



RESOLUTION NO. 3519

A RESOLUTION BY THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT ADOPTING A REVISED PROCUREMENT AND PURCHASING POLICY

WHEREAS, California Public Contract Code Section 20750 et seq. requires certain District contracts in excess of certain prescribed amounts to be let by the Board of Port Commissioners (the "Board") upon competitive bidding.

WHEREAS, the District's Procurement and Purchasing Policy was first adopted by the Board on April 25, 2012, by Resolution No. 3183, establishing the District's competitive bidding procedures as required under the Public Contract Code.

WHEREAS, Public Contract Code Section 22000 et seq. establishes the Uniform Public Construction Cost Accounting Act (the "UPCCA"), which establishes a uniform cost accounting standard for construction work performed or contracted by local public agencies, and authorizes local public agencies to perform public projects or maintenance work by force account, negotiated contract, or purchase order, and to use informal and formal bidding procedures when contracting for public projects or maintenance work, in accordance with the statutory limits set forth in the UPCCA.

WHEREAS, on February 27, 2013, the Board adopted Resolution No. 3213 electing to become subject to the UPCCA, and further elected to utilize the bidding procedures in the UPCCA when contracting for public projects.

WHEREAS, on March 27, 2013, the Board adopted Ordinance No. 48 to provide informal bidding procedures under the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 2200 et seq.).

WHEREAS, on May 8, 2013, the Board adopted Resolution No. 3219 amending Resolution No. 3213 to authorize the use of the UPCCA's bidding procedures when contracting for maintenance work.

WHEREAS, the Procurement and Purchasing Policy also reflects that the competitive bidding requirements of Public Contract Code Section 20751 only apply to purchases by the District of supplies exceeding \$25,000.00 that are used in connection with or consumed on any work or project not subject to the UPCCA.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Port Commissioners of the Ventura Port District hereby rescinds Resolution No. 3450, which was previously passed, approved and adopted by the Board on May 4, 2022, and adopts in its place the amended Procurement and Purchasing Policy attached hereto as Exhibit A.

PASSED, APPROVED and ADOPTED at a Regular Meeting of the Board of Port Commissioners of the Ventura Port District held on this 18th day of December 2024, by the following vote:

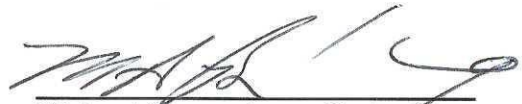
AYES: Commissioners Blumenberg, Gardina, Rainey, Stephens, Howell


NOES:

ABSTAINED:

ABSENT:

ATTEST:


Michael Blumenberg, Chair


Anthony Rainey, Secretary





Ventura Port District
Procurement
and Purchasing
Policy

Effective October 22, 2014

Revised
March 22, 2017
May 1, 2019
June 17, 2020
September 15, 2021
May 4, 2022
December 18, 2024

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I. STATEMENT OF GENERAL POLICY

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.

Except as otherwise provided in Section III-D below, the goal of this Procurement and Purchasing Policy is to enable the Ventura Port District (the "District") to (i) 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 (ii) 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. Section III-D of 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.
- 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.
- (7) Conditions for termination of contract.
- (8) District’s contracts for public works projects that are subject to California’s prevailing wage laws, shall also be subject to the District’s applicable contract addendum with these requirements, as discussed in Section VII, below.

Except as otherwise provided in Section III-D of 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” subject to the UPCCA as such terms are defined under the UPCCA 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;(vi) Ordinance No. 52 adopted by the Board on May 1, 2019; and (vii) 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 and Vendor Services Not Used in Connection with or Consumed on any Work or Project Subject to the UPCCA. (The policies in this Section III-B are further summarized in the procurement limits chart attached to this policy as **Exhibit "A"** and the decision tree attached as **Exhibit "C-1."**)

The policies in this Section III-B govern the procurement of District contracts for the purchasing of supplies or vendor services that are (i) **not** subject to the UPCCA and (ii) **not** used in connection with the purchase or performance of work on, or consumed in connection with, any "public project" or "maintenance" work or services subject to the UPCCA, as defined under the UPCCA in Public Contract Code Section 22002 (each, a "Non-UPCCA Good or Service"). If a District contract is for the purchasing of any work or services (and/or supplies used in connection with any such work or services) that fit within the UPCCA's definition of either a "public project" or "maintenance" work, as summarized in the "UPCCA Summary Sheet" attached as **Exhibit "B,"** the policies in this Section III-B do **not** apply, and the procurement and contracting process shall instead be governed by the District's adopted UPCCA ordinances, resolutions, and policies, including those set forth in Section III-D.

(1) Purchases totaling up 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 purchase orders or contracts for the purchasing of a Non-UPCCA Good or Service 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 or her immediate supervisor.

(2) Purchases totaling up to \$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 purchase orders or contracts for the purchasing of a Non-UPCCA Good or Service with a contract price or purchase price less than or equal to \$2,500.00, without competitive bidding, so long as (i) such contract or purchase has been included in the District's then-current fiscal budget and (ii) 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 the proposed contract or purchase order.

(3) Purchases totaling up to \$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 purchase orders or contracts for the purchasing of a Non-UPCCA Good or Service with a contract price or purchase price less than or equal to \$10,000.00, without competitive bidding, so long as (i) such contract or purchase has been included in the District's then-current fiscal budget and (ii) 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 quote and the proposed contract or purchase order.

(4) Purchases totaling up to \$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 purchase orders or contracts for the purchasing of a Non-UPCCA Good or Service with a contract price or purchase price less than or equal to \$25,000.00, without competitive bidding, so long as (i) such contract or purchase has been included in the District's then-current fiscal budget and (ii) 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 purchase order or contract for the purchasing of a Non-UPCCA Good or Service 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 either (i) Section-III(F) (Professional Service Agreements) or (ii) Section-IV, below, applies.

C. Competitive Bidding Procedures for Work or Projects Not Subject to the UPCCA.

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

When the supplies or vendor services are within the current approved fiscal year's budget, the General Manager shall cause to be prepared the appropriate plans, specifications, scope of work, or other descriptive information for the publication of a notice inviting sealed bids for performance for the proposed purchase. When those supplies or vendor services are not within the current fiscal year's budget, 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 in order for the Board to approve a change to the budget prior to publishing a competitive bid.

Once the competitive bid plans, specifications, scope of work or other information has been prepared, the notice advertising the competitive bid 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 III-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 III-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. The policies in this Section III-D are further summarized in the decision trees attached to this policy as **Exhibit “C-1”** and **Exhibit “C-2.”** The UPCCA’s definitions of (i) a “public project” and (ii) the type of “maintenance” work that is subject to the UPCCA and this Section III-D are set forth in the “UPCCA Summary Sheet” attached as **Exhibit “B.”**)

(1) *Contracts totaling up to \$1,000.00*

The doing of any “public project” or “maintenance” work of the District that is subject to the UPCCA (as defined in the UPCCA Summary Sheet) 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 up to \$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) 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 up to \$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) 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 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. No notice inviting informal bid for any such public project or maintenance work need be provided.

(4) Contracts totaling up to \$25,000.00

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 \$25,000.00 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 up to \$75,000.00

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 \$75,000.00 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 \$75,000.00 - \$220,000.00

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 \$75,000.00 but less than or equal to \$220,000.00, must go through the UPCCA’s informal bid process as set forth in the District’s Ordinance No. 48 adopted March 27, 2013, as amended by the District’s Ordinance No. 52 adopted May 1, 2019, as may be further amended from time to time, and as summarized in the UPCCA Summary Sheet. 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 in 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 \$220,000.00, the Board can adopt by resolution by a four-fifths (4/5) vote and award the contract at \$235,000.00 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 \$220,000.00

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 \$220,000.00 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 in 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 in 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 \$75,000.00 but less than or equal to \$220,000.00. 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.

