplus area firms when possible, as set forth in 2 CFR Section 200.321.

11.4.4.2 The District has developed Contract templates that include requirements for bidders to take those affirmative steps to secure involvement by those firms, as outlined in 2 CFR Section 200.321 (b).

11.4.5 Federal Emergency Cost or Price Analysis

11.4.5.1 The District shall perform a cost or price analysis in connection with every Procurement, including Contract modifications, in excess of the simplified acquisition threshold. While the method and degree of analysis depends on the facts surrounding the particular Procurement, the District must, at a minimum, make independent estimates before receiving bids or proposals.

11.4.5.2 The District shall negotiate profit as a separate element of the price for each Contract in which there is no price competition and in all cases where a cost analysis is performed as required by 2 CFR Section 200.323(b).

11.4.6 Federal Emergency Payment Procedures

11.4.6.1 Contracts entered pursuant to this Section 10.4 shall utilize only fixed-price, cost-reimbursement, or, to a limited extent, time and materials payment methods.

11.4.6.2 Time and Materials (T&M) Contracts

- T&M Contracts should be used rarely, and the use of T&M Contracts should be limited to a reasonable time period (e.g., no more than 70 hours) based on circumstances during which the District cannot define a clear scope of work.
- The District shall only enter into a T&M Contract if all of the following apply:
 - No other Contract was suitable;
 - The Contract has a guaranteed maximum price that the Contractor exceeds at its own risk; and
 - The District provides a high degree of oversight to obtain reasonable assurance that the Contractor is using efficient methods and effective cost controls.
- The District must define the scope of work as soon as possible to enable Procurement of a more acceptable type of Contract (i.e., non-T&M).

11.4.6.3 Separate Invoicing

- All Purchases made during a proclaimed Emergency shall require separate invoicing from routine (i.e., non-Emergency related) Purchases. All invoices shall state the Services or Supplies and Materials provided and shall specify where the Services or Supplies and Materials were delivered. All invoices shall specify the location(s) where the Services or Supplies and Materials were used, if possible. Any invoice which fails to properly identify the Emergency nature of the Purchase and provide details as to the date(s) and location(s), as appropriate, shall not be paid until such information is provided by the vendor and re-submitted in correct form.

11.4.6.4 Auditing of Invoices for Debris Removal

- All invoices for debris clearance and removal shall be audited prior to payment to the vendor. Vendors shall be notified of the requirement prior to award of any Contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide.

12.0 Procurement Procedures Pertaining to Federal Grants

- 12.1** In the event that the District is identified as a recipient or sub-recipient of a Federal Government Grant or any Pass-Through Federal Grant, the District will be required to comply with the Federal Uniform Guidance (2 C.F.R. Part 200) standards and procedures as listed in Exhibit B. This Guidance establishes requirements by grantees when procuring Supplies and Materials and Services needed to carry out a Federal award.

13.0 County Water District Status

- 13.1** The District is a County Water District and therefore is not mandated by State law to competitively bid any Purchases, including those for Public Works projects and/or capital expenditures. (Associated Builders & Contractors, Golden Gate Chapter, Inc. v. Contra Costa Water District (1995) 37 Cal.App.4th 468.) The District has discretion to enter into non-bid Contracts for Public Works, to procure Services and Supplies and Materials, to contract for design-build work, to utilize job-order contracting, and to enter into Cooperative Purchasing arrangements for the design, construction, and maintenance of Public Works, or undertake any other form of contracting determined to be in the District's best interest, except as otherwise expressly restricted by law. Notwithstanding this contractual discretion and lack of legal mandate to competitively bid, the District shall make a good faith effort to support the Competitive Selection Process described in Section 7.

14.0 Policy Revisions

- 14.1** This Policy will be maintained and revised by the General Manager in consultation with the District's legal counsel, subject to approval by the Board. This Policy will be reviewed on a regular basis and revisions will occur whenever applicable Federal, State, or local regulations change or otherwise as the need arises and in the discretion of the Board.

EXHIBIT A**PROCUREMENT CARD POLICY****1.0 Purpose**

The Procurement Card Program was developed to allow designated full-time regular employees the capability to Purchase, with predefined spending limits, certain types of items directly from the merchant thus reducing the cost associated with low-value Purchasing activity. The purpose of this policy is to identify the conditions in which employees will be issued a Procurement Card and the rules for its use.

