



Ventura Port District

# Procurement and Purchasing Policy

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## **I. STATEMENT OF GENERAL POLICY**

The goal of this Procurement and Purchasing Policy is to enable the Ventura Port District (the “District”) to obtain contracts for the purchasing of materials or supplies not used in connection with or consumed on any work or project that falls within the definition of “public projects” or “maintenance work” subject to the California Uniform Public Construction Cost Accounting Act (“UPCCA”) as defined in Public Contract Code Section 22002, and to procure services for the District at the best value and in a timely manner, while maintaining fairness to vendors, suppliers, service providers, and contractors, and abiding by applicable laws. The District’s Board of Port Commissioners (the “Board”) has adopted this Procurement and Purchasing Policy to establish the authority, limits, and procedures relating to the District’s procurement and purchasing activities in connection with such contracts. All such procurement and purchasing activities for the District shall be administered in accordance with the provisions of this policy, and with the express intent to promote open and fair conduct in all aspects of the procurement and purchasing process. This policy also establishes staff purchasing authority levels for contracts for the doing of any work or project which does fall within the definition of “public projects” or “maintenance work” subject to the UPCCA as defined in Public Contract Code Section 22002.

The District intends to maintain a cost effective purchasing system conforming to good management practices. The Procurement and Purchasing Policy is intended to accomplish the following objectives:

- A. Provide all vendors, suppliers, service providers, and contractors with full, fair, prompt and courteous consideration;
- B. Keep competition open and fair; and
- C. Observe strict truthfulness and highest ethics in all transactions.

In order to be successful, the system must be supported by the cooperation of all District personnel. Prior planning and the timely submission of requisitions are essential to expedite the District’s procurement and purchasing process and to ensure that this process is conducted in an orderly and lawful manner.

## **II. ETHICS IN PROCUREMENT AND PURCHASING**

In dealing with the District's procurement and purchasing needs, District personnel shall be mindful of the following:

- A. That public office is a public trust and to give primary consideration to the District's interests as well as the interests of the public.
- B. Procurement and purchasing decisions shall be made without prejudice and to try to maximize the value of each dollar expended.
- C. District personnel must avoid unfair business practices or decisions and to give all qualified vendors, suppliers, service providers, and contractors an equal opportunity to participate in the procurement and purchasing process.
- D. We shall promote positive relationships with the District's vendors, suppliers, service providers, and contractors through courteous and impartial treatment in all phases of the purchasing cycle.
- E. We shall conduct ourselves with fairness and dignity, and demand honesty and truth in the purchasing process.
- F. We must avoid the appearance of unethical or compromising practice in relationships, actions, and communications in the procurement and purchasing process.
- H. We must refrain from soliciting or accepting money, loans, credits, prejudicial discounts, gifts, favors, or services from past, present or future suppliers, vendors, service providers, or contractors that might influence, or appear to influence, purchasing decisions.
- I. All District personnel shall discharge their duties impartially so as to ensure competitive access to governmental procurement by responsible contractors.
- J. All District personnel shall conduct themselves in such a manner as to foster public confidence in the integrity of District procurement and purchasing.

### III. THE PROCUREMENT AND PURCHASING PROCESS

#### A. Contract Administration

The District routinely utilizes the services of vendors, suppliers, service providers, and contractors for a variety of operational needs. These include, but are not limited to, the acquisition of equipment, supplies, materials, goods, maintenance services, and construction or renovation of District facilities. All contracts should include, but shall not be limited to, the following provisions:

- (1) The term or length of contract;
- (2) Description of work to be performed or services/products to be provided;
- (3) Schedule for performance;
- (4) Indemnity, insurance and bonding requirements;
- (5) Warranties and/or guarantees if applicable;
- (6) Payment schedule; and
- (7) Conditions for termination of contract.

Except as otherwise provided in this Procurement and Purchasing Policy, this Policy shall not apply to the performance of, contracting for, or the doing of any “public project” or “maintenance work” as such terms are defined in Public Contract Code Section 22002. Any such “public project” or “maintenance work” shall be subject to (i) Resolution No. 3213 adopted by the Board on February 27, 2013; (ii) the procedures, terms, and conditions set forth in the UPCCA pursuant to California Public Contract Code Section 22000 et seq.; (iii) the California Uniform Construction Cost Account Commission’s (the “Commission”) policies and procedures manual and cost accounting review procedures; (iv) Ordinance No. 48 adopted by the Board on March 27, 2013; (v) Resolution No. 3219 adopted by the Board on May 8, 2013; and (vi) any other resolutions, policies, and procedures that may be adopted or promulgated by the Board from time to time, and until such time as the Board has adopted a resolution electing to discontinue the District’s participation under the UPCCA.