Professional services are defined as unique, technical and/or infrequent functions performed by an independent contractor/vendor qualified by education, experience, certification and/or technical ability to provide services. Typical District services that are obtained through professional services contracts include architectural, landscape architectural, professional engineering, environmental, land surveying, construction and project management, information technology, consulting, marketing, legal, and financial services. Professional services contracts shall be awarded to professional service providers on the basis of demonstrated competence and qualifications for the types of services to be performed, and at fair and reasonable prices to the District, 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 and/or Deputy 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 representative for the District identified in the Professional Service Agreement is authorized to approve routine invoices for contracts and services that have already been authorized by the Board or the General Manager and/or Deputy General Manager. The policies in this Section III-D(F) are further summarized in the decision tree attached to this policy as **Exhibit "C-1."**

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, as summarized in the attached UPCCA Summary Sheet. 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 subject to the UPCCA that will pay a contractor \$110,000.00 for construction services and a separate vendor \$110,001.00 for the purchase of materials or supplies to be used on the project, such project will have a total contract price of \$220,001.00 and the contracting services and the separate purchase of materials and supplies will each be subject to the UPCCA's formal bidding procedures applicable to public projects or maintenance work of more than \$220,000.00. 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 for that maintenance project), the maintenance services contract and the purchasing contract will each be subject to the UPCCA's informal bidding procedures for public projects and maintenance work that costs more than \$75,000.00 in total.

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.

- (v) ***Grant Funded Approved Products and/or Vendors:*** Where a granting authority is providing funding for the procurement of products and/or services and the granting authority requires that those products and/or services must be selected from an approved list of products and/or vendors at the time of application, the District may procure the approved product and/or services, provided that:

1. The grantor has approved the grant to the District.
2. The products and/or services procured are from the grantor's approved products/services list.
3. That such procurements in excess of \$25,000 be approved by the Board.

- (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, and the need for immediate acquisition.
 - (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.
 - (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 approves 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 that 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 that 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 (4/5) 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 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, and as summarized in the attached UPCCA Summary Sheet, 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 in Section III-C, or in determining the lowest responsible bid pursuant to the formal bidding procedures set forth in the UPCCA, and as summarized in the attached UPCCA Summary Sheet.

(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 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 Manager 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 that 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 financial assistance 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 Federal Financial Assistance, Subpart D (Procurement Standards) of Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR §§ 200.317 to 200.327).

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.
- (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.
- (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 2 CFR 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.

D. Single Audit Threshold.

If the District, as a non-Federal entity, expends \$1,000,000 or more in federal awards during its fiscal year, the District must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. §§ 200.501-200.507.

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. PREVAILING WAGES AND VENDOR AND CONTRACTOR REGISTRATION REQUIREMENTS

A. Prevailing Wages.

Any project that constitutes a “public works” under California Labor Code section 1720 et seq., is subject to the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code¹ and its implementing regulations set forth in Title 8 of the California Code of Regulations (collectively, “Prevailing Wage Laws”), which require the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements. Prevailing wages apply to all projects defined as a “public works” project by the State of California that cost more than \$1,000 and are performed under a contract “paid for in whole or in part out of public funds,” excluding work done by a public agency itself (collectively, “Public Work”).² This includes construction, demolition, repair, alteration, maintenance,³ and the installation of photovoltaic systems under a power purchase agreement when certain conditions are met under California Labor Code section 1720.6. This also includes (i) service and warranty work on public buildings and structures and land surveying; (ii) surveying, material testing, or inspection services provided for a Public Work construction project during the design, site assessment, feasibility study, and other preconstruction phases of construction; (iii) concrete deliveries and certain delivery of paving materials which are incorporated into the project at the time of delivery; and (iv) work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite and the hauling of refuse from a Public Work jobsite to an outside disposal location.

Accordingly, most contracts between the District and vendors or contractors (collectively, in this Section VII, “Contractor”) for construction-related services that are subject to this Procurement and Purchasing Policy will trigger the prevailing wage requirements applicable to a Public Work project. This Section VII discusses these requirements.

B. Application to District Leases and Contracts for Tenant Improvements.

Applying these definitions and concepts to tenant improvements that may be required and contracted for at the outset of a lease where the landlord is a public agency and the tenant is a private entity, if the tenant is required to do tenant improvements and pays for those improvements itself, then the tenant improvements are typically **not** a Public Work project. Conversely, if any portion of the tenant improvements that constitute a Public Work will be paid for using District funds, then the **entire project** is Public Work project, and laborers must be paid prevailing wages.

This can happen, and Contractor and any subcontractors must abide by all applicable Prevailing Wage Laws, if **any portion** of a Public Work project will be paid for using District funds. Such as, for example, tenant improvements required under a District lease agreement that will be: (i) paid for by the District directly but performed by the tenant’s contractor (regardless of whether the District or the tenant contracts for the contractor’s services); (ii) paid for by the District in the form of a direct payment to the tenant or its contractor before, during, or after completing the tenant improvements (as a reimbursement), and/or as a credit for some future expense, such as rent; (iii) paid for by way of a tenant improvement allowance established under a written lease or other contract with the District; or (iv) part of a larger project undertaken by the District.

¹ See Labor Code sections 1720 through 1861.

² The definition of “public works” triggering Labor Code compliance can be found in Labor Code sections 1720 and 1771. “Maintenance” is defined at 8 CCR section 16000.

Based on these considerations, with respect to any tenant improvements authorized or required under a District lease or other contract, the Board has determined that it is in the District's best interests to either (a) have the District's own workforce construct the tenant improvements, in which case prevailing wages would not be required; (b) have the tenant perform the work itself, or contract and pay for the improvements using its own funds (without any reimbursements or credits from the District); or (c) have the District contract for the tenant improvement project, and require Contractor to pay prevailing wages and meet the other requirements of the DIR that are summarized in this Section VII below. This determination will be decided by the Board on a case-by-case basis, and any resulting obligations concerning such will be clearly set out in a written lease agreement or other form of contract between the District and the tenant.

C. Excluded Workers and Projects.

The Prevailing Wage Laws apply to "work performed under contract" and not to work carried out by the District's own workforce. In addition, and with respect to the above example involving tenant improvements, if tenant improvements are being performed by a tenant directly or on behalf of a tenant and **no** District funds, reimbursements, or credits are provided in exchange for the tenant improvements, the prevailing wage requirements applicable to a Public Work project will **not** be triggered and laborers do not need to be paid prevailing wage for that project.

D. Prevailing Wage Information and Requirements.

(1) **Prevailing Wage Rates.** The applicable California prevailing wage rate(s) can be found at www.dir.ca.gov and are on file with the District's principal office. Contractor is required to have a copy of the applicable wage determination posted and/or available at each jobsite. Overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Sections 1811-1813. Special prevailing wage rates generally apply to work performed on weekends, holidays, and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the Public Work project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov, including Industrial Welfare Commission Order No. 16-2001.

(2) **Registration and Labor Compliance.** Pursuant to Labor Code Sections 1725.5 and 1771.1, all Contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract with the District to perform a Public Work project must be registered with the Department of Industrial Relations ("DIR") as a "public works contractor" **at the time of bid**; *provided, however*, where a prime contract is less than (i) \$15,000 for maintenance work or (ii) \$25,000 for construction, alternation, demolition or repair work, registration is **not** required. No bid will be accepted, and no contract will be entered into, without proof of the Contractor's and subcontractors' current registration with the DIR to perform a public works project. The Contractor and its subcontractors, of any tier, must maintain active registration with the DIR for the duration of any contracted Public Work project. If a contract with the District is for a Public Work project, it will be Contractor's and its subcontractors' sole responsibility to comply with all applicable Prevailing Wage Laws and registration and labor

compliance requirements, including the submission of certified payroll records directly to (a) the District and (b) the DIR, pursuant to the Prevailing Wage Laws and the terms of the District's contract addendum with the prevailing wage requirements, which is attached to this policy as "**Exhibit E.**"

E. District Verification and Monitoring Requirements.

If a contract between the District and any Contractor is for a Public Work project that is subject to the Prevailing Wage Laws, the representative for the District identified in the contract for the project should complete the applicable sections in the District's "Contractor Notice to Proceed" form attached to this policy as **Exhibit "D"** and (i) verify that the Contractor and all subcontractors have registered with the DIR at the time of the bid award (unless one of the exemptions in Section VII-D(2) applies); (ii) verify whether a "PWC-100" form must be filed with the DIR; (iii) obtain certified payroll documents from the Contractor and any subcontractors performing work on the project within the first two (2) weeks of the project's start date; and (iv), at the conclusion of the project, record a Notice of Completion with the Ventura County Recorder's office for each Prevailing Wage project by the required deadline.