2.0 General Information

Authorization to use this Card is restricted to the CARDHOLDER ONLY and MAY NOT BE USED FOR PERSONAL PURCHASES.

- 2.1** Employees will not use District Procurement Cards for personal expenses even if the intent is to reimburse the District later.
- 2.2** Procurement Cards must **not** be used for Purchases when the cardholder has personal interest in the merchant or knowledge that a Purchase would create a conflict of interest.
- 2.3** Before receiving a Procurement Card, employees will sign a "Cardholder Procurement Card Agreement" and receive a copy of the Policies and Procedures setting forth their obligations under this program.
- 2.4** The Procurement Card is supplemented to the procurement process. As with other procurement methods the following conditions must be met when using the Procurement Card:
 - 2.4.1** The Procurement Card should be used whenever possible in lieu of petty cash or low dollar Requisitions from point of sale vendors.
 - 2.4.2** Purchases shall not be split to circumvent transaction limits as set in Table 1 of this Procurement Policy.
 - 2.4.3** Each single Purchase may be comprised of multiple items, but the total including tax and freight cannot exceed the single Purchase dollar limit on the Procurement Card.
 - 2.4.4** Every Purchase using the Procurement Card must adhere to all provisions of the Procurement Policy.

3.0 Procurement Card Role Definitions

- 3.1 Cardholder** – The cardholder is the District employee whose name appears on the Procurement card.
- 3.2 Approver:** The Approver is the person who is responsible for reviewing the charges for a group of cardholders to ensure that Purchases are appropriate and allowed.

- 3.3 Program Administrator:** The Program Administrator provides overall administration and oversight of the Procurement Card program.

4.0 Responsibilities

- 4.1 Cardholders:** Cardholders safeguard the Procurement Card, provide itemized receipts for all transactions, allocate the transactions, and sign off on the transactions in a timely basis.
- 4.2 Approvers:** Approvers review transactions of cardholders for adherence to policies and procedures, ensure that all transactions are properly coded, and all disputed charges are correctly reported.
- 4.3** The **Cardholder** and **Approver** are required to review and approve the individual cardholder transactions and submit to Accounts Payable within the established time frame specified by Finance Manager. This is critical to allow Accounts Payable to make payment within specified time limits.
- 4.4** Failure to meet approval deadlines can result in the following:
- 4.4.1** First Failure – Verbal/electronic warning.
 - 4.4.2** Second Failure – Written warning and notification to the appropriate Department Manager and possible suspension of card privileges.
 - 4.4.3** Third Failure – Suspension of card privileges. Restoration of card privileges requires approval by the Finance Manager.

5.0 Procurement Audits

To ensure the continued success of the Procurement Card Program, periodic, random audits will be performed by the Finance Department. The purpose of the audits will be to ensure the cardholders are adhering to established policies and procedures.

6.0 Use of Procurement Card for Travel and Meals

Procurement cards may be used for approved travel in accordance with the District's travel policy.

7.0 Card Restrictions

The Procurement Card is not to be used for services of any kind, leases, or repairs excluding auto when traveling, due to insurance requirements and the complexity of IRS 1099 reporting. Department Managers may apply additional restrictions on card use. It is the responsibility of the cardholder to know what their department's restrictions are.

8.0 Misuse of a Procurement Card

- 8.1** The following situations are a few examples of "misuse" of a Procurement Card:
- 8.1.1** Purchases using the Procurement Card for personal benefit of the employee.

8.1.2 Assignment or transfer of an individual Procurement Card to an unauthorized person.

8.1.3 Purchases from family, friends or relatives where there is personal gain or a conflict of interest, perceived or real.

8.2 Any variance, misuse, and/or violation of the policy and processes set forth will be considered improper use of the card. This may result in card cancellation, disciplinary action, up to and including termination.

9.0 Return of Merchandise

In the event the cardholder determines that an item must be returned for any reason, the item and credit card receipt must be returned to the merchant/vendor as soon as possible. **At no time is the cardholder allowed to accept a store gift card or cash in lieu of a credit adjustment to the Procurement Card.** Cardholder is responsible for allocating and signing off on both the Purchase and the credit transactions in a timely manner.

