

Coastside Fire Protection District

**Procurement Guidelines**

Attention user: These are the procurement guidelines for the District. These are an abbreviation of the information that is found in the Procurement Manual and not a substitution for having read and understood the entire document.

Any item, including tools, equipment, furnishing or fixtures costing in excess of \$300 and having an estimated life of three or more years shall normally first be identified in the annual budget prior to being purchased.

	<u>\$Limit</u>	<u>Purchase Initiation</u>	<u>Approval</u>	<u>Process</u>
Petty Cash	\$100 Various	Officer	Fire Chief or Assistant Chief or  Assistant Chief	
Petty Cash	\$101-\$500 Various	Officer or Proj Mgr	Fire Chief or Assistant Chief or  Assistant Chief	
Charge Accts	\$0-\$2000 Credit card	Officer	Fire Chief or Assistant Chief or  Assistant Chief	w/receipt
Purchase Order	\$501-\$5,000 Purchase	Officer or Proj Mgr	Fire Chief or Assistant Chief or  Assistant Chief	Receipt Form (3)phone/ written quotes

All purchases over \$300 must be initiated by an employee submitting a Purchase Request Form to the Assistant Chief. The Purchase Request Form shall contain the following information:

A specific description of the desired products or services, using whenever possible the:

- dimensions, sizes, and catalogue numbers;
- quantity of desired products or services;
- date on which products or services are required;

- place of delivery for the product or service;
- estimated cost.

	<u>\$Limit</u>	<u>Purchase Initiation</u>	<u>Approval</u>	<u>Process</u>
Purchase Order	\$5,000 Informal Bid \$10,000	Officer or Proj Mgr	Fire Chief or Assistant Chief or  Assistant Chief	Written Specs
Purchase Order Chief or	\$10,000  up	Fire Chief or Assistant Chief or Formal Bid Assistant Chief	Assistant Chief	Fire Chief or Assistant
Professional Services	\$0-\$5,000 Informal Bid	Officer or Proj Mgr	Fire Chief or Assistant Chief or  Assistant Chief	Written Specs (3)phone/ written quotes
Professional Services Chief or	\$5001-\$25,000  -\$25,000	Fire Chief or Assistant Chief or Informal Bid Assistant Chief	Assistant Chief/Board	Fire Chief or Assistant  Written Specs (3)phone/ written quotes
Professional Services Chief or	>\$25,000	Fire Chief or Assistant Chief or Request for Assistant Chief	Assistant Chief/Board	Fire Chief or Assistant  Proposal
Emergency Procurement Chief or	<\$50,000	Fire Chief or Assistant Chief or None Assistant Chief	Assistant Chief	Fire Chief or Assistant

Emergency purchases are those immediate procurements required to safeguard life, health or property, or to prevent the immediate interruption or cessation of necessary District services.

### Sole Source Purchases

Regardless of the estimated cost of procurement, the District is not required to engage in the price quotation or informal bidding process when procuring material, equipment, supplies or services for which there exists only a sole source of supply.

### Contract review

All contracts over \$10,000 must be reviewed by the District's Attorney.

### Board Approval

Prior to purchase, the Board must approve the purchase of product, service, or construction project if:

- It exceeds \$5000 and is not in the annual budget
- If during budget process, the board directed that the item have specific approval before the purchase is actually made.
- The purchase will exceed the budgeted line item entry and the total account number entry for the item in the annual budget.

**COASTSIDE FIRE PROTECTION DISTRICT  
PROCUREMENT MANUAL**

Adopted by the Board of Directors  
Resolution No. 1992-3  
August 11, 1992  
Revised: May 24, 2014

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1. California Government Code §§1090, 1091, 1091.5 (Conflict of Interest)
2. California Health & Safety Code §13905 (Petty Cash Fund)
3. California Public Contract Code §20812 (Special Services Contracts)
4. California Public Contract Code §20813 (Construction Contracts)
5. California Government Code §§4000 et seq. (Cost Records)

I. GENERAL CONDITIONS

A. Derivation of Procurement Policy

The Coastside Fire Protection District is a political subdivision of the State of California, organized pursuant to California Health and Safety Code section 13800 et. seq. and governed by a five member Board of Directors. The procedures governing procurements of the District derive from state law and the District's previously established rules.

B. Purpose

These procedures are designed to foster maximum open and free competition for the Coastside Fire Protection District's contracts, to obtain purchases of a quality to suit intended purposes at the least expense, to clearly define the responsibilities of the officers related to purchasing, to maintain an internal centralized control over the purchase of materials and services and to reduce the time required to pay invoices.

C. Authority to Purchase

The authority to purchase materials, equipment, supplies and services is vested in the Fire Chief or Assistant Chief, who shall be responsible for generally supervising all purchasing. Purchases shall be made in accordance with the current approved budget. Any item, including tools, equipment, furnishing or fixtures costing in excess of \$1,000.00 and having an estimated life of three or more years shall normally first be identified in the annual budget prior to being purchased.