F. Interaction and Application of California's Prevailing Wage Laws for Purely Federal Projects Under the Davis-Bacon Act.

The California law restricting the reduction of the "basic hourly rate" under California's Prevailing Wage Laws is distinct from the federal prevailing wage laws under the Davis-Bacon Act. The Davis Bacon Act does not prohibit the crediting of employer payments or benefit contributions towards fulfilling the hourly wage rate listed in the contract wage determination on federally funded projects. Contractors performing work on projects which are governed by *both* the federal Davis-Bacon Act and the California prevailing wage requirements must, however, continue to comply with state requirements in order to be in compliance with California law.

When (i) contractors perform work on a Public Work project that has mixed funding (both federal and state); or (ii) federally funded projects are controlled or carried out by the District (or California awarding bodies of any sort), the application of state prevailing wage rates is required when those rates are *higher* than the federal prevailing wage laws under the Davis-Bacon Act.

VIII. 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.

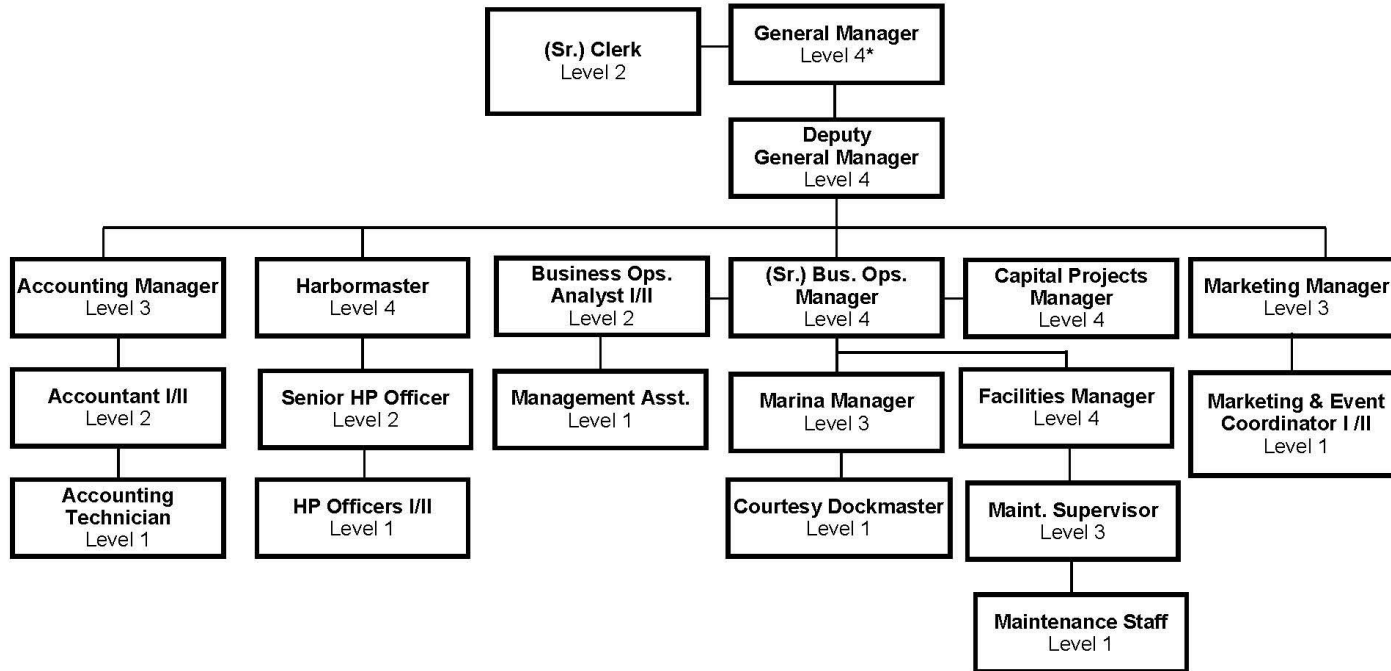
IX. EXHIBITS

The following exhibits that are attached to this policy are incorporated herein by reference:

- Exhibit A District Employee Procurement Limits Chart
- Exhibit B UPCCA Summary Sheet
- Exhibit C-1 Ventura Port District Procurement Policy Decision Tree: 2 of the 3 Service Types
- Exhibit C-2 Ventura Port District Procurement Policy Decision Tree: 1 of the 3 Service Types
- Exhibit D Contractor Notice to Proceed
- Exhibit E-1 Prevailing wage requirements for larger public works projects
- Exhibit E-2 Prevailing wage requirements for smaller public works projects

EXHIBIT "A"

**Ventura Port District
Employee Procurement
Limits Chart
REV 12/2024**



Purchasing of Supplies Used in connection with or consumed on any work or project not subject to the UPCCA:

- Level 1: Purchases totaling up to \$1,000
- Level 2: Purchases totaling up to \$2,500.00
- Level 3: Purchases totaling up to \$10,000.00
- Level 4: Purchases totaling up to \$25,000.00

Contracts for the Doing of any Public Project or Maintenance Work that is subject to the UPCCA:

- Level 1: Contracts totaling up to \$1,000
- Level 2: Contracts totaling up to \$2,500.00
- Level 3: Contracts totaling up to \$10,000.00
- Level 4: Contracts totaling up to \$25,000.00
- GM: Contracts totaling up to \$75,000.00*

**EXHIBIT “B”
VENTURA PORT DISTRICT
UPCCA SUMMARY SHEET**

Contracts for the Doing of “Public Projects”

- “Public Project” means any of the following:
 - Construction, reconstruction, erection, alteration, renovation, improvement, demolition, installation and repair work involving any publicly owned, leased or operated facility.
 - Painting or repainting of any publicly owned, leased, or operated facility. A “facility” means any plant, building, structure, ground facility, utility system, real property, streets and highways, or other public work of improvement.

- Public Projects totaling up to \$75,000.00
 - Can be performed by the District’s employees by force account, negotiated contract, or purchase order.
 - No notice inviting informal bid required.