#### B. Purchasing of Supplies Used in Connection with or Consumed on any Work or Project not Subject to the UPCCA

##### (1) *Purchases less than or equal to \$1,000.00*

The General Manager and any Level 1, Level 2, Level 3, or Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies used in connection with or consumed on any District work or project not subject to the UPCCA with a contract price or purchase price less than or equal to \$1,000.00, without competitive bidding. Level 1 employees shall not be authorized to execute any such contract or to make any such purchase until such employee has obtained the prior approval of his/her immediate supervisor.

##### (2) *Purchases totaling \$1,000.01 - \$2,500.00*

The General Manager and any Level 2, Level 3, or Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies used in connection with or consumed on any District work or project not

subject to the UPCCA with a contract price or purchase price greater than \$1,000.00 but less than or equal to \$2,500.00, without competitive bidding, so long as such contract or purchase has been included in the District's then-current fiscal budget and at least one (1) quote is obtained from a vendor, supplier, service provider, or contractor concerning the price and terms and conditions of the proposed contract or purchase. If such contract or purchase has not been previously included in the District's then-current fiscal budget or at least one (1) quote has not been obtained, such contract or purchase shall require prior approval from the Board at a regular or special meeting of the Board. Level 2 employees shall not be authorized to execute any such contract or to make any such purchase until such employee's immediate supervisor has reviewed and approved the written quote and proposed contract/order.

**(3) Purchases totaling \$2,500.01 - \$10,000.00**

The General Manager and any Level 3 or Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies used in connection with or consumed on any District work or project not subject to the UPCCA with a contract price or purchase price greater than \$2,500.00 but less than or equal to \$10,000.00, without competitive bidding, so long as such contract or purchase has been included in the District's then-current fiscal budget and at least one (1) quote is obtained from competing vendors, suppliers, service providers, or contractors concerning the price and terms and conditions of the proposed contract or purchase. If such contract or purchase has not been previously included in the District's then-current fiscal budget or at least one (1) quote has not been obtained, such contract or purchase shall require prior approval from the Board at a regular or special meeting of the Board. Level 3 employees shall not be authorized to execute any such contract or to make any such purchase until the General Manager has reviewed and approved the written quotes and proposed contracts/orders.

**(4) Purchases totaling \$10,000.01 - \$25,000.00**

The General Manager and any Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies used in connection with or consumed on any District work or project not subject to the UPCCA with a contract price or purchase price greater than \$10,000.00 but less than or equal to \$25,000.00, without competitive bidding, so long as such contract or purchase has been included in the District's then-current fiscal budget and at least two (2) quotes are obtained from competing vendors, suppliers, service providers, or contractors concerning the price and terms and conditions of the proposed contract or purchase. If such contract or purchase has not been previously included in the District's then-current fiscal budget or at least two (2) quotes have not been obtained, such contract or purchase shall require prior approval from the Board at a regular or special meeting of the Board.

**(5) Purchases Over \$25,000.00**

Any order or contract for the purchasing of supplies used in connection with or consumed on any District work or project not subject to the UPCCA with a contract price or purchase price greater than \$25,000.00 is subject to the competitive bidding procedures set forth in Section III(C), below, unless an applicable exception under Section IV, below, applies.

### **C. Competitive Bidding Procedures**

As provided, among other things, in Public Contract Code Section 20751, contracts for the purchasing of supplies (used in connection with or consumed on any District work or project not subject to the UPCCA) must be let by competitive bidding where the amount of the contract exceeds \$25,000.00.

When the purchasing of supplies used in connection with or consumed on any District work or project not subject to the UPCCA is contemplated, the General Manager will make a recommendation to the Board with a cost estimate and other supporting documentation appropriate for the size and scope of the proposed purchase.

Upon approval by the Board, the General Manager shall cause to be prepared the appropriate plans, specifications and other descriptive information for the publication of a notice inviting sealed bids for performance for the proposed purchase. The notice shall be published in a newspaper of general circulation in accordance with the Public Contract Code.

The contract documents shall be prepared utilizing the District's standard forms, with such modifications as may be appropriate for the particular supplies or materials to be acquired and purchased. In the event of an emergency, applicable Public Contract Code provisions will be followed.

All bids shall be presented under sealed cover on forms furnished by the District. Sealed bids shall be opened at the time and place stated in the advertisement for bid with no less than two representatives of the District in attendance. When all bids have been evaluated, the General Manager shall make a recommendation to the Board regarding award of the contract to the lowest responsible bidder.

If the lowest bidder is disqualified for any reason, or if the bids exceed the cost estimates previously approved, the General Manager shall evaluate the options available and make a recommendation to the Board, which may include, but not be limited to, a recommendation of no award. The Board will make the final decision regarding the award of contract under this Section C. At the direction of the Board and after legal counsel review, the General Manager shall execute any such contract.

