

CELEBRATION

COMMUNITY

DEVELOPMENT

DISTRICT

**Rules
of
Procedure**

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**CELEBRATION COMMUNITY DEVELOPMENT DISTRICT
GENERAL AND PROCEDURAL RULES**

1.1 General

(1) The Celebration Community Development District (the “District”) was created pursuant to the provisions of Chapter 190, Florida Statutes and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the “Rules”) is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

Specific Authority: 190.011, 120.53(1)(a)

Law Implemented: 190.011

1.2 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the “Board”) shall exercise the powers granted to the District. The Board shall consist of five members. Members of the Board must be residents of Florida and citizens of the United States.

(2) Term of Officers. Board members shall hold office pursuant to Section 190.006, Florida Statutes. If, during the term of office of any Board member(s), one or more vacancies occur, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the unexpired term(s).

(3) Vacancies; Quorum. Three members of the Board shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. However, if three or more vacancies occur at the same time, a quorum is not necessary to fill the vacancies. Action taken by the Board shall majority vote of the members present, unless otherwise provided in these Rules or required by law.

(4) Officers. At a Board meeting held after each election where the newly elected members take office, the Board shall select a chairman, vice chairman/treasurer/assistant secretary, and secretary.

(a) The chairman must be a member of the Board. If the chairman resigns from that office or ceases to be a member of the Board, the Board shall select a chairman to serve the remaining portion of the term, after filling the Board vacancy. The chairman shall be authorized to sign checks and warrants for the District, countersigned by the treasurer or other persons authorized by the Board. The chairman shall convene and conduct all meetings of the Board. In the event the chairman is unable to attend a meeting, the vice chairman shall convene and conduct the meeting.

(b) The vice chairman shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. If the vice chairman resigns from that office or ceases to be a member of the Board, the Board shall select a vice chairman to serve the remainder of the term, after filling the Board vacancy. The vice

chairman shall be authorized to sign checks and warrants for the District countersigned by the treasurer or other person authorized by the Board.

(c) The secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. The District Manager may serve as secretary.

(d) The treasurer need not be a member of the Board but must be a resident of Florida. The treasurer shall perform duties described in Section 190.007(2) and (3), Florida Statutes, as well as those assigned by the Board from time to time. The treasurer shall serve at the pleasure of the Board.

(5) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, contract negotiations, personnel matters, and budget preparation.

(6) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings of the Celebration Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds and corporate acts.

(7) Meetings. The Board shall establish a schedule of regular meetings and may also meet upon call of the chairman or three Board members. A regular meeting may be canceled, provided that notice of cancellation shall be given in the same manner as notice for the meeting. All meetings of the Board shall be open to the public in accordance with the provisions of Chapter 286, Florida Statutes.

(8) Voting Conflict of Interest. The Board shall comply with Section 112.3143, Florida Statutes, so as to ensure the proper disclosure of conflicts of interests on matters coming before the Board for a vote. Nothing in this Rule shall prohibit the Board member with a voting conflict of interest from voting on a matter. For the purposes of this section, "voting conflict of interest" shall mean any matter coming before the Board for a vote which would inure to a Board

member's special private gain, or which a Board member knows would inure to the special private gain of a relative, a business associate, any person by whom a Board member is retained, or the parent organization or subsidiary of a corporation by which a member is retained. However, it shall not be a conflict of interest for a Board member to be a stockholder, officer or employee of any landowner in the District.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes. The member may then vote. The Board's secretary shall prepare a memorandum of voting conflict, which shall then be signed by the Board member, filed with the Board's secretary, and attached to the minutes of the meeting within 15 days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict thereon, the member shall immediately notify the Board's secretary. Within fifteen days (15) days of the notification, the member shall file the appropriate memorandum of voting conflict which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The memorandum shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the written memorandum. The Board member's vote is unaffected by this filing.

Specific Authority: 190.001, 120.53(1)(d)

Law Implemented: 190.006(1), 190.006(4), 190.006(5), 190.006(6), 190.006(7),
190.006(9), 190.007, 112.3143, 112.3143(4)(b)

1.3 Public Information and Inspection Records.

(1) Public Records. All District public records within the meaning of Chapter 119, Florida Statutes, and not otherwise restricted by law, including the “Record of Proceedings of the Celebration Community Development District,” may be copied or inspected at the District headquarters during regular business hours.

(2) Copies. Copies of public records shall be made available to the requesting person at a charge of \$.15 per page for one-sided copies and \$.20 per page for two-sided copies if not more than 8-1/2 by 14 inches, and for copies in excess of that size at a charge not to exceed the actual cost of reproduction. Certified copies of public records shall be made available at a charge of \$1.00 per page.

Specific Authority: 190.011, 120.53(1)(a)

Law Implemented: 190.06(7), 119.07(1)(a), 119.07(1)(b)

1.4 Meetings and Workshops.

(1) Notice. Except in emergencies, or as otherwise provided in these Rules, at least seven days' public notice shall be given of any meeting or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and shall state:

(a) The date, time, and place of the meeting or workshop;

(b) A brief description of the nature, subjects and purposes of the meeting or workshop;

(c) The address where persons may obtain a copy of the agenda.

(d) The notice shall state that if a person decides to seek review of any official decision made at the Board meeting, a record of the proceedings will be required and the person intending to appeal will need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence necessary for the appeal.