10.0 Disputes

All transactions should be monitored for validity and disputed transactions must be reported to the Program Administrator. To process a dispute, consult the Program Administrator.

11.0 Lost or Stolen Cards

When a Procurement Card is lost or stolen during normal business hours the Cardholder must notify their Approver and the Program Administrator immediately. If it is after hours the Cardholder must notify the issuing bank directly.

12.0 Separation, Transfer or Revocation of Card Privileges

Upon leaving the District, transferring to another Department or loss of Procurement Card privileges, the Cardholder must return their Procurement Card to Human Resources. Concurrent with surrendering the card, the cardholder must deliver documentation to their supervisor of all outstanding transactions.

The General Manager, Assistant General Manager, or Department Managers have absolute discretion to suspend or revoke a Cardholder's privileges at any time and for any reason.

EXHIBIT B**FEDERAL REQUIREMENTS****1.0 Regulations for Procurement of Property or Services Stemming from Federal Aid**

- 1.1** This section shall apply to the awarding of sub-grants and contracts by the District stemming from federal grants to the District. This section shall have the same application on the awarding of sub-grants and contracts by the District stemming from state, county or other non-federal government entity grants originating as federal grants.

2.0 Procurement Standards

- 2.1** The District shall maintain a contract administration system which ensures contractors perform in accordance with the terms, conditions and specifications of their contracts or Purchase orders.
- 2.2** The District shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer or agent of the District shall participate in selection, or in the award or administration of a Contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
- 2.2.1** The employee, officer or agent;
- 2.2.2** Any member of his or her immediate family;
- 2.2.3** His or her partner; or
- 2.2.4** An organization which employs, or is about to employ, any of the above, has a financial or other interest in or a tangible personal benefit from a firm considered for award.
- 2.3** The District's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-Contracts. Such a conflict will not arise where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. The District's standards of conduct provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the District.
- 2.4** The District shall not enter into a Contract with a non-Federal entity if the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government or Indian tribe, unless the non-Federal entity maintains written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean due to relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- 2.5** The District shall avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economic Purchase. Where appropriate, an analysis will be made of lease versus Purchase

alternatives, and any other appropriate analysis to determine the most economical approach.

- 2.6** The District shall consider entering into state and local intergovernmental Contracts or inter-entity Contracts where appropriate for procurement or use of common or shared goods and services.
- 2.7** The District shall consider using Federal excess and surplus property in lieu of Purchasing new equipment and property whenever such use is feasible and reduces project costs.
- 2.8** The District shall consider using value engineering clauses in Contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each Contract item or task to ensure its essential function is provided at the overall lower cost.
- 2.9** The District shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources.
- 2.10** The District shall maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection and the basis for the contract price.
- 2.11** The District shall use time and material type contracts only:
 - 2.11.1** After a determination is made that no other contract is suitable; and
 - 2.11.2** If the contract includes a ceiling price the contractor exceeds at their own risk.
- 2.12** The District alone shall be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes and claims. These standards do not relieve the District of any contractual responsibilities under its contracts.

3.0 Competition

- 3.1** The District will conduct procurement transactions in a manner providing full and open competition. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors developing or drafting specifications, requirements, statements of work, or Invitations for Bids or requests for proposals shall be excluded from competing for such procurements.
- 3.2** The District shall conduct procurements in a manner prohibiting the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

- 3.3** The District shall have written procedures for procurement transactions. These procedures will ensure that all solicitations:
- 3.3.1** Incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
 - 3.3.2** Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- 3.4** The District shall ensure prequalified lists of persons, firms or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The District shall not preclude potential bidders from qualifying during the solicitation period.