### **D. Contracts for the Doing of Any Public Project or Maintenance Work that is Subject to the UPCCA (The following policies in this Section D are at the discretion of the Board of Commissioners. They are equal to or above and beyond that which is required by the UPCCA)**

#### **(1) *Contracts less than or equal to \$1,000.00***

The doing of any public project or maintenance work of the District that is subject to the UPCCA, or any contract for the doing of any such public project or maintenance work, with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) less than or equal to \$1,000.00 can be performed (i) by the District's employees by force account, (ii) by negotiated contract, or (iii) by purchase order. If the doing

of any such public project or maintenance work is to be performed by negotiated contract or by purchase order, the General Manager and any Level 1 employee, Level 2 employee, Level 3 employee, or Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any such negotiated contract or purchase order. Level 1 employees shall not be authorized to execute any such contract or purchase order until such employee has obtained the prior approval of his/her immediate supervisor. No notice inviting informal bid for any such public project or maintenance work need be provided.

**(2) *Contracts totaling \$1,000.01 - \$2,500.00***

The doing of any public project or maintenance work of the District that is subject to the UPCCA, or any contract for the doing of any such public project or maintenance work, with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) greater than \$1,000.00 but less than or equal to \$2,500.00 can be performed (i) by the District’s employees by force account, (ii) by negotiated contract, or (iii) by purchase order, so long as such public project or maintenance work has been included in the District’s then-current fiscal budget. If the doing of any such public project or maintenance work is to be performed by negotiated contract or by purchase order, the General Manager and any Level 2, Level 3 or Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any such negotiated contract or purchase order. If such public project or maintenance work has not been previously included in the District’s then-current fiscal budget, the doing of any such public project or maintenance work (whether by force account, negotiated contract, or purchase order), shall require prior approval from the Board at a regular or special meeting of the Board. Level 2 employees shall not be authorized to execute any such contract or purchase order until such employee’s immediate supervisor has reviewed and approved the proposed contract or purchase order. No notice inviting informal bid for any such public project or maintenance work need be provided.

**(3) *Contracts totaling \$2,500.01 - \$5,000.00***

The doing of any public project or maintenance work of the District that is subject to the UPCCA, or any contract for the doing of any such public project or maintenance work, with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) greater than \$2,500.00 but less than or equal to \$5,000.00 can be performed (i) by the District’s employees by force account, (ii) by negotiated contract, or (iii) by purchase order, so long as such public project or maintenance work has been included in the District’s then-current fiscal budget. If the doing of any such public project or maintenance work is to be performed by negotiated contract or by purchase order, the General Manager and any Level 3 or Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any such negotiated contract or purchase order. If such public project or maintenance work has not been previously included in the District’s then-current fiscal budget, the doing of any such public project or maintenance work (whether by force account, negotiated contract, or purchase order) shall require prior approval from the Board at a regular or special meeting of the Board. Level 3 employees shall not be authorized to execute any such contract or purchase order until the General Manager has reviewed and approved the proposed contract or purchase order. No notice inviting informal bid for any such public project or maintenance work need be provided.

**(4) Contracts totaling \$5,000.01 - \$10,000.00**

The doing of any public project or maintenance work of the District that is subject to the UPCCA, or any contract for the doing of any such public project or maintenance work, with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) greater than \$5,000.00 but less than or equal to \$10,000.00 can be performed (i) by the District’s employees by force account, (ii) by negotiated contract, or (iii) by purchase order, so long as such public project or maintenance work has been included in the District’s then-current fiscal budget. If the doing of any such public project or maintenance work is to be performed by negotiated contract or by purchase order, the General Manager and any Level 4 employee of the District shall be authorized to approve and to execute on behalf of the District any such negotiated contract or purchase order. If such public project or maintenance work has not been previously included in the District’s then-current fiscal budget, the doing of any such public project or maintenance work (whether by force account, negotiated contract, or purchase order) shall require prior approval from the Board at a regular or special meeting of the Board. No notice inviting informal bid for any such public project or maintenance work need be provided.

**(5) Contracts totaling \$10,000.01 - \$60,000.00**

The doing of any public project or maintenance work of the District that is subject to the UPCCA, or any contract for the doing of any such public project or maintenance work, with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) greater than \$10,000.00 but less than or equal to \$60,000.00 can be performed (i) by the District’s employees by force account, (ii) by negotiated contract, or (iii) by purchase order, so long as such public project or maintenance work has been included in the District’s then-current fiscal budget. If the doing of any such public project or maintenance work is to be performed by negotiated contract or by purchase order, the General Manager shall be authorized to approve and to execute on behalf of the District any such negotiated contract or purchase order. If such public project or maintenance work has not been previously included in the District’s then-current fiscal budget, the doing of any such public project or maintenance work (whether by force account, negotiated contract, or purchase order) shall require prior approval from the Board at a regular or special meeting of the Board. No notice inviting informal bid for any such public project or maintenance work need be provided.

