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| | Latest Revision Date September 8, 2021 | Ordinance No. 494 |

ARTICLE 6. REGULATIONS GOVERNING PURCHASES & SURPLUS SALES

Sec. 6.1.A. revised by Ordinance No. 445 / November 2, 2016

Sec. 6.1. General.

- A. Each purchase shall follow the appropriate procedures identified for that type of purchase. Separate procedures have been established for the procurement of supplies, equipment, non-professional services, public works contracts, and professional services contracts.

Sec. 6.1.B. revised by Ordinance No. 494/ September 8, 2021

- B. The Board reviews and approves a budget authorizing the purchase of materials, supplies, equipment and inventory; funding for capital items and projects; professional services and the general operation of the District's potable water, recycled water, wastewater, and Elfin Forest Recreational Reserve.

A Sole Source purchase is one where there is only one vendor capable of providing a good or service making it impossible to obtain competitive bids. A Single Source purchase is one where there are multiple sources of supply but the purchase should be made from a specific vendor for particular reasons. Few situations should arise that justify Sole or Single Source procurement, and such situations must be thoroughly analyzed before determining a non-competitive environment for a purchase exists. Sole or Single Source procurement may be conducted if:

(a) the purchase item is unique or obtainable only from that vendor based on availability; (b) replaces like-in kind equipment or facilitates effective maintenance, or avoids disruption to critical processes, such as water meters, pumps and motors and online analyzers; (c) when it is in the best interest of the District, avoids start-up costs, avoids interruptions to District business or good business practices; or (d) an emergency is declared by General Manager in accordance with Section 3.2.1.

Sole or Single Source purchases shall be supported by written documentation and an approved Sole or Single Source form (hard or electronic copy) authorized by and within the General Manager or Assistant General Manager authorized limits (Sec. 6.2).

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For Sole Source procurements, such documentation shall include an explanation of: **(a)** the unique nature of the requirement; **(b)** the basis upon which the District determined that there is only one known vendor able to meet the need; **(c)** the steps taken to identify potential competitors; and **(d)** the basis upon which the District determined the cost to be reasonable.

For Single Source procurements, such documentation shall include: **(a)** the circumstances leading to the selection of the vendor; **(b)** the alternatives considered; **(c)** the rationale for selecting the specific vendor; and **(d)** the basis upon which the District determined the cost to be reasonable. Examples for documenting a reasonable fair market cost for Sole Source and Single Source procurements may include, but are not limited to, market surveys, records of previous similar purchases, a comparison of product catalogs, published price lists, consulting other purchasing officials, or other factors within the District's professional expertise and experience.

Approved Sole or Single Source procurement form and documentation shall be maintained in a project or accounts payable file and held per retention policy. Final authorization of Sole and Single Source purchases will be approved according to the purchasing procedures identified for each type of purchase.

Sec. 6.1.C. revised by Ordinance No. 494/ September 8, 2021

- C. Any expenditure exceeding \$75,000 which is not provided for in the annual budget or appropriated by the Board of Directors will require approval by the Board of Directors prior to purchase, except for Non-Discretionary Purchases (Sec. 6.4-I) and expenditures deemed to be an emergency by the General Manager in accordance with Section 3.2.1. Expenditures provided for in the annual budget shall be procured by the General Manager within the amount set in the budget.
- D. The General Manager shall execute all contracts on behalf of the District with the exception of routine annual maintenance and service contracts such as office equipment and facilities maintenance which may be executed by the department manager from which the contract originated within the authorization limits and competitive bidding requirements limits of Section 6.2.

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Sec. 6.2. revised by Ordinance No. 494 / September 8, 2021

Sec. 6.2. revised by Ordinance No. 449 / May 17, 2017

Sec. 6.2. Authority Limits and Competitive Bid Requirements - Supplies, Equipment, and Non-professional services.

- A. Purchases up to \$5,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Supervisor without the need for a competitive bid.
- B. Purchases up to \$25,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Manager through the use of a competitive bid process when practical. At least three bids or quotes shall be obtained based on appropriate procedures identified for that type of purchase.
- C. Purchases up to \$50,000 for supplies, equipment, and non-professional services shall be made through the use of a competitive bid process at the discretion of the Assistant General Manager. At least three bids or quotes must be obtained based on appropriate procedures identified for that type of purchase.
- D. Purchases up to \$75,000 for supplies, equipment, and non-professional services must be made through the use of a competitive bid process at the discretion of the General Manager. At least three bids or quotes must be obtained based on appropriate procedures identified for that type of purchase.
- E. Purchases over \$75,000 for supplies, equipment, and non-professional services will require a formal bid process, including, but not limited to, the preparation and circulation of a request for a proposal to qualified sources, as determined in the discretion of the General Manager or designee, to permit reasonable competition consistent with the nature and requirements of the proposed purchases. If the supplies, equipment or non-professional service is not provided for in the budget, Board approval is required.

