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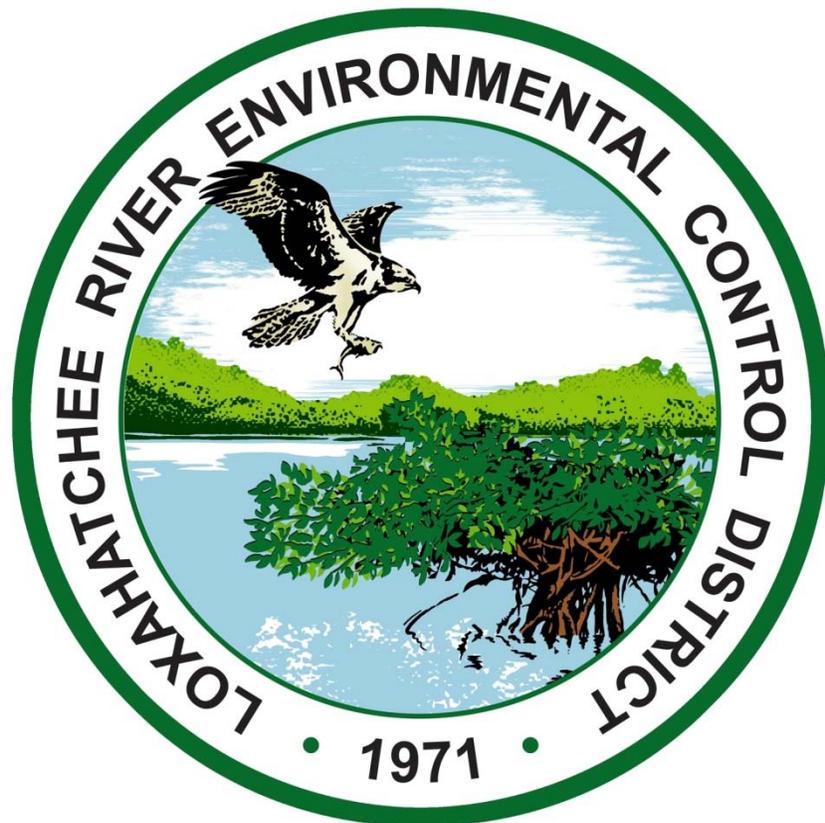
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**LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT  
PROCUREMENT POLICY**

## **1.0 EXECUTIVE SUMMARY**

The Loxahatchee River Environmental Control District's (the "District") Procurement Policy (the "Procurement Policy") was created to establish public confidence in the procurement process, ensure that all persons involved in the procurement process are treated fairly and equitably, and provide the District with quality, economical services and goods in a timely manner. The District strives to conduct the entire public purchasing process in an open and ethical manner, without conflicts of interest, favoritism, or the appearances of impropriety. The District as an Independent, Multi-County Special District is only required to comply with certain specified procurement provisions in the Florida Statutes, such as those governing public construction, auditor selection, and consultant's competitive negotiation. The District has further limited itself as described in this Procurement Policy to ensure fair, equitable, and open procurements. The Procurement Policy centralizes purchasing to maximize the value obtained by the District in the expenditure of public funds through free and open competition between the most qualified, responsive, and responsible persons or firms interested in providing necessary goods and services to the District in a timely manner. As the District continues to grow, the need may arise and the District reserves the rights to waive, review, supplement, or rescind any policies or portion of the Procurement Policy from time to time, as it deems appropriate. District Personnel will be notified of such changes to the Procurement Policy as they occur. This Procurement Policy shall serve as a general guide, but specific questions or concerns related to construction contracts, which are not addressed in this Procurement Policy, should be directed to the Purchasing Principal. If necessary, the Purchasing Principal will seek guidance from relevant Department Directors or the Executive Director.

### **1.01 AUTHORITY**

The authority to procure and pay for goods or services for the District rests with the Executive Director. The Finance Department controls all purchases. The Purchasing Principal is responsible for the functions of the purchasing process and will make recommendations, when necessary, to the Director of Finance, Deputy Executive Director, Executive Director, or the Board. The Purchasing Principal is the authorized representative of the District to procure materials for the District. In the Purchasing Principal's absence, the Warehouse Coordinator may procure goods and services on the District's behalf.

Before entering into any agreement, contract, or arrangement that obligates the District to pay a sum of money or otherwise perform in some manner, proper purchasing procedures must be followed in accordance with the Procurement Policy. All District employees are required to follow the provisions of this Procurement Policy and must not engage in any unauthorized purchase. Any District employee who intentionally or knowingly commits an unauthorized purchase may be held personally liable for such purchase and may be subject to disciplinary actions.

The following are unauthorized purchasing practices:

- 1) Dividing purchases into multiple segments in an attempt to issue a single purchase order below the dollar threshold requirements as established in this Procurement Policy.
- 2) Purchase of any supply(ies) or service(s) above the dollar threshold established in this Procurement Policy directly from a vendor, bypassing the Purchasing Division.
- 3) Committing to a purchase without issuance of an authorized Purchase Order, when one is required.

- 4) Providing false information such as a false quotation.
- 5) Adding unauthorized purchases to a previously approved Purchase Order without the appropriate approval authority and subsequent modification of the Purchase Order.

Pre-approval is required before purchases are made and after-the-fact approval of purchases is to be avoided. Violation of this Procurement Policy may result in discipline up to and including termination.

## **1.02 DEFINITIONS**

- 1) **Best** – means the highest overall value to the District based on factors that include, but are not limited to, price, quality, design, workmanship, past performance, and timeliness.
- 2) **Bidder** – means a person or entity replying to an ITB, RFP, ITN or RFI.
- 3) **Board** – means the Governing Board of the District.
- 4) **Change Order** – means a written order amending an existing Purchase Order or Contract to correct errors, omissions, or discrepancies, to cover acceptable overruns and freight costs, to expand or reduce the scope of goods or services ordered, to expand or reduce contract duration, or to direct other changes in contract execution to meet unforeseen field, emergency, climatic, regulatory or market conditions.
- 5) **Competitive Selection** – means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.
- 6) **Continuing Contract** – means a contract that allows for incremental execution using individual task orders.
- 7) **Contract** – means (a) a deliberate verbal or written agreement between two or more competent parties to perform a specific act or acts; (b) any type of agreement regardless of what it is called for the procurement of goods, services, consultant services, or construction; and (c) a purchase order.
- 8) **Design-Build Firm** – means a partnership, corporation, or other legal entity that: (a) Is certified under Section 489.119, Florida Statutes to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or (b) Is certified under Section 471.023, Florida Statutes to practice or to offer to practice engineering; certified under Section 481.219, Florida Statutes to practice or to offer to practice architecture; or certified under Section 481.319, Florida Statutes to practice or to offer to practice landscape architecture.
- 9) **Design-Build Contract** – means a single contract with a design-build firm for the design and construction of a public construction project.
- 10) **Design Criteria Package** – means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site

development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.

- 11) **Design Criteria Professional** – means a firm who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.
- 12) **District** – means the Loxahatchee River Environmental Control District, a special district created by the Florida Legislature under Chapter 71-822, Special Acts of Florida 1971 and restated by codification in Chapter 2002-358, Laws of Florida.
- 13) **Electronic Posting or Electronic Post** – means the noticing of solicitations, agency decisions or intended decisions, or other matters related to procurement on a centralized Internet website designated by the District for this purpose.
- 14) **Emergency Purchase** – means an expeditious purchase of goods, services, consultant services or construction services to reduce an imminent or existing threat to the health, safety, or welfare of persons or property within the District, as provided for in Section 2.09 of this Procurement Policy.
- 15) **Invitation to Bid or ITB** – means a written or electronically posted solicitation for competitive sealed bids for the purchase of goods, services, or construction. The invitation for bid is used when the District is capable of specifically defining the scope of work for which the contractual service is required or when the District is capable of establishing precise specifications defining the actual commodity or group of commodities required.
- 16) **Invitation to Negotiate or ITN** – means a written or electronically posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of goods or services.
- 17) **Purchase Order or PO** – means a legal document authorizing the purchase of and subsequent payment for materials, supplies, equipment, construction, repairs, services, etc.
- 18) **Purchase Requisition** – serves to inform the Purchasing Department of the needs of a specific user and to define correctly the material or service requested, and is required for the purchase of any items not of an emergency nature and not covered under Petty Cash, P-Card, or Check Request.
- 19) **Purchasing Principal** – means the representative of the District who is authorized to procure materials for the District or his/her designee.
- 20) **Request for Information or RFI** – means a written or electronically posted request made by an agency to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the District in the form of a binding contract.
- 21) **Request for Proposal or RFP** – means a written or electronically posted solicitation for competitive sealed proposals for goods, consultant services, and/or other services. A Request for Proposals is used when it is not practicable for the District to define specifically the scope of work for which the commodity, group of commodities, or contractual service is required and when the District is requesting that a responsible vendor propose a commodity, group of commodities or contractual service to meet the specifications of the solicitation document.

Evaluation of a proposal or response is based on prior established criteria, which involves more than price. The RFP shall provide the evaluation criteria and state the relative importance of price and applicable evaluation criteria.

- 22) **Request for Quote or RFQ** – means an oral, electronic, or written informal request for written pricing or services information from a vendor for goods or services.
- 23) **Responsible Vendor or Responsible Bidder** – means a vendor or bidder who has capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance.
- 24) **Responsive Bid or Responsive Proposal or Responsive Reply** – means a bid, proposal, or reply submitted by a responsible bidder, which conforms in all material respects to the solicitation.
- 25) **Responsive Vendor or Responsive Bidder** – means a vendor or bidder that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.
- 26) **Sole Source** – means a sole source (A.K.A. single source) purchase exists when research has determined there is only one potential vendor for the good or service.
- 27) **Substitution** – means a shipment of an item that materially conforms to the specifications, but is technically different from the item bid.

## **2.0 COMPETITIVE SOLICITATION REQUIREMENTS**

The District will comply with the competitive solicitation requirements of:

- 1) Auditor Selection provided for in Section 218.391 of the Florida Statutes;
- 2) Public Construction/Works provided in Section 255.20 of the Florida Statutes;
- 3) Consultants' Competitive Negotiation Act provided in Section 287.055 of the Florida Statutes; and
- 4) Local Government Investment Policies provided in Section 218.415 of the Florida Statutes.