D. Definitions and Abbreviations

Whenever the following words are used in this Procurement Manual, the intent and meaning shall be interpreted as follows:

“Attorney” or “District’s Attorney” shall mean the District’s general counsel.

“Board of Directors” or “Board” shall mean the governing board of the Coastside Fire Protection District.

“Contractor” shall mean any person or entity who furnishes materials, equipment or supplies to, or performs any service for the District.

“District” shall mean the Coastside Fire Protection District.

“Public works” shall mean any work of improvement contracted by the District, including but not limited to the construction, alteration, addition to or repair, in whole or in part, of any building, wharf, bridge, ditch, flume, aqueduct, well, tunnel, fence, machinery, railroad, or road; the seeding, sodding, or planting of any lot or tract of land for landscaping purposes; the filling, leveling, or grading of any lot or tract of land; the demolition of buildings and the removal of buildings.

“Purchase Order” shall mean the form constituting written authorization to a vendor to furnish the District with materials, equipment, supplies or services of the kinds and in the amounts specified.

“Purchase Request Form” shall mean the internal memorandum submitted by a District employee to the Fire Chief or Assistant Chief to request approval of items for purchase. It shall include the information set forth in section III.A, below.

## II. STANDARDS OF CONDUCT

### A. Duty to Disclose

District employees shall not be involved in any purchasing decisions, tasks or procedures (including participation in initiation, award or administration of a contract) in which they or persons related to them have a real or apparent conflict of interest, as more particularly defined in section B below. In cases when there may be such conflict of interest, employees have the responsibility to report in writing such conflict to the Fire Chief or Assistant Chief. Failure to make such disclosure is subject to discipline.

### B. Conflict of Interest

The Board has adopted a Conflict of Interest Code, under which certain designated employees are required to disclose economic interests and are prohibited from participating in decisions which may have an effect on their financial interests. The terms and requirements of the Conflict of Interest Code are incorporated into this Procurement Manual.

For purposes of these Procurement Manual Standards of Conduct, it is further required that no employee, officer or agent of the District shall participate in procedures, tasks or decisions relative to initiation, award or administration of a contract if a conflict of interest, real or apparent, exists. Such a conflict of interest arises when: 1) the employee, officer or agent; 2) any member of his or her immediate family; 3) his or her business associate; or 4) any organization which employs, or which is about to employ, any of the above, has a financial or other interest in a firm that participates in a District bidding process or that is selected for an award. The standards governing the determination as to whether such an interest exists are set forth in sections 1090, 1091

and 1091.5 of the California Government Code, copies of which are included in Appendix A.

C. Gratuities and Contingent Fees

No director, officer, employee or agent of the District shall knowingly solicit, accept or agree to accept gratuities, or favors in connection with actual or potential procurement and contracting activities.

D. Confidential Information

No District employee shall use confidential information for his or her actual, anticipated or apparent personal gain, or for the actual, anticipated or apparent personal gain of any person related to such employee as such relationship is defined in section B above. "Confidential Information" is defined to include any proprietary, privileged or nonpublic information, coming to the employee's attention as a result of employment by the District, the knowledge of which makes possible financial gain.

E. Discipline for Violation

The violation of any of these standards of Conduct will subject the violator to any disciplinary proceedings or action deemed appropriate by the District, up to and including dismissal.

III. GENERAL PROCEDURES

A. Purchase Orders

All purchases over \$600 must be initiated by an employee submitting a Purchase Request Form to the Fire Chief or Assistant Chief. The Purchase Request Form shall contain the following information: a) a specific description of the desired products or services, using, whenever possible, dimensions, sizes and catalogue numbers; b) the

quantity of desired products or services; c) the date on which products or services are required; d) the place of delivery for the product or service; and e) estimated cost.

No employee may place orders directly with vendors without the prior written approval of the Fire Chief or Assistant Chief, as evidenced by a written Purchase Order signed by the Fire Chief or Assistant Chief

B. Board Approval

Prior to purchasing, the Board must approve the purchase of the product or service or construction project if a) it exceeds \$6,000 and is not in the annual budget; b) upon approving the annual budget, the Board asked that this purchase have specific Board approval before the purchase is actually made; or c) the purchase will exceed the budgeted line item entry and the total account number entry for the item in the annual budget.

C. Contract Review by District's Attorney

All contracts over \$10,000 must be reviewed by the District's Attorney. The District's Attorney shall also review any contracts at the request of the Fire Chief or Assistant Chief, Assistant Chief or Board.

D. Dollar Limits

All dollar limits in this Procurement Manual are inclusive of all costs, taxes, shipping and handling for the item to be purchased.