(2) Agenda. The District Manager, under the supervision of the chairman or those members calling for a Board meeting, shall prepare a notice of the meeting or workshop and an agenda. The notice and agenda shall be available to the public at least seven days before the meeting or workshop except in an emergency. The agenda may be changed before or at the meeting or workshop for good cause stated by the presiding officer and recorded in the minutes

(3) Minutes. The secretary shall be responsible for keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting.

(4) Receipt of Notice. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or secretary at the Board's office. Such persons shall furnish a mailing address in writing and may be required to pay the cost of the copying and mailing.

(5) Emergency Meeting. The chairman, or the vice chairman if the chairman is unavailable, may convene an emergency meeting of the Board without first having complied with Subsections (1), (2), (3), and (5), to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the chairman shall make reasonable efforts to notify all Board members of an emergency meeting 24 hours in advance. Reasonable efforts may include telephone notification. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date, and place of the emergency meeting, the reasons why an emergency meeting was necessary, and a description of the action taken. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one major newspaper of general circulation in the District. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(6) Public Comment. The Board shall set aside a reasonable amount of time at each regular meeting for public comment, which time for audience comment shall be identified in the agenda. Persons wishing to address the Board are required to notify the secretary of the Board prior to the “audience comment” section on the agenda. In its discretion, the Board may limit the length of any one speaker in the interest of time or fairness to other speakers.

(7) Budget Hearing. Notice of hearing on the annual budget shall be in accordance with Section 190.008, Florida Statutes.

(8) Communications Media Technology. A meeting of the Board may be conducted by or in conjunction with Communications Media Technology (CMT), including teleconferences or video conferences. All evidence, testimony and argument presented shall be afforded equal consideration, regardless of the method of communication.

(a) Definitions.

1. “Access point” means a designated place where a person interested in attending a CMT meeting may go for purposes of attending such meeting.

2. “Attend” means having access to the communications media technology network being used to conduct a meeting, or being used to take evidence, testimony or argument relevant in any issue being considered at a meeting.

3. “CMT meeting” means a meeting that is conducted by means of or in conjunction with communications media technology.

4. “Communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.

5. “In conjunction with communications media technology” means that CMT access is being provided to a meeting otherwise being held with the collective, physical presence of the members of the Board in once place.

6. “By means of communication media technology” means that a meeting is being conducted entirely by means of communications media technology and that the members of the Board conducting such meeting may not be collectively, physically together in one place.

(b) Nothing in this rule shall be construed to permit the District to conduct any meeting otherwise subject to the provisions of Section 286.011, Florida Statutes, by means of communications media technology without making provision for the attendance at that meeting or workshop of any member of the public who desires to attend.

(c) The District may not limit the points of access provided to the public to places not normally open to the public. The District shall provide at least one access point in a location which is ordinarily open to the public. Any official action taken at a CMT meeting to which at least one access point is not provided shall be void and of no effect as being violative of the public’s right of access.

(d) No meeting shall be conducted entirely by means of communications media technology if the available technology is insufficient to permit all interested persons to attend. If, during the course of a CMT meeting, technical problems develop with the

communications network that prevent interested persons from attending, the District shall terminate the meeting until such problems have been corrected.

(e) Notice of a CMT meeting shall be in the same manner as a meeting without CMT. The notice shall plainly state that such a meeting is to be conducted by means of or in conjunction with CMT and identify the type of CMT to be used. The notice shall also describe how interested persons may attend, and include the address or addresses of all access points.

(9) Continuances. Any meeting of the Board or any item or matter included on the agenda for a meeting may be continued without re-notice or re-advertising provided that the continuance is to a specified date, time and location publicly announced at the Board meeting where the item or matter was included on the agenda.

Specific Authority: 190.055(5), 190.011(15), 120.53(1)(d)

Law Implemented: 190.007(1), 190.008, 120.53(1)(d), 286.0105, 120.54(1)

1.5 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to the applicable provisions of Chapter 120, Florida Statutes, and these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District.

(2) Notice of Rule Development

(a) Except when the intended action is the repeal of a rule, the District shall provide notice of the development of proposed rules by publication of a notice of rule development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by paragraph (3). The notice of rule development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and a statement of how a person may promptly obtain a copy of any preliminary draft, if available.

(b) All rules should be drafted in accordance with Chapter 120, F.S.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; a reference to the specific rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2), and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within 21 days after

publication of the notice. The notice must state the procedure for requesting a public hearing on the proposed rule unless one is otherwise scheduled. Except when the intended action is the repeal of a rule, the notice shall include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

(b) The notice shall be published in a newspaper of general circulation in the District not less than 28 days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least 14 days prior to such mailing, have made requests of the district for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the District Chair must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All petitions for the initiation of rulemaking proceedings pursuant to Section 120.54(7), Florida Statutes, must contain the name, address, and telephone number of the Petitioner, specific action requested, specific reason for adoption, amendment, or repeal, the date submitted, and shall specify the text of the proposed rule and the facts showing that the Petitioner is regulated by the District or has a substantial interest in the rule or action requested. Petitions to initiate rulemaking shall be filed with the District. The Board shall then act on the petition in accordance with Section 120.54(7), Florida Statutes (1997), except that copies of the petition shall not be sent to the Administrative Procedures Committee.