- Public Projects greater than \$75,000.00 but less than or equal to \$220,000.00
 - Must send out notice inviting informal bids
 - Contents of notice:
 - Describe project in general terms and how to obtain more detailed information about the project.
 - State the time and place for the submission of bids.
 - Project title and contract number (if any).
 - Cost Range.
 - Location of project site.
 - District’s contact information.
 - Bid bond/performance bond/payment bond requirements.
 - Mailing of Notice:
 - Mail notice to all contractors for the category of work to be bid as shown on the qualified bidder’s list developed by the District.
 - Additional contractors and/or construction trade journals may be notified at the District’s discretion.
 - If no list of qualified contractors is maintained by the District for the particular category of work to be performed, the notice inviting informal bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission’s (the “Commission”) current Cost Accounting Policies and Procedures Manual (last updated in 2021 and accessible here: https://www.sco.ca.gov/ard_cuccac.html).
 - If the product or service is proprietary in nature such that it can only be obtained from certain contractor(s), the notice inviting informal bids may be sent exclusively to such contractor(s).
 - All mailing of notices to contractors and construction trade journals inviting informal bids must be completed not less than 10 calendar days before bids are due.
 - Bids received in excess of \$220,000.00

- If all bids received are greater than \$220,000.00, the Board can adopt by resolution by a four-fifths (4/5) vote and award the contract at \$235,000.00 or less to the lowest responsible bidder if the Board determines the cost estimate of the District was reasonable.
 - Otherwise, formal bidding procedures must be used for public projects of more than \$220,000.00.
 - Awarding of Bid
 - The District can reject any and **all** bids presented if the District, prior to rejecting all bids and declaring that the project can be more economically performed by the District's employees, provides a written notice to an apparent low bidder that does the following:
 - Informs the lowest responsible bidder of the District's intent to reject the bid; and
 - Is mailed at least 2 business days prior to the hearing at which the District intends to reject the bid.
 - If the District rejects all bids received after the first invitation for informal bids, the District, after reevaluating its cost estimates of the project, has one of the two following options available to it:
 - The District can abandon the project or re-advertise for bids in the manner described by the UPCCA.
 - The District can have the project done by force account without further compliance with the UPCCA by passage of a resolution by a four-fifths vote (4/5) of the Board declaring that the District's employees can perform the project more economically.
 - If a contract is awarded, it must be awarded to the lowest responsible bidder. If there are two bids that are the lowest responsible bids, then the District may accept the one it chooses.
 - If no bids are received, the project may be performed by employees of the District by force account.
- Public Projects greater than \$220,000.00. (Referred to in the District's Procurement and Purchasing Policy as the "UPCCA's **formal** bidding process.")
 - Must send out notice inviting formal bids
 - Contents of notice:
 - Describe project in distinct terms and how to obtain more detailed information about the project.
 - State the time and place for the receiving and opening of sealed bids.
 - Project title and contract number (if any).
 - Cost Range.
 - Location of project site.
 - District's contact information.
 - Bid bond/performance bond/payment bond requirements.

- Publication of notice:
 - The notice inviting formal bids must be published in a newspaper of general circulation, printed and published in Ventura County, at least 14 calendar days before the date of the opening of the bids.
- Mailing/Emailing/Faxing of Notice:
 - The notice inviting formal bids must also be sent electronically, if available, by email or fax, and mailed to the construction trade journals specified in the Commission's current Cost Accounting Policies and Procedures Manual. (last updated in 2021 and accessible here: https://www.sco.ca.gov/ard_cuccac.html).
 - Note: The District is not required to mail a notice to any specified trade journal if that trade journal is charging for its services or is out of business. Instead, the District should find some other method of notifying potential contractors of published jobs providing information on how to be added to the District's informal bidding lists (e.g., through the District's website).
- Adoptions of Plans
 - The Board must adopt plans, specifications, and working details for all public projects exceeding \$220,000.00.
- Awarding of Bid
 - The District can reject any and **all** bids presented if the District, prior to rejecting all bids and declaring that the project can be more economically performed by the District's employees, provides a written notice to an apparent low bidder that does the following:
 - Informs the lowest responsible bidder of the District's intent to reject the bid; and
 - Is mailed at least 2 business days prior to the hearing at which the District intends to reject the bid.
 - If the District rejects all bids received after the first invitation for formal bids, the District, after reevaluating its cost estimates of the project, has one of the two following options available to it:
 - The District can abandon the project or re-advertise for bids in the manner described by the UPCCA.
 - The District can have the project done by force account without further compliance with the UPCCA by passage of a resolution by a four-fifths vote (4/5) of the Board declaring that the District's employees can perform the project more economically.
 - If a contract is awarded, it must be awarded to the lowest responsible bidder. If there are two bids that are the lowest responsible bids, then the District may accept the one it chooses.
 - If no bids are received, the project may be performed by employees of the District by force account or by the informal bidding procedures detailed for public projects greater than \$75,000.00 but less than or equal to \$220,000.00, as summarized above.

Contracts for the Doing of “Maintenance Work”

- “Maintenance Work” means any of the following:
 - Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
 - Minor repainting.
 - Resurfacing of streets and highways at less than one inch.
 - Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
 - Work to be performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.

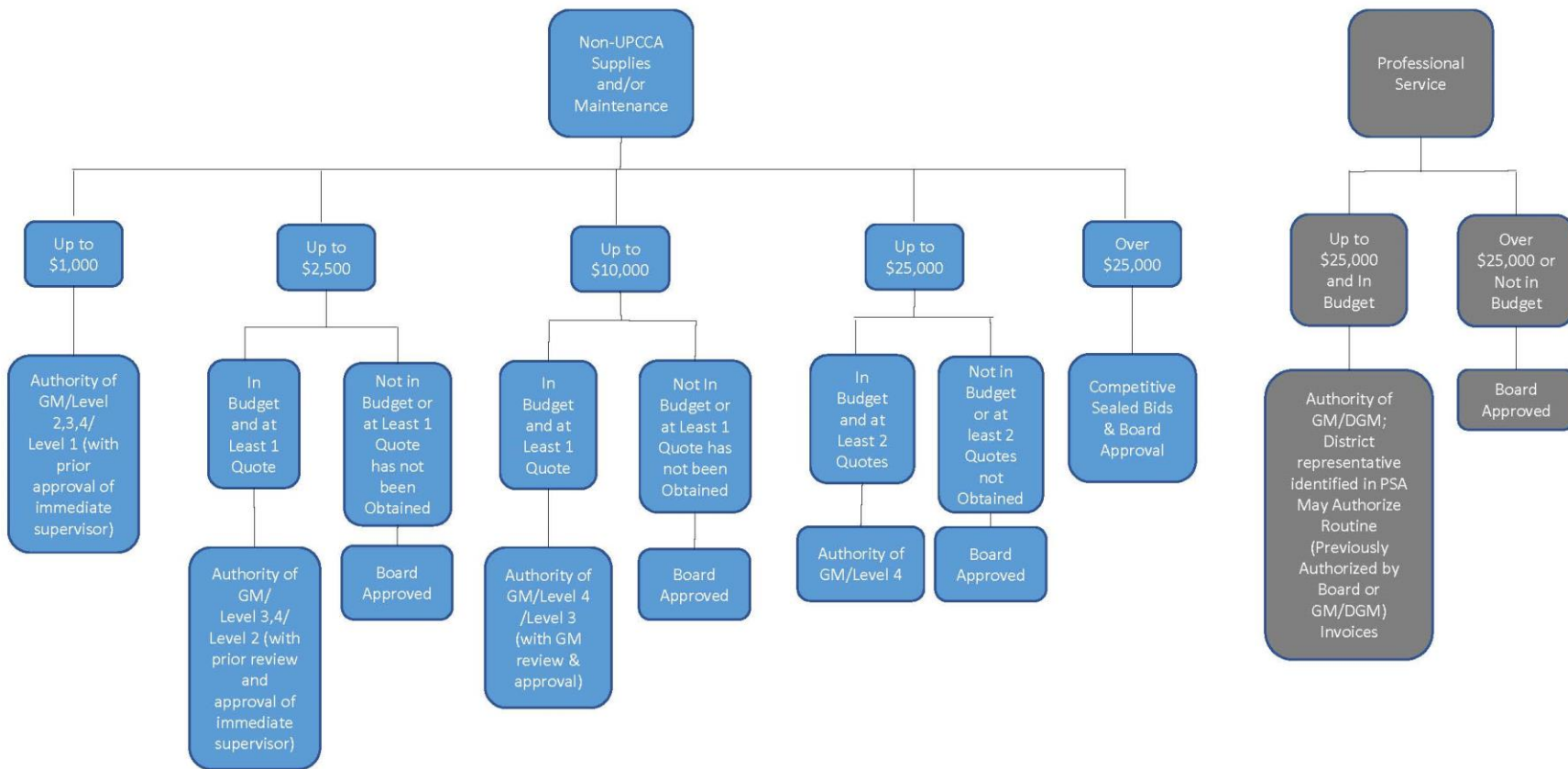
- Maintenance Work totaling up to \$75,000
 - Can be performed by the District’s employees by force account, negotiated contract, or purchase order.
 - No notice inviting informal bid required.