District staff will endeavor to comply with the fundamental premise of fairness through implementation of this Procurement Policy. Unless otherwise provided by law as cited above, competitive solicitation will be used for the purchase of goods and services in accordance with the following process:

<b>Competitive Threshold Category</b>	<b>Purchase Dollar Amount (per item)</b>	<b>Process Requirement</b>
Category One	\$0 - \$5,000	Single Quote or Relevant Pricing Information
Category Two	\$5,000.01 - \$50,000	Three Competitive Written Quotes (RFQ)
Category Three	\$50,000.01 or more	Competitive Selection – ITB, ITN, RFI, RFP

The above chart represents the minimum procurement process requirements. The Purchasing Principal has discretion to determine whether a good or service requires a more comprehensive process (i.e. a determination that a particular good or service in Category One or Two requires additional quotes, a competitive sealed bid or RFP.) Nothing in this Procurement Policy should be construed as limiting the Executive Director's authority to execute multiple Contracts for materials, supplies, and services to one vendor that exceeds \$50,000 cumulatively, so long as the materials, supplies, and services are for separate projects and each project does not exceed \$50,000; however, purchases may not be structured into multiple transactions to fall into a lower Competitive Threshold Category. Purchase Dollar Amount thresholds are measured by project and based on the Contract amount for the Contract term, or where no term is specified on a fiscal year period.

**The submittal of any verbal quote, written quote, response to bid or RFP constitutes an offer by the vendor.**

## **2.01 OBTAINING QUOTES**

- 1) For purchases of goods or services in Category One, the Purchasing Principal shall obtain at least one quote or relevant pricing information. Quotes may be obtained by any employee but must be forwarded with the Purchase Requisition to the Purchasing Principal for review and processing.
- 2) For purchases of goods or services in Category Two, the Purchasing Principal shall obtain through a request for quotes at least three written quotes. Each written quote should detail the quantity and description of the item purchased. Vendors must complete and return the written quote within the designated time period. The Purchasing Principal will then review the quotes and obtain any necessary employee input relating to which vendor has submitted the best, responsive, and responsible quote meeting the specifications. Written quotes must have the name of the individual person providing the quote. An email is an acceptable form of a written quote. For exceptions, see Section 2.06.
- 3) Substitution requires the approval of the Purchasing Principal prior to shipment. Any products delivered that do not meet specification, or substitute products shipping without prior approval, will be returned to the vendor at the vendor's expense. When a shipment or product is returned, the vendor must make immediate replacement with acceptable merchandise or the District may seek all available remedies for default.

## **2.02 COMPETITIVE SELECTION**

The minimum procurement process for acquiring equipment, supplies, or service with a cost in Category Three is through invitation to bid (ITB), invitation to negotiate (ITN), request for information (RFI), or the request for proposals (RFP) process.

- 1) **Invitation to Bid** – Unless otherwise provided by law, the District shall publicly advertise an invitation to bid no less than ten (10) calendar days prior to the bid opening. The invitation to bid must include a detailed description of the goods or services sought; the time and date for the submittal of sealed bids; the time and date of the public opening of submitted bids; the date for the District to award the bid; all contractual terms and conditions applicable to the contractual services or goods sought; and the

criteria to be used by the District to determine the award of the bid. The public notice must also include a reference to the protest provisions set forth in Section 2.03(10).

- 2) **Invitation to Negotiate** – *See* Section 2.04.
- 3) **Request for Information** – Unless otherwise provided by law, the District shall publicly advertise an RFI no less than fourteen (14) calendar days prior to the response opening. The request shall include a description of the information sought; the time and date for the submittal of responses; and the date for the District to review the responses. Responses to these requests are not offers and may not be accepted by the District in the form of a binding contract. Responses for these requests may be used by the District in determining its needs with regard to the good or service and in developing ITB, ITN, or RFP related to the purchase of the good or service.
- 4) **Request for Proposals** – Unless otherwise provided by law, the District shall publicly advertise an RFP no less than fourteen (14) calendar days prior to the proposal opening. The request shall include a detailed description of the services and/or qualifications sought; the time and date for the submittal of proposals; the date for the District to select a proposal; all contractual terms and conditions applicable to the contractual services sought; and the criteria, which shall include, but need not be limited to, price, to be used in determining acceptability of the proposal. The public notice shall also include a reference to the protest provisions set forth in Section 2.03(10).

## **2.03 BIDS AND PROPOSALS**

- 1) **Packages** – Bid packages or requests for proposal must be prepared with the appropriate terms and conditions and detailed specifications, including items to be bid, units, and total (or estimated) quantity desired, instructions for bidding, delivery information, and any special requirements for bidding. Where possible, the District’s standard bid or proposal format should be used. Assigned dates and time for pre-bid meetings, if any, and for the public bid opening must be included. If the pre-bid conferences are mandatory, a representative from the bidder’s firm must attend or its bid will be rejected. Bids and RFPs will be publicly opened and read at the time designated in the documents. The timing of the release of sealed bids/proposals, as public records, will be in accordance with Chapter 119 of the Florida Statutes.
- 2) **Bid/Proposal Submissions** – A bid/proposal must be submitted on the District’s forms, signed by a legal officer of the company, and provide all requested information; otherwise, the bid/proposal is subject to being rejected.

### **FAILURE TO EXECUTE PROPERLY THE OFFICIAL SIGNATURE PAGE OF THE BID/PROPOSAL MAY RESULT IN AUTOMATIC DISQUALIFICATION OF THE BID/PROPOSAL.**

The entire bid/proposal, including cover letter, all instructions, addenda, if any, and actual bid form must be returned intact. Further, all bids/proposals returned must be in envelopes, sealed, and clearly marked on the outside “SEALED BID” or “SEALED RFP.” Failure to

read or comply with the bids or RFPs general information will in no way relieve the bidder(s) from their liabilities arising in the ITBs/RFPs.

Any questions to an ITB or RFP must be provided in writing in accordance with the ITB or RFP requirements. All written questions will be answered in writing and provided to all bidders/proposers in the form of addenda. All addenda issued are deemed part of the ITB or RFP.

- 3) **Specifications** – The preparation of specifications is the responsibility of the department requesting the proposed purchase, with the advice and assistance of the Purchasing Principal. Manufacturer's names, trade names, brand information and/or catalog numbers listed in a specification are for information and establishment of quality level desired and are not intended to limit competition unless the bid so stipulates. When the bid allows equal or equivalent products that conform to the required specifications, indicate on the bid form the manufacturer's name, model or catalog number as may be required. Submit with your bid complete descriptive literature and/or specifications as well as a detailed explanation of how the proposed items meet the specification. The District reserves the right to determine what is equal or equivalent. Bids which do not comply with these requirements are subject to rejection. If the bidder fails to name another equal or equivalent item(s), it will be assumed that the bidder is bidding on, and will be required to furnish, goods identical in every respect to the bid standard. Only one alternate per item number, as close to specifications as possible, will be allowed. If more than one alternate on an item is submitted, the District will only consider one alternative that it determines is equal or equivalent and the remaining alternatives will not be considered.

All supplies and equipment offered and furnished must be new and of current production unless the request for product and/or bid specifically authorizes the use of used or recycled items. Remanufactured or reconstructed items are not considered new. In cases where the District requests bids for new equipment employing trade-ins or used equipment, a trade-in price quotation will be requested for the trade-in and separate price quotation without trade-in for the requested equipment. The District reserves the right to purchase equipment either with or without trade-in.

All goods called for in the bids or RFPs will be delivered in good order F.O.B. destination, freight prepaid, inside delivery, within the time specified. A packing list must accompany all shipments.

- 4) **Bonds – Bid, Performance, and Payment** – When bid bonds are required, the bid must be accompanied by a certified check or cashier's check, treasurer's check, or bank draft of any national or state bank (personal or company checks are not acceptable), or bid bond in the amount as specified in the bid documents. Unless otherwise specified in the ITB, bid deposit checks or bonds (if requested) will be returned to the successful bidder following acceptance of a signed Contract and receipt of the Public Construction Performance and Payment Bond, if required. Bid deposit check and bonds (if requested) posted by the unsuccessful bidders will be released in accordance with the timeframes provided in the

ITB. Bids received without a bid deposit or with a bid deposit in an amount less than the required will be deemed non-responsive.

The bid deposit must be made payable to the District as evidence of good faith and ensuring that the successful bidder will execute a Contract in accordance with the terms, conditions and prices contained in the bid; and further ensuring that the successful bidder will provide a performance bond and payment bond within thirty (30) calendar days from the date of award of the Contract, issued by a company qualified as a surety company to do business in the State of Florida, as described below. Such bond must be for 100% of the Contract amount, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract. The bond will remain in effect and extend as a guarantee bond for one year from the date of acceptance of the completed work. Should the successful bidder fail to provide such performance and payment bond within the prescribed time, the bid bond amount submitted with the bid would be forfeited to the Board as liquidated damages.

All bonds shall be in the form prescribed by laws and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. The surety company must be licensed to do business in the State of Florida, hold a certification of authority authorizing it to write surety bonds in this state, have twice the minimum surplus and capital required by the Florida Insurance Code at the time the ITB is issued and be otherwise in compliance with the provisions of the Florida Insurance Code.

Unless otherwise specified in the bid, the surety shall have a least the following minimum ratings:

CONTRACT AMOUNT	BEST'S RATINGS
\$250,000 to \$500,000	Class V B+ or better
\$500,000 to \$2,500,000	Class VI A or better
\$2,500,000 and over	Class VII A or better

#### RATINGS SCHEDULE

Class V	\$10,000,000 to	\$ 25,000,000
Class VI	\$25,000,000 to	\$ 50,000,000
Class VII	\$50,000,000 to	\$100,000,000

A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify the District and shall, within 20 days after the event giving rise to

such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

- 5) **Bid/Proposal Selection** – The District may select a bid or proposal upon any relevant criteria to the extent the invitation or request clearly provide the applicable evaluation criteria and state the relative importance of each. Only qualified, responsive, and responsible bids will be considered for award. If the Contract is to be awarded based solely on price, the Contract must be awarded to the lowest qualified, responsible, responsive bidder/proposer in accordance with the applicable District resolution and applicable contract documents. This Section does not restrict the right of the District to reject the low bid of a non-responsible or non-responsive bidder and to award the Contract to the next highest ranked qualified and responsive bidder or the right of the District to reject all bids and rebid the project or elect not to proceed with the project. The Board reserves the right to waive minor formalities in any bid/proposal and to accept any bid/proposal, which they consider to be in the best public interest. Once the bids or proposals are evaluated, the bids or proposals and the recommendation are forwarded to the Board for review, approval, and award. The District will provide notice of a decision or intended decision within ten (10) calendar days after bid or proposal opening where the 10-day period does not include the date of the notice or opening. Notice of such decisions or intended decisions will be made by electronic posting on the District’s Purchasing web page (e.g., <https://loxahatcheeriver.org/governance/purchasing-bids/>).

