



CELEBRATION COMMUNITY DEVELOPMENT DISTRICT

**PROCUREMENT POLICIES AND
PROCEDURES MANUAL**

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MISSION STATEMENT

The Mission of the Purchasing Division is to provide fair and equitable treatment of all persons involved in public procurement and purchasing by the Celebration Community Development District (“CDD” or “District”) and to provide like commodity and contractual service and procurement policies, rules, procedures and forms for all District departments. Therefore, the Purchasing Division shall provide procurement services to the District at the appropriate quality and quantity in a timely manner and at the lowest cost to the residents while maintaining a procurement system of quality and integrity.

NEED FOR COMPETITION

The District’s Board of Supervisors and the District Manager recognize that open and fair competition is a basic part of public procurement. This reduces the appearance and opportunity for favoritism and inspires public confidence that District contracts are awarded equitably and economically. Complete openness and candor are important means of curbing any improprieties and establishing public confidence in the process by which commodities and services are procured.

It is essential to the effective and ethical procurement of commodities and services, that the District use a system of uniform procedures in managing and procuring commodities and services. Detailed records of District decisions in procurement must be maintained. Strict adherence to specific ethical considerations by all District officers, employees and agents, and by the suppliers and contractors is required to maintain the confidence of the residents, the District, and the business community in the expenditure of District funds.

DEFINITIONS

Community Development District – Local unit of special-purpose government which is created pursuant to Chapter 190, Florida Statutes and limited to the performance of those specialized functions authorized by that Statute; the governing head of which is a body created, organized, constituted and authorized to function specifically as prescribed in this Act for the delivery of urban community development services; and the formation, powers, governing body, operation, duration, accountability, requirements for disclosure, and termination of which are as required by general law.

District and CDD – The Celebration Community Development District as defined above.

Board or Board of Supervisors – Governing Board for the District.

District Manager – The Manager for the District as defined in Chapter 190, Florida Statutes.

Project – Any development, improvement, property, utility, facility, works, enterprise, or service now existing, undertaken or established under Chapter 190, Florida Statutes.

Purchasing Authority – Contracts/Purchasing Manager, District Manager or District Manager Designee.

INTRODUCTION

The operation of the District involves a diversity of skill, trades, and professions that covers a multitude of functions and services. District personnel are tasked to operate these functions as efficiently and economically as possible. It is necessary that all personnel work together as a

team to eliminate excess effort and waste for the efficient and effective operation of District government.

A function that has a significant operational and financial impact on the District is procurement. The Purchasing Division is the department that facilitates the procurement of materials, supplies, equipment, professional, technical, and contractual services required for District operation. The Purchasing Division also has a control function to ensure that the laws, rules and regulations concerning the purchase and disposal of goods and services are followed and that all transactions are carried out under the highest ethical standards. The Purchasing Division also provides information and research on new products and services, as well as trends and opportunities.

This manual has been developed to serve as a guide, within which, well-informed decisions can be made. The purpose is to point out the duties and responsibilities of those involved with the procurement function and to assist them in maintaining the District's reputation for fairness and integrity while obtaining the maximum value for each dollar of expenditure.

TYPES OF COMMON PURCHASING TRANSACTIONS

Standard Purchase Order

The District standard purchase order begins with a number that is issued for routine District purchases of commodities and services. The purchase order is requested by the user Department with a requisition and is issued for the purchase of most types of items and/or services. These are for items included within the annual budget.

Contract Purchase Order

Contract Purchase Orders are issued as a result of a quote or bid, and are usually for construction or consultant type jobs where progress payments are required throughout the duration of the project OR for payments for transactions where regular specific payments are required over a specified length of time. While the term of a Contract Purchase Order may or may not coincide with the fiscal year, the amount of funds must be available in the current year's budget. Requests for construction, consultants, leases, or similar transactions generally are initiated from the District Representative (Walt Disney Imagineering) and approved by the Board of Supervisors at a regularly scheduled meeting.

Emergency Purchase Order

Emergency purchases are ONLY for commodities or services necessary because of certain emergency conditions that may affect the health, safety, and welfare of the residents of the District. These are initiated and approved by the District Manager, with a report provided at the next Board meeting.