(6) Rulemaking Materials. After the publication of the notice to initiate rulemaking, the Board shall make available for public inspection and shall provide, upon request and payment of cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541; and

(d) The published notice.

(7) Rulemaking Proceedings—No Hearing. When no hearing is requested and the Board chooses not to initiate a hearing on its own, or if the rule relates exclusively to organization, practice or procedure, the Board may direct the proposed rule be filed with the District Office no less than twenty-eight (28) days following notice. Such direction may be given by the Board either before initiating the rule-adoption process or after the expiration of the twenty-one (21) days during which affected persons may request a hearing.

(8) Rulemaking Proceedings—Hearing. If the proposed rule does not relate exclusively to organization, practice or procedure, the District shall provide (upon request) a public hearing for the presentation of evidence, argument and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay or disruption of the proceedings. Any affected person may request a hearing within twenty-one (21) days after the date of publication of the notice of intent to adopt, amend or repeal a rule.

(9) Request for a Public Hearing.

(a) A request for a public hearing shall be in writing and shall specify how the person requesting the public hearing would be affected by the proposed rule. The request shall be submitted to the District within 21 days after notice of intent to adopt, amend, or repeal the rule is published as required by law, in accordance with the procedure for submitting requests for public hearing stated in the notice of intent to adopt, amend, or repeal the rule.

(b) If the notice of intent to adopt, amend, or repeal a rule did not notice a public hearing and the District determines to hold a public hearing, the District shall publish notice of a public hearing in a newspaper of general circulation within the District at least 7 days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing.

(c) Written statements may be submitted by any person within a specified period of time prior to or following the public hearing. All timely submitted written statements shall be considered by the District and made a part of the rulemaking record.

(10) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as practical in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(11) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54, Florida Statutes.

(12) Variations and Waivers. Variations and waivers from District rules may be granted subject to the provisions and limitations contained in Section 120.542, Florida Statutes.

Specific Authority: 190.011(5), 190.011(15), 120.54, 190.035, 120.53(1)

Law Implemented: 120.54, 190.035(2)

1.6 Proceedings Regarding Decisions Determining Substantial Interests.

(1) Conduct of Proceedings. Except as otherwise specifically provided by the Rules, (e.g., protests initiated pursuant to Rule 1.13), a proceeding may be held by the District in response to a written request submitted by a substantially affected person. The written request must be received by the District within fourteen (14) calendar days after the date upon which written notice of District action or decision is posted in the District office (notice and filing dates for Rule 1.13 protests shall be governed by Rule 1.13). Upon timely receipt of such requests from a substantially affected person, the District may but shall not be obligated to schedule a hearing to consider the District action or decision. The District shall post the date and time of the hearing in the District office not less than seven (7) calendar days prior to the date of the hearing. If a hearing is held in accordance with such notice, the Chairman shall designate the Board, any member of the Board (including the Chairman), the District Manager, the District General Counsel, or other person or group of persons to conduct the hearing.

The person or persons conducting the hearing may:

1. Administer oaths and affirmations;
2. Rule upon offers of proof and receive relevant evidence;
3. Regulate the course of the hearing, including any prehearing matters;
4. Enter orders;
5. Make or receive offers of settlement, stipulation, and adjustment where legally permissible.

(a) Within thirty (30) calendar days after the hearing, the person (or persons) conducting the hearing shall file a recommendation with the District which may include, as deemed appropriate by such person(s), a (i) caption, (ii) time and place of hearing, (iii) appearances entered at the hearing, (iv) statement of the issues, if any, (v) findings of fact and conclusions of law, where appropriate, and (vi) recommendation for final District action or decision (if the hearing was conducted by persons other than the Board).

(b) The District shall issue its final notice of action or decision within forty-five (45) calendar days;

1. After the hearing is concluded, if conducted by the Board;
2. After a recommendation is submitted to the Board if the hearing is conducted by a person(s) other than the Board; or
3. After the Board receives written and oral material it authorized to be submitted, if any, if there was no hearing.

(2) After determining the need to exercise the power of eminent domain pursuant to Subsection 190.11(11), F.S., the District shall follow those procedures prescribed in Chapters 73 and 74, F.S.

Specific Authority: 190.011(5), 190.011 (15)

Law Implemented: 190.011(11)

1.7 Procedure Applicable to Contracts Awarded Under Consultants' Competitive Negotiations Act

In accordance with Section 190.033(2), Florida Statutes, and subject to requirements of Section 287.055, Florida Statutes, the following procedures shall apply to engineering, architecture, landscape architecture or registered surveying and mapping services obtained by the Board.

(1) Definitions.

(a) "Professional services" means services within the scope of the practice of architecture, professional engineering, landscape architecture or registered land surveying and mapping, as defined by the laws of Florida, or services performed by any architect, professional engineer, landscape architect or registered land surveyor, in connection with the firm's or an individual's professional employment or practice.

(b) "Project" means each occasion when professional services are required to be purchased on connection with (i) a project, the basic construction cost of which is estimated by the District to exceed the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FIVE, or (ii) a planning or study activity when the fee for professional services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO. However, in the cases of valid public emergency certified by the Board or the Chairman of the Board, the District shall not be obligated to comply with the requirements of this Section 1.8.