- Maintenance Work greater than \$75,000 but less than or equal to \$220,000
 - Same requirements as for public projects greater than \$75,000 but less than or equal to \$220,000 – see above.

- Maintenance Work greater than \$220,000 (referred to in the District’s Procurement and Purchasing Policy as the “UPCCA’s **formal** bidding process”)
 - Same requirements as for public projects greater than \$220,000 – see above.

Exhibit "C-1"

Ventura Port District Procurement Policy Decision Tree: 2 of the 3 Service Types

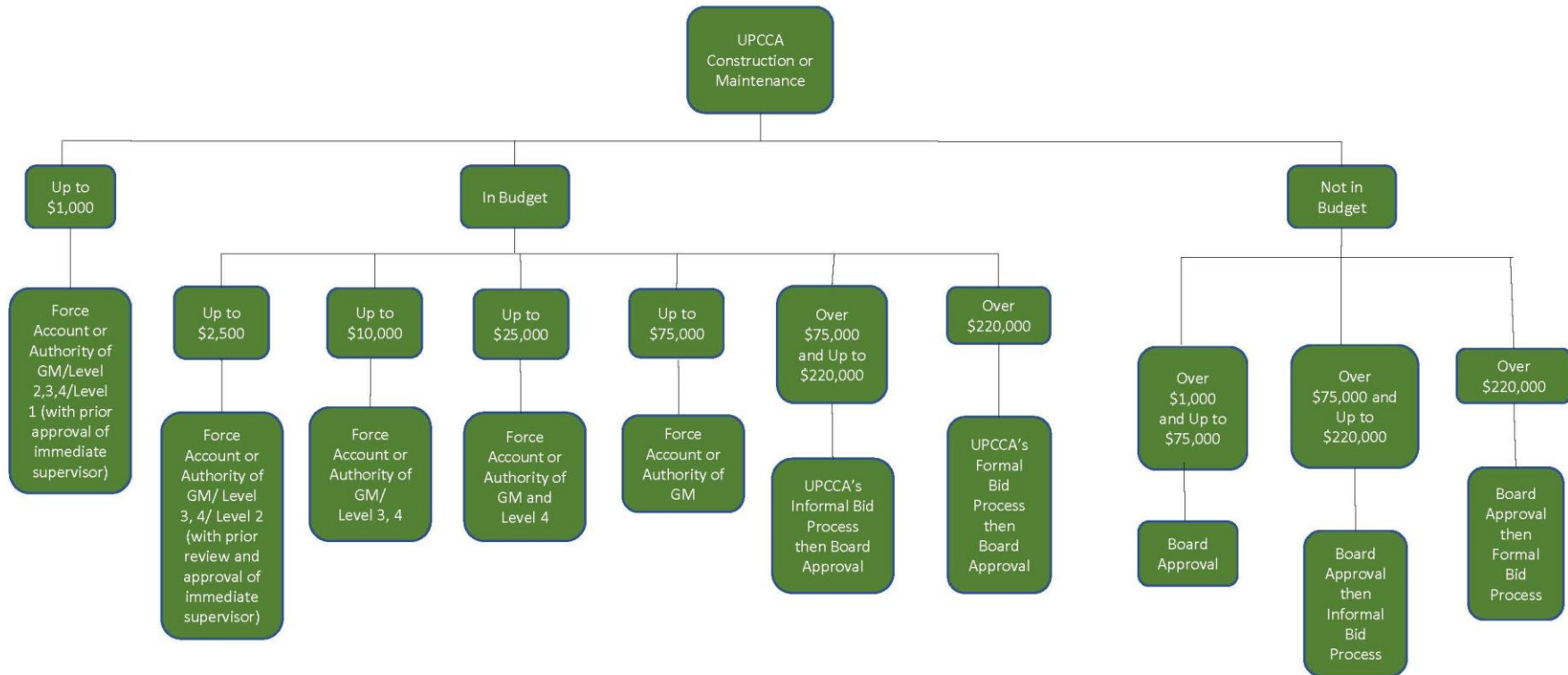


Ventura Port District Procurement and Purchasing Policy
 UPCCA: California Uniform Public Construction Cost Accounting Act (generally construction projects).
 Rev: March 29, 2022, December 18, 2024

Contract Notice to Proceed: Attachment Page 1 of 2

Exhibit "C-2"

Ventura Port District Procurement Policy Decision Tree: 1 of the 3 Service Types



Ventura Port District Procurement and Purchasing Policy
 UPCCA: California Uniform Public Construction Cost Accounting Act (generally construction projects).
 Rev: March 29, 2022, December 18, 2024

Contract Notice to Proceed: Attachment Page 2 of 2

EXHIBIT "D"
CONTRACTOR NOTICE TO PROCEED

Project: _____ Job Code: _____

Project Manager: _____ Start Date: _____

Contract Ceiling: \$ _____

Budgeted Value (if applicable): \$ _____

Change Order Limit (10% of contract or total budget): \$ _____

_____ Confirmation of procurement in conformance with Procurement Policy thresholds

_____ Verification of contract signatures

_____ Receipt of Certificate of Insurance including Endorsement

Is this job subject to Prevailing Wage? _____

If yes, all of these apply:

_____ Verification of contractor and subcontractor DIR registration at time of bid award
(fine of up to \$100/day for us up to \$10k)

_____ Verification of Contractors State License Board (CSLB) and Worker's Comp
registration

_____ Verification of whether a PWC-100 must be filed:
o Maintenance projects over \$15,000
o All other construction work over \$25,000
o within 30 days of award of contract or by 1st day worked, whichever is sooner
– unless emergency work, then 30 days or completion, whichever is earlier
o \$100/day fine for us for each day late

_____ Obtain Certified Payroll within first two weeks of job start:
o Review classification of workers
o Verify training contributions
o Travel & subsistence if applicable
o Fringe Benefit Forms

_____ District must file Notice of Completion for each prevailing wage project (note this
would include dredging)

Comments (e.g. Special Exception for competitive bidding; Federally funded Project; Project was
completed by using the Local Business Preference Program):

EXHIBIT “E-1”
PREVAILING WAGE REQUIREMENTS FOR LARGER PUBLIC WORKS PROJECTS

1. Prevailing Wages. Any project that constitutes a “public works” under California Labor Code section 1720 et seq., is subject to the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code⁴ and its implementing regulations set forth in Title 8 of the California Code of Regulations (“*Regulations*”) (collectively, “*Prevailing Wage Laws*”), which require the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements. Prevailing wages apply to all projects defined as a “public works” project by the State of California that cost more than \$1,000 and are performed under a contract “paid for in whole or in part out of public funds,” excluding work done by a public agency itself (collectively, “*Public Work*”).⁵ This includes construction, demolition, repair, alteration, maintenance,⁶ and the installation of photovoltaic systems under a power purchase agreement when certain conditions are met under California Labor Code (on occasion, “*LC §*”) section 1720.6. This also includes (i) service and warranty work on public buildings and structures and land surveying; (ii) surveying, material testing, or inspection services provided for a Public Work construction project during the design, site assessment, feasibility study, and other preconstruction phases of construction; (iii) concrete deliveries and certain delivery of paving materials which are incorporated into the project at the time of delivery; and (iv) work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite and the hauling of refuse from a Public Work jobsite to an outside disposal location pursuant to LC § 1720.3.

2. Incorporation by Reference. The Prevailing Wage Laws require that certain provisions be included in all contracts for a public works. If the contract (the “*Contract*”) with the Ventura Port District (the “*District*”) this exhibit and agreement (this “*Agreement*”) is attached to, which is incorporated herein by this reference, is for the performance of any Public Work project (“*Project*”), the contractor or consultant (“*Contractor*”) and any subcontractor or subconsultant performing any work on that Project (collectively, “*Subcontractor*”) must comply with all applicable requirements under the Prevailing Wage Laws, including, but not limited to, the requirements in this Agreement below.