THE PURCHASING FUNCTION

The purchasing function begins with a need by a department. For everyone (the user, the vendors and the Purchasing Division) and for budgeting purposes, needs must be planned as far in advance as possible to be efficient and effective. Each need must be thoroughly reviewed as to the type of procurement process that should be utilized to best facilitate the delivery of the commodity or service required, at the time it is needed and at the best possible price. Planning should include coordination with other departments as necessary. The Purchasing Division

services all District departments; do not hesitate to contact purchasing staff to help in planning your purchasing needs.

Requesting a Purchase

Most purchases are requested using a requisition form. Please complete every blank on the form applicable to the request for purchase, including the bill to/ship to information so that all needs are communicated properly. Requisitions received without the necessary information may slow down the approval process. All requisitions must be approved by the using Department Director and the Accounting Department prior to being received in the Purchasing Division. Requisitions received in the Purchasing Division without proper approval will be returned to the user.

Specifications

The term “specification” means any description of the physical or functional characteristics, or of the nature of the supply or service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

The specification is the basis for obtaining a commodity or service suitable for the District needs considering the total costs of ownership and operation as well as the initial purchase costs. It is the policy of the District that specifications permit maximum practical competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the user’s functional and/or performance requirements.

If a purchase is made without knowing the exact requirements of the using department, errors are common results. It is the responsibility of the requesting department to understand the Department’s needs and requirements and communicate those needs to the Purchasing Division. Purchasing will assist the using department in writing specifications for any product or service required. Certain technological or standardized purchases may require participation from other staff in drafting the specifications.

When developing specifications, accepted standards shall be used and unique requirements shall be avoided. Specifications that list a Brand Name “Or Equal” description are intended to be descriptive and not restrictive, and to indicate the minimum quality and characteristics of the products that will be accepted. Proposals offering “equal” products will be considered for award if such products are clearly identified in the proposal and are determined by the user and the Purchasing Division to fully meet or exceed the characteristics listed in the specifications.

METHODS OF PROCUREMENT

No procurement of goods or services of \$25,000.00 or more shall be made unless by competitive sealed bids received in the manner hereinafter prescribed, except in at least one of the following circumstances, as further described in the District’s adopted Rules of Procedures.

When it is determined in accordance with procedures adopted by the District that the use of competitive sealed bidding is either not practical or not advantageous to the District, a contract may be entered into by any of the following methods of formal solicitation through the District or formal solicitations through other governmental agencies as described below:

1. Competitive sealed proposals
2. Consultants’ Competitive Negotiation Act (CCNA)
3. Request for qualification

4. Request for proposal
5. Sole source procurement
6. Invitation to negotiate and
7. Assignment of contract to the District.
8. **Piggyback:** Under the piggyback method of cooperative purchasing, a large purchaser of an item (or group of items), such as the County, invites bids, enters into a contract, and arranges, as part of the contract, for other governmental units to purchase the item (or items) under the same terms and conditions. The vendor is given the option at the time he submits his bid, of allowing or not allowing other governmental agencies to use the contract. A bidder's refusal to allow other governmental agencies to piggyback on a contract shall not result in disqualification.
9. **Cooperative Bid:** Two or more governmental agencies (e.g., Celebration CDD and Enterprise CDD) agree on specifications and contract terms and conditions for an item of common usage and combine their requirements for this item in a single invitation for bid. Once bids have been received and discussed by participating agencies, each agency issues its own receiving and inspection process, issues its own checks for payment and resolves its own disputes. All bids issued with the intent of cooperative purchasing shall include names of participating governmental agencies, delivery points and estimated usage.
10. **Utilization of State Term Contracts:** SPURS, SPA (formerly SNAPS), NASPO contracts. The utilization of various GSA (General Services Administration) contracts as allowed by the General Services Administration for local and state governmental purchasing.

PURCHASING REQUIREMENTS

Small Purchases

A Small Purchase is defined as any purchase where the total value is below the bid threshold limit of \$25,000.

The estimated value of the purchase determines what steps must be completed before a purchase order can be issued.