(c) A "continuing contract" is a contract for professional services entered into in accordance with Section 287.055, Florida Statutes, between the District and a firm whereby the firm provides professional services to the District for (i) individual projects in which construction costs do not exceed \$500,000, (ii) for individual study activities when the fee for such professional service does not exceed \$25,000 or (iii) for continuing work required by the District of a specified nature (as authorized by the contract with the District) with no time limitation, except that the contract shall provide a termination clause.

(d) “Emergency purchase” is a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents or any circumstances or cause beyond the control of the Board in the normal conduct of its business) where the Board (or the Chairman of the Board) certifies a delay incident to a competitive selection process for professional services would be detrimental to the interests of the District.

(e) “District Representative” means the person or group designated by the Chairman of the Board to administer the selection process. The District Representative may be the Chairman, the Board, any member or committee of the Board, District Counsel, District Manager, or any other entity, person or group of persons.

(f) “Firm” means an individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering or surveying and mapping in the state.

(2) Qualifying Procedures. In order to be eligible to provide professional services to the District, a firm must first be certified by the District as qualified to render the required service. The qualification factors considered by the District may include:

(a) The firm holds the required applicable state and local professional license which is in good standing.

(b) The firm holds all required applicable federal licenses, if any, which are in good standing-

(c) If a firm is a corporation, such firm holds a current and active Florida corporate charter or if a foreign corporation is active and in good standing in its state of incorporation and is authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.

(d) The capabilities, adequacy of personnel, past record and experience of the firm.

(e) Other prequalification requirements set forth in the project, contract documents or established by the Board, including historical materials respecting the firm’s

business relationships with the District or other entities for which it has provided professional services.

(3) Public Announcement. Prior to a public announcement that professional services are required for a project, the Board shall determine whether the project exceeds the threshold requirements of Sections 287.055 and 287.017, Florida Statutes. Except in cases of valid public emergencies, the District shall publicly announce each occasion when professional services are required to be purchased for a project (exceeding the threshold requirements specified above) by publishing a notice providing a general description of the project and how interested firms may apply for consideration. The notice shall appear in a newspaper of general circulation in the District. The District may maintain a list of persons interested in receiving such notices. The District shall make a good faith effort to provide written notice, by United States mail, to persons who provide their name and address to the District office for inclusion on the list. However, the failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award. The Board has the right to reject any and all bids and such reservation shall be included in the public announcement.

(4) Competitive Selection.

(a) For each proposed project, the District Representative shall review and evaluate the data submitted in response to the notice described above regarding qualifications and performance ability, as well as any performance data and statements of qualifications on file.

(b) The District Representative shall, following the review, select and short list no fewer than three (3) firms, ranked in order of preference, deemed to be the most capable and qualified to perform the required professional services, after considering these and other appropriate criteria:

1. The ability and adequacy of the professional personnel.
2. Past performance for the District and in other professional employment contracts.
3. Willingness and ability to meet time and budget requirements.

4. Geographic locations of the firm's headquarters or office in relation to the project.
5. Current and anticipated workloads of the firms.
6. Volume of work previously awarded to the firm.
7. Quantity of hours proposed to accomplish the project.

Nothing in these Rules shall prevent the District from evaluating and eventually selecting a firm if less than three responses, including responses indicating a desire not to submit a formal proposal on a project, are received.

(c) If the selection process is administered by any person or entity other than the full Board, the selection evaluations will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed. The Board shall make the final determination of the most capable and qualified firms and the order of preference.

(d) As part of a firm's initial response, the District may require the inclusion of the firm's proposal regarding compensation. However, such compensation proposals shall remain sealed until the firm is selected for and competitive negotiation commences. Upon finalization of negotiations, unopened compensation proposals shall be returned to the firms submitting them.

(5) Competitive Negotiation.

(a) Following the selection process, and after the Board has authorized the beginning of competitive negotiations, the District Representative shall begin negotiations with the firm ranked highest to perform the required professional services. The purposes of such negotiations shall be to finalize an agreement at fair, competitive and reasonable compensation levels. In making such determination, the District Representative (or the Board) shall conduct a detailed analysis of the cost of the professional services required, in addition to considering the scope and complexity of the services provided.

(b) In negotiating a lump-sum or cost-plus-fixed-fee professional contract for more than the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiating certificate stating that “wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting.” In addition, any professional service contract under which such certificate is required must contain a provision that “the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs.” All such contract adjustments shall be made within one year following the end of the contract.

(c) If the District Representative is unable to negotiate a satisfactory agreement with the firm initially determined to be the most qualified at a price deemed by the District to be fair, competitive and reasonable then (unless directed otherwise by the Board) negotiations with that firm shall be terminated and the District Representative shall immediately begin negotiations with the second most qualified firm. If the District Representative determines it is unable to negotiate a satisfactory agreement with the second firm, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) If the District Representative determines it is unable to negotiate a satisfactory agreement with any of the selected firms, additional firms may be selected by the District, in order of their competence and qualifications, and negotiations shall continue, beginning with the first-ranked firm on the list, until an agreement is reached or the list of firms is exhausted.

(e) Once an agreement with a firm is reached, notice of the award shall be provided to all qualified firms having formally applied for consideration by posting the notice in the District office for seven (7) days, and by sending a copy by United States Mail, overnight delivery, or by hand delivery to those firms.