Awards will be made to the lowest and best Responsive and Responsible Bidder as determined by the Board, in its sole discretion. The Board’s decision will be final and conclusive.

- 6) **Request to Withdraw Bid/Proposal** – A request for withdrawal will be granted if received by the District in writing at any time before the bid opening. The Board may grant a request for withdrawal, if received by the District in writing at any time before execution of a Contract with the bidder/proposer.
- 7) **Tie Bids** – Unless the Bid or Request for Proposal stipulates criteria for determination of an award for tie bids the criteria below will be used when two or more vendors submit the exact same dollar amount as their bid offer, or if two or more firms are deemed equal with the respect to price, quality, and service. In order of importance, the following criteria will be used to break a tie:
- a) **Drug Free Work Place** – In accordance with Section 287.087 of the Florida Statutes, a drug-free workplace will be given preference. In order to receive preference, a signed certification of compliance must be submitted with the bid response.
  - b) **Contractor Safety Management Plan** – In accordance with the District’s Contractor Safety Management Policy, the District may give preference to a contractor whose safety qualifications are ranked the highest.
  - c) **Local Preference** – When prices, quality and other considerations are essentially identical, the bidder with a place of business in Martin or Palm Beach County may be given preference.

- d) Toss of the Coin.
- 8) **Bidders Liability** – If a bidder fails to enter into any Contract with the District based on the submitted bid, bidder acknowledges that bidder is liable to the District for all costs to re-bid the project as well as the difference between the agreed bid price and the price the District pays to secure the merchandise from another source. Failure to pay said amount to the District upon demand will result in the bidder being debarred and therefore, ineligible to submit Bids, proposals, or quotes to the District for a period of not less than three (3) years from date of the infraction.
- 9) **Tax Savings Program** – In order to limit the Florida Sales Tax upon a project and pursuant to Florida Statutes, and particularly Rule 12 A-1.094 (3), Florida Administrative Code, purchases under this procedure are exempt from competitive procurement.
- a) The District shall issue a Certificate of Entitlement to the Contractor certifying: (1) that the materials and supplies purchased will become part of a public facility; and (2) that the District will be liable for any tax, penalty, or interest due should the Department of Revenue later determine that items purchased do not qualify for exemption.
- b) The District shall provide to Contractor a requisition form to be utilized for purchase of those supplies, materials and equipment (SME) described in this Procurement Policy. The District reserves the right to, at any time during the term of the project, add to, delete from, or modify the description of supplies, materials, and equipment described herein, at the District's sole discretion.
- c) Requisition forms will only be issued for the SME described in this Procurement Policy. Such forms must be prepared and submitted by the Contractor to the District. Such form must be submitted in sufficient time for review and consideration by the District so that the materials may be acquired directly by the District and delivered to the project site in sufficient time to assure its availability at the time that it is needed and so as not to delay progress of the project. It shall be the responsibility of contractor to assure that such requisition forms are submitted to the District's representative for approval by the District with sufficient time for the District's review and processing, such that no delay shall affect the need for or order of the item. It shall be the responsibility of Contractor to assure the subcontractors, sub-subcontractors, specialty contractors and others have the materials sought to be requisitioned on hand at the time required for installation in accordance with the project schedule.
- d) The District will issue Purchase Orders to the appropriate vendors as designated and shown upon requisition forms. A copy of the Purchase Order will be returned to the Contractor.
- e) Upon delivery of the material purchased to project site, a delivery ticket shall be signed by a representative of District and by doing so the District shall take title of the materials delivered. Delivery ticket must be attached to the invoice to District, to be forwarded through Contractor.
- f) The Contractor must submit invoices addressed to the District in a timely manner to allow District to take advantage of any applicable discounts. The District will issue

payment of invoices for materials purchased as described in this procedure directly to the vendor to whom the Purchase Order was issued.

g) Contractor shall prepare a complete list of instructions to be distributed to all applicable subcontractors with the procedures to be followed under the Sales Tax Savings Procedures. These instructions shall cover those matters hereinafter set forth.

h) Materials, supplies, and equipment acquired using this procedure are subject to the warranty provisions as required by the Contract between the Contractor and the District. Contractor acknowledges that District will be ordering materials for said project pursuant to the ability to benefit from the tax savings provisions of this agreement. Contractor further agrees that it is responsible for acceptance of delivery, storage, and installation of products ordered by the District. Further, Contractor is liable for all loss or damage to products subsequent to delivery of those products from the vendors or suppliers.

i) Foregoing procedure is for limiting Florida Sales Tax upon the project pursuant to Florida Statutes and particularly Rule 12 A-1.094(3), Florida Administrative Code. Provisions hereof and procedures shall be construed in order to carry out the intent of the parties. Provisions hereof and procedures established hereby may be amended by District at any time, upon any indication that such change, amendment or alteration is necessary to assure non-taxable sales tax treatment of the project.

j) The Contractor is responsible for any defects, storage, delivery, and installation as set forth in the contract documents for all materials, products, and systems purchased by the District. The Contractor must maintain as a part of the required Builders' Risk Insurance, or other insurances being provided, full replacement coverage for all items purchased by the District under this Sales Tax Savings Procedure.

**10) ITB/RFP Protest Provision** – This procedure applies to the resolution of all protests arising from the competitive award procedures set forth above. By submitting a bid/proposal to the District, bidder acknowledges and agrees that all protests will be handled in accordance with the process set forth in this Section:

a) Notice of Protest – Notice of all District decisions or intended decisions will be made by electronic posting on the District's Purchasing web page (e.g., <https://loxahatcheeriver.org/governance/purchasing-bids/>). Any person adversely affected by a bid or request for proposal must file a notice of protest in writing, within three (3) business days from the date on the notice of the decision. A formal written protest must be filed within ten (10) business days after the protesting party files the notice of protest. All timeframes above exclude Saturdays, Sundays, and state holidays, in their computation. No time will be added to the above time limits for mail service.

b) Formal Written Protest – The formal written protest must state with particularity the facts and law upon which the protest is based, such as:

1. The name and address of the person or firm filing the protest;
2. An explanation of how they are adversely affected by the District decision or intended decision;

3. Identification of the procurement matter at issue.
  4. A statement of how and when the notice of District decision or intended decision was received;
  5. A statement of all issues of disputed material fact and, if there are none, a statement so indicating;
  6. A concise statement of the ultimate facts alleged;
  7. A statement of the applicable law, rule, statute, or other authority upon which the protest is based and which entitle the protestor to relief;
  8. A specific demand for relief; and
  9. Any other information material to the protest.
- c) Filing Notices of Protest and Formal Protests – All notices of protest and formal protests must be filed with the District’s Executive Director. A protest is not timely filed unless both the written notice of protest and the formal protest must have been received by the District within the prescribed time limits. No time will be added to the above time limits for mail service. Failure to file a protest within the time prescribed constitutes a waiver of proceedings and a waiver of all claims.
- d) Stay of Award – Upon receipt of a formal written protest that has been timely filed, the bid solicitation or contract award process is stayed until the subject of the protest is resolved by final agency action, unless the District’s Executive Director, with the concurrence of the Board, sets forth in writing particular facts and circumstances which require the continuation of the solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety or welfare. Notice that a contract award has been stayed will be given by electronic posting on the District’s Purchasing web page (e.g., <https://loxahatcheeriver.org/governance/purchasing-bids/>). Upon receipt of a timely formal protest of a decision or intended decision to award or reject all bids, qualifications, or proposals, notice will be given by electronic posting on the District’s Purchasing web page (e.g., <https://loxahatcheeriver.org/governance/purchasing-bids/>).
- e) Resolution of Formal Protest – Upon the written request of the protestor or on its own initiative, the District shall provide an opportunity for the protestor to meet with the Executive Director to resolve the protest by mutual agreement within seven (7) business days, excluding holidays, of receipt of a formal written protest. If the subject of a protest is not resolved by mutual agreement within seven (7) business days, excluding holidays, of receipt of the formal written protest, or a mutually agreed upon extension of time, then the Executive Director shall certify in writing to the Board that there was no resolution, provide the protestor with a copy of the certification.
- f) Quasi-Judicial Hearing – Within seven (7) business days from receipt of written certification that there was no resolution, the protestor may provide a written request that the matter be heard before the District Board in a quasi-judicial hearing. Failure to provide a written request to the Board within seven (7) business days of notice shall constitute waiver of any protest. Upon receipt of a written request, the Board may, in its discretion, request a written response from the Executive Director, and/or schedule the matter for

hearing before the Board. Within seven (7) business days from the conclusion of the hearing, the Board will provide a written final decision on the matter to the protestor.

The protestor may contest the District's decision in a court of competent jurisdiction in Palm Beach County no later than thirty (30) calendar days after receipt of notice of the District's decision, unless otherwise specified within the controlling request for proposal or qualification documents.

## **2.04 COMPETITIVE NEGOTIATION**

For any category of services or goods, the District may choose to purchase the services or goods through an invitation to negotiate pursuant to the provisions below and all relevant laws. The negotiations shall be made on the best price, terms and conditions obtainable by the District to meet its needs. The District shall specify in writing and make available to prospective contractors its needs for the services and goods to be purchased prior to commencing negotiations with any vendor.