IV. INFORMAL PROCUREMENT PROCEDURES

A. Petty Cash: Purchases Not Exceeding \$500.00 [See Appendix - Health & Safety Code §13905]

The Fire Chief or Assistant Chief is authorized to draw a warrant on the District treasury to establish a petty cash fund. The petty cash fund may be used for the following purposes related to and necessary for the conduct of District business: meals, lodging, travel, supplies, fuel, education, training and meetings. The maximum amount of the fund is \$500. The District's Administrative Secretary will account for all expenditures from the fund. The District's Fire Chief or Assistant Chief is authorized to draw additional warrants to reimburse the funds. Each warrant drawn to reimburse the fund shall contain an itemized account of expenditures. Any officer or employee is authorized to spend the fund upon approval of the Fire Chief or Assistant Chief.

B. Negotiated Purchases: Purchases over \$600 to \$5,000

1. Availability of Funds

The Fire Chief or Assistant Chief must first determine the availability of funds.

2. Quotations

Quotations may be solicited by telephone or in writing. When feasible, at least three quotations will be obtained.

3. Negotiation with Vendors

The District and the vendor shall negotiate the basic terms of the procurement, including, but not limited to, price, time for performance, place of performance and manner of payment.

4. Issuance of Purchase Order

Upon completion of negotiations, the District shall formalize the terms of the purchase by Purchase Order, signed by the Fire Chief or Assistant Chief.

5. Charge Accounts

The Fire Chief or Assistant Chief of Assistant Chief may authorize the establishment of charge accounts for purchases of equipment, materials, supplies and services that are required on a regular as-needed basis but in uncertain quantities, such as hardware, groceries and maintenance parts and materials. Employees must receive the permission of the Fire Chief or Assistant Chief before charging on these accounts. The Fire Chief or Assistant Chief shall review the monthly invoices for these charge accounts.

C. Informal Bidding Procedures: Purchases over \$5,000 to \$10,000

1. Availability of Funds

The Fire Chief or Assistant Chief must first determine the availability of funds.

2. Preparation of Bid Solicitations

The Fire Chief or Assistant Chief, Assistant Chief or designee shall prepare written specifications which outline the basic terms and conditions of the procurement, including but not limited to: a) description of the product, services, or construction work required; b) quantities required; c) free on board (F.O.B.) point; d) delivery or completion date; e) delivery address; f) components of bid prices; g) technical specifications (if required by the nature of product or services; construction

projects, technical specifications and plans shall be prepared); and h) date and time by which the informal bids must be submitted to the District.

In order to establish a basis of quality, the solicitation may specify brand names or manufacturers, but must provide for an approved equal product. Bonding and insurance requirements shall also be set forth, as appropriate. Generally, workers' compensation and comprehensive general liability insurance shall be required for construction projects. A bid bond, performance bond, and payment bond may also be required. In addition, the District may require that all bidders submit sealed bids. The District shall state in the solicitation that it reserves the right to reject any or all bids and to waive any irregularities or informalities in any bid or in the bidding procedure.

3. Distribution of Bid solicitation

Bid solicitations shall be sent to potential bidders, whose names may be obtained from locator files, trade journals and trade sources. Bids shall be solicited from three or more acceptable vendors whenever possible.

4. Informal Bid Opening

Immediately upon receipt, informal bids shall be stamped with the time and place. At the time designated in the Bid Solicitation, the Fire Chief or Assistant Chief, Assistant Chief or designee, in the presence of at least one other District employee, shall open the bids received.

5. Informal Bid Evaluation and Award

The District shall award contracts based on informal bids to the lowest responsible and responsive bidder. The Fire Chief or Assistant Chief, or Assistant Chief shall notify the successful bidder and the remaining bidders of the District's award and

will issue a Purchase Order or execute a Contract, as appropriate. Board approval of the award of contract is required unless the purchase was included as an item in the annual budget.

V. PROCUREMENTS REQUIRING FORMAL COMPETITIVE BIDDING

A. When Formal Competitive Bids are Required

1. Construction Projects over \$10,000 [See Appendix - Cal. Pub. Con. Code §20813]

The District shall publicly advertise for bids for all construction, or completion or maintenance of any building, structure or improvement whenever the estimated expenditure exceeds \$10,000.

2. Procurements of Equipment and Materials over \$10,000

As a matter of District policy, the District shall publicly advertise for bids for all purchases of equipment and materials whenever the estimated expenditure exceeds \$10,000. The Board may opt to waive formal bidding in these situations.

B. Procedures

1. Availability of Funds

The Fire Chief or Assistant Chief must first determine the availability of funds.