Obtaining Quotes

In utilizing the Small Purchases Procedure, the following shall apply:

1. Award shall be made to the vendor providing the most value while meeting the needs of the District.
2. Requisition requests shall not be divided so as to avoid the quoting process.
3. The following are the guidelines to be used for formal and informal quoting.
 - a. Estimated Value \$1,000.00 or Less
Purchase through Purchase Order as per guidelines included in this manual.
 - b. Estimated Value \$1,000.01 to \$2,500.00

This threshold requires a single phone quote by the user department. However, the user department should check the marketplace to ensure that the best value is being obtained. User department may request a purchase order and Department Director's approval is required

prior to making purchase. Written documentation as to vendor name and price quoted shall be on file with the user department.

c. Estimated Value \$2,500.01 to \$5,000.00

The user department shall request two (2) or more written quotes. Written documentation of vendor names and amount quoted shall be sent to the Purchasing Division with the requisition having both Department Director and Accounting approval.

d. Estimated Value \$5,000.01 - \$24,999.99

The User Department shall solicit written quotes from vendors using the District vendor files. Once quotes are received, the User Department shall submit a requisition to the low quote vendor. All requisitions must be approved by the User Department Director, Accounting, and the District Manager. Once approved, the Purchasing Authority will then process the Purchase Order to be sent to the awarded Vendor.

e. All purchase requisitions shall be approved by the Department Director or District Manager approved designee and Accounting Department prior to being sent to the Purchasing Division.

4. If the Purchasing Division or any Department foresees a need for products or services of a like or similar nature costing more than \$25,000.00 in aggregate within a fiscal year, it may recommend Competitive Sealed Bidding, even though the products and services individually may be under the \$25,000.00 bid threshold. Vehicle repair and maintenance work, building repair and maintenance work, road repair and maintenance and any commodity that cannot be managed by competitive bidding and are subject to daily/weekly market price fluctuations, are exempt from this requirement.
5. When previous experience indicates a reasonable expectation that combined requirements from all Departments for a commodity or service will exceed the bid threshold within a fiscal year, the Purchasing Division may solicit requirements from all users of this commodity or service, cause specifications and bid documents to be developed and arrange for Competitive Sealed Bidding.
6. Emergency procurements are exempt from the provisions of this procedure. An explanation of the reasons for the declaration of an emergency shall be documented in the Purchasing Division. This provision shall be used only if there is imminent danger to the health, safety or welfare of the residents of the District or threat of deterioration of a critical service as approved by the District Manager or designee.
7. Several categories of purchases are exempt from the procedures outlined in this manual. State and Federal operating procedures are followed when purchases are made from the Federal Surplus Property Utilization Program, PRIDE and RESPECT.
8. Where only one source exists for a commodity or service, it shall be documented by the Purchasing Authority or his/her designee as provided for by Florida Statute.
9. Good business judgment may dictate deviations from these policies and procedures. If this occurs, the reason(s) for the deviation shall be approved by the Purchasing Authority or his/her designee and shall be documented in the Purchasing Division. Such deviations shall not violate any requirement of the Procurement Policies and Procedure.

INVOICE APPROVALS

All invoices must be coded to a specific budget line item and approved prior to sending to Accounting for payment. Field-related invoices are approved by the Field Manager and administration invoices are approved by the Office Manager. Invoices that do not have a

purchase order must be approved by the Department Director and the District Manager prior to sending to Accounting for payment. The invoice must be accompanied by a memo from the User Department Director as to why a purchase was made without an approved purchase order. The only acceptable invoice without a corresponding purchase order will be for emergency purchases.

FORMAL SOLICITATIONS

Competitive Sealed Bidding

No contract shall be let by the District for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the District shall exceed \$25,000.00 unless formally competitively bid as per Section 190.033, Florida Statutes, in which the bid shall be publicly advertised except as stated in Alternate Methods of Procurement or if the goods or services are exempted from formal solicitation. Generally, the Engineer will facilitate all form bids and sealed bidding on behalf of the District related to construction items. Other departments, such as the Field Office, will receive sealed bids on behalf of the District for field-related bids, such as landscaping services. For definition purposes, these individuals (Engineer, Field Manager) are referred to below as Purchasing Division for this section only. Please refer to the District's adopted Rules of Procedure for additional details and information regarding this process.

1. REQUESTING DEPARTMENT'S RESPONSIBILITY

- a. A fully executed Bid Proposal/Authorization Form is to be submitted to the Purchasing Division.
- b. Submittal of all technical specifications, permit requirements, special conditions/requirements, plans, prints and/or drawings necessary to the project. Specifications may be submitted electronically to the Purchasing Division via email.
- c. The requesting department is to review the draft of the project bid package and return to the Purchasing Division with corrections and/or changes.
- d. The requesting department is to provide a representative to attend a pre-bid information conference, bid opening and a pre-commencement conference.
- e. The requesting department is to provide additional copies of plans, prints and/or drawings, as required by Purchasing Division, for proper distribution to potential bidders.
- f. Failure to adhere to any of the above may result in an unnecessary delay of the bid process.