When staff determines it is in the best interest of the District to procure a good or service through competitive negotiation, staff will make a corresponding recommendation to the Board. Upon Board approval, the District may contract by negotiation without seeking bids/proposals first. When contracting by negotiation without first seeking competitive sealed bids/proposals for services and/or goods exceeding the threshold of Category Three, the following procedures shall apply:

- 1) **Written Request** – The Purchasing Principal shall submit a request in writing to the Board detailing the necessity to contract by negotiation, the proposed steps to be followed by the District in negotiating the Contract, and the proposed vendors that will be used in the negotiations. The Board's intended decision to contract by negotiation will be posted in the Purchasing Principal's office.
- 2) **Public Notice** – The District shall publicly advertise each instance in which services or goods are being sought and provide a general description of the project/goods. The notice must indicate how interested parties may apply for consideration and must indicate the criteria required to be submitted in any responsive letter of interest. The public notice must also include a reference to the bid protest provisions set forth in Section 2.03(10).
- 3) **Letter of Interest** – Pursuant to the public notice, a firm desiring to provide services for a project must timely submit a letter of interest containing evidence of current professional status, capabilities, adequacy of personnel, past record and related experience, list of sub-consultants, and other information required by the notice necessary for the District to evaluate whether the firm is qualified. For contracts for the purchase of goods, each vendor shall provide a final firm price, terms, and conditions for the specific commodity/contractual service offered.
- 4) **Competitive Selection** – The Purchasing Principal shall evaluate each letter of interest submitted regarding qualifications and performance ability and will conduct discussions with and may require public presentations by responding firms regarding their qualifications, approach to the project, and ability to furnish the services required pursuant to the terms of the notice. The Purchasing Principal shall select and list not less than three firms, in order of

preference, deemed to be the most highly qualified to perform the required contractual services and/or provide the required commodity after consideration of the factors set forth in the notice. The District may select and list less than three vendors only when there are less than three vendors which may offer the services or goods desired by the District. In determining whether a firm is qualified, the agency must consider such factors as ability of professional personnel; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firm; financial soundness of the firm; and the volume of work previously awarded to the firm. The Purchasing Principal will then recommend to the Board that competitive negotiations be instituted with the firms selected. The Board may amend the Purchasing Principal's recommendations.

- 5) **Competitive Negotiation** – Once the Board authorizes competitive negotiations, the Purchasing Principal shall begin contract negotiations for the subject project with the designated firms in order of rank for fair, competitive, and reasonable compensation. Should negotiations with the firm determined to be the most qualified prove unsuccessful after that firm has provided their best and final offer, negotiations with that firm will be formally terminated and negotiations shall begin with the next most qualified firm on the list. Failing accord with the second most qualified firm after that firm has provided their best and final offer; the District must terminate negotiations with that firm and shall then begin negotiations with the third most qualified firm. If satisfactory agreement is not reached with any of the top three ranked firms, additional responding firms will be ranked and listed in the order of their competence and qualifications. Negotiations will then continue beginning with the first named firm on the second list until an agreement is reached. After successful negotiations, a recommendation shall be made that the Board award the Contract. The District will maintain an accurate record of the discussions held with each vendor/bidder/proposer.

## **2.05 CONSULTANTS COMPETITIVE NEGOTIATION ACT – DESIGN BUILD**

The District will comply with the competitive solicitation requirements of the Consultants' Competitive Negotiation Act provided in Section 287.055 of the Florida Statutes (CCNA). Pursuant to Section 287.055(9) of the Florida Statutes, the following are rules that will apply to all design-build contracts.

- 1) The District shall employ or retain a design criteria professional, who has been selected through CCNA, who will prepare the design criteria package for the design and construction of the public construction project. This design criteria professional is not eligible to render services under a design-build contract executed pursuant to the design criteria package.
- 2) The District shall publicly advertise the design criteria package and the advertisement must include a general description of the project and indicate how, and the time in which, interested design-build firms may apply for consideration. The design-build contract must be awarded through either the use of the qualifications-based selection process pursuant to Section 278.055(3), (4), and (5) of the Florida Statutes, or the competitive proposal selection process described below. If the District uses a qualifications-based selection, then the District shall employ or retain a licensed design professional appropriate to the project to serve as the agency's representative.
- 3) Procedures for the use of a competitive proposal selection process are as follows:

- a. Solicitation – Requests for proposal shall be sent to all interested firms requesting that their qualifications and proposed design be submitted at a time and place certain. The request for proposal must contain at a minimum the design criteria package, scope of services to be provided by the design-build firm during the performance of the design-build contract including the schedule and time period in which the services are to be complete; insurance coverages and bonding requirements; instruction covering the form, content, and manner of qualifications statement; evaluation criteria and procedures including proportional weighing to be used to evaluate the proposals; technical and design proposal of the project; draft design-build contract; and any other information pertinent to selection and award of the design-build contract. As an option the District will incorporate price into the evaluation process as well.
- b. Evaluation – The committee shall review all proposals received prior to the announced deadline and identify the no less than three firms deemed qualified to perform the required services based on evaluation criteria contained in the request for proposal, including but not limited to qualifications, availability, and past work of the firms, including the partners or members of the firms. The committee shall then rank and short-list firms based on the evaluation criteria set forth on the request for proposal. The committee may require oral presentations of the short-listed firms. The average combined score received from the written proposal and oral presentation will determine the final ranking of firms. Price will also be considered in the evaluation process if used as an optional criterion. If price is included, firms responding to the Request for Proposal shall submit both technical and price proposals. The price proposal would consist of either a lump sum, fixed fee amount or a guaranteed maximum not to exceed price. The price proposal must be based upon and include all costs or expenses to be incurred by the design-build firm in implementing and completing all aspects of the design-build project.
- c. Negotiation – After ranking, the committee shall attempt to negotiate a contract within the parameters of the design criteria package. The final negotiated price cannot exceed the price submitted in their proposal. Subsequent to competitive negotiations, the selected firm will establish a guaranteed maximum price and guaranteed completion date.
- d. The design criteria professional will be consulted in the evaluation process, the supervision or approval of the District of the detailed working drawings of the project, and for the evaluation of the compliance of the project construction with the design criteria package.
- e. In the case of public emergencies, the Board will need to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

The Purchasing Principal will determine if the design-build method is appropriate for a particular project. In making the decision, the Purchasing Principal will determine whether design-build or contracting separately for professional design and construction services is in the best interest of the District by considering the following factors:

- 1) The potential for project costs savings or costs reduction;
- 2) The need or potential for reducing the time to complete the project;

- 3) The need or potential for enhancing revenue production by expediting completion, activation and operational use of the project;
- 4) The need or potential to expedite the completion, activation, and operation of the project due to public service considerations or user decision operational needs and requirements;
- 5) The potential for collaboration to develop designs and construction methodology that could provide a project with enhanced qualities or aesthetics, innovative use of materials, economy of construction, operational efficiency, or functional effectiveness;
- 6) The need or potential for protecting, preserving, and enhancing the health, safety, and welfare of the public.

## **2.06 TRANSACTIONS EXEMPT FROM COMPETITIVE PROCUREMENT**

The Purchasing Principal for goods or services may grant an exemption when it is in the District's best interest and allowed by a referenced statute, rule, or regulation.

### **2.06.01 Typical Exceptions**

Typical exemptions include, but are not limited to, the following:

- 1) Real Property Acquisition, such as land, easements, rights-of-way, existing buildings, structures, or improvements, resulting from negotiations and approved by the Board
- 2) Court-ordered fines and judgments, resulting from litigation
- 3) Exceptional disbursements as authorized by the Board
- 4) Court-ordered fees, resulting from the judicial process, processed by the Clerk of the Court, and charged against the appropriate budget for such fees
- 5) Cash transfers and investment transactions for fiscal management purposes, processed through the Accounting Department, and disbursed from general ledger accounts
- 6) Accrued or current liabilities already disbursed from the budget, processed through the Accounting Department, and paid from or through general ledger accounts
- 7) Debt service payments processed by the Accounting Department and charged against budgetary accounts
- 8) Refund of a cash or surety bond
- 9) Refunds of current or prior year revenues charged against budgetary accounts
- 10) Grant disbursements to federal, state, or local government agencies, or to private groups or agencies
- 11) Insurance including but not limited to liability, property, medical, and workers compensation insurance, deductibles, or payments from any loss fund established for such purpose
- 12) Utilities, including but not limited to electric, water, cable, telephone and cellular services, except as provided by Chapter 2002-358, Laws of Florida
- 13) Toll charges and gas cards,
- 14) Dues and memberships in trade or professional organizations

- 15) Subscriptions for periodicals, advertisements, copyrighted material
- 16) Part-time and temporary labor and employees
- 17) Advertising in newspapers, magazines, social media, etc.
- 18) Postage, shipping and express mail costs
- 19) Office, warehouse space, boat slip, submerged land or other property rental or lease
- 20) Railroad leases and associated costs and fees
- 21) Warranty or maintenance agreement costs required by the original manufacturer or installer
- 22) Professional medical services, authorized hospitality expenses
- 23) Job-related travel, seminars, tuition registration and training
- 24) Legal services, expert witnesses, court reporter services, and all other related expenses of claims, anticipated litigation, and/or litigation
- 25) Consultant Services, as defined in Section 2.0, unless otherwise provided by law. For example, services covered by Sections 287.055 (CCNA) and 218.391 (Auditor Selection) would not be exempt from Competitive Solicitation. Anytime this exemption is utilized, a justification as to why consultant services should not or cannot be competitively solicited must be provided to the Purchasing Principal for approval prior to entering into a Contract for the service. The Purchasing Principal will determine, on an individual basis, whether the exemption is applicable.
- 26) Title insurance, title commitments, title searches, and ownership and encumbrance searches and real estate appraisal services to determine the market value of real property
- 27) Political lobbying services
- 28) Transactions by Interlocal Agreement
- 29) Art work, maps, and design services (including website design)
- 30) Permitting fees
- 31) Security services by off-duty law enforcement personnel
- 32) Camp programs including admission fees to parks, movies, entertainment venues, etc.
- 33) Services provided by non-profit organizations, educational institutions, governmental and quasi-governmental agencies
- 34) Purchases under Tax Savings Program
- 35) Sole source items in accordance with Section 2.06.03 below
- 36) Purchases which "piggy-back" on existing government contracts in accordance with Section 2.06.03 below
- 37) Intergovernmental purchases and agreements
- 38) Emergency purchases as noted in Emergency Purchase Section 2.09

- 39) Computer maintenance and/or software licenses for existing software
- 40) Credit card processing fees
- 41) Maintenance of vehicles and equipment; when considered to be in the best interest of the District and the services are to be performed by the vehicle or equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment or when at least three (3) responsible services have been evaluated, the services may be procured without bid.
- 42) Surplus or used goods that are procured from a government auction such as govdeals.com.
- 43) Multiple quantities of a single item of common operational supplies

### **2.06.02 Public Construction Project Exemptions**

Further, the District may grant exemptions for Public Construction projects in accordance with Section 255.20 of the Florida Statutes, including:

- 1) When a project is undertaken to repair, reconstruct or replace an existing facility destroyed or damaged by an act of God, riot, fire, flood, accident, or other urgent circumstance and such damage or destruction creates an immediate danger to the public health or safety; loss to public or private property which requires emergency government action; or an interruption of an essential government service.
- 2) After proper public notice, the District does not receive any responsive bids or proposals.
- 3) Projects undertaken as a repair or maintenance to an existing public facility in accordance with Section 255.20 of the Florida Statutes.
- 4) Projects undertaken exclusively as part of a public education system;
- 5) If the funding source of the project will be diminished or lost because the time required to award competitively the project after the funds become available exceeds the time within which the funding source must be spent.
- 6) If the District competitively awarded a project to a private sector contractor and the contractor abandoned the project before completion or the local government terminated the Contract.
- 7) If the Board publicly notices a Board meeting in accordance with Section 255.20 of the Florida Statutes, conducts the public Board meeting and finds by majority vote that it is in the public's best interest to perform the project using its own services, employees, and equipment.
- 8) If, pursuant to Section 255.20 of the Florida Statutes, at least 4 of the Board's members vote to find it in the District's best interest to award the project to an appropriately licensed private sector contractor, based on specific substantive criteria and procedures.
- 9) The project is subject of Chapter 336 of the Florida Statutes, County Road System.