**(6) Contracts totaling \$60,000.01 - \$200,000.00**

Any contract for the doing of any public project or maintenance work of the District that is subject to the UPCCA with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) greater than \$60,000.00 but less than or equal to \$200,000.00, must go through the UPCCA’s informal bid process as set forth in the District’s Ordinance No. 48 adopted March 27, 2013, as may be amended from time to time, and as summarized in the UPCCA Summary Sheet attached hereto as **Exhibit “E”** and incorporated herein by reference. The General Manager shall be authorized to send out a notice inviting informal bid on the proposed public project or maintenance work without prior Board approval so long as such project or work has been included in the District’s then-current fiscal budget. The informal bid results will be brought

before the Board to consider whether to reject any and all bids or to award a bid to the lowest responsible bidder in the manner required by the UPCCA as summarized on the attached UPCCA Summary Sheet. If no bids are received, the proposed public project or maintenance work may be performed by the District's employees by force account. If all bids received are greater than \$200,000.00, the Board can adopt by resolution by a four-fifths vote and award the contract at \$212,500.00 or less to the lowest responsible bidder if the Board determines the cost estimate of the District was reasonable. If the proposed public project or maintenance work has not been previously included in the District's then-current fiscal budget, the General Manager may not send out a notice inviting informal bid on the proposed public project or maintenance work without first obtaining the Board's prior approval at a regular or special meeting of the Board.

**(7) *Contracts over \$200,000.00***

Unless otherwise provided in Section III(D)(6), above, any contract for the doing of any public project or maintenance work of the District that is subject to the UPCCA with a total contract price (which includes all cost elements - personnel, materials, supplies, subcontracts, equipment and overhead – associated with the proposed public project or maintenance work) greater than \$200,000.00 is subject to the UPCCA's formal bidding procedures (including the notice inviting formal bids, adoption of plans, and the awarding of bid) as summarized on the attached UPCCA Summary Sheet. The General Manager shall be authorized to send out a notice inviting formal bid on the proposed public project or maintenance work without prior Board approval so long as such project or work has been included in the District's then-current fiscal budget. The formal bid results will be brought before the Board to consider whether to reject any and all bids or to award a bid to the lowest responsible bidder in the manner required by the UPCCA as summarized on the attached UPCCA Summary Sheet. If no bids are received, the proposed public project or maintenance work may be performed by the District's employees by force account or by the informal bidding procedures detailed for public projects greater than \$60,000.00 but less than or equal to \$200,000.00. If the proposed public project or maintenance work has not been previously included in the District's then-current fiscal budget, the General Manager may not send out a notice inviting formal bid on the proposed public project or maintenance work without first obtaining the Board's prior approval at a regular or special meeting of the Board.

**E. Change Orders**

The General Manager shall have the authority to approve and execute on behalf of the District any change order to a contract (i) awarded by District personnel (including the General Manager) or the Board pursuant to Section III of this Procurement and Purchasing Policy; or (ii) awarded by the Board (or by any person who the Board has delegated authority to) for a public project or maintenance work under the UPCCA, as follows:

- (1) For change orders (including any change order to a contract awarded by the Board or by any person who the Board has delegated authority to for a public project or maintenance work under the UPCCA) less than or equal to \$10,000.00 that does not cause the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager may authorize such change order without having to obtain prior approval of the Board.

- (2) For change orders (including any change order to a contract awarded by the Board or by any person who the Board has delegated authority to for a public project or maintenance work under the UPCCA) less than or equal to \$10,000.00 that causes the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager shall be prohibited from authorizing such change order until such time as the General Manger has obtained the prior approval of the Board at a regular or special meeting of the Board.
- (3) For change orders (including any change order to a contract awarded by the Board or by any person who the Board has delegated authority to for a public project or maintenance work under the UPCCA) greater than \$10,000.00 (but within ten percent (10%) of the original contract amount) that does not cause the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager may authorize such change order without having to obtain prior approval of the Board.
- (4) For change orders (including any change order to a contract awarded by the Board or by any person who the Board has delegated authority to for a public project or maintenance work under the UPCCA) greater than \$10,000.00 (but within ten percent (10%) of the original contract amount) that causes the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager shall be prohibited from authorizing such change order until such time as the General Manager has obtained the prior approval of the Board at a regular or special meeting of the Board.
- (5) For change orders (including any change order to a contract awarded by the Board or by any person who the Board has delegated authority to for a "public project" or "maintenance work" under the UPCCA) greater than \$10,000.00 that are more than ten percent (10%) of the original contract amount, the General Manager shall be prohibited from authorizing such change order until such time as the General Manager has obtained the prior approval of the Board.