2. PUBLIC NOTICE

Purchasing shall publish at least one time in a newspaper of general circulation in the District, a notice inviting sealed competitive bids. Purchasing shall also utilize the electronic notification system for notifying potential bidders. There is to be an interval of at least five (5) calendar days between the date of the notice and the bid opening. The notice shall include the following, where applicable:

- a. Bid identification number.
- b. Name of item or service to be bid and description.

- c. Place where bid documents, including specifications, are available.
- d. Cost, if any, of bid documents.
- e. Date, time and location at which bids will be received; date, time and place for pre-bid information conference, if required.
- f. Date, time and location where bids will be opened.

In addition to the public notice, the Purchasing Division shall notify any vendors who have indicated an interest in furnishing these goods and/or services to the District; or are currently registered with the electronic notification system of the specified goods and/or services; and who have not previously been denied the right to submit bids to the District.

3. PRE-BID CONFERENCE

- a. **PURPOSE:** This procedure sets forth a standardized method for conducting Purchasing Division pre-bid conferences. These guidelines are to be followed whenever the Purchasing Division schedules a pre-bid conference. The purpose of this procedure is to establish responsibilities and prescribe specific necessary action for the Purchasing Division during a pre-bid conference.
- b. **APPLICATION:** This procedure is applicable to any pre-bid conference.
- c. **RESPONSIBILITIES:**
 - 1. Purchasing Authority: The Purchasing Authority or their authorized designee shall, along with the using department, determine if and when a pre-bid conference is necessary. Notification of the pre-bid conference will be contained in the bid document or subsequent written addendum. The specific intent is to satisfy the bidders as to the exact nature of the District's requirements. The Purchasing Authority or their authorized designee, will conduct each pre-bid conference if called for in the invitation to bid. The Purchasing Authority or designee will conduct and record the minutes of the pre-bid conference.
 - 2. User Department Representative: The user department representative will be present to respond to technical questions where applicable.
- d. **PROCEDURE:** This procedure will set forth those steps to be followed during the pre-bid conference by the Purchasing Authority or their authorized designee:
 - 1. Introducing himself/herself.
 - 2. Introduce all concerned District representatives.
 - 3. Give a brief statement on the intent of the pre-bid conference, inform all attendees that the pre-bid conference will be recorded, and if it is a mandatory pre-bid.
 - 4. **Sign-in Form:** The Purchasing Authority or designee will provide a sign-in form and require each attendee to sign.
 - 5. **Invitation to Bid:** The Purchasing Authority or designee may introduce each document in the Invitation to Bid. Special attention shall be given to bid documents, specifications and proposals to insure that each bidder has the same interpretation of the documents.

6. Discussion: No question shall be answered unless the Purchasing Authority or designee is satisfied that he/she has the correct answer and/or until he/she has obtained the correct answer from knowledgeable sources (legal, engineers, user department, etc.). Private discussions relative to the bid between District employees and any bidder are prohibited. Any information shared with one bidder shall be shared with all bidders.
7. Review: The Purchasing Authority or designee shall review the pre-bid conference notes and approve, as applicable, an addendum prepared as a result of the conference, for immediate distribution to all attendees.
8. The Purchasing Division shall retain the list of attendees, copy of the pre-bid conference minutes, and any resulting addendum for its files.

4. BID SUBMISSION AND OPENING

Sealed bids are received and retained in the Purchasing Division until the date and time specified for bid opening on the public notice. The date and time of receipt of the bid is marked with a time stamp on the sealed envelope or with a time stamped sheet which is attached to the bid envelope/package. All bids received after the specified time will not be considered for award and will be returned to the bidder unopened

5. WITHDRAWAL OF BID

After receipt by the Purchasing Division, bids may be withdrawn by the bidder, up until the scheduled time for opening, upon presentation of proper identification. However, if a bidder wishes to withdraw a bid, but the bid cannot be picked up prior to bid opening time, then a formal written request for withdrawal must be made to the Purchasing Division, who will file the request, along with the unopened, withdrawn bid, in the official bid file.

6. BID OPENINGS

Bids are opened promptly, at the time designated in the public announcement by the Purchasing Authority or designee. That person opens the bids in the presence of at least one (1) witness, reads aloud the name of the bidder, the amount of the bid, and any other pertinent information contained in the bid.