(6) Continuing Contract. Nothing in this Rule shall prohibit a continuing contract between a firm or an individual and the District.

(7) Prohibition Against Contingent Fees. Each contract entered into by the District for professional services must contain a specific prohibition against contingent fees as required by Section 287.055(6), Florida Statutes.

(8) Emergency Purchase. The District may make an emergency purchase without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

(9) Conflicts. In the event of any conflict or inconsistency between these Rules and Section 287.055, Florida Statutes or other applicable statute or governmental regulation, such applicable statutes and regulations shall control. In the event of any conflict or inconsistency between these Rules and any contract for professional services, these Rules shall control.

Specific Authority: 190.011(5), 287.055(3)(d)

Law Implemented: 190.011(3), 287.055, 190.011(2), 190.033

1.8 Procedure for Purchasing Contractual Services

(1) Scope. All purchases for contractual services (except for maintenance services) may (but are not required to) be made by competitive Invitation to Bid. If state or federal law prescribes with whom the District must contract, or established the rate of payment, then these Rules shall not apply. A contract involving both goods, supplies and materials plus contractual services may, in the discretion of the Board, be treated as a contract for goods, supplies and materials.

(2) Definitions.

(a) “Contractual services” means rendering time and effort rather than furnishing specific goods or commodities. Contractual services do not include legal (including attorneys, paralegals, court reporters and expert witnesses, including appraisers), artistic, auditing, health, or academic program services, or professional services (as defined in Section 287.055(2)(a) Florida Statutes and these Rules) and shall generally be considered the services referenced by Section 287.012(7), Florida Statutes. Contractual services do not include the extension of an existing contract for services if such extension is provided for in the contract terms.

(b) “Invitation to Bid” is a solicitation for sealed bids with the contract title, date and hour of the public bid opening designated specifically. It includes a description of the services sought, applicable terms and conditions, evaluation criteria, including but not limited to price, and provides for a manual signature of an authorized representative.

(c) “Request for Proposal” is a solicitation for sealed proposals with the title, date and hour of the public opening designated and requiring the manual signature of an authorized representative. It provides a statement for services sought, applicable terms and conditions, and evaluation criteria, including but not limited to price. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, proposal instructions, work detail analysis and evaluation criteria, as necessary.

(d) “Responsive bid or proposal” means a bid or proposal which conforms in all material respects to an Invitation to Bid or Request for Proposal and these Rules, and whose cost components are appropriately balanced. A bid or proposal is not responsive if the person or firm submitting the bid or proposal fails to meet any requirement relating to the qualifications, financial stability, or licensing of the bidder or proposer.

(e) “Lowest responsible bid or proposal” means, as determined in the sole discretion of the Board, the bid (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements who has the integrity and reliability to assure good faith performance, (ii) is responsive to the Invitation to Bid or Request for Proposal as determined by the Board, and (iii) is the lowest cost to the District. Minor variations in the bid may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids may not be modified after opening.

(f) “Proposal Most Advantageous to the District” means, as determined in the sole discretion of the Board, the proposal (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements who has the integrity and reliability to assure good faith performance, (ii) the most responsive to the Request for Proposal as determined by the Board, and (iii) which is for a cost to the District deemed reasonable by the Board. Minor variations in the proposal may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Proposals may not be modified after opening. To assure full understanding of the responsiveness to the solicitation requirements, discussions may be conducted with qualified proposers. The proposers shall be accorded fair and equal treatment prior to the submittal date with respect to any opportunity for discussion and revision of proposals.

(3) Procedure. When a purchase of contractual services is within the scope of this Rule (and the District has elected to follow this procedure), the following procedure shall be followed:

(a) The Board shall cause to be prepared a notice of Invitation to Bid or Request for Proposal, as appropriate.

(b) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District and posted in the District office. The notice shall allow at least seven (7) days following the date of publication for submittal of bids or proposals unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter time period shall be specified in the advertisement of the invitation or request.

(c) The District may maintain a list of persons interested in receiving notices of invitations to bid or requests for proposals. The District shall make a good faith effort to provide written notice, by United States Mail, to persons who provide their name and address to the District office for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award.

(d) Bids or proposals shall be opened at the time and place noted on the Invitation to Bid and Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules.

(e) If only one response to an Invitation to Bid or Request for Proposal is received, the District may proceed with the procurement for contractual services from such bidder or proposer. If no response to an Invitation to Bid or Request for Proposal is received, the District may take whatever steps are reasonably necessary in order to proceed with the procurement of the needed contractual services.

(f) The Board has the right to reject any or all bids or proposals. The reservation regarding the right to reject shall be included in all solicitations and advertisements. If the bids or proposals exceed the amount of funds available to or allocated by the District for this purchase, the bids or proposals may be rejected. Bidders and proposers not receiving a

contract award shall not be entitled to recover any costs of bid or proposal preparation or submittal from the District.

(g) The Lowest Responsive and Responsible Bid or Proposal or the most advantageous to the District, as appropriate, may be accepted by the District. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety to be approved by the Board.

(4) Notice. Notice of contract award, including the rejection of some or all bids or proposals, shall be provided in writing to all bidders or proposers by United States Mail, overnight delivery, or by hand delivery, and by posting same in the District office for seven (7) days.