4.0 Methods of Procurement to be Followed

The District shall use one of the following methods of procurement:

- 4.1** Procurement by Micro-Purchases. Procurement by micro-Purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-Purchase threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and adjusted periodically for inflation. As of the date of this ordinance, the micro-Purchase threshold is \$10,000.
- 4.2** Procurement by Small Purchase Procedures. Small Purchase procedures are those relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than the simplified acquisition threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908 and periodically adjusted for inflation. If small Purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. As of the date of this ordinance, the simplified acquisition threshold is \$250,000.
- 4.3** Procurement by Sealed Bids (Formal Advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the Invitation for Bids, is the lowest in price.
 - 4.3.1** For sealed bidding to be feasible, the following conditions should be present:
 - 4.3.1.1** A complete, adequate, and realistic specification or Purchase description is available;

- 4.3.1.2** Two or more responsible bidders are willing and able to compete effectively for the business; and
 - 4.3.1.3** The procurement lends itself to a firm-fixed-price contract and the selection of the successful bidder can be made principally based on price.
 - 4.3.2** If sealed bids are used, the following requirements apply:
 - 4.3.2.1** The Invitation for Bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - 4.3.2.2** The Invitation for Bids, which will include any specifications and pertinent attachments, shall define the items or services for the bidder to properly respond;
 - 4.3.2.3** All bids will be publicly opened at the time and place prescribed in the Invitation for Bids;
 - 4.3.2.4** A firm-fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - 4.3.2.5** If there is a sound documented reason, any or all bids may be rejected.
- 4.4** Procurement by Competitive Proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - 4.4.1** Requests for proposals shall be publicized and identify all evaluation factors including relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
 - 4.4.2** Proposals will be solicited from an adequate number of qualified sources;
 - 4.4.3** The District shall conduct technical evaluations of the proposal received and for selecting awardees;
 - 4.4.4** Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - 4.4.5** The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The

method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to Purchase other types of services though A/E firms are a potential source to perform the proposed effort.

- 4.5** Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances applies:

4.5.1 The item is available only from a single source;

4.5.2 The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

4.5.3 The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in a written request from the District; or

4.5.4 After solicitation of multiple sources, competition is determined inadequate.

- 4.6** Contracting with Small and Minority Businesses, Women's Business Enterprises and Labor Surplus Area Firms.

4.6.1 The District shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises and labor surplus area firms are used when possible.

4.6.2 Affirmative steps include:

4.6.2.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

4.6.2.2 Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

4.6.2.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

4.6.2.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;

4.6.2.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

4.6.2.6 Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections 4.6.2.1 through 4.6.2.6 of this section.

4.7 Contracts Cost and Price

- 4.7.1** The District shall perform a cost or price analysis in every procurement action exceeding the simplified acquisition threshold including contract modifications. The method and degree of analysis will be dependent on the facts surrounding each procurement situation. As a starting point, the District shall make independent estimates before receiving bids or proposals.
- 4.7.2** Costs or prices based on estimated costs for contracts under the Federal award will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the District under Subpart E – Cost Principles of Title 2, Subtitle A, Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).
- 4.7.3** The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

4.8 Federal Awarding Agency or Pass-Through Entity Review

- 4.8.1** The District shall make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for Purchase.
- 4.8.2** The District shall make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposal or Invitations for Bids, or independent cost estimates when:
 - 4.8.2.1** The District's procurement procedures or operation fails to comply with the procurement standards of Title 2, Subtitle A, Part 200, Subsection 200.324;
 - 4.8.2.2** The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - 4.8.2.3** The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;
 - 4.8.2.4** The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - 4.8.2.5** A proposed modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
- 4.8.3** The District may be exempted from the pre-procurement review in subsection 4.8.2 above if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards set forth in Title 2, Subtitle A, Part 200, or the District self-certifies compliance with such standards if self-certification is permitted by the Federal awarding agency or pass-through entity.

- 4.9** Bonding Requirements. For public projects, the District shall require bid guarantees, performance bonds, and payment bonds consistent with Title 2, Part 200, Section 200.325 of the Code of Federal Regulations.
- 4.10** Contract Provisions. The District's contracts shall contain the provisions in Appendix II to Title 2, Subtitle A, Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards, as applicable.

PURCHASING**POLICY ACKNOWLEDGEMENT**

I acknowledge that I have received and read the provisions contained in this Purchasing Policy (Policy). I agree to comply with all terms and conditions of the Policy. I understand that it is my responsibility to consult my supervisor or the Finance Department if I have any questions that are not answered in this Policy.

I also understand that the provisions in this Policy are guidelines and may not address all circumstances that may arise. In such case, the Finance Department shall apply the Policy based on factors including but not limited to past practices and rules of statutory interpretation.

Employee Printed Name

Date

Employee Signature

Distribution: Employee's Personnel File