3. Apprentices. If the prime contract or any subcontract for the Project exceeds thirty thousand dollars (\$30,000), Contractor and Subcontractors shall comply with all applicable requirements of LC § 1777.5, LC § 1777.6, LC § 1777.7, and the Regulations concerning the employment and wages of apprentices. Contractor and Subcontractors are responsible for compliance with this Section 3 for all apprenticeable occupations. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on a public works project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.

4. Compliance with Prevailing Wage Requirements. Pursuant to the Prevailing Wage Laws, the Contractor and all Subcontractors shall ensure that all workers employed by them who perform work on the Project are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (“*DIR*”).

⁴ See Labor Code sections 1720 through 1861.

⁵ The definition of “public works” triggering Labor Code compliance can be found in Labor Code Sections 1720 and 1771. “Maintenance” is defined at 8 CCR section 16000 of the Regulations.

- 4.1. Copies of such prevailing rate of per diem wages are on file at the office of the District and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. The Contractor and all Subcontractors shall post a copy of the prevailing rate of per diem wages determination at appropriate conspicuous points each job site for the Project and shall make them available to any interested party upon request. These wage rates are made a specific part of this Agreement by reference pursuant to LC § 1773.2 and will be applicable to all work performed at all Project sites.
- 4.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of this Agreement.

5. DIR Registration Requirements. No Contractor or Subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to LC § 1725.5 [with limited exceptions from this requirement for bid purposes only under LC § 1771.1(a)]. Except as otherwise provided in Section 5.4 below or LC § 1771.1(a), Contractor and Subcontractors shall **not** be qualified to bid on, be listed in a bid or proposal (subject to the requirements of California Public Contract Code section 4104), or engage in the performance of any contract for a public works project, unless currently registered and qualified to perform “public work” pursuant to LC § 1725.5 **at the time of bidding** on the contract for the project. It is not a violation of this Section 5 for an unregistered contractor to submit a bid that is authorized by California Business and Professions Code section 7029.1 or California Public Contract Code sections 10164 or 20103.5, provided the Contractor is registered to perform “public work” pursuant to LC § 1725.5 at the time the contract for the public works project is awarded.

Notwithstanding anything to the contrary in this Agreement, no bid will be accepted by the District, and no contract will be awarded or entered into for the Project, without proof of current registration with the DIR to perform “public work” from: (i) Contractor; (ii) Subcontractors; and (iii) any professional service provider, design consultant, architect, or engineer that will be performing any surveying, material testing, or inspection services, as well as any Subcontractor performing this work (even if the professional service provider or firm is not doing the work, if they will be subcontracting any of that work to others, then the professional service provider also needs to be registered). The applicable parties in provisions (i)-(iii) of this Section 5 shall maintain active registration with the DIR for the duration of their work on the Project, and it shall be these parties’ sole responsibility to comply with all applicable Prevailing Wage Laws and registration and labor compliance

requirements applicable to their work on the Project, including, but not limited to, the submission of Certified Payroll Records directly to the DIR in accordance with this Section 5, the Agreement, and the applicable Prevailing Wage Laws.

5.1. A Contractor's inadvertent error in listing a Subcontractor that is not registered with the DIR pursuant to LC § 1725.5 in response to a solicitation shall not be grounds for filing a protest or grounds for considering the bid or proposal non-responsive provided that any of the following apply: (i) the Subcontractor is registered prior to the proposal due date; (ii) within 24 hours after the proposal due date, the Subcontractor is registered and has paid the penalty registration fee specified in LC § 1725.5; or (iii) the Subcontractor is replaced by another registered Subcontractor pursuant to California Public Contract Code section 4107.

5.2. By submitting a bid or proposal to the District for the Project and signing the incorporated Contract, Contractor is certifying that Contractor has verified that all Subcontractors used on the Project are registered with the DIR in compliance with LC § 1771.1 and LC § 1725.5. Contractor shall provide proof of registration for themselves and all listed Subcontractors to the District (i) at the time of the bid or proposal due date or (ii) upon request.

5.3. The District may ask Contractor for the most current list of all Subcontractors, along with their DIR registration numbers, utilized on the Project at any time during performance of the contract for the Project, and Contractor shall provide the list within ten (10) calendar days of the District's request.

5.4. Pursuant to LC § 1725.5(f) and LC § 1771.1(n), the requirements in this Section 5 do **not** apply to work performed on (i) a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work, or (ii) a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

6. Payroll Record Maintenance and Submission Requirements. Contractor and Subcontractors shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Project as mandated by LC § 1776(a). The "payroll records" that must be maintained and certified weekly by Contractor and Subcontractors are defined in 8 CCR section 16000 of the Regulations to mean "[a]ll time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project."

6.1. Contractor and Subcontractors shall certify under penalty of perjury that (i) the payroll records enumerated under Section 6 above and specified in LC § 1776(a) are true and accurate and (ii) they have complied with the requirements of LC § 1771, LC § 1811, and LC § 1815 for any work performed by their employees on the Project (collectively, "*Certified Payroll Records*").

- 6.2. The term “Certified Payroll Records” shall include all required documentation to comply with the mandates set forth in the Prevailing Wage Laws, as well as any additional documentation requested by the District or its designee; including, but not limited to: (i) fringe benefit statements and backup documentation, such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable); and (ii) apprenticeship forms, such as DAS-140 and DAS-142, for itself and all applicable Subcontractors for the time period covering such payment request (collectively, “*Verification Records*”).
- 6.3. Except as otherwise provided in Section 5.4 above, in addition to submitting (i) Certified Payroll Records on DIR form “A-131” or an equivalent document and (ii) any requested Verification Records to the **District** electronically on a weekly basis (eCPRs filed with the DIR are NOT an acceptable substitute for Certified Payroll Records to be submitted to the District), Contractor and all Subcontractors shall submit “electronic certified payroll records” (“eCPRs”) directly to the Labor Commissioner using DIR’s online eCPR system, on and through the DIR’s website, in the format prescribed by the DIR, and no hard copy of these records will be accepted. In addition, Contractor shall require and cause all Subcontractors to prepare and submit all records required by LC § 1771.4, LC § 1776, and this Agreement to the District and the DIR in accordance with the Prevailing Wage Laws and this Agreement’s terms.
- 6.4. If either Contractor or a Subcontractor is exempt from the DIR registration requirement under Section 5.4 above, then Contractor or each such Subcontractor is not required to furnish eCPRs directly to the Labor Commissioner but shall (i) submit Certified Payroll Records and any requested Verification Records to the District and (ii) retain the records for at least three (3) years after completion of their work on the Project, pursuant to LC § 1771.4(a)(4).
- 6.5. If progress payments are contemplated under the Contract or any agreement for the Project, as a condition to receiving progress payments, final payment, and payment of retention on the Project, Contractor must present to the District, along with its request for payment, all applicable and necessary Certified Payroll Records and Verified Records (for itself and all applicable Subcontractors) for the time period covering such payment request.
- 6.6. Contractor acknowledges that (i) the submission of eCPRs directly to the DIR pursuant to LC § 1771.4.(a)(3) is a requirement *separate and distinct* from (ii) the obligation in LC § 1776(d) “to file a certified copy of the records with the entity that requested the records enumerated in subdivision (a) [of LC § 1776] within 10 days after receipt of a written request” for such records. For the avoidance of doubt, Contractor and Subcontractors shall comply with the requirements in both LC § 1771.4(a)(3) and LC § 1776(d), and Contractor and Subcontractors that have electronically furnished eCPRs are not excused from timely furnishing to the Labor Commissioner (or any entity described under this Section 6.6 below) “a certified copy of all payroll records,” consisting of Certified Payroll Records and Verification Records requested by an entity authorized to request such under LC § 1776, no later than 10 calendar days after receipt of such a written request (“*Record Request Deadline*”). Certified Payroll Records for any employee of Contractor or Subcontractors requested pursuant to LC § 1776(d) shall be made available for

inspection and copying by the District's representatives at all reasonable hours at Contractor's principal office, and Contractor and Subcontractor shall provide copies of these materials, or permit inspection of them, as follows:

- a. An employee's Certified Payroll Records shall be made available for inspection or furnished to the employee or the employee's authorized representative upon written request pursuant to LC § 1776(b)(1) no later than the applicable Record Request Deadline.
- b. All Certified Payroll Records enumerated in Section 6 above shall be made available for inspection or furnished upon request to a representative of the District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the DIR no later than the applicable Record Request Deadline, and all such records shall not be altered or obliterated by Contractor or its Subcontractors. Unless required to be furnished directly to the Labor Commissioner as eCPRs in accordance with LC § 1771.4(a)(3), all Certified Payroll Records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the DIR.
- c. If a request for Certified Payroll Records is made by the public pursuant LC § 1776(b)(3), the public shall **not** be given access to Certified Payroll Records by the Contractor or its Subcontractors at their principal office. Contractor and all Subcontractors are required to forward any such requests by the public to the District representative designated in the Contract for the Project by both e-mail and regular mail on the business day following receipt of the request. Any copy of Certified Payroll Records made available for inspection as copies and/or furnished upon request to the public or any public agency by the District will be marked or obliterated in such a manner as to prevent disclosure of each individual employee's name, address, and social security number. The name and address of Contractor and Subcontractors performing the work shall not be marked or obliterated.

7. Working Hours. Contractor and Subcontractors shall comply with LC §§ 1810 through 1815, including but not limited to: (i) restricting working hours on the Project to eight (8) hours a day and forty hours a week, unless all hours worked by their employees in excess of 8 hours up to and including twelve (12) hours in any workday are compensated at not less than 1½ times the basic rate of pay; and (ii) specifying penalties to be imposed on contractors and subcontractors of \$25 per worker, per day, for each day the worker works more than 8 hours per day and 40 hours per week in violation of LC §§ 1810 through 1815. Special prevailing wage rates generally apply to work performed on weekends, holidays, and for certain shift work. Depending on the location(s) of the Project and the amount of travel incurred by workers on the Project, certain travel and subsistence payments may also be required. Contractors and Subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov, including Industrial Welfare Commission Order No. 16-2001.

8. Required Provisions for Subcontracts. The Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a Subcontractor: Labor Code Sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

9. Labor Code section 1861 Certification. In accordance with LC § 3700, Contractor is required to secure the payment of compensation of its employees. By signing the incorporated Contract, Contractor certifies that:

“I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement.”

10. Compliance Monitoring and Enforcement. This public works Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations, and Contractor shall (i) comply with and (ii) cause all Subcontractors to comply with all Regulations and requirements from the DIR relating to labor compliance monitoring and enforcement. In executing the Contract, Contractor acknowledges that it has reviewed all applicable labor compliance requirements and included the cost of complying with such requirements in its bid.

11. Stop Order. Contractor acknowledges and understanding that if Contractor or its Subcontractors engage in the performance of any work on the Project without having been registered in violation of LC § 1725.5 or LC § 1771.1, the Labor Commissioner may issue and serve a stop order prohibiting the use of the unregistered Contractor or Subcontractor on the Project, until the unregistered Contractor or Subcontractor is registered. Failure to observe a stop order is a misdemeanor.

12. Indemnification. Contractor shall defend, indemnify, and hold the District, its elected officials, officers, employees, agents, and volunteers free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of Contractor or Subcontractors to comply with the Prevailing Wage Laws or the terms of this Agreement. To the fullest extent permitted by law, Contractor hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under LC § 1781. The foregoing indemnity shall survive termination of this Agreement.

13. No Additional Compensation. Full compensation for conforming to the requirements in this Agreement shall be considered as included in the Contract price, and no additional compensation will be paid to Contractor or Subcontractors to abide by these requirements.

13.1. The District may require Contractor and all Subcontractors to submit certified payroll through an electronic portal. No additional compensation will be paid to the Contractor or Subcontractors if the District decides to use this collection method.

14. Penalties for Violations. The District or the DIR may impose penalties upon Contractor and Subcontractors for failure to comply with the Prevailing Wage Laws applicable to the Project.

14.1. Wage Violations. These penalties are up to (i) \$200 per day, per worker, for each wage violations identified pursuant to LC § 1775. In the event a worker of Contractor or Subcontractors performing work on the Project is paid less than the prevailing wage rate for the work or craft in which the worker is employed, Contractor and Subcontractors shall comply with LC § 1775. Any penalties authorized under LC § 1775 shall be in addition to any other applicable penalties allowed under the Prevailing Wage Laws, the Contract, or this Agreement.

- 14.2. Overtime Violations.** These penalties are up to \$25 per worker, per day, for each day the worker works more than 8 hours per day and 40 hours per week. Penalties may also be imposed for failing to pay premium pay that may be required when Contractor's or Subcontractors' workers perform work on weekends, holidays, and during shift work.
- 14.3. Apprenticeship Violations.** Contractors and all Subcontractors that fail to comply with the specific apprenticeship requirements on the Project may be fined \$100 to \$300 for each calendar day of non-compliance pursuant to LC § 1777.7.
- 14.4. Failure to Submit eCPRs to DIR.** Any Contractor or Subcontractor that fails to submit eCPRs directly to the Labor Commissioner as required is subject to a monetary penalty by the Labor Commissioner under LC § 1771.4(a)(3)(B) of \$100 for each day of non-compliance, up to a total of \$5,000 per public work project. These penalties only accrue against the actual contractor or subcontractor that failed to furnish eCPRs and are enforced through the process discussed in LC § 1741.
- 14.5. Failure to Respond to Request for Certified Payroll Records.** In addition to any penalties that may be imposed by the Labor Commissioner under Section 14.4 above, in the event Contractor or any Subcontractor fails to furnish the requested Certified Payroll Records to any party authorized to request such under Section 6.6 above [and as specified in LC § 1776(d)] by the applicable Record Request Deadline, he, she, or it shall, as a penalty to the District, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from any progress payments then due. Contractor is not subject to a penalty assessment pursuant to this subsection due to the failure of a Subcontractor to comply with a written notice requesting Certified Payroll Records pursuant to LC § 1776(d).
- 14.6. Withholding of Payments.** Failure to submit Certified Payroll Records to the Labor Commissioner when mandated by this Agreement or the Project's parameters will also result in the withholding of progress, retention, and final payment. The District shall withhold any portion of a payment, including the entire payment amount, until the: (i) Certified Payroll Records; and (ii) any Verification Records requested under this Agreement are properly submitted, reviewed, and found to be in full compliance with the law. If the records in this subsection do not comply with the requirements of LC § 1720 et seq., the District may continue to hold sufficient funds to cover estimated wages and penalties under the Contract.

EXHIBIT “E-2”
PREVAILING WAGE REQUIREMENTS FOR SMALLER PUBLIC WORKS PROJECTS

1. Prevailing Wages. Any project that constitutes a “public works” under California Labor Code section 1720 et seq., is subject to the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code⁷ and its implementing regulations set forth in Title 8 of the California Code of Regulations (“*Regulations*”) (collectively, “*Prevailing Wage Laws*”), which require the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements. Prevailing wages apply to all projects defined as a “public works” project by the State of California that cost more than \$1,000 and are performed under a contract “paid for in whole or in part out of public funds,” excluding work done by a public agency itself (collectively, “*Public Work*”).⁸ This includes construction, demolition, repair, alteration, maintenance,⁹ and the installation of photovoltaic systems under a power purchase agreement when certain conditions are met under California Labor Code (on occasion, “*LC §*”) section 1720.6. This also includes (i) service and warranty work on public buildings and structures and land surveying; (ii) surveying, material testing, or inspection services provided for a Public Work construction project during the design, site assessment, feasibility study, and other preconstruction phases of construction; (iii) concrete deliveries and certain delivery of paving materials which are incorporated into the project at the time of delivery; and (iv) work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite and the hauling of refuse from a Public Work jobsite to an outside disposal location pursuant to LC § 1720.3.