### **2.06.03 Sole Source, Piggybacking, Cooperative Purchases, and Standardization.**

The District has the following policies related to certain enumerated exemptions:

- 1) Sole Source:
  - a) If the Purchasing Principal determines that a service or good is available from a single source and the total cost is within Category One or Two, then the purchase may be excepted from procurement requirements, in writing, upon filing a written statement stating the conditions and circumstances requiring the purchase and filing the written statement in Accounting.
  - b) If the Purchasing Principal determines that a service or good is available from a single source and the total cost is within Category Three, the purchase may be excepted from bid requirements by the Board, in writing, upon the filing of a certification by the Purchasing Principal stating the conditions and circumstances requiring the purchase. This certification must set forth the purpose and need of the purchase and explain why the single source is the only one that will produce the desired results. The District's intended decision will be presented to the Board on the consent agenda at the next regularly scheduled public meeting.
  - c) In any case, where the District seeks to purchase from a sole source, materials for the construction, modification, alteration, or repair of any District-owned facility, the District's Board must first make the written findings required by Section 255.04 of the Florida Statutes.
- 2) Cooperative Procurement ("Piggy-backing") – Pursuant to Section 189.053 of the Florida Statutes the District may purchase services or goods other than professional services governed by Section 287.055 of the Florida Statutes, from the purchasing agreements of other special districts, municipalities, or counties which have been procured pursuant to competitive bid, requests for proposals, competitive selection, or competitive negotiation, and which are otherwise in compliance with Florida Statutes and this Procurement Policy.
  - a) Piggybacking is permissible when another government agency's procurement documents allow for cooperative procurement or the agency and the vendor/contractor agrees to allow cooperative procurement in writing, and if such purchases are to the economic advantage or in the best interest of the District and are otherwise in compliance with Florida law and this Procurement Policy.
  - b) The District may piggyback for those professional services including architectural, engineering, landscape architectural, surveying and mapping, except as otherwise prohibited by Section 287.055 of the Florida Statutes
- 3) Cooperative Purchasing – The District may participate in, sponsor, conduct, and/or administer a cooperative purchasing program (e.g., GSA Advantage, State of Florida Contracts, Southeast Florida Governmental Purchasing Co-Operative Group, Florida Sheriff's Association, and National Joint Powers Alliance).
- 4) Online Marketplaces (e.g., Amazon.com, govdeals.com, ebay.com) – The District may purchase Category One or Two goods and/or services, other than those with a statutory specified process, from Online Marketplaces, if such purchase is deemed to be in the best interest of the District. For Category Two purchases from an Online Marketplace, documentation must be kept demonstrating the best option from the Online Marketplace was purchased.

- 5) Standardization – Standardization of products may occur when a process has been completed based on defining and applying uniform specifications such as quality, design, and performance. The standardization process is to be conducted by the using department, in conjunction with the Purchasing Principal. The Purchasing Principal will maintain documentation of the process, including details to support the standardization designation. The Board must approve the standardization designation and add the product to the list of approved standardized products included within “Construction Standards and Technical Specifications,” which is maintained on the District’s website. Thereafter, the Purchasing Principal may negotiate purchase of standardization products on a sole source basis. Periodic reviews of the standardization designations should be completed by the using department to ensure standardization requirements are being met and are still in effect. Said reviews should be completed at a minimum of every four years and documentation shall be maintained by the Purchasing Principal to show compliance. Levels of purchasing authority shall be followed to procure standardized products. The Board must approve any changes to the list of standardized products.

## **2.07 WAIVER OF COMPETITIVE PROCUREMENT**

The Board may authorize the waiver of procurement procedures upon the recommendation of the District’s Executive Director when it is in the District’s best interest to do so to obtain goods and services that cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors and it is not otherwise prohibited by law. Purchases authorized by this waiver process will be acquired after conducting a good faith review of available sources and negotiations as to price, delivery, and terms.

## **2.08 CONTRACT RENEWALS AND CONTINUING CONTRACTS**

- 1) Unless otherwise specified in the Contract, Contracts for goods and services may be renewed for an additional term not to exceed the original Contract period unless the original Contract period is 24 months or less, in which case the Contract may be renewed for up to three one-year periods. Renewal of the Contract will be by mutual agreement in writing and will be subject to the same terms and conditions set forth in the initial Contract. If the service or good is purchased because of the solicitation of bids or proposals, the cost of any contemplated renewal must be included in the invitation to bid or the request for proposals. Renewals are contingent upon a satisfactory performance evaluation by the District as determined by the Purchasing Principal, in his/her sole discretion. The Purchasing Principal may seek assistance in making the determination from the appropriate Department Head. Generally, “satisfactory performance” involves completion of all Contract terms and conditions in the time prescribed in the Contract for the amounts set forth in the Contract.
- 2) Nothing in this Procurement Policy shall be construed to prohibit a Continuing Contract between a firm and the District consistent with the requirements of applicable law.

## **2.09 EMERGENCY PURCHASES OF SERVICES OR GOODS**

Notwithstanding any other provision of this Procurement Policy, emergency purchases of goods or services may be made in the event of a disruption of essential operations, or where there exists a threat to public health, welfare, safety, or when the protection or preservation of public property would not be possible through normal procurement procedures. To the extent practical under the circumstances, such emergency purchases must be made using competent and qualified firms and include a competitive selection process.

The Purchasing Principal shall file with the Board a statement certifying the conditions and circumstances requiring an emergency purchase of goods or contractual services in excess of the threshold amount for Category Three for services or goods or for qualifying construction contracts. Statements must be submitted to the Board for ratification within thirty (30) calendar days after the date of purchase order or Contract and such statements must include complete details surrounding the event(s), which created the emergency. A copy of the Contract must accompany the statement.

## **2.10 CHANGE ORDERS**

The Executive Director is authorized to approve Change Orders under the following circumstances:

- 1) Proposed Change Order cost plus original cost is equal to or less than \$50,000; or
- 2) Proposed Change Order cost is less than or equal to the remaining balance of Board approved contingency amount; or
- 3) Proposed Change Order reduces the dollar value of the Contract; or
- 4) Emergency Purchases as defined in Section 2.09.
- (5) The Executive Director is authorized to approve individual Change Orders not to exceed \$250,000 that are deemed by the Executive Director to be time-sensitive and in the best interest of the District. Any Time-Sensitive Change Order also must be approved by the Deputy Executive Director or a Division Director. Within 24 hours of approval of a time-sensitive Change Order, the Executive Director shall notify the Board, via email, of the conditions and circumstances justifying the time-sensitive designation and approval. Furthermore, the Executive Director will present the time-sensitive Change Order and supporting documentation to the Governing Board at their next regularly scheduled public meeting.

The Executive Director may authorize Change Orders to correct errors, omissions, or discrepancies in Contract; cover acceptable overruns and freight costs; incorporate requirements to expand or reduce the scope of goods or services ordered; or to direct other changes in contract execution to meet unforeseen field, regulatory, or market conditions, in accordance with the above circumstances.

## **2.11 RESTRICTIONS ON PURCHASES**

- 1) Any business entity controlled by or affiliated with any person or business entity ineligible for the award of a Contract may also be prohibited from contracting with the District if the relationship or affiliation is such that in the reasonable opinion of the Purchasing Principal, the person or business entity, by reason of the relationship to the ineligible person or entity, is

likely not to conduct business in a responsible or lawful manner, or if the ineligible person or business entity could directly benefit from the Contract.

- 2) By engaging in business with the District, each bidder/proposer/vendor/etc. confirms that their business entity has not been placed on the convicted vendor list or the discriminatory vendor list as described in Sections 287.133 and 287.134 of the Florida Statutes.
  - a) A person or affiliate who has been placed on the convicted vendor list following the conviction for a public entity crime, may not submit a bid, proposal or reply on a Contract to provide goods or services to a public entity, may not submit a bid, proposal or reply on a Contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a Contract with a public entity, and may not transact business with any public entity in excess of the threshold amount as provided in Section 287.017 of the Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.
  - b) A person or affiliate who has been placed on the discriminatory vendor list, may not submit a bid, proposal or reply on a Contract to provide goods or services to a public entity, may not submit a bid, proposal or reply on a Contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Contract with a public entity, and may not transact business with any public entity for a period of 36 months from the date of being placed on the discriminatory vendor list.
- 3) By engaging in business with the District, each bidder/proposer/vendor/etc. confirms their business entity is not on the Scrutinized Companies that Boycott Israel List as described in Section 287.135 of the Florida Statutes or engaged in a boycott of Israel or, for goods or services over one million dollars, bidders/proposers/vendors/etc. confirm they are not on any of the scrutinized company lists identified in Section 287.135 of the Florida Statutes or engaged in any such activity identified in that section.
  - a) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a Contract with an agency or local governmental entity for goods or services of any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such Contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel.
  - b) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a Contract with an agency or local governmental entity for goods or services of one million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such Contract, the company is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes or engaged in business operations in Cuba or Syria.

## **2.12 OTHER CONSIDERATIONS**

Equal Employment and Educational Opportunities: It is the sole responsibility of the bidder to comply with provisions of the Immigration Reform and Control Act of 1986. The District hereby stipulates and affirms its policy of offering Equal Employment and Educational Opportunities for all persons regardless of race, creed, color, sex, national origin, age, or handicap. The failure of any contractor or supplier to the District to comply with the terms of this Equal Employment Opportunity Policy will subject any Contract or purchase order to revocation.