#### **F. Professional Service Agreements**

Architectural, engineering, project management, inspection and other such professional services may be required and shall be awarded using the District's standard Professional Services Agreement. The Board shall approve all Professional Services Agreements over the amount of \$25,000.00. The General Manager is authorized to enter into a Professional Services Agreement in an amount of \$25,000.00 or less without prior Board approval provided the services have been included in the District's then-current fiscal budget. Any Professional Services Agreement not included in the District's then-current fiscal year budget requires the prior approval of the Board. The Accounting Manager is authorized to approve routine invoices for contracts and services that have already been authorized by the Board or the General Manager.

**G. Prohibition against Serial or Cumulative Expenditures**

The authority for making expenditures or executing contracts as provided in this policy is intended to enable the General Manager and District staff to understand the scope of this authority in procurement activities made on behalf of the District. The structuring of transactions in a serial or cumulative manner so as to avoid the requirement of approval by the Board is strictly prohibited and will not be tolerated. In addition, for public projects or maintenance work of the District that is subject to the UPCCA, the UPCCA prohibits a local agency to split or separate into smaller work orders or projects any such public project or maintenance work for purposes of avoiding the UPCCA's formal bidding requirements. Thus, the costs associated with the purchase of materials or supplies, when purchased or used as part of a public project or maintenance work subject to the UPCCA, become part of the project cost and must be considered when applying the bid limits set forth in Section III(D) above. For example, on a public project that will pay a contractor \$100,000.00 for construction services and a separate vendor \$100,000.00 for the purchase of materials or supplies to be used on the project, such project will have a total contract price of \$200,000.00 and the contracting services and the separate purchase of materials and supplies will each be subject to the UPCCA's formal bidding procedures. Likewise, as an example, if maintenance work subject to the UPCCA will have a total cost of \$100,000.00 (e.g., \$50,000.00 to be paid for maintenance services to one contractor and \$50,000.00 to be paid to a separate vendor for materials and supplies), the maintenance services contract and the purchasing contract will each be subject to the UPCCA's informal bidding procedures.

**H. Future Modifications of Bid Limit Thresholds**

In the event the bid limit thresholds proscribed in Public Contract Code Section 22032 are later modified, District staff is hereby authorized and directed to revise this Procurement and Purchasing Policy to conform with the maximum bid threshold limits permitted by law. Upon such an event, District staff shall notify the Board of the bid threshold limit modifications and the corresponding amounts.

#### IV. EXCEPTIONS TO COMPETITIVE BIDDING

The following exceptions shall apply to the competitive bidding procedures set forth in Section III(C) above:

##### A. Sole Source Procurement

There may be limited situations where the District requires particular contracts for the purchasing of supplies used in connection with or consumed on any project or work not subject to the UPCCA, for which there is no substantial equivalent and which are, in fact, available from only one vendor, supplier, service provider, or contractor, and therefore, in such situations, the use of competitive bidding may be impractical.

The Board has determined that it is in the District's best interests to authorize the General Manager to engage in sole source procurement under limited circumstances. The General Manager, on behalf of the District, may execute a contract for the purchasing of supplies used in connection with or consumed on any project or work not subject to the UPCCA, on a sole source basis, and without competitive bidding, on the following conditions:

- (1) The General Manager determines, after conducting a good faith review of available sources, that there is only one source for such supplies required by the District.
  - (a) Examples of sole source procurements include, but shall not be limited to, the following:
    - (i) ***Licensed or Patented Applications:*** The vendor, supplier, service provider, or contractor is the sole provider of a licensed, patented, or proprietary application, product, material, supplies, or item required by the District that has unique design or performance features providing superior utility not obtainable from similar vendors, suppliers, service providers, or contractors.
    - (ii) ***Authorized Service Provider, Repair and Warranty Services:*** The District requires service or repair support for such supplies and the vendor, supplier, service provider, or contractor is either a factory authorized warranty service provider or such vendor, supplier, service provider, or contractor is required for warranty services pursuant to the terms and conditions of an existing District contract.
    - (iii) ***Unique Design:*** The District has a specialized need and the vendor, supplier, service provider, or contractor is the sole provider of such supplies that can meet the District's specialized needs or to perform the intended functions. This includes products with special features essential for the

completion of a task or project, or with physical or artistic design characteristics that satisfy aesthetic requirements.