2. Incorporation by Reference. The Prevailing Wage Laws require that certain provisions be included in all contracts for a public works. If the contract (the “*Contract*”) with the Ventura Port District (the “*District*”) this exhibit and agreement (this “*Agreement*”) is attached to, which is incorporated herein by this reference, is for the performance of any Public Work project (the “*Project*”), the contractor (“*Contractor*”) and any subcontractor or subconsultant performing any work on that Project (collectively, “*Subcontractor*”) must comply with all applicable requirements under the Prevailing Wage Laws, including, but not limited to, the requirements in this Agreement. In addition, it is the intent of the parties to the Contract to effectuate the requirements of Labor Code sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 within this Agreement, and Contractor and Subcontractors shall therefore comply with those sections of the Labor Code, and the Prevailing Wage Laws, to the fullest extent required by law.

3. Apprentices. If the prime contract or any subcontract for the Project exceeds thirty thousand dollars (\$30,000), Contractor and Subcontractors shall comply with all applicable requirements of LC § 1777.5, LC § 1777.6, LC § 1777.7, and the Regulations concerning the employment and wages of apprentices. Contractor and Subcontractors are responsible for compliance with this Section 3 for all apprenticeable occupations. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on a public works project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.

⁷ See Labor Code sections 1720 through 1861.

⁸ The definition of “public works” triggering Labor Code compliance can be found in Labor Code sections 1720 and 1771. “Maintenance” is defined at 8 CCR section 16000 of the Regulations.

4. Public Works Contractor Registration. Subject to the exceptions in Section 4.1 below and LC § 1771.1(a), all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform a public works project must be registered with the DIR as a “public works contractor” **at the time of bid**. No bid will be accepted, and no contract will be awarded or entered into with Contractor, Subcontractors, or any professional service provider or firm that will be performing any surveying, material testing, or inspection services, including any Subcontractor performing this work for the Project, without proof of current registration with the DIR to perform a public works project at the time of bid (even if the professional service provider or firm is not doing the work, if they will be subcontracting any of that work to others, then the professional service provider also needs to be registered). Contractor shall (i) maintain active registration and (ii) cause Subcontractors to maintain active registration with the DIR for the duration of their work on the Project and provide proof of such to the District no later than ten (10) calendar days of the District’s request.

4.1. Exception to Contractor Registration Requirement. Pursuant to LC § 1725.5(f) and LC § 1771.1(n), the requirements in Section 4 do **not** apply to work performed on (i) a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work, or (ii) a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

5. Working Hours. Contractor and Subcontractors shall comply with LC §§ 1810 through 1815, including but not limited to: (i) restricting working hours on the Project to eight (8) hours a day and forty (40) hours a week, unless all hours worked by their employees in excess of 8 hours up to and including twelve (12) hours in any workday are compensated at not less than 1½ times the basic rate of pay; and (ii) specifying penalties to be imposed on contractors and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of LC §§ 1810 through 1815. Special prevailing wage rates generally apply to work performed on weekends, holidays, and for certain shift work. Depending on the location(s) of the Project and the amount of travel incurred by workers on the Project, certain travel and subsistence payments may also be required. Contractors and Subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov, including Industrial Welfare Commission Order No. 16-2001.

6. Payroll Records. Pursuant to LC § 1776, Contractor and Subcontractors shall maintain weekly certified payroll records (as defined in 8 CCR section 16000) showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work on the Project. Contractor shall (i) certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate; and (ii) cause Subcontractors to certify weekly payroll records under penalty of perjury and submit all materials required under this Section 6 to each applicable party. In addition to submitting the certified payroll records to the District on a weekly basis on DIR form “A-131” or an equivalent document (eCPRs are NOT an acceptable substitute for certified payroll records to be submitted to the District), pursuant to LC § 1771.4, Contractor and Subcontractors shall furnish certified payroll records directly to the Department of Industrial Relations (“DIR”) on a weekly basis as “electronic certified payroll records” (“eCPRs”), in the format prescribed by the DIR, using DIR’s online eCPR system, on and through the DIR’s website, and no hard copy of these records will be accepted. If either Contractor or a Subcontractor is exempt from the DIR registration requirement under Section 4.1 above, then Contractor or each such Subcontractor is not required

to furnish eCPRs directly to the Labor Commissioner but shall (i) submit Certified Payroll Records and any requested Verification Records to the District and (ii) retain the records for at least three (3) years after completion of their work on the Project, pursuant to LC § 1771.4(a)(4).

7. In the event of noncompliance with the requirements of this Section 6, Contractor and Subcontractors shall have ten (10) calendar days after receiving written notice ("*Record Request Deadline*") from a party authorized under LC § 1776 to request such certified payroll records and all supporting documentation needed to comply with this Section 6.

8. **Labor Code section 1861 Certification.** In accordance with LC § 3700, Contractor is required to secure the payment of compensation of its employees. By signing the incorporated Contract, Contractor certifies that:

"I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

9. **Labor Compliance.** Copies of such prevailing rate of per diem wages are on file at the office of the District and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. The Contractor and all Subcontractors shall post a copy of the prevailing rate of per diem wages determination at appropriate conspicuous points at each job site for the Project and shall make them available to any interested party upon request. These wage rates are made a specific part of this Agreement by reference pursuant to LC § 1773.2 and will be applicable to all work performed at all Project sites.

10. **Compliance Monitoring and Enforcement.** This public works Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations, and Contractor shall (i) comply with and (ii) cause all Subcontractors to comply with all Regulations and requirements from the DIR relating to labor compliance monitoring and enforcement. In executing the Contract, Contractor acknowledges that it has reviewed all applicable labor compliance requirements and included the cost of complying with such requirements in its bid.

11. **Required Provisions for Subcontracts.** The Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a Subcontractor: Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

12. **Indemnification.** Contractor shall defend, indemnify, and hold the District, its elected officials, officers, employees, agents, and volunteers free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of Contractor or Subcontractors to comply with the Prevailing Wage Laws or the terms of this Agreement. To the fullest extent permitted by law, Contractor hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under LC § 1781. The foregoing indemnity shall survive termination of this Agreement.

13. No Additional Compensation. The District may require Contractor and all Subcontractors to submit certified payroll through an electronic portal. Full compensation for conforming to the requirements in this Section 12 and Agreement shall be considered as included in the Contract price, and no additional compensation will be paid to Contractor or Subcontractors to abide by these requirements.

14. Penalties for Violations. The District or the DIR may impose penalties upon Contractor and Subcontractors for failure to comply with the Prevailing Wage Laws applicable to the Project. These penalties are up to (i) \$200 per day, per worker, for each wage violations identified pursuant to LC § 1775; (ii) \$100 per day, per worker, for failure to provide the required certified payroll records and documentation requested pursuant to LC § 1776 by the Records Request Deadline in Section 6 above; (iii) \$25 per day, per worker, for any overtime violation pursuant to LC § 1813 (penalties may also be imposed for failing to pay premium pay that may be required when Contractor's or Subcontractors' workers perform work on weekends, holidays, and during shift work); and (iv) \$100 to \$300 for each calendar day of non-compliance with the specific apprenticeship requirements pursuant to LC § 1777.7. In the event a worker of Contractor or Subcontractors performing work on the Project is paid less than the prevailing wage rate for the work or craft in which the worker is employed, Contractor and Subcontractors shall comply with LC § 1775. Any penalties authorized under LC § 1775 shall be in addition to any other applicable penalties allowed under the Prevailing Wage Laws, the Contract, or this Agreement.