## **2.13 CONDUCT**

- 1) **Conflict of Interest** – Any award made by the District is subject to provisions of Chapter 112 of the Florida Statutes. All bidders or prospective vendors must disclose in their bid the name of any officer, director, or agent who is also an employee of District. Further, all bidders or prospective vendors must disclose the name of any District employee who owns directly or indirectly, an interest of five percent (5%) or more of the bidder's firm or any of its branches. Any concerns regarding this section must be given to the Purchasing Principal prior to bid submittal for clarification and further direction.

Any measure, which would inure to the special private gain or loss, as defined by Section 112.3143 of the Florida Statutes, of a Board Member will require Board approval, and must comply with Chapter 112 of the Florida Statutes. Pursuant to Section 112.3143 of the Florida Statutes, no Board Member may vote on or attempt to influence the decision by oral or written communication, any measure which would inure to his or her special private gain or loss. Such Board Member shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record using Form 8A (Memorandum of Voting Conflict for State Officers) and filing it with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

- 2) **Lobbying** – After the issuance of any ITB/RFP, or during renegotiation of any existing Contract, no prospective vendor, bidder, their agents, representatives, or persons acting at the request of such vendors shall contact, communicate with, or discuss any matter relating to the ITB/RFP or renegotiations with any District officer, agent, Board member, or employee other than the Purchasing Principal. This prohibition ends upon execution of the final Contract or when the ITB/RFP has been cancelled or the renegotiation is terminated. Renegotiation is deemed to have commenced upon a vote of the Board or written notice from the Purchasing Principal. A vendor who violates this provision may be subject to one or more of the following sanctions:
  - a) Written warning and reprimand;
  - b) Termination of Contract;
  - c) Debarment or suspension as provided in Section 4.0.
- 3) **Gifts and Gratuities** – The process of public purchasing should be conducted in such a manner that the integrity of the competitive selection process is not compromised, and therefore the

District strives to eliminate any possibility of, or even the appearance of, improper business relationships. In this regard, the District prohibits the acceptance of gratuities, gifts, or other favors with a monetary value exceeding \$100.00 and/or that might give rise to doubts of impartiality.

- 4) **Public Records** – All vendors or bidders must comply with the requirements of Chapter 119, of the Florida Statutes, (The Public Records Act) and in accordance with Section 5.0.

## **2.14 RESPONSIBILITIES OF DISTRICT AND VENDOR**

- 1) **District** – Prior to the execution of any Contract or approval of any purchase order, the Purchasing Principal shall confirm the availability of funds related to the transaction.
- 2) **Vendor** – Every vendor with the District is responsible for:
  - a) Notifying the District of any changes, name, address, products/services, or other pertinent information, via letter or completed W-9 Form.
  - b) Reading and understanding each page of the Quote, Bid, or Request for Proposal.
  - c) Double-checking its offer prior to submittal.
  - d) Executing the signature page of the Quote, Bid or Request for Proposal.
  - e) Ensuring that its offer is made within the prescribed time limits and to the proper address.
  - f) Ensuring that its offer is made without collusion.
  - g) Providing all information as required in the Quote, Bid or Request for Proposal.
  - h) If an award is made to your firm, make delivery as specified.
  - i) Contact the Purchasing Principal should you have any questions.

## **2.15 LEGAL REVIEW OF ALL CONTRACTS**

The District's legal counsel shall review and approve the form of all Category Three Contracts (e.g. contracts greater than \$50,000) prior to executing the same.

## **3.0 CONTRACT ADMINISTRATION**

### **3.00.01 Contract Administration Authority**

Following quote, bid, or proposal award or approval by the Department Director, Executive Director, or Board, District staff may enter into a Contract with a vendor. The goal of contract administration is to ensure the vendor performs according to the terms of the Contract and that both the vendor and the District properly discharge their responsibilities. Contracts are to be signed by the Board Chairman, Executive Director, Purchasing Principal or their designee based on the following criteria:

- 1) Purchasing Principal – Contracts below \$5,000.01
- 2) Executive Director – Contracts above \$5,000 and up to or equal to \$50,000
- 3) Board Chairman – Contracts more than \$50,000
- 4) Board Chairman – all Contracts involving the purchase or sale of real estate

Appropriate department personnel will be responsible for contract administration with advice and support from the Purchasing Principal. The Purchasing Principal in collaboration with the Department Director will designate an appropriate department personnel to act as the Contract Administrator.

### **3.00.02 Contract Administration Duties**

The Contract Administrator is responsible for the following:

- 1) Review Contract performance.
- 2) Ensures terms of the Contract are enforced.
- 3) Approve pay applications and/or invoices.
- 4) Announcing new Contract to all applicable users of the Contract.
- 5) Managing Contract, including renewing multi-year agreements as appropriate.
- 6) Documenting all actions taken regarding the Contract and maintain such documentation as part of official Contract file.
- 7) Closing out the Contract.

### **3.01 TERMINATION OF CONTRACT; RESCISSION OF AWARD**

Termination of any Contract or rescission of award must be made by the awarding authority; and in all cases where the Board takes action, Board will consider the Purchasing Principal's recommendation prior to termination or rescission. The Purchasing Principal will examine the circumstances and reasons behind the breach of Contract, or other reasons for rescission or termination, consult with legal counsel, and determine if there is a possible resolution. If a breach of Contract occurs and rescission of award or termination of the Contract is necessary, the Purchasing Principal may suspend or debar the subject vendor for failure to perform under the terms of the Procurement Policy in accordance with Section 4.0 below.

### **4.0 SUSPENSION OR DEBARMENT**

- 1) Suspension – After consultation with legal counsel, the Purchasing Principal is authorized to suspend a person or entity from consideration for award of contracts if the Purchasing Principal has adequate documented evidence to demonstrate that the person or entity has engaged in any activity that is grounds for suspension or debarment. The suspension period will be for a period not to exceed 12 months from the date of the Purchasing Principal's discovery of the most recent incident giving rise to the suspension.

- 2) Debarment – After reasonable notice to the person or entity involved and reasonable opportunity for that person or entity to be heard by the Purchasing Principal, the Purchasing Principal, after consulting with the legal counsel, is authorized to debar a person or entity for cause from consideration for award of contracts. The debarment will be for a period of not more than five years from the date of the Purchasing Principal’s discovery of the most recent incident giving rise to the debarment. Debarment may be as to all contractual opportunities, or may be only as to certain types or sizes of projects or contracts, depending on the cause(s) and severity of the reason(s) for debarment.
- 3) Causes for suspension and debarment include:
  - a) Conviction of an officer of the entity for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract, or a civil or criminal final judgment of violation of state or federal whistleblower laws;
  - b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a District contractor;
  - c) Conviction under state or federal statutes arising out of the submission of bids or proposals;
  - d) Refutation of an offer by failure to provide bonds, insurance, or other required certificates within a reasonable time period;
  - e) Refusal to accept a purchase order, agreement, or Contract provided such order was issued timely and in conformance with the offer received;
  - f) Violation of Contract provisions, as set forth below, of a character which is regarded by the Purchasing Principal to be so serious as to justify debarment action;
  - g) Deliberate failure without good cause to perform in accordance with the specifications or budget or within the time limit provided in the Contract;
  - h) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts, provided that such failure to perform or unsatisfactory performance was caused by acts within the control of the contractor;
  - i) A documented history of significant deviation from the Contract specifications, engineering standards, design or material requirements or safety regulations;
  - j) For violation of the Conduct provision set forth in the Procurement Policy;
  - k) For violation of the Restrictions on Purchases provision set forth in the Procurement Policy;
  - l) For violation of the Public Records provision set forth in the Procurement Policy;
  - m) For violation of any applicable ethics standards, including the ethical standards set forth in Chapter 112 of the Florida Statutes, or in relevant grant funding requirements;
  - n) For violation of the District’s Contractor Safety Management Policy;

- o) Any other cause the Purchasing Principal determines to be so serious and compelling as to affect responsibility as a District contractor, including debarment by another governmental entity for any cause listed above or provided for in general law.
- 4) Process for Suspension or Debarment
- a) Notice – The Purchasing Principal shall issue a written decision to debar or suspend, which states the reasons for the action taken, the period that the suspension or debarment shall be in effect, and any right to administrative review.
  - b) Reinstatement – After suspension or debarment, a person or entity may not contract with the District until reinstated by the Purchasing Principal or by the administrative review process. The person or entity must supply information and reasonable documentation indicating that the conditions causing the suspension or debarment have been rectified. As a condition of reinstatement, the Purchasing Principal may limit the nature and scope of contractual undertakings that must be satisfactorily completed before seeking additional contracts from the District. The reinstatement determination must be in writing and inform the person or entity of any conditions of reinstatement of any rights to administrative or judicial review and be sent via certified mail to the suspended, debarred, or reinstated person or entity.
  - c) Final Decision – A decision to suspend or debar will be a final and conclusive decision unless within ten (10) calendar days of the decision, the debarred or suspended person or entity files a written notice of appeal to the Executive Director. The written notice of appeal to the Executive Director must state with particularity the facts and law upon which the appeal is based. The written notice of appeal to the Executive Director shall be printed or typewritten and contain:
    - i. The name and address of the person or firm filing the appeal;
    - ii. A statement of how and when the notice of District decision or intended decision was received;
    - iii. A statement of all issues of disputed material fact, and if there are none, a statement so indicating;
    - iv. A concise statement of the ultimate facts alleged;
    - v. A statement of the applicable law, rule, statute, or other authority upon which the appeal is based and which entitle the appellant to relief;
    - vi. A specific demand for relief; and
    - vii. Any other information material to the appeal.

Upon receipt of a timely appeal, the Executive Director, may, at his/her discretion, request a written response from the Purchasing Principal. The Executive Director has the discretion to call a meeting of the Purchasing Principal and the suspended or debarred vendor to resolve the matter. Within ten (10) calendar days from the receipt of a timely appeal, the Executive Director shall issue a written decision to uphold, reverse, or modify the Purchasing Principal's decision of suspension or debarment. The Executive Director's decision is final and conclusive decision unless within ten (10) calendar days of the decision, the debarred or suspended person or entity files a written notice of appeal to Board in conformance with the requirements set forth above.

Upon receipt of a timely appeal, the matter must be scheduled for a quasi-judicial hearing before the Board. Within twenty (20) calendar days following the hearing before the Board, the Board shall issue a written decision on the matter. After the conclusion of this administrative process, the suspended or debarred vendor may commence a timely action in court of competent jurisdiction, in accordance with applicable law.