2. Preparation of Bid Solicitations

The Fire Chief or Assistant Chief or designee shall prepare written specifications which specify the basic terms and conditions of the procurement or construction project, including but not limited to: a) a Notice inviting Sealed Bids; b) General Conditions setting forth standard terms and conditions applicable to all District



contracts, except as modified by the Special Provisions or Technical Specifications; c) Special Provisions including (i) description of the product, services or construction project; (ii) quantities required; (iii) free on board (F.O.B.) point; (iv) delivery or completion date; (v) liquidated damages clause, if appropriate; (vi) delivery address; (vii) components of bid prices; (viii) date and time by which the formal bids must be submitted to the District; (ix) indemnification and insurance requirements; (x) bonding requirements such as bidder's security, performance bonds, payment bonds, and fidelity bonds; (xi) inclusion of option clauses; (xii) liquidated damages provision; d) Technical Specifications; for construction projects, technical specifications and plans shall be prepared); e) proposal documents and f) sample contract and bonds.

In order to establish a basis of quality, the bid solicitation may specify brand names or manufacturers, but must provide for an approved equal product. Bonding, including bidder's security, and insurance requirements shall also be set forth, as appropriate. Generally, workers' compensation and comprehensive general liability insurance shall be required for all construction projects.

If the expenditure exceeds \$25,000 for any public work, the successful bidder shall be required to file a payment bond with the District at a rate of at least fifty percent for contracts not exceeding \$5 million and at least twenty-five percent for contracts between \$5 million and \$10 million. If the public work contract exceeds \$10 million, a payment bond of \$2.5 million is sufficient. All construction contracts shall require a 100 percent performance bond. As a general rule, a performance bond for non-construction contracts is not required.

The bid solicitation shall require the bidder to certify compliance with federal and state laws and regulations, including laws addressing nondiscrimination and equal opportunity in employment.

In addition, the District shall require that all bids submitted be sealed and shall state that it reserves the right to reject any or all bids and to waive any irregularities or informalities in any bid or in the bidding procedure. The Notice Inviting Sealed Bids shall set a date for the opening of bids.

Normally, a bid bond or other acceptable form of bidder's security in the amount of ten percent (10%) of the bid amount shall be required to be submitted with the bid documents.

The solicitation shall be reviewed for compliance with requirements by the District's Attorney prior to issuance.

### 3. Notice Inviting Sealed Bids

The Notice shall be sent to potential bidders, whose names may be obtained from locator files, trade journals and trade sources. The Notice shall be published at least ten days before the date of opening of the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation in the District. If there is no such newspaper, it shall be posted in at least three public places in the District.

### 4. Bid Opening

Sealed bids shall be submitted to the Fire Chief or Assistant Chief and shall be identified as bids on the envelope. The Fire Chief or Assistant Chief will preside at all bid openings, at which at least one other District employee will be present. If the

Fire Chief or Assistant Chief is unable to attend, he or she will designate the person to preside. Bids shall be opened in public at the time and place stated in the public notice. Bids that are received after the hour specified in the Notice will not be accepted and will be returned unopened to the respective bidders. All opened bids shall be marked "Received Open" and the envelope in which the bid is submitted date stamped. No bidder shall be permitted to change its bid or any other bid after the bids are opened.

5. Evaluation of Bids

The District shall award the contract, if award is to be made, to the lowest responsive and responsible bidder.

a. Lowest Bid

The bids shall first be examined to determine which bid is the lowest. The formula for determining the basis for evaluating bids, as described in the contract documents, shall be utilized. The unit price governs whenever both unit price and extended price(s) or total(s) are given. All bids showing item extension or totals shall be reviewed for accuracy. Any errors shall be called to the attention of the Fire Chief or Assistant Chief and District's Attorney.

b. Responsiveness

The lowest monetary bid shall be examined to determine if it is responsive to the contractual and technical requirements. The Fire Chief or Assistant Chief and District's Attorney shall review the bid documents to ensure that the bidder has made no unauthorized deletions, amendments or changes to the contract documents, verify that the required proposal forms and certificates have been completed, and confirm that all signatures are in place and appear in order. If, for any of

these reasons, the lowest bidder appears nonresponsive, the District's Attorney will determine whether the deficiency is a minor irregularity, (e.g. omission of a signature on the proposal form or a bidder's security submitted in an improper amount), or whether the deficiency is more substantive in nature, (e.g. taking exception to warranty provisions or extending the delivery period). Upon the Attorney's approval, the Fire Chief or Assistant Chief may contact the bidder and discuss the aspects of the bid which appear nonresponsive and give the bidder the opportunity to correct the minor deficiency. If the bidder does not correct the minor irregularity so as to make the bid responsive, or if the deficiency is substantive in nature, the Fire Chief or Assistant Chief shall determine the next lowest monetary bidder and follow the procedure above to determine the responsiveness of that bid.

c. Responsible Bidder

The lowest responsive bidder shall then be reviewed to determine if it is a "responsible" bidder. The issues are whether the bidder has sufficient experience, qualifications and financial stability to perform the contract. Such a determination is made on the basis of bidder's past experiences and, history of service to the District, if any; bidder's responses to the proposal documents requiring a listing of experience, qualifications and references, if required; and the expertise, dependability and financial stability of the bidder revealed from any other legal source. In evaluating the questionnaire and in checking references, the District shall determine whether the bidder meets the standards set forth in the Specifications, and shall not assess the bids as to relative superiority. Any determination that a bidder is not responsible shall be

approved by the Fire Chief or Assistant Chief or Assistant Chief and the District's Attorney.

d. Rejection of Bids

In its discretion, the Board may reject any and all bids presented and re-advertise for bids or determine that it is currently imprudent to proceed with the contract award.

e. Tied Bids

If two bids are identical and are also the lowest responsive and responsible bids, the Board may award the contract to either.