(5) Contract Renewal. Renewal of a contract for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract, unless otherwise provided in the initial contract. Renewal shall be contingent upon satisfactory performance evaluations by the District.

(6) Contract Manager and Contract Administrator. The Board may designate a representative to function as contract manager, who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. The Board may also designate a representative to function as contract administrator, who shall be responsible for maintaining all contract files and financial information. One person may serve as both contract manager and administrator.

(7) Emergency Purchase. The District may make an emergency purchase of contractual services without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

(8) Continuing Contract. Nothing in this Rule shall prohibit a continuing contract between a firm or an individual and the District.

Specific Authority: 190.011(5)

Law Implemented: 190.011(3), 190.033

1.9 Purchase of Goods, Supplies or Materials.

(1) Scope. The purchase of goods, supplies or materials exceeding the amount provided in Section 287.017, F.S., for CATEGORY FOUR, as such category may be amended from time to time, shall be purchased under the terms of Section 190.033(1), Florida Statutes and these Rules. Contracts for purchases of goods, supplies or materials shall not be divided solely in order to avoid the requirements of these Rules.

(2) Definitions.

(a) “Goods, supplies and materials” do not include printing, insurance, advertising or legal notices.

(b) “Purchase” means acquisition by sale, rent, lease, lease/purchase, license agreement, or installment sale. It does not include transfer, sale or exchange of goods, supplies or materials between the District and any federal, state, regional, or local government entity or political subdivision of the state.

(3) Procedure. When a purchase of goods, supplies or materials is within the scope of this Rule, the following is appropriate:

(a) The Board shall cause to be prepared an Invitation to Bid or Request for Proposal, as appropriate.

(b) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter period of time shall be specified in the advertisement of the invitation or request.

(c) The District may maintain lists of persons interested in receiving notices of invitations to bid or requests for proposals. The District shall make a good faith effort to provide written notice, by United States Mail, to persons who provide their name and address to the District office for inclusion on the list. However, failure of a person to receive the notice shall

not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award.

(d) Bids or proposals shall be opened at the time and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals shall be evaluated in accordance with Section 190.033(1), Florida Statutes, the invitation or request and these Rules.

(e) The Lowest Responsive and Responsible bid or proposal shall be accepted unless the Board rejects all bids, because they are too high, or the Board determines it is in the best interests of the District to reject all bids. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety acceptable to the Board. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(f) Notice of award, including rejection of some or all bids, shall be provided by posting the notice in the District office for seven (7) days and by providing a copy to all bidders by United States Mail or by hand delivery.

(g) If only one response to an Invitation to Bid or Request for Proposal is received, the District may proceed with the procurement for goods, supplies or materials. If no response to an Invitation to Bid or Request for Proposal is received, the District may take whatever steps are reasonably necessary in order to procure the goods, supplies or materials without further competitive bids or proposals.

(h) The District may make an emergency purchase without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: 190.01(5)

Law Implemented: 190.033

1.10 Contracts for Construction of Authorized Project

(1) Scope. All contracts for the construction or improvement of any building, structure or other public construction works authorized by Chapter 190, Florida Statutes, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20, Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and comply with the bidding procedures of Section 255.20, Florida Statutes, as the same may be amended from time to time. In the event of conflict between these Rules and Section 255.20, Florida Statutes, the later shall control. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure.

(a) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least twenty-one (21) days from the date such advertisement is first published for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter time shall be specified in the advertisement of the invitation or request. Any project projected to cost more than \$500,000 must be noticed at least thirty (30) days prior to the date for submittal of bids.

(b) The District may maintain lists of persons interested in receiving notices of Invitations to Bid or Requests for Proposals. The District shall make a good faith effort to provide written notice, by United States Mail, to persons who provide their name and address to the District office for inclusion on the list. However, the failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of bid or proposal submission:

(1) Hold the required applicable state and local contractor or professional license in good standing.

(2) Hold all required applicable federal licenses in good standing, if any.

(3) If the bidder is a corporation, hold a current and active Florida corporate charter or, if incorporated in another state, have a current active charter from such state of incorporation and be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.

(4) Meet any prequalification requirements set forth in the Invitation to Bid or Request for Proposal.

Evidence of compliance with this provision of the Rules shall be submitted pursuant to the requirements of the Invitation to Bid or Request for Proposal.

(d) Bids or proposals shall be opened at the time, date and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules. The District Representative (as defined in Section 1.8) shall evaluate the bids and make a recommendation to the District.

(e) The lowest responsive and responsible bid or proposal shall be accepted unless the Board rejects all bids because they are too high, or because the Board determines it is in the best interests of the District to reject all bids or proposals. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety acceptable to the Board. If the Board receives fewer than three responses to an Invitation to Bid or Request for Proposal, the Board may (in its sole discretion) readvertise for additional bids. In such circumstances, the originally received bids will be deemed rejected. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(f) To assist in the determination of whether a prospective bidder will be qualified, the District Representative may invite public presentation by firms (prior to the date for submitting bids) regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(g) In determining whether a bidder will be qualified, the District may consider all relevant information, including but not limited to the following:

1. The ability and adequacy of the bidder's personnel.
2. Past or current performance for the District and other contracts of the bidder.
3. Ability to meet time and budget requirements.
4. Geographic location of the bidder's headquarters or office in relation to the project.
5. Current and projected workloads of the bidder.
6. Volume of work previously awarded to the bidder.
7. Additional factors described in the Invitation to Bid or Request for Proposal.