## **5.0 PUBLIC RECORDS**

Any vendor providing goods or services to the District must maintain and provide access to any records the vendor has related to the provision of those goods and service to the District. A vendor's failure to comply with this provision of the Procurement Policy will be deemed a default and may provide cause for termination of the Contract and debarment. The following provisions must be incorporated into all Contracts:

The vendor providing goods or services to the District agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701 of the Florida Statutes. Documents which are considered public records under Florida law may include, but are not limited to: records related to the entry, management and implementation of the Contract; emails/correspondence between the District and the vendor related to the Contract; emails or correspondence from all other entities related to the Contract (i.e., subcontractors, suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and, all vendor invoices. The vendor agrees, to the extent required by law, to:

- 1) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the Contract;
- 2) Provide the public with access to the public records under the same terms and conditions that the District would provide the records and at a cost that does not exceed the cost provided for by law;
- 3) Ensure that the public records that are exempt or confidential and exempt from public disclosure requirements, are not disclosed, except as authorized by law; and
- 4) Meet all requirements for public records and transfer, at no cost to the District, all public records in possession of the vendor/contractor, upon termination or completion of the Contract and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the vendor agrees that all records stored electronically must be provided to the District in a format that is compatible with the information technology systems of the District. The vendor shall promptly provide the District with a copy of any request to inspect or copy public records that the vendor receives and a copy of the vendor's response to each request. The vendor understands and agrees that failure to provide access to the public records is a material breach of the Contract and grounds for termination.

**IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119 OF THE FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS**

**CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT [Kara.fraraccio@lrecd.org](mailto:Kara.fraraccio@lrecd.org) or 561-747-5700 ext. 4095**

## **6.0 COMPLIANCE WITH THE PROCUREMENT POLICY**

**By providing any good or service to the District, the vendor agrees to comply with the provisions of this Procurement Policy. Failure of a vendor to comply with the terms of this Procurement Policy may be deemed as a default or breach of Contract and provide cause for termination of the Contract.**

## **7.0 PURCHASING AUTHORIZATION LEVELS**

The purchase process is controlled by two components: (1) established policy dollar amounts (see Section 2.0) and (2) procurement method and approval authority. Purchase approval authority thresholds apply to established level of approving authority (e.g. Department Director, Purchasing Principal, Executive Director, or Governing Board). The originating department is responsible for completely and accurately preparing a Purchase Requisition. The Purchasing Department will generate a purchase order once the Purchase Requisition has been approved by the appropriate Department Director or their designee. In instances where one department has been assigned responsibility for a specific area of purchase for the entire organization, such as telecommunication services (Information Services) or vehicle repairs and maintenance (Engineering), the requirement that the affected officers must authorize the Purchase Order shall not apply.

### **7.00.01 Procurement Method and Approval Authority**

The following matrix defines the acceptable procurement method and required approval authorization for purchasing within dollar amounts defined in Section 2.0.

<b>Purchase Amount</b>	<b>Procurement Method</b>	<b>Required Approval Authorization</b>
Less than \$500	Petty Cash, Check Request, P-Card, or Purchase Order	Department Director
\$500-\$1,000	Purchase Order *	Department Director, Purchasing Principal
\$1,000.01-\$5,000	Purchase Order *	Department Director, Purchasing Principal, Executive Director
\$5,000.01-\$50,000	Purchase Order *	Department Director, Purchasing Principal, Executive Director
Greater than \$50,000	Purchase Order, Competitive Solicitation	Department Director, Purchasing Principal, Executive Director**, Governing Board

\*The P-Card may be used to pay for purchases above \$500, when it is in the best interest of the District as determined by the Purchasing Principal.

*Note: All Capital Purchases must be approved by the District Deputy Executive Director or his or her designee.*

*\*\* Pursuant to Section 2.10, certain change orders which bring the Contract amount in excess of \$50,000 may be approved by the Executive Director.*

The following Category Three items, if they have been approved in the annual budget, do not require additional Board approval for the payments made within the budgeted amount: Utilities, postage, employee tax withholding, retirement benefits, items covered by approved insurance policies, debt service payments, investments purchased in accordance with the District's Investment Policy, legal services in accordance with an approved Contract, and fees payable to other governmental agencies as may be required by law, and legal advertisements. Regardless of the amount of the bid bond, bid bonds may be refunded without seeking Board approval so long as the Deputy Executive Director's approves the refund.

## **7.01 PURCHASING MECHANISMS**

Below is a series of mechanisms for paying for a purchase. These are methods of payment and not methods of procurement.

### **1) Petty Cash**

Petty Cash can be used by all departments for facilitating the transaction of District business, but will not be authorized for purchases in excess of \$100, unless approved by the Director of Finance and Administration, or his/her designee.

The use of Petty Cash is limited to the following:

- a) The purchase of items that are not ordinarily on hand in the District's inventory.
- b) Small purchases made from vendors where issuance of a special check or processing through the purchasing cycle is not cost effective.
- c) Meals for local seminars, conferences, and other business meetings.
- d) Toll receipts and mileage reimbursement.
- e) Employee reimbursement for other approved District purchases.

A Petty Cash Receipt Form must be filled out for all Petty Cash disbursements. The Petty Cash Receipt Form should have the date, a description of what the funds are being issued for, the total disbursed and the signature of both the employee receiving and disbursing the Petty Cash.

### **2) Purchasing Card**

Purchases using Purchasing Cards ("P-Cards") must be made in accordance with this Procurement Policy and the Purchasing Card Policies and Procedures Manual. P-Cards are a payment mechanism not a procurement mechanism. An employee that has a frequent and recurring need to purchase supplies and services not to exceed \$500 per day from a single

vendor without incurring prior specific approval may use P-Cards. The District currently has P-Cards in the form of Home Depot, Staples, Exxon, and Chevron credit cards. Open accounts with local vendors for miscellaneous supplies purchased in small quantities such as small tools, fasteners, auto parts, and food supplies are also considered P-Card purchases.

The department utilizing the P-Card is responsible for providing invoices, receipts, or other acceptable documentation signed by the appropriate Department Director or their designee to the Finance Department. All invoices or receipts shall be coded with the account number to be charged.

The P-Card may be used to pay for larger purchases, when it is in the best interest of the District. In these circumstances, other procurement procedures apply.

The use of a P-Card must not circumvent this Procurement Policy. Personal use of any District credit card, P-Card, or Petty Cash is strictly prohibited.

### **3) Purchase Requisition**

A Purchase Requisition is required for the purchase of all items not of an emergency nature and not covered under Petty Cash, P-Card, or Check Request. The Purchase Requisition serves to inform the Purchasing Department of the needs of a specific user and to define correctly the material or service requested. The Purchase Requisition is not an order, but merely the request for the Purchasing Department to procure the item(s) or service(s) in accordance with established District purchasing policies and procedures.

A Purchase Requisition will originate from the user and proceed to the Purchasing Department after receiving appropriate approvals. Depending on the items being requested for purchase, additional approvals may be required. In those instances where one department has been assigned responsibility for a specific area of purchase for the entire organization the requirement that the affected officers must authorize the purchase requisition does not apply; only the Department Director who retains overall responsibility is required to approve the Purchase Requisition.

The Department Director is responsible for designating the proper account number and - ensuring that sufficient funds and budget authority are available. The Director of Finance and Administration must approve all requests for over-rides of a department budget.

A Department Director may, at his or her discretion, designate certain other employees to approve Purchase Requisitions. Persons so authorized should complete a Signature Authorization Sheet with the Finance and Administration Department. The Department Director must update these sheets whenever personnel changes occur.

The requesting department should anticipate their requirements and submit a Purchase Requisition allowing ample time for Purchasing to complete action to secure the items needed at the time required. Rush or emergency orders will be authorized on a case-by-case basis to avoid additional costs affiliated with expediting delivery.

Purchasing staff will review each Purchase Requisition for accuracy and compliance with the established Procurement Policy. The Purchasing Principal, if deemed necessary, may correct a Purchase Requisition. If information is incomplete, the Purchase Requisition will be sent back to the requestor for more information. Once a Purchase Requisition is complete, it will be converted into a Purchase Order.

Other items to remember when submitting a Purchase Requisition:

- a) Freight costs must be included in the quotation. The standard terms and conditions of the District Purchase Order form includes the requirement that shipments are “Free on Board (F.O.B.) destination,” meaning the seller bears all risk until the goods are delivered to the District’s specified destination. During discussions with vendors, the cost of any required freight must be obtained so that it can be included in the price. It is the District’s goal not to pay freight charges if possible. If the vendor will not include freight as a component of the item cost, then the initiating department must include freight as a separate line item on the Purchase Requisition.
- b) All Purchase Requisitions requesting a Sole Source or otherwise non-competitive procurement must have written justification submitted to the Purchasing Principal.
- c) New Vendors: All requisitions for a vendor not currently on the District’s vendor list must state “New Vendor” on the Purchase Requisition. The tax identification number, name, address, city, state, zip code, phone number, fax number, and e-mail address, as well as a contact name of the “New Vendor” must be included.

#### **4) Purchase Order**

A Purchase Order is a legal document authorizing the purchase of and subsequent payment for materials, supplies, equipment, construction, repairs and services, etc. Purchase Orders will be issued by the Purchasing Principal after all required authorizations and requirements within this Procurement Policy have been met. A Purchase Order is prepared from an approved Purchase Requisition or Board authorized expenditure and must be written so that it is concise and clear. This will prevent any unnecessary misunderstandings and correspondence with vendors. Each Purchase Order must contain standard terminology defining requirements for the vendor to follow and contain the approved Purchase Order Terms and Conditions.

##### **a) Open Purchase Order**

An Open Purchase Order may be issued when appropriate for standard recurring expenditures such as maintenance items or repetitive purchases from the same vendor. An Open Purchase Order does not encumber funds and is not necessarily tied to a specific account number. Open Purchase Orders must be covered by an approved Contract, state bid or GSA schedule unless annual expected expenditures of a single purchase transaction are less than \$5,000. Such items may be covered by an Open Purchase Order for the current fiscal year, provided the Contract is in effect for the same period. For any Contract or bid that carries over into the next fiscal year, the Open Purchase Order should initially be issued for goods/services through September 30 of that year. At the start of the next fiscal year, a new Open Purchase Order should be issued for the remaining time on the Contract. Planned purchases of tools, supplies, repair items, etc. should be purchased by a regular purchase order. All Open Purchase Orders require Executive Director Approval and an Open Purchase Order that exceeds \$50,000 requires approval from the Governing Board. The issuance of an Open Purchase Order subsequent to an approved or awarded Contract does not require additional approval; however, the terms must be in accordance with the terms of the pre-approved or pre-awarded Contract.