6. Award of Contract

Within the time specified in the contract documents, the Board shall award the contract to the bidder determined to be the lowest responsive and responsible bidder in accordance with the provisions above. Upon award, the Fire Chief or Assistant Chief shall notify the successful bidder in writing of the contract award and forward the contract documents and bonds for execution. If the Board awards the contract to a bidder other than the apparent low bidder, the Fire Chief or Assistant Chief shall inform, in writing, each bidder whose total bid was less than the bid of the successful bidder of the reasons for rejection of its bid.

The District's Attorney shall review the contract and insurance certificates for compliance. The contract shall be signed by the President of the Board and approved as to form by the District's Attorney. Once the contract documents have been satisfactorily completed, the Fire Chief or Assistant Chief may issue a Notice to Proceed to the Contractor.

7. Bidder's Security

A successful bidder shall forfeit its bid security upon refusal or failure to execute the contract within ten days after the notification of the award of contract, unless the District is responsible for the delay. If the successful bidder refuses or fails to execute the contract, the Board may award it to the next lowest responsive and responsible bidder. In such a case, the Fire Chief or Assistant Chief shall apply the amount of the lowest bidder's security to the difference between the low bidder and the second lowest bidder, and the surplus, if any, shall be returned to the lowest bidder. All unsuccessful bidders shall be entitled to return of their bid security within the time period set forth in the specifications.

VI. PROFESSIONAL SERVICES

A. Definition of Professional Services [See Appendix - Cal. Pub. Con. Code §20812)

Professional services contracts shall be with persons specially trained, experienced, expert, and competent to perform the special services needed. Special services include the fields of accounting, administration, ambulance, architecture, custodial, economic, engineering, finance, insurance, labor relations, law, maintenance, mechanics, medicine, planning, science, technology, and other services which are incidental to the operation of the District.

B. Procedures

1. Availability of Funds

The Fire Chief or Assistant Chief must first determine the availability of funds.

## 2. Board Approval

Prior to soliciting proposals, the Board must approve the retention of the desired services if a) the cost exceeds \$5,000 and is not in the annual budget; b) upon approving the annual budget, the Board asked that this expenditure have specific Board approval before the expenditure is actually made; or c) the purchase will exceed the budgeted line item entry and the total account number entry for the item in the annual budget.

## 3. Preparation of Request for Proposal

If the estimated cost of the contract exceeds \$25,000, then the Fire Chief or Assistant Chief or designee shall prepare a Request for Proposal (RFP). If the estimated cost is \$25,000 or less, then the District may follow the procedures provided for in section IV.B, Negotiated Purchases.

The RFP shall set forth a particularized statement as to the scope of work required and applicable terms and conditions of the agreement if award is made. Also included in the RFP will be the time in which the project must be completed, requirements concerning coordination with other entities, other information which may be useful in preparation of the Proposal, and evaluation criteria specifically tailored to the project. Such evaluation criteria shall include but not be limited to the consultant's proven experience and competence, understanding of the scope of work, financial ability and resources to perform the work, willingness to cooperate with District staff and proposed method for assuring timely and acceptable performance and management of the work. The RFP shall identify all significant evaluation criteria, including price or cost when required, and their relative importance. In addition, résumés of the consultant's

staff may be required. The draft RFP shall be submitted to the District's Attorney for review.

Whenever it is found to be reasonable and appropriate, a firm not-to-exceed cost quotation will be requested in the RFP. When a cost quotation is requested, the RFP shall solicit a labor fee schedule, for all categories of personnel to be utilized by the Consultant in connection with the project, and a proposed project budget. The RFP shall set a date for the Pre-Proposal Conference, if one is scheduled, and shall also establish the subsequent date by which the sealed Proposals shall be submitted to the District.

#### 4. Evaluation of Proposals

Proposals received shall be reviewed by a Selection committee, appointed by the Fire Chief or Assistant Chief, in consultation with the District's Attorney. District personnel with the appropriate technical expertise shall be included in the review process, as necessary.

The review process shall begin with the verification that the proposals received are in conformity with the proposal specifications. The review shall adhere strictly to the evaluation criteria set out in the RFP; no discriminatory waiver of criteria shall be allowed. The Selection Committee may ask the most qualified proposers to make an oral presentation. The conclusions of the Selection Committee shall be summarized in a written memorandum for the Board.