(h) Notice of the contract award, or intent to award, (or notice of rejection of some or all bids) shall be provided by posting the notice in the District office for seven (7) days, with a copy to all bidders by United States Mail, overnight delivery, or by hand delivery.

Specific Authority: 190.011

Law Implemented: 190.033

1.11 Design-Build Contract Competitive Proposal Selection Process

(1) Scope. The District may utilize design/build contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a design/build contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a design criteria professional meeting the requirements of section 287.055 (2)(K) when developing a design criteria package, evaluating the responses or bids submitted by design-build firms, and determining compliance of the project construction with the design criteria package. The design criteria professional may be an employee of the District or may be retained using Rule 1.7, Procedure under Consultants' Competitive Negotiations Act.

(b) A design criteria package for the construction project shall be developed and sealed by the design criteria professional. The package shall include concise, performance-oriented drawings or specifications of the project, and shall include sufficient information to put interested firms on notice of substantially all of the requirements of the project. If the project utilizes existing plans, the design criteria professional shall create a design criteria package by supplementing the plans with project specific requirements, if any. All design criteria packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(c) The Board, in consultation with the design criteria professional, shall establish the standards and procedures for the evaluation of design-build proposals based on price, technical, and design aspects of the project, weighted for the project.

(d) After a design criteria package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited, pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the County in which the District is located. The notice shall allow at least seven (7) days for submittal of proposals, unless the Board, for good cause, determines a shorter period of time is appropriate.

2. The District may maintain qualification information, including: capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, and other factors, on design-build firms. Such firms shall receive a copy of the request for proposals by mail.

3. In order to be eligible to submit a proposal: a firm must, at the time of receipt of the proposals:

a. Hold the required applicable state professional license in good standing, as defined by 287.055 (2)(h);

b. Hold all required applicable federal licenses in good standing, if any;

c. Hold a current and active Florida corporate charter or be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes, if the bidder is a corporation;

d. Meet any special prequalification requirements set forth in the design criteria package.

Evidence of compliance with these Rules may be submitted with the bid, if required by the District.

(e) The Board shall select no fewer than three design-build firms as the most qualified, based on the information submitted in the response to the request for proposals, and in consultation with the design criteria professional, shall evaluate their proposals based on the evaluation standards and procedures established prior to the solicitation of requests for proposal.

(f) The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards, and shall establish a price which the Board determines is fair, competitive, and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached.

(g) The design criteria professional shall evaluate the compliance of the project construction with the design criteria package, and shall provide the Board with a report of the same.

(h) After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

(i) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best-qualified design-build firm available at the time. The fact that an emergency purchase has occurred shall be noted in the minutes of the next Board meeting.

1.12 Contracts for Maintenance Services

(1) Scope. All contracts for maintenance services of any District facility or project shall be obtained under the terms of these Rules if the costs exceeds the amount provided in Sections 287.017, Florida Statutes, for CATEGORY FOUR. A contract for maintenance services for any District facility or project may involve the purchase of contractual services and/or goods, supplies or materials. Where a contract for maintenance services for a facility or project includes goods, supplies or materials and/or contractual services, the District may, in its sole discretion, award the contract according to the Rules in this subsection in lieu of separately bidding for maintenance, goods, supplies or materials, and contractual services.

(2) Procedure.

(a) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days from the date such advertisement is first published for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter time shall be specified in the advertisement of the notice or request.

(b) The District may maintain a list of persons interested in receiving notices of invitations to bid or requests for proposals. The District shall make a good faith effort to provide written notice, by United States Mail, to persons who provide their name and address to the District office for inclusion on the list. However, the failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of the contract award.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of bid or proposal submission:

1. Hold the required applicable state and local license in good standing.
2. Hold all required applicable federal licenses in good standing, if any.

3. If the bidder or proposer is a corporation, hold a current and active Florida corporate charter or if incorporated in another state, have a current active charter from such state of incorporation and be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.

4. Meet any prequalification requirements set forth in the Invitation to Bid or Request for Proposal.

Evidence of compliance with this provision of the Rules shall be submitted pursuant to the requirements of the Invitation to Bid or Request for Proposal.

(d) Bids or proposals shall be opened at the time, date and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules. The District Representative (as defined in Section 1.8) shall evaluate the bids and make a recommendation to the District.

(e) To assist in the determination of whether a prospective bidder will be qualified, the District Representative may invite public presentation by firms (prior to the date for submitting bids) regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(f) In determining whether a bidder is qualified, the District may consider all relevant information, including but not limited to the following:

1. The ability and adequacy of the bidder's personnel.
2. Past or current performance for the District and with respect to other contracts of the bidder.
3. Ability to meet time and budget requirements.
4. Geographic location of the bidder's headquarters or office in relation to the project.
5. Current and projected workloads of the bidder.
6. Whether the firm is a certified minority business enterprise.
7. Volume of work previously awarded to the bidder.