The Purchasing Principal will keep a list of all current Open Purchases Orders. If it is determined there is a need for a new Open Purchase Order, an approved Purchase Requisition must be delivered to the Purchasing Principal. Open Purchase Order requests should contain the following information:

- i. Description of the items to be purchased.
- ii. Period of time the Open Purchase Order will remain valid.
- iii. A list of persons/departments authorized to make purchases against the Open Purchase Order.
- iv. Maximum amount, which cannot be exceeded, of the Open Purchase Order.
- v. Reference of state bid, GSA schedule, or competitively bid contract number as well as the governmental entity that generated the Contract, when applicable.

The department utilizing the Open Purchase Order is responsible for providing invoices, receipts, or other acceptable documentation signed by the appropriate Department Director or their designee to the Finance Department. All invoices or receipts shall be coded with the Open Purchase Order number and account number to be charged.

#### **b) Purchase Order Changes**

Purchase Orders may be revised to correct errors, omissions, or discrepancies; cover acceptable overruns and freight costs; and incorporate requirements to expend or reduce the scope of goods or services ordered. If a Department desires to change or cancel a Purchase Order after it has been encumbered, the Department must notify the Purchasing Principal in writing with a brief explanation of the change. Freight, shipping, & handling charges and back-order related changes do not require an explanation.

Revisions that decrease the Purchase Order total do not require approval. Department Director approval is required if the amount of the change requested is greater than \$100. Executive Director approval is required if the original Purchase Order was for more than \$1,000 or if the change will make the total Purchase Order greater than \$1,000. See Section 7.00.01 if the original Purchase Order was awarded by Board action. Also, see Section 7.00.01 if the proposed changes to a Purchase Order will cause the total value to exceed \$50,000.00.

#### **5) Check Requests/Direct Purchases**

Most District purchases originate with a Purchase Requisition and are authorized by a Purchase Order. However, there are certain circumstances where this process is unnecessarily cumbersome. In these situations, District purchases may be authorized for Direct Payment using a Check Request Form. A Check Request Form will be issued and original invoices reflecting signed approval by the Department Director, where required, will be attached and submitted to the Director of Finance and Administration or his/her designee. The issuance of a Check Request Form subsequent to an approved or awarded Contract does not require additional approval from the Board; however, the terms must be in accordance with the terms of the pre-approved or pre-awarded Contract.

A list of approved Direct Purchases is below:

- a) Utilities (electric, water, gas, telecommunications, waste disposal, etc.)
- b) Legal Services, including Court Reporters
- c) General Liability, Property, Workers' Compensation and Flood Insurance Premiums
- d) Life, Health, Dental, and Vision Insurance
- e) Employee Benefits and Contracts with Third Parties for Payroll Deduction
- f) Goods, Services, or Donations provided with Non-District Funds (Developer Deposits, Repayment of Maintenance Bonds, Scholarships, Pass-through Donation, etc.)
- g) Customer Refunds
- h) Debt Service Payments
- i) Retirement Contribution Payments in accordance with the District's Retirement Plan
- j) Unemployment Compensation
- k) Tax Withholding Payments
- l) Employee Garnishments
- m) Sales Tax Payments
- n) Land Purchases
- o) Memberships, Subscriptions, and Publications
- p) Professional Dues and Licenses
- q) Seminar and Travel Expenses
- r) Per Diem and Mileage Reimbursement
- s) Employee Tuition Reimbursement
- t) Petty Cash Reimbursement
- u) Workers Compensation Claims
- v) Investments
- w) Postage
- x) Recording Fees
- y) Automobile License Plates
- z) Advertisements
- aa) Licenses and Permits
- bb) Credit Card Merchant Service Fees and Bank Fees
- cc) Credit Card Remittances
- dd) Other items as approved by the Director of Finance and Administration

## **7.02 SALES TAX EXEMPTION**

The District is exempt from paying Florida State Sales Tax. All employees who purchase goods or services on behalf of the District shall supply each vendor with a copy of the District's sales tax exemption certificate or number to avoid being assessed state sales taxes. Employees will not be reimbursed for the payment of state sales tax, except for travel outside the State of Florida and meals while traveling under Class "C" travel, where per diem is not issued.

The Sales Tax Exemption privilege is for the purchase of goods exclusively for use of the District. District employees are expressly prohibited from purchasing goods or supplies for personal use using the District's tax exemption certificate or number.

## **8.0 LEGAL CITATIONS**

### Section 1.01

Art. VII, §1, Fla. Constitution limits the expenditure of tax revenue to public purpose. *Brown v. Winston*, 197 So. 543 (Fla. 1940); 1958 Op. Att’y Gen. Fla. 085-305 (Nov. 10, 1958). Fair and equitable process. *Similar to* §287.001, Fla. Stat. (2018)

### Section 1.02

“Best” Similar to §287.012 (4), Fla. Stat. (2018)

“Competitive Selection” Similar to §287.012 (6), Fla. Stat. (2018)

“Design-Build Firm” §287.055(2)(h), Fla. Stat. (2018)

“Design-Build Contract” §287.055(2)(i), Fla. Stat. (2018)

“Design Criteria Package” §287.055(2)(j), Fla. Stat. (2018)

“Design Criteria Professional” §287.055(2)(k), Fla. Stat. (2018)

“Electronic posting or electronic post” Similar to §287.012 (10), Fla. Stat. (2018)

“Invitation to Bid” Similar to §287.012 (16), Fla. Stat. (2018)

“Invitation to Negotiate” Similar to §287.012 (17), Fla. Stat. (2018)

“Request for Information” Similar to §287.012 (22), Fla. Stat. (2018)

“Request for Proposal” §287.012 (23), Fla. Stat. (2018)

“Request for Quote” Similar to §287.012 (24), Fla. Stat. (2018)

“Responsible vendor or bidder” Similar to §287.012 (25), Fla. Stat. (2018)

“Responsive bid” Similar to §287.012 (26), Fla. Stat. (2018)

“Responsive vendor or bidder” Similar to §287.012 (27), Fla. Stat. (2018)

“Sole source” *Accela, Inc. v. Sarasota County*, 993 So. 2d 1035, 1041 (Fla. 2d DCA 2008) (Similar provisions in Sarasota County code were reviewed in this case).

### Section 2.0

Auditor Selection §218.391, Fla. Stat. (2018)

Public Construction/Works §255.20, Fla. Stat. (2018)

Consultants’ Competitive Negotiation Act §287.055, Fla. Stat. (2018)

Local Government Investment Policies §218.415, Fla. Stat. (2018)

### Section 2.03

Performance and Payment Bond - §255.05, Fla. Stat. (2018); §287.0935, Fla. Stat. (2018);

Public Records Exemption - §119.071 (1)(b)(2), Fla. Stat. (2018), provides that sealed bids/proposals are not subject to the public records production until such time as the District provides notice of a decision or intended decision or until 30 days after opening the bids, proposals or final replies. The 30-day period does not include the date of the notice or opening.

Reject all bids - *Webster v. Belote*, 138 So. 721 (Fla. 1931); *Department of Transportation v. Grove-Watkins Constructors*, 530 So. 2d 912 (Fla. 1988) (FDOT is empowered to reject any and all bids in the absence of fraud, collusion, bad faith or arbitrary action); *Couch Construction Co. v. Department of Transportation*, 361 So. 2d 172 (Fla. 1st DCA 1978)(FDOT has wide discretion to reject all bids and to call for new bids for public contracts, but in making such a determination, FDOT cannot act arbitrarily). “Even if the public entity makes an erroneous decision about which reasonable people may disagree, the discretion of the public entity to solicit, accept and or reject contract bids should not be interfered with by the courts, absent a showing of dishonesty, illegality, fraud, oppression or misconduct.” *Paul Jacquin & Sons, Inc. v. City of Port St. Lucie*, 69 So. 3d 306, 308 (Fla. 4th DCA 2011), reh'g denied (Oct. 6, 2011); *City of Cape Coral v. Water Services of Am., Inc.*, 567 So. 2d 510, 512 (Fla. 2d DCA 1990 (i.e., because Bidder relied on the representations of the City, namely that a bid would not be rejected because the contractor was not licensed, the court ruled the bidder gets its preparation costs.) *Gulf Real Properties, Inc. v. Dep't of Health & Rehabilitative Services*, 687 So. 2d 1336, 1337 (Fla. 1st DCA 1997) (after a protest is filed, an entity may reject all bids).

Incomplete packages or minor abnormalities - Whether material or immaterial turns on whether providing the bidder the waiver would give that Bidder a substantial advantage over other bidders. *Tropabest Foods, Inc. v. State Department of General Services*, 493 So. 2d 50 (Fla. 1st DCA 1986).

Drug Free Workplace - §287.087, Fla. Stat. (2018)

Tax Saving Program – Chapter 212, Fla. Stat. (2018); §212.08 (6), Fla. Stat. (2018)

*Similar to:* Protest §120.057(3), Fla. Stat. (2018); §287.042(2)(c), Fla. Stat. (2018);

### Section 2.04

Factors to consider - §287.055, Fla. Stat. (2018)

*Similar to:* §287.057(1)(c), Fla. Stat. (2018)

### Section 2.05

§287.055(9), Fla. Stat. (2018)

**Section 2.06**

*Similar to:* §287.057(3)(e), Fla. Stat. (2018);  
Public Construction exemptions - §255.20, Fla. Stat. (2018)  
*Similar to Sole Source* - §255.04, Fla. Stat. (2018)  
Piggy- backing §189.053, Fla. Stat. (2018).

**Section 2.08**

Continuing Contract §287.055(2)(g), Fla. Stat. (2018)

**Section 2.11**

Public Entity Crime §287.133, Fla. Stat. (2018)  
Discriminatory Vendor §287.134, Fla. Stat. (2018)  
Scrutinized Companies §287.135, Fla. Stat. (2018)

**Section 2.13**

Ethics §112.313, Fla. Stat. (2018)

**Section 5.0**

Public Records – Chapter 119, Fla. Stat. (2018);  
*Similar to* §287.058(1)(c), Fla. Stat. (2018), §119.0701, Fla. Stat. (2018)