Sec. 6.3. Public Work Contracts.

- A. Contractors for Public Work will be required to provide proof of insurance and other requirements according to applicable public

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contracting laws and regulations.

- B. Public Works Contracts for Work not exceeding \$35,000 shall be procured at the discretion of the General Manager. While not specifically required by this section, competitive quotations for public works are always encouraged and may be requested by the General Manager prior to approving the contract.
- C. Public Works Contracts for Work exceeding \$35,000 not done by Force Account. When work is not to be done by the District itself by force account, and the amount involved is \$35,000 or more, and competitive bidding of the contract is required by law, any contract for such work shall be let to the lowest responsive and responsible bidder after publication of notice inviting sealed bids in a newspaper or periodical of general circulation to be designated by the General Manager for such time as shall be fixed by law. A canvas of all bids received shall be presented by the General Manager to the Board of Directors, together with a statement of the lowest responsive bid and the General Manager's recommendation on the bidder who should receive the award. Such recommendation shall be subject to approval by the Board of Directors prior to award of the contract on which bids were received. The Board of Directors may reject any and all bids, determine that a bid is non-responsive, determine that a bidder is not responsible, or take such further action.

Sec. 6.3.D. added by Ordinance No. 494/ September 8, 2021

- D. Pre-Qualification. The General Manager is hereby authorized to prequalify bidders. Bidders may be prequalified on an annual basis or on a project specific basis. Such prequalification shall be consistent with the requirements of the California Public Contract Code.

Sec. 6.4. revised by Ordinance No. 494/ September 8, 2021

Sec. 6.4. Exceptions to Competitive Bidding Requirements.

The competitive bidding policies specified in this article shall not apply in the following cases or circumstances:

- A. Where an emergency has been declared by the General Manager in accordance with Section 3.2.1

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- B. Sole or Single Source purchases as defined in Section 6.1.C.
- C. Any contract not required to be competitively bid under California law.
- D. A contract for the acquisition or disposal of any real property.
- E. A contract for the purchase of water or water rights.
- F. A contract for experimental or unique products.
- G. A contract for legal, engineering and other professional services.
- H. Contracts where competitive proposals or bids would be incongruous and would not result in any advantage to the District.
- I. Non-Discretionary Items – Payments to utilities, temporary employment agencies, software license renewals that support critical business activities, insurance providers, healthcare providers, national, state and local agencies that relate to regulatory or routine obligations and expenses essential to the District's ability to provide service approved in operating and capital budgets.
- J. Materials in instances where the work and materials are considered critical or may be purchased regularly using a blanket purchase order. Such items shall be bid periodically but not less than biennially in order to ensure best pricing:
 - 1. Asphalt and Concrete
 - 2. Aggregate (sand, base and similar materials)
 - 3. Treatment Chemicals
 - 4. Laboratory Supplies and Testing Services
 - 5. Office Supplies
 - 6. Warehouse Supply Purchases to Maintain Established Inventory Levels within Budget

Sec. 6.5.. revised by Ordinance No. 494/ September 8, 2021

Sec. 6.5. Purchasing Documentation.

- A. Each purchase shall be requested and executed using the

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appropriate form or document. The standard purchasing forms and

documents, depending on type of purchase, shall be the purchase request, purchase order, bid package, Sole or Single Source procurement form, and service contract. Forms or documents can be submitted in hard or electronic copy. All contracts and purchase orders (electronic or hard copy) must be approved and signed by authorized individuals.

- B. Approved purchase orders will be used for most purchases. Exceptions include items covered by other contracts, utilities and similar services recurring professional services, water purchases, postage, expense reimbursements, newspaper ads, subscriptions, petty cash items, and other items of similar nature.

Sec. 6.6. revised by Ordinance No. 494/ September 8, 2021

Sec. 6.6. Surplus Sales.