Bidders and the public are encouraged to attend bid openings. Within a reasonable time following the bid opening, the bids shall be tabulated and the results presented to the department that requested the bid for their recommendation of award.

BID OPENING PROCEDURE

PURPOSE: This procedure sets forth a standardized method for conducting Purchasing Division Bid Openings. These guidelines are to be followed whenever the Purchasing Division schedules a Bid Opening. The purpose of this procedure is to establish responsibilities and prescribe specific necessary action for the Purchasing Division during a bid opening.

APPLICATION: This procedure is applicable to the Purchasing Authority.

PROCEDURES:

1. Call to Order:

- a. Introduce yourself and District personnel.
- b. Ask everyone present to sign the attendance sheet.
2. State the time and that bids will no longer be accepted.
3. Give the name of the bid and the bid number.
4. Proceed with bid opening by opening each bid and stating the submitting company names and prices as deemed appropriate by the Purchasing Authority.
5. Announce the anticipated date of award.
6. Close meeting and thank attendees.
7. Bid information will not be divulged over the telephone. Tabulation sheets are posted publicly, including the public bulletin board in the Purchasing Division within twenty-four (24) hours after the bid opening. Copies of the tabulation sheet are available if requested.
8. Copies of the Bid Documents may be obtained by a written request to the Purchasing Division once a recommendation of award has been received by the Purchasing Division or available electronically.

7. AWARD OF BID

The Purchasing Division along with the utilizing Department determines the lowest responsible and responsive bidder. The term “responsive and responsible bidder” means a bidder whose bid conforms in all material respects to the solicitation, who has the capability in all respects to perform the contract requirements, and who, by his integrity and reliability, gives reasonable assurance of good faith performance. Once a responsive and responsible bidder has been identified, the Purchasing Division will present a formal request to the Board of Supervisors at their next meeting for formal approval of the authorization to award a contract.

- a. In determining the lowest responsive and responsible bidder, the Purchasing Division may, within reason, after the bid opening, request additional information of the bidder concerning his responsibility to perform, and the bidder may voluntarily provide additional or corrective information concerning his responsibility, which may be considered in making the bid award.
- b. BID EVALUATION CRITERIA

Evaluation criteria may be presented to the Board of Supervisors prior to advertising for sealed bids and may include, but is not limited to, the following:

- i. Conformance to specifications and other documents of the bid package.
 - ii. Total bid price.
 - iii. Discounts.
 - iv. Previous performance.
 - v. Delivery time of item or completion time of project.
 - vi. Transportation costs.
 - vii. Licenses/credentials necessary for delivery and/or completion of project.
 - viii. Compliance with appropriate Federal, State and local laws.
- c. No bidder is permitted to correct a bid mistake after bid opening except that any bidder may correct errors in extensions of unit prices in the bids, or in multiplication, division, addition or subtraction. In such cases, the unit prices bid shall not be changed.

- d. A voluntary or negotiated reduction in price from a low bidder can be accepted after the bid opening, provided such reduction does not result in the modification or deletion of any conditions contained in the bid documents.
- e. Bid award is made to the lowest responsive and responsible bidder by one of the following methods:
 - i. Formal contract, supported by a performance and payment bond , (if required), is used when periodic payments are made for work performed on the contract prior to completion of all the work, as is generally the case with construction or landscape work. This protects the District against additional costs caused by abandonment of the work and claims by third parties for nonpayment.
 - ii. The Purchase Order will be the sole contract document, when a formal written contract is not requested by the User Department.

8. PRE-CONSTRUCTION CONFERENCE

Once a contract has been approved by the Board of Supervisors, staff is authorized to proceed with the work effort. A pre-construction/pre-commencement conference is to be held, if necessary, to finalize work scheduling or any items pertinent to performance and/or completion of the work/project.

9. NOTICE TO PROCEED

After all necessary documents (insurance, bonding, permits, etc.) have been received and a contract, if necessary, has been properly signed and received by the Purchasing Division, the Purchasing Division shall issue a Notice to Proceed to the successful bidder, based on the start date that has been established between the vendor and the user department. Payments are only made after Notice to Proceed is issued to the supplier and on file with Accounting and each invoice is approved by the Department for payment.