- (iv) ***Trial and Evaluation Projects:*** A limited duration, limited scope, pilot, trial or evaluation of a product, range of products or services. A trial or evaluation project would typically be part of establishing a standard for a District department, or to pilot a particular product or services for a District need.
- (2) Such sole-source contract has been included in the District's then-current fiscal budget.
  - (3) The General Manager provides a written report to the Board containing the following information:
    - (a) A brief description of the circumstances surrounding the sole source procurement;
    - (b) A statement and/or justification of the General Manager's good faith determination that a sole source opportunity has been presented to the District; and
    - (c) A brief description of the supplies to be purchased or contracted for, the cost of such purchase or contract, and the name of the sole-source vendor, supplier, service provider, or contractor.
  - (4) The Board has approved the sole-source contract at the next scheduled workshop or regular or special meeting of the Board.

If such sole source contract has not been previously included in the District's then-current fiscal budget or such contract exceeds the amount budgeted for that particular contract in the District's then-current fiscal budget, such contract shall require prior Board approval.

## **B. Piggybacking**

Piggyback contracting occurs when a public agency enters into a contract, without competitive bidding, with a particular supplier, vendor, service provider, or contractor who has already been awarded a contract for the purchase of the same or similar materials or supplies by another public agency or governmental entity pursuant to such agency's or entity's competitive bidding process. Piggybacking on other public agency or governmental entity contracts can reduce administrative and project costs and achieve greater efficiency and economies of scale.

The Board has determined that it is in the District's best interests to authorize the General Manager to participate in piggybacking opportunities whenever possible. The District may piggyback on other public agency or governmental entity contracts for the purchase of the same or similar materials or supplies and the General Manager is authorized to execute on behalf of the District a contract for the purchasing of such materials or supplies used in connection with or

consumed on any project or work not subject to the UPCCA without separate competitive bidding by the District, on the following conditions:

- (1) The General Manager has determined that it is in the District's best interest to engage in a piggybacking opportunity for the purchase or contract of such materials or supplies with a particular vendor, supplier, service provider, or contractor if such opportunity will result in significantly reduced costs to the District (administrative costs, project costs, or otherwise), or will achieve greater efficiency or economies of scale for District projects.
- (2) Such vendor, supplier, service provider, or contractor has been previously awarded a contract with another local, state, or federal agency or governmental entity pursuant to such agency's or entity's competitive bidding process to provide materials or supplies that are same or similar or related to the District's proposed contract or purchase.
- (3) Such piggybacking contract has been included in the District's then-current fiscal budget.
- (4) The General Manager provides a written report to the Board containing the following information:
  - (a) A brief description of the circumstances surrounding the piggybacking opportunity;
  - (b) A brief description of the benefits and cost savings the District will receive as a result of the piggybacking opportunity; and
  - (c) A brief description of the materials or supplies to be purchased or contracted for, the cost of such purchase or contract, and the name of the vendor, supplier, service provider, or contractor.
- (5) The Board has approved the piggybacking contract at the next scheduled workshop or regular or special meeting of the Board.

Notwithstanding anything contained in Section III or this Section IV(B) to the contrary, the District's dredging projects located within the Ventura Harbor will be subject to Public Contract Code Section 20751.2, which authorizes the District to award a contract for the performance of dredging work within the District's boundaries without competitive bidding, provided each of the following apply: (a) the dredging contractor was selected through a federal competitive bidding process for a federal dredging project then underway in the County of Ventura; and (b) the Board makes written findings, based on substantial evidence in the record, that the contract awarded pursuant to such section 20751.2 is likely to cost less than a contract awarded pursuant to Public Contract Code Section 20751.

### **C. Emergencies**

Pursuant to Public Contract Code Section 20751.1, in case of an emergency, the Board may, by resolution passed by a four-fifths vote of all of its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend any sum or enter into a contract involving the expenditure of any sum needed in the emergency without observance of the provisions requiring contracts, bids, or notice for any purchasing of supplies used in connection with or consumed on any project or work not subject to the UPCCA. If notice for bid to let contracts will not be given, the Board shall also comply with Public Contract Code Section 22050. In the case of any emergency involving a public project or maintenance work under the UCCPA, the terms and conditions set forth in Public Contract Code Section 22035 shall control.

An “emergency” means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

### **D. Local Vendor Preference**

In determining the lowest responsible bid pursuant to the District’s competitive bidding procedures set forth in Section III(C), above, or in determining the lowest responsible bid pursuant to the formal bidding procedures set forth in the UPCCA, the Board finds it desirable and in the best interests of the District to establish a local business preference program in order to reduce the competitive barriers faced by local businesses (the “Local Business Preference Program”).

This Local Business Preference Program shall be taken into account in determining the lowest responsible bid in awarding a contract subject to the District’s competitive bidding procedures set forth above, or in determining the lowest responsible bid pursuant to the formal bidding procedures set forth in the UPCCA.