- A. Surplus items having a saleable value shall be accumulated by District personnel and may be sold at the discretion of the General Manager or his/her designee. Surplus items with an estimated value in excess of \$500 for a specific category shall be appropriately advertised and either auctioned or sold on a negotiated basis depending upon the circumstances. The General Manager or his/her designee shall determine the method of sale and the objective shall always be to obtain the maximum benefit possible for the District. The Asset Disposal Form shall be completed on all surplus items sold or disposed of for auditing purposes. In the case of surplus property determined by the General Manager to be trash or scrap with De Minimus value, staff may dispose of the property in an appropriate manner.
- B. All applicable laws governing sales of surplus District property shall be adhered to, including restrictions on District Board Directors, employees, and/or Directors or employees' relatives receiving such property.

Sec. 6.7. Delegation to General Manager.

- A. The General Manager or his/her designee is authorized to negotiate for and enter into agreements for work to be done by consultants and

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contractors where the project has been previously approved by the Board of Directors and funds have been appropriated or budgeted. The General Manager or his/her designee shall comply with bidding requirements as contained in Article 6 of the Administrative Code.

- B. Hydraulic analysis for subdivisions and line extensions shall be considered and, if appropriate, approved by the General Manager. The General Manager is authorized to execute the District's standard subdivision agreement with the developer or proponent.
- C. The General Manager is authorized to approve the transfer in writing of water commitments from one owner to another in accordance with Article 13, Section 13.8.K of the District's Administrative Code.

Sec. 6.8. revised by Ordinance No. 494/ September 8, 2021

Sec. 6.8. Regulations Governing Change Orders.

The General Manager shall have certain authority for the signing of change orders governing District contracts. This authority shall extend only to projects that have Board approved appropriations in sufficient amounts to cover the costs of the change order(s). Change orders shall be presented to the Board of Directors at the earliest opportunity for their information and/or approval.

- A. Change orders less than \$75,000 may be approved and signed at the discretion of the General Manager.
- B. Change orders totaling more than \$75,000 per contract shall be reviewed and approved by the Board of Directors.
- C. Construction Change Orders decreasing the contract value or No-Cost Construction Change Orders may be executed by the Department Manager.

Sec. 6.9. revised by Ordinance No. 494/ September 8, 2021

Sec. 6.9. Professional Service Contracts Selection Policy

Professional service providers are those entities that provide advice, opinions, technical expertise, general and administrative services to support the District's potable water, recycled water, wastewater, and Elfin

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Forest Recreational Reserve operations. Examples of professional service providers include attorneys, accountants, financial consultants, banking services, invoice processing and bill pay providers, public relations professionals, educational trainers, engineers, surveyors, material and

special inspectors/testers, construction managers, realtors, right-of-way service providers, landscape service providers, information technology specialists, etc. Depending upon the trade, these individuals may or may not hold professional licenses.

- A. For professional service contracts that are anticipated to be less than \$200,000, staff shall provide written or oral Requests for Proposals (RFPs) to at least two firms. A short form RFP is acceptable. No rating/interview panel is required. Approval criteria shall include, but not be limited to, experience, expertise, availability and qualifications of consultants staff, completeness and responsiveness of proposal, and cost.
- B. For professional service contracts that are anticipated to exceed \$200,000, staff shall request proposals in writing to at least three firms. A detailed RFP shall be used. An in-house panel shall be established for rating/interviewing and shall consist of at least one person from a different department than the one conducting the detailed RFP process. The in-house panel may conduct interviews at the discretion of the department manager for the department conducting the detailed RFP process. Approval criteria shall include, but not be limited to, experience, expertise, availability and qualifications of consultants staff, completeness and responsiveness of proposal, and cost.
- C. Where it is apparent that an RFP process would be incongruous and would not result in an advantage to the District, an exception to the foregoing processes may be granted. Exceptions may include where the staff is looking for a particular skill or ability, or where a consultant is already providing current services for the District and there would be economies and efficiencies of scale by continuing with the consultant. Emergencies are also exempted from the RFP process. Staff shall consult with the General Manager and his/her designee prior to commencing the selection process in order to review if the exception to the standard procedures is warranted.

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D. Authority Limits and Amendment Requirements.

1. Purchases up to \$5,000 for professional services and amendments shall be made at the discretion of the Department Supervisor.
2. Purchases up to \$25,000 for professional services and amendments shall be made at the discretion of the Department Manager.
3. Purchases up to \$50,000 for professional services and amendments at the discretion of the Assistant General Manager.
4. Purchases up to \$75,000 for professional services and amendments at the discretion of the General Manager.
5. Purchases over \$75,000 for professional services and amendments not provided for in the budget, Board approval is required.