8. Additional factors described in the Invitation to Bid or Request for Proposal.

(g) In evaluating the bids or proposals, the Board shall have the right to accept that bid which the Board determines, in the exercise of its reasonable judgment, is in the best interest of the District, or the Board may reject all bids because they are too high or because the Board determines it is in the best interests of the District to reject all bids. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety to be approved by the Board. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(h) Notice of the award or intent to award (or a notice rejecting some or all bids) shall be provided in writing by posting the notice in the District office for seven (7) days, with a copy to all bidders by United States Mail, overnight delivery, or by hand delivery.

Specific Authority: 190.011(5)

Law Implemented: 190.033

1.13 Purchase of Insurance

(1) Scope. The purchase of life, health, accident, hospitalization, legal expense or annuity insurance, or all or any kind of such insurance for the officers and employees of the District, and for health, accident, hospitalization and legal expense insurance for the dependents of such officers and employees upon a group insurance plan by the District, shall be governed by these Rules. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of this Rule, the following procedure shall be followed:

(a) The Board shall cause to be prepared a notice of Invitation to Bid.

(b) Notice of Invitation to Bid shall be advertised at least once in a newspaper of general circulation in the County and in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(c) The District may maintain a list of persons interested in receiving notices of invitations to bid. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted on the Invitation to Bid.

(e) If only one response to an Invitation to Bid is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of submitted bids, the District may undertake negotiations with those companies which have submitted reasonable and timely bids and, in the opinion of the Board, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to

District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, past performance for the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the Invitation to Bid best meets the overall need of the District, its officers, employees and/or dependents.

(h) Notice of the award or intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, overnight delivery, or by hand delivery, and by posting the same in the District office for seven (7) days.

Specific Authority: 190.011(5)

Law Implemented: 112.08

1.14 Protests With Respect To Contracts Awarded Or Bid Documents

The resolution of any protests regarding Bid Documents or the decision to award a contract for a bid or proposal shall be in accordance with this Section 1.14.

(1) Notice. The District shall give all bidders or proposers written notice of a decision to award (or reject all bids) by posting the notice in the District office for seven (7) days, with a copy being provided to all submitting firms by United States Mail or by hand delivery. The notice shall include the following statement: "Failure to file a written protest with the District within three (3) calendar days following the date of posting notice of the District's decision to award a contract shall constitute a waiver of any objection to the award of such contract."

(2) Filing.

(a) Any firm or person who is affected adversely by a District decision to award a contract shall file with the District a written notice of protest within three (3) calendar days after the posting of the final bid tabulation or after receipt of the notice of the District's decision, and shall file a formal written protest with the District within seven (7) calendar days after the date of timely filing the initial notice of protest. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of any right to object to or protest the District's decision or contract award. The formal written protest shall state with particularity the facts and law upon which the protest is based.

(b) With respect to a protest regarding the Bid Documents, including specifications or other requirements contained in an Invitation to Bid or in a Request for Proposals, the notice of protest shall be filed in writing within seventy-two (72) hours after the receipt of the proposed project plans and specifications or other contract documents. The formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days after the initial notice of protest was filed. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of

any right to object to or protest with respect to the aforesaid plans, specifications or contract documents.

(3) Award Process. Upon receipt of a timely filed notice of protest, the District shall abate the contract award process until the protest is resolved by final Board action. However, if the District determines particular facts and circumstances require the continuance of the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare, the contract award process may continue. In such circumstances, the contract awarded shall be conditioned on the outcome of the protest.

(4) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may (but is not obligated to) schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be posted in the office of the District not less than three (3) calendar days prior to such informal proceeding, with copy being mailed to the protestant and any substantially affected persons or parties. Within fifteen (15) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal and policy grounds for its decision.

(5) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided above (if available), the District shall schedule a formal hearing to resolve the protest in accordance with the procedural guidelines set forth in Section 1.7(1) above.

Specific Authority: 120.53(5), 190.011(5)

Law Implemented: 190.033

1.15 Bid Protests Relating To Any Other Award

Notwithstanding any other provision in these Rules, the resolution of any protests regarding the decision to solicit or award a contract for a bid or proposal under Sections 1.8, 1.9, 1.10, 1.11, or 1.12 shall be in accordance with this Section 1.15.

(1) Notice. The District shall give all bidders written notice of its decision to award or intent to award a contract—including rejection of some or all bids—by United States Mail or by hand delivery, and by posting same in the District office for seven (7) days.

(2) Filing. Any person who is affected adversely by the District's decision or intended decision shall file with the District a notice of protest in writing within seventy-two (72) hours after the posting of the final bid tabulation or after receipt of the notice of the District decision or intended decision, and shall file a formal written protest within seven (7) days after the date of filing of the notice of protest. The formal written protest shall state with particularity facts and law upon which the protest is based. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of all further proceedings.

(3) Award Process. Upon receipt of a notice of protest which has been timely filed, the District shall stop the bid solicitation process or the contract and award process until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances which require the continuance of the process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare, the award process may continue.

(4) Mutual Agreement. The District, on its own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within five (5) days (excluding Saturdays, Sundays and legal holidays) of receipt of a formal written protest.

(5) Hearing. If the subject of a protest is not resolved by mutual agreement, the District shall hold a proceeding in accordance with the procedural guidelines set forth in Section 1.7(1).

Specific Authority: 190.011(5)

Law Implemented: 190.033

1.16 Effective Date

These Rules shall be effective October 28, 1999, except that no election of officers required by these Rules shall be required until after the next regular election for the Board of Supervisors.