#### **(1) Local Business Preference Program.**

In determining the lowest responsible bid, the General Manager shall include the following:

- (a) For (i) any District contract for the purchasing of materials or supplies used in connection with or consumed on any work or project not subject to the UPCCA reasonably estimated by the General Manager to have a contract amount greater than \$25,000.00; or (ii) any public project or maintenance work subject to the UPCCA’s formal bidding procedures, the District shall assign a five percent (5%) bid price reduction “preference” during the bid evaluation process (the “Local Business Preference”) to any bid from any person or entity that is determined by the General Manger to be a Local Business (as defined in subsection (b) of this Section IV(D)(1)).
- (b) “Local Business” shall mean a person or entity that has for at least twelve (12) months immediately preceding submittal of its bid

maintained its principal business office within the geographic boundaries of Ventura County, California.

- (c) Except as otherwise provided in this Section IV(D), the provisions set forth in this Section IV(D) shall not supersede the other provisions set forth in this Procurement and Purchasing Policy or the uniform public construction cost accounting procedures set forth in the UPCCA, whichever shall apply. If any inconsistency or conflict exists or arises between the terms of this Section IV(D) and the other provisions set forth in this Procurement and Purchasing Policy or the UPCCA, whichever shall apply, such other provisions shall control.
- (d) This Local Business Preference Program shall not be applied under the following circumstances:
  - (i) National contracts;
  - (ii) Revolving fund (petty cash) purchases;
  - (iii) Credit card purchases;
  - (iv) Contracts not subject to the District's competitive bidding procedures;
  - (v) Any contracts funded by the federal government where there are conflicting requirements for minority or women-owned business participation.
  - (vi) Where such preference is otherwise prohibited by law;
  - (vii) Emergency procurements;
  - (viii) Piggybacking or sole source procurements; or
  - (ix) Contracts or projects relating to dredging or dock rehabilitation and/or replacement.

**(2) Procedures for the Local Business Preference Program**

- (a) Once all bids are opened, the bids of those bidders who are Local Businesses shall be reduced by five percent (5%) for purposes of determining the lowest responsible bidder. If the bid of a Local Business, after applying the Local Business Preference, is then the lowest responsible bidder (the "Lowest Local Business Bidder"), that Lowest Local Business Bidder shall have the opportunity to reduce its bid to match the bid of the actual lowest responsible bidder, in writing, within one (1) business day, whereupon the

General Manager shall make a recommendation to the Board to award said Lowest Local Business Bidder with the contract if the General Manager determines, in his or her sole discretion, that such bid is responsive to all of the terms and conditions stated in the District's previously published notice inviting bids.

- (b) If the Lowest Local Business Bidder does not elect to reduce its bid to match the bid of the actual lowest responsible bidder, then the next lowest Local Business bidder (the "Second Lowest Local Business Bidder") shall be given the opportunity to match the bid of the actual lowest responsible bidder in the time and manner set forth in subsection (a) of this Section IV(D)(2), above; provided, however, the bid of such Second Lowest Local Business Bidder must also be within five percent (5%) of the actual lowest responsible bid.
- (c) An award may be made to the lowest aggregate responsible bidder for all items on the invitation to bid, on a group or an individual basis, whichever is found to be in the best interest of the District.
- (d) All bids are subject to rejection by the Board in its absolute and sole discretion, and in those instances where evaluation dictates the rejection of the lowest bid as not meeting the requirements established in the invitation to bid, the vendor shall be notified of the reason for rejection.

## V. FEDERALLY FUNDED PROCUREMENT POLICY

### A. Purpose and Applicability

This section pertains to federally-funded projects and purchases. The purpose of this section is to ensure compliance with all applicable federal requirements when federal money is being expended by the District. Procurements funded in whole or in part with Federal funds must comply with Code of Federal Regulations (CFR), Title 2 Grants and Agreements, Subtitle A – Office of Management and Budget Guidance for Grants and Agreements, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Procurement Standards, which is available at <https://www.grants.gov/learn-grants/grant-policies/omb-uniform-guidance-2014.html> (Document Citation: 2 CFR 200).

To the extent that any provisions of this policy are inconsistent with any other District regulations, the provisions of this policy shall prevail with respect to federally-funded procurements. If any provisions of this policy become inconsistent with federal requirements, whether due to a change in federal law or regulations, through judicial precedent, or for any other reason, then the District shall not be required to comply with the inconsistent provision.