## 5. Award of Contract

The Board shall authorize the award of contract. Upon award, the Fire Chief or Assistant Chief shall notify all proposers in writing of the contract award and forward to the successful proposer the contract documents and bonds for execution. The District's Attorney shall review the contract and insurance certificates for compliance. The contract shall be signed by the President of the Board and approved as to form by the District's Attorney. Once the contract documents have been satisfactorily completed, the Fire Chief or Assistant Chief may issue a Notice to Proceed to the Contractor.

## VII. EMERGENCY PROCUREMENTS

In the case of any great public calamity, such as extraordinary fire, flood, storm, epidemic, earthquake or other such disaster, the District is not required to engage in informal or formal competitive bidding or requests for proposal procedures when making emergency purchases of supplies, equipment, materials or services if the Board has made the proper findings and, by four-fifths vote, authorized emergency contracting procedures pursuant to Section 22050 of the California Public Contract Code. "Emergency purchases" are those immediate procurements required to safeguard life, health or property, or to prevent the immediate interruption or cessation of necessary District services. In such emergency situations, the Fire Chief or Assistant Chief may expend up to \$50,000 for the immediate purchase or contract for supplies, equipment, materials or services.

When the intended procurement amount will exceed applicable statutory bid limits, as in the case of construction work exceeding \$10,000 or professional services

exceeding \$25,000, the emergency must be so declared and approved by resolution passed by a four-fifths vote of all members of the Board pursuant to California Public Contract Code Sections 20812(c)(5), 20813(d) and 22050.

## VIII. SOLE SOURCE PURCHASES

### A. General

Regardless of the estimated cost of procurement, the District is not required to engage in the price quotation or informal bidding process when procuring material, equipment, supplies or services for which there exists only a sole source of supply. Such procurements often arise when the specifications and requirements for the items or services to be procured are so unusual or distinct as to narrow possible sources down to one. This may be the case, for example, with replacement parts for brand name machinery, equipment or vehicles when only one source of supply is available. In this example, however, if more than one distributor is available, the product is not exempt from price quotations or informal bidding. The sole source must be the only known source of supply with the capability of meeting the bona fide specification requirements. A sole source decision is not permitted merely on the grounds that the source demonstrates technical or administrative superiority, is the most convenient or shows superior performance potential at lowest cost.

### B. Procedures

#### 1. Availability of Funds

The Fire Chief or Assistant Chief must first determine the availability of funds.

#### 2. Board Approval

Prior to purchase, the Board must approve the purchase of the product or service or construction project if a) it exceeds \$5,000 and is not in the annual budget; b) upon approving the annual budget, the Board asked that this purchase have specific board approval before the purchase is actually made; c) the purchase will exceed the budgeted line item entry and the total account number entry for the purchase in the annual budget; or d) the purchase will exceed \$10,000.

### 3. Procedure

The employee submitting the Purchase Request Form shall indicate that it is a "sole source purchase," after determining that there is only one vendor or supplier of the materials, goods, equipment or services desired. The Fire Chief or Assistant Chief shall verify that the particular procurement meets the definition of a sole source. If the estimated expenditure exceeds \$10,000, the Fire Chief or Assistant Chief shall consult the District's Attorney for a determination as to the applicability of the sole source exception. No purchase order shall be issued to the vendor or contract executed until the District's Attorney has confirmed that the procurement qualifies as a sole source purchase.

The Fire Chief or Assistant Chief shall also determine the availability of funds.

### 4. Cost Analysis

Unless the reasonableness of the price can be established on the basis of a catalog or market price for a similar commercial product sold in substantial quantities to the general public, or on the basis of prices set by law or regulation, the Fire Chief, Assistant Chief or designee shall conduct a cost analysis. A cost analysis is a detailed

evaluation of the cost elements that comprise the proposed price to determine whether the bidder is applying sound management and appropriate resources to the procurement. This process includes verification of cost data, evaluation of specific cost elements such as labor hours, quantities, tooling or testing and projection of cost data to determine its effect on prices. The following factors should be considered: necessity for certain costs, reasonableness of amounts estimated for necessary costs, the bases for allocating overhead costs, allowances for contingencies and the appropriateness of allocations of particular overhead costs to the contract.

5. Issuance of Purchase Order

The Fire Chief or Assistant Chief shall issue the Purchase Order or execute a Contract.

X. CONTRACT ADMINISTRATION

A. Notice

The District's Administrative Division shall assume primary responsibility for purposes of communicating with all vendors, suppliers, and contractors as to the commencement and progress of the contract. With respect to construction contracts, the Fire Chief or Assistant Chief shall serve as the District's authorized representative.