10. BLACKOUT PERIOD

The blackout period is defined as between the time the submittals for invitation for bid or the request for proposal, or qualifications, or information, or the invitation to negotiate, as applicable, are received at the District Purchasing Division, and the time the Board awards the contract. During this blackout period, any attempt to influence the thinking of District Supervisors or staff for or against a specific cause related to a solicitation for goods or services, in person, by mail, by facsimile, by telephone, by electronic mail, or by any other means of communication, may result in disqualification of their award and/or contract.

PROTESTED SOLICITATIONS AND AWARDS

After posting of recommendation of award on the Purchasing Division public bulletin board, any actual or prospective bidder or proposer who is aggrieved in connection with the pending award or other element of the process leading to the award of a contract, may protest to the District.

The following is copied from the District's adopted Rules of Procedure with respect to bid protests.

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

ACQUISITION OF PROFESSIONAL SERVICES UNDER CONSULTANTS' COMPETITIVE NEGOTIATION ACT

PURPOSE

These procedures are established to ensure the District is in compliance with Section 287.055, Florida Statutes, the "Consultants' Competitive Negotiation Act" ("CCNA") and Section 190.033, Florida Statutes. Changes in these Statutes shall change requirements in this section which are impacted by the change. In addition, these Policies and Procedures are designed to establish guidelines for the use by District staff in making recommendations to the Board for engaging architects, landscape architects, professional engineers and registered surveyors and mappers for professional services required for District projects.

The following is copied from the District's adopted Rules of Procedure related to procurement policies for professional services:

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 non-current 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

ACQUISITION OF PROFESSIONAL SERVICES NOT WITHIN THE SCOPE OF CCNA

PURPOSE

Many professional services such as accountants, physicians, attorneys, etc. do not come under the jurisdiction of the CCNA. Other services are exempt from CCNA requirements because they are under the threshold statutory requirements. For these non-CCNA professional services, CCNA procedures will generally be followed. However, the District Manager or designee, for any non-CCNA required professional service to ensure that the District is obtaining the most

qualified firm at terms in the best interests of the District, may use any of the following selection methods:

1. Competitive bidding
2. Competitive negotiation
3. Request for qualification
4. Request for proposal
5. Request for information
6. Any other method allowed or permitted by law ensuring the District selects the most qualified firm at the lowest cost

The Board must approve any contract entered into with any firm providing professional services selected by any of the aforementioned means.

EXCEPTIONS

Due to the highly specialized nature of selecting outside counsel to represent the District and the selection of expert witnesses and consultants to either testify or assist in litigation, these services will be selected by the District's Attorney who will not be required to follow these procedures. Nevertheless, in selecting outside counsel and other litigation experts, the District's Attorney should be mindful of the costs involved and should strive to select those firms and individuals who are the most qualified and who can provide the services to the District at the lowest cost.

CONTRACTS

PURPOSE

All procurement contracts shall be deemed to include all provisions of Section 190.033, Florida Statutes, and other laws pertaining to the District. All procurement contracts shall be subject to such provisions and laws regardless of whether such laws are referred to in the procurement contract.

REQUIREMENTS

1. All contracts for supplies, services and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract.
2. The Purchasing Authority, after consultation with the District's Attorney, or his/her designee, may include clauses appropriate for this purpose in bid and proposal specifications and contracts.
3. The Purchasing Authority, after consultation with the District's Attorney, or his/her designee, may establish standard contract clauses and vary any such standard contract clauses for any particular contract.

CHANGE ORDERS

In the course of business, it may be necessary to make changes to a Purchase Order. This is accomplished by a Change Order. A user may request a Change Order to any issued Purchase Order for review by the Purchasing Authority. Change Order procedures shall not be used to avoid ANY standard purchasing procedure.

The requesting department must submit a written request for a Change Order for any reason other than freight. A change order will be needed to correct errors, omissions, or

discrepancies, to cover acceptable cost over-runs or freight cost if the original purchase order did not include freight cost or to incorporate requirements to expand or reduce the scope of goods or services ordered. A written change order is required when a project has changes to the scope of work, exceeds the number of days for substantial completion or has a change in contract price.

Any change orders to purchase orders must be submitted in writing to the Purchasing Division on a change order form.

If a change order is needed on a construction project and the project is unable to proceed without the approval of a change order, the District Manager has the authority to approve the change order and bring it before the Board at the next regularly scheduled meeting with documented explanation of the condition.

All purchase orders which are equal to or greater than \$25,000.00 must have Board approval. If a change order causes a purchase order to equal or exceed \$25,000.00, it must have Board approval.