### B. Methods of Procurement

In addition to the District's purchasing policy approval limits, one of the following methods should be used:

- (1) **Micro-purchase:** Purchases where the aggregate dollar amount does not exceed \$10,000, or the current limitation set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1, where this threshold is periodically adjusted for inflation. No bid or quote process is required. No cost or price analysis is required. Purchases should be distributed among a range of qualified vendors.
- (2) **Small purchase:** Purchases up to the Simplified Acquisition threshold (the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods), which is currently \$250,000, and is adjusted from time to time. Informal purchasing procedures are acceptable, but price or rate quotes must be obtained from an adequate number of sources. Purchases made should be distributed among a range of qualified vendors.
- (3) **Sealed bid:** Purchases over the Simplified Acquisition threshold, which is currently \$250,000, and is adjusted from time to time. Under this purchase method, formal and public solicitation is required, and the fixed price (lump sum or unit price) is awarded to the responsible bidder who conformed to all material terms and is the lowest in price. This method is the preferred procurement method for construction contracts if the following conditions apply:

- (a) A complete, adequate, and realistic specification or purchase description is available;
- (b) Two or more responsible bidders are willing and able to compete effectively for the business, and,
- (c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally based on price.

If this method is used, the following requirements shall apply:

- (i) The invitation for bids will be publicly advertised, including through electronic advertising, and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date for opening the bids;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the terms or services in order for the bidder to properly respond;
- (iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts will only be used in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

**(4) *Competitive proposals:*** Purchases over the Simplified Acquisition threshold, which is currently \$250,000, and is adjusted from time to time. This procurement method requires formal solicitation, fixed-price, or cost-reimbursement contracts, and is used when sealed bids are not appropriate. The contract should be awarded to the responsible firm whose proposal is most advantageous to the program, with price being one of the various factors. If this method is used, the following requirements apply:

- (a) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

- (b) Proposals must be solicited from an adequate number of qualified sources;
- (c) The methods for conducting technical evaluations of the proposals received and for selecting recipients may include, but not be limited to: oral interviews, references, past performance, availability to perform work, and certifications as determined by project scope.
- (d) Any response that takes exception to any mandatory items in this proposal process may be rejected and not considered;
- (e) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and,
- (f) Competitive proposal procedures may be used for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services, though A/E firms are a potential source to perform the proposed effort.

(5) ***Noncompetitive proposals:*** Also known as sole-source procurement, this may be appropriate only when one or more of the following criteria are met:

- (a) The item is available only from a single source;
- (b) The public emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (c) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the nonfederal entity; or
- (d) After solicitation of a number of sources, competition is determined inadequate.

### **C. Contract Cost and Price**

A cost or price analysis shall be performed in connection with every procurement action in excess of the Simplified Acquisition threshold (\$250,000) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, independent estimates shall be made prior to receiving bids and proposals.

- (1) Profit shall be negotiated as a separate element of the price for each contract in which there is a no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (2) Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the District under Subpart E- Cost Principles of Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- (3) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall be used.

## **VI. VENDOR AND CONTRACTOR REGISTRATION DIRECTORY**

The District invites vendors to express their interest in doing business with the District. Vendors and contractors to which this Procurement and Purchasing Policy apply may download registration forms from the District's website located at <https://venturaharbor.com/public-bidding/>. To properly register with the District, all such vendors and contractors interested in doing business with the District shall be required to complete a registration form and submit it to the District by email or mail.

## **VII. BUDGETING FOR CAPITAL IMPROVEMENT PROJECTS**

In developing the District's fiscal budget, District staff shall use the following guidelines in identifying, managing, administering, and budgeting for capital projects for the following fiscal year:

- A. Start early in the fiscal year to clearly define a project; involve a range of staff levels; take into consideration aesthetics, marketing, and maintenance issues in developing projects.
- B. Provide any reports, plans, drawings, specifications, design ideas, cost benefit studies and analysis, and other related materials that may be necessary or useful in assisting the Board in determining whether a particular capital improvement project should be approved in connection with the Board's approval of the District's proposed budget for a particular fiscal year;
- C. Work diligently with any ad hoc committees of the Board for purposes of making recommendations of potential capital improvement projects;
- D. After a particular project has been identified and budgeted, District staff should diligently engage in interviewing and selecting qualified design or engineering

firms or consultants to assist the District in designing and preparing the plans and specifications of such project;

- E. District staff shall work with the design or engineering firm or consultant in establishing project targets and milestones in order to ensure that the project is proceeding according to schedule and to plan.

## **VIII. PROCUREMENT FORMS**

District staff shall use the following forms, where appropriate, in connection with the District's procurement and purchasing activities:

1. District Employee Procurement Status Chart (Exhibit "A")
2. Project/Goal Implementation Planning Form (Exhibit "B")
3. VPD – Request for Approval of New Project (Exhibit "C")
4. VPD – Request for Approval of a Contract Change (Exhibit "D")
5. UPCCA Summary Sheet (Exhibit "E")

Adopted and Effective Date: October 22, 2014