B. Maintenance of Procurement Records

The Administrative Secretary shall maintain a procurement/contract file for each District contract. Such file shall contain all records sufficient to document the significant history of the contract, including all formal and informal communication between the District and the vendor, supplier, or contractor. In addition, such file shall include, but not be limited to, the following records:

1. Any and all documents evidencing the rationale for the method of procurement;

2. Any and all documents relating to the selection of the vendor, supplier, or contractor.

3. For construction contracts, cost records shall be kept in the manner provided in Chapter 1 (commencing with section 4000) of Division 5, Title 1 of the Government Code (See Appendix A).

C. Change Orders

1. Summary

When, in the course of the performance of a construction or other contract, the District deems it necessary that extra work be performed, or that certain authorized work be omitted, or that modifications be made regarding the contract requirements, then a written change order must be issued to the Contractor. The parties may disagree as to the price of any contract modification; these change order procedures assume that any such price dispute has been resolved. Resolution of disputes concerning change orders shall be made in accordance with the procedures outlined in section X.D., "Resolution of Contract Claims or Disputes", below.

2. Procedures

Documentation adequately describing the contract, the contract modification required, and the reasons therefor shall be prepared, together with an estimate as to the cost of such change order shall be included.

This documentation shall be the basis for preparing an accepted change order form. The change order shall identify the cost of the contract modification in both

dollar amount and percentage increase over the original contract price. The Fire Chief or Assistant Chief shall verify that the change order complies with the terms of the Board Resolution authorizing the original contract, and seek additional Board authorization if necessary. The Fire Chief or Assistant Chief shall also identify the source of funding for the increased cost, and shall confirm that such cost is currently budgeted.

The Fire Chief or Assistant Chief is authorized to approve all change orders to contracts awarded pursuant to formal competitive bidding and to contracts for professional services that are within the contract contingency not to exceed ten (10) percent of the contract price, up to a maximum of \$10,000 for any one change order. All other change orders shall be approved by the Board.

Upon the completion of this review and approval process, the change order shall be issued to the Contractor.

D. Resolution of Contract Claims or Disputes

All public works contracts must include the contract claims provisions found in California Public Contract Code Section 20104.

In the event that a dispute arises as to the payment of any additional compensation arising out of any Change Order issued by the District or for any cause, including any alleged act or failure to act by the District, or the happening of any event, thing or occurrence, the contractor shall submit a written notice of potential claim to the District. The written notice of potential claim shall set forth the reasons for which the contractor believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The notice must be

given to the District prior to the time that the contractor shall have performed any work giving rise to the potential claim for additional compensation, if based on any act or failure to act by the District, or in all other cases, within fifteen (15) days after the happening of the event, thing or occurrence giving rise to the potential claim. The purpose of this requirement is to bring to the attention of the District potential disputes at the earliest possible time in order that such matters may be settled. In the event that a contractor fails to file written notice of a potential claim as herein required, the District may determine that the Contractor has waived entitlement to any additional compensation for such claim.

The District staff shall review the notice of potential claim and shall conduct any investigation that may be required to ascertain the facts and circumstances surrounding the claim. The District staff shall assess the merits of the claim and shall consult with the District's Attorney as to a determination regarding said claim. The Fire Chief or Assistant Chief shall prepare and forward to the Contractor a written determination of the claim as soon as reasonably possible following receipt of the notice of potential claim. Said determination shall be final and conclusive. Notwithstanding the foregoing, procedures for resolving claims or disputes arising out of construction contracts shall be in accordance with the applicable provisions of the particular contract specifications.

#### E. Exercise of Options

In deciding whether to exercise an option, the District shall make its determination on the basis of the following methods of price analysis:

1. A new solicitation fails to produce a better price or a more advantageous offer than that offered by the option;

2. An analysis of prices or an examination of the market indicates that the option price is better than prices available in the market or that the option is the more advantageous offer; or

3. The time between the award of the contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable or the more advantageous offer.

Staff shall make the following additional findings regarding the exercise of such options: (1) staff shall evaluate the performance of the contractor to determine if said performance has been satisfactory; and (2) staff shall determine whether there are sufficient funds in the approved operating budget for the project to extend or renew the term pursuant to the option.

The Fire Chief or Assistant Chief shall have the authorization to exercise the option at his or her discretion when the cost of exercising the option does not exceed the original purchase price and is within the approved budget. Renewal or extension of the contract term shall be in accordance with those terms and conditions specified in the original contract documents.

#### F. Returns

Upon receipt of any procured supplies, equipment, or materials, the staff shall verify that the items procured comply with the description and technical requirements in the contract or Purchase Order. In all cases where the items procured do not comply, whether because of shortage, excess, defect, or other discrepancy, a discrepancy report shall be completed. Depending upon the nature of the procurement, the District



staff shall communicate with the vendor or supplier concerning the discrepancy; copies of such correspondence shall be forwarded to the Administrative Division.