PROCEDURES

1. Any change orders to purchase orders must be submitted in writing to the Purchasing Division on the District's Change Order Form.
2. Use the form located in the Purchasing Division and fill out the necessary and applicable fields.
3. The Department Director will sign the form and send to the Accounting Department for signature approval.
4. Accounting will then forward the change order to District Manager when it is applicable for District Manager to sign.
5. The Purchasing Authority will then sign and process the change order.
6. If the change order does not exceed the contingency amount or does not change the scope of work or contract amount, Purchasing will sign the change order and distribute a copy to the vendor, the department and Accounting.
7. If the change order exceeds the contract amount or exceeds any contingency or contains an addition to the scope of work, the Purchasing Division will sign the change order and prepare an agenda item for the next available Board meeting.
8. Once the change order is fully executed by the Chairman of the Board, Purchasing will distribute the fully executed change order to the vendor, the department, Accounting and the District Manger (if applicable).

SOLE / SINGLE SOURCE

The term "**sole source**" means that the commodity can be legally purchased from only one source. This is usually due to the source owning patents and/or copyrights. A requirement for a particular proprietary item does **NOT** justify a sole source purchase if there is more than one potential supplier for that item. Use of Brand Names and Model numbers does **NOT** constitute a sole source. The term "**single source**" means that a commodity can be purchased from multiple sources, but, in order to meet certain functional or performance requirements (repair parts, matching existing equipment or materials), there is only one economically feasible source for the purchase.

PROCEDURES

1. Purchases of goods and/or services from a sole/single source may be exempted from the quoting or bidding requirements upon written submittal to the Purchasing Authority stating the purpose, need, and justification that this product or service is the only one that will produce the desired results. A letter or statement from a dealer, distributor or manufacturer will not be sufficient. The justification letter shall answer the following questions:
 - What is the purpose and need of this product or service?
 - What functional or performance specifications does this product or service have that others do not have?
 - Why was this product or service selected over all other products or services?
 - What other vendors' products/ services have been evaluated?
 - Specifically why doesn't each of the other products or services meet the functional or performance requirements listed in question 1 above?
2. Upon receiving written justification letter, the Purchasing Authority shall review and if he/she concurs that this is the only source for this purchase, shall approve the purchase.
3. If the purchase exceeds the bid limit, an agenda item must be prepared by the Purchasing Authority for Board approval.
4. A record of the sole/single source purchase shall be maintained as a public record and shall list the vendors name, amount, type of purchase, and purchase order number used to make the purchase.

EMERGENCY PURCHASING

PURPOSE

An emergency is any condition that may affect the health, safety, and welfare of the residents of the District. It may also be a condition that stops or seriously impairs the necessary function of District government. If an emergency situation occurs, the following procedures shall be followed.

PROCEDURES

1. If during a normal business day, a Department Director determines that an emergency exists and a purchase is required, the Director shall contact the Purchasing Division to request an emergency purchase order. A complete description of the emergency and justification for the purchase is required. The emergency must be valid and not just a result of poor planning. If the emergency is anticipated to cost less than \$10,000.00 and the Purchasing Authority determines the emergency is valid, he/she will issue a verbal purchase authorization. If the emergency is anticipated to exceed \$10,000.00, the Purchasing Authority shall review the documentation and obtain approval from the District Manager. The Department may make the purchase and submit a completed requisition form to the Purchasing Division no later than the next business day after the emergency. The completed and signed requisition form must be accompanied by a written description and explanation of the emergency and circumstances. If the requisition is greater than the bid limit, the Department must prepare an agenda item for

- Board certifying that the conditions and circumstances required emergency purchasing procedures.
2. If emergency purchases are required at times when the Purchasing Authority is unavailable, the Department Director may make the purchase at his/her discretion and shall contact the Purchasing Division the next business day to obtain an emergency purchase authorization. This type of emergency purchase is subject to all requirements stated above and processed in the same manner. Approvals are obtained as required by the dollar value of the purchase.
 3. Emergency Purchase Orders are assigned special numbers to designate the specific emergency, and to facilitate tracking as may be required for various agencies such as Federal Emergency Management Agency (FEMA).

OPEN RECORDS

The District is governed by the Florida Open Records Laws, Chapter 119, Florida Statutes. All bids, RFPs, quotes, and all documentation are open for public inspection ten (10) days after the solicitation opening. Certain proprietary and financial information from vendors may be excluded under very strict circumstances. All memos and internal correspondence concerning any purchasing matter are open for public inspection.

UNAUTHORIZED PURCHASES

An unauthorized purchase is any purchase, order, or contract that is made by any District employee or official outside of the purview of the District Rules of Procedures or the Procurement Policies.

It is unlawful for any District officer or employee to order the purchase of any materials, supplies, equipment or professional or contractual services or to make any contract within the purview of this policy other than through the Purchasing Authority. Any Purchase Order or Contract made contrary to the provisions of this policy shall not be approved and the District shall not be bound thereby.

The Purchasing Authority is the sole contracting agent for the District. The District Manager or the Purchasing Authority are the only persons authorized to execute contracts for the procurement of commodities, professional and contractual services, or the sale of property, without express action by the Board.

All commodities, professional and contractual services shall be purchased through process outlined in the approved Procurement Policy and Procedures Manual. Purchases, orders, or contracts that are subdivided to circumvent the Purchasing Procedures shall be considered **unauthorized purchases**.

Violation of the Procurement Policies and Procedures may be grounds for disciplinary actions as well as penalties.

INTERACTION WITH OTHER DISTRICT DEPARTMENTS

The Purchasing Division is a service department. Therefore, interaction with all District Departments is a necessity. However, there are departments within the District who may also have input into what and how to purchase.

Accounting

No purchase can be made unless funds are available. It is the responsibility of the requesting department to ensure sufficient and proper funding is available prior to submitting a request to the Purchasing Division. If a purchase request is received and the attempt to process it fails because of lack of funds or an improper account code, it will be returned to the requesting department. Once Accounting has assured adequate funds are available, the request can be returned to the Purchasing Division for processing.

Others

Because of standardization, specific legal or procedural requirements, there are departments who may regulate what is bought or how it is bought. These types of purchases must be processed through and approved by these agencies before the request for purchase is sent to the Purchasing Division. Listed below are some examples with the other responsible Departments listed.

- Building Repair/Remodeling/Maintenance – Property Management
- Copiers – Purchasing
- Computer Equipment and Software – Purchasing Division to coordinate with Information Technology
- Construction – Property Management and Purchasing Division
- Vehicles– Purchasing Division

SIGNATURES

The Purchasing Division will maintain a file of current signature lists. This list contains the names and signature of each department representative who is authorized to request purchases and authorize payments for goods and services. Authorizations may be limited by a dollar limit. It is the responsibility of each department to send to the Purchasing Division revised forms each time there is a change in authorization. Requests for purchases or payments with an unauthorized signature will be returned to the Department.

Contracts for the purchase for any commodities or services may only be signed by the Purchasing Authority, District Manager, or the Chairman of the Board, as may be applicable. Agreements such as for leasing of copiers, rental of uniforms or equipment must be signed by the District Manager.

ACCOUNTING AND PAYMENTS

It is the responsibility of each department to request payment for goods and services received. The Purchasing Division cannot independently process payments. The Accounting Department has certain policies and procedures to follow and will furnish those upon request and provide instruction.

There is a State Law (Section 218.7, Florida Statutes, Prompt Payment Act) governing payment for goods or services by government agencies. It states that vendors may assess a finance charge of 1% per month for payments not made within forty five (45) days; therefore, it is imperative that all invoices are paid as promptly as possible.

VENDOR RELATIONS

One of the functions of the Purchasing Division is establishing and maintaining relations with firms who request to do business with the District and with firms who regularly do business with the District. Any user that develops a problem with a vendor and cannot satisfactorily resolve that problem should contact the Purchasing Division. It is District policy to be fair with all bidders and vendors while still protecting the interests of the District.

Any problem should be documented immediately in writing giving all details such as date, nature of problem, person contacted, conversations between the District and the vendor. This can be done by keeping a log of the issue and keeping the Purchasing Division copied on the log and up to date of the issues. The Purchasing Authority has the authority to take action against any vendor, including possible suspension/debarment from doing business with the District for a specified length of time. This is a very drastic action and will not be done without proper documentation. Documentation must be very detailed and immediately recorded.

SURVEYS / REFERENCES

District employees shall refrain from completing surveys or providing testimonials or any other type of reference for any contractor without prior approval of the District's Attorney, District Manager, or Purchasing Authority. There may be legal and contractual consequences when documents such as these are completed without prior authorization.