G. Warranty Repairs

A warranty claim shall be filed promptly with the Contractor upon discovery of any breakdown, patent or latent defect, or other failure in any item procured that is under warranty. If the item's purchase price exceeded \$10,000 the District shall make a written warranty claim. Any failure by the Contractor to timely meet its obligations under the warranty shall be made known to the District's Attorney. In contracts where the term of the performance bond is extended to cover the warranty period, the District's Attorney shall notify the surety on such bond of any such failure on the part of the Contractor.

H. Construction Contract Administration

Construction Contracts normally are administered by the Administrative Division. Progress payment vouchers within the contract budget shall be reviewed and approved by the Fire Chief or Assistant Chief, as to work completed and payments due, before issuance of payment to the Contractor. Payments will be reported to the Board for ratification, in accordance with Board procedures for authorizing disbursements.

Upon receipt of a properly submitted stop notice, one hundred twenty-five percent (125%) of the claimed amount shall be withheld from payment to the contractor. In cases of doubt due to any legal technicality, the Fire Chief or Assistant Chief shall consult with the District's Attorney for assurance that all formalities have been completed in accordance with applicable stop notice and other laws.

The Fire Chief or Assistant Chief shall record notice of completion, where such notice is necessary, and shall report that action to the Board, together with the report of all sums paid or to be paid on the-contract.

XI. DISPOSAL OF SURPLUS EQUIPMENT AND SCRAP ITEMS

A. Summary

The Fire Chief or Assistant Chief shall from time to time poll District's staff in order to determine whether any supplies, equipment, or materials might be considered surplus or scrap. With respect to items with an original acquisition cost not exceeding \$20,000, the Fire Chief or Assistant Chief shall make the determination as to the manner of disposition of such scrap or surplus items. The Board shall determine the manner of disposition of any item having an original acquisition cost greater than \$20,000. In all cases, any disposition or sale of rolling stock shall require notification to the Board.

The method of sale or disposition of any surplus or scrap items shall depend upon the nature of the items. Such methods shall include: (1) transfer or sale to other public agencies, (2) trade-in as part of a new procurement, or (3) sale by auction, advertisement for sealed bids, or negotiation. Items of nominal value may be given without consideration. The Fire Chief or Assistant Chief, shall have responsibility for carrying out the disposition procedures for surplus or scrap items. In all cases, steps shall be taken to indemnify the District against loss or liability that may result from use of the items after disposition, transfer, or sale. All bidding or contract documents prepared in connection with the disposition, transfer or sale of surplus or scrap items shall be submitted to the District's Attorney for review and approval.

B. Original Acquisition Cost Determination

To the extent data is available, the Fire Chief or Assistant Chief shall prepare adequate documentation describing the items and its method of original procurement, original acquisition cost, and current fair market value.

C. Sealed Bid Procedure

The surplus/scrap items may be disposed of by means of a sealed bid procedure, conducted similarly to the formal competitive bid procedure. Upon appropriate determination and approval as described above, the Fire Chief or Assistant Chief shall cause a Notice of Sale to be placed in a newspaper of general circulation in the District's jurisdiction for a period of not less than two weeks. Such Notice shall adequately describe the items to be sold, including, where appropriate, the original acquisition cost and date. The Notice shall state that the sale shall be made to the highest responsive bidder, and that the items will be sold in an "as-is," "where-is" and "with all faults" condition. The Notice may also specify the amount of a minimum bid, if any. The Notice may be sent to known interested dealers and other parties, including other area fire departments.

D. Auction

The disposition of items may be undertaken by means of an auction. The Fire Chief or Assistant Chief shall cause to be published once, in a newspaper of general circulation in the District's jurisdiction, a Notice of intention to sell at public auction to the highest bidder at the time and place therein specified. The Notice shall adequately describe the items to be disposed of, including, if appropriate, the original acquisition cost and date. The sale may be conducted by the District, or, alternatively, may be held

in conjunction with San Mateo County or other public auction. Each item shall be sold to the highest bidder.

E. Other Methods of Disposal (Trade-In, Negotiation, Etc.)

If the Board makes a determination to surplus/scrap items, the items may be disposed of by any other reasonable means designed to maximize the property's disposal value to the District. Such alternate means of disposition may include trading the surplus/scrap property in for new supplies, equipment, and materials. Arrangements for a trade-in in connection with a District procurement shall be conducted in accordance with the procedures mandated by this Procurement Manual. In no case shall a trade-in represent a lower dollar value than could have been realized by means of another verified method of sale or disposition.

The Fire Chief or Assistant Chief may proceed to dispose of the property by negotiating the sale thereof. Procedures for such negotiated sale shall follow the general procedures for negotiated purchases contained in section IV.B. above.

F. Prohibited Sales

Sale of items shall not be permitted to any of the following:

1. Members of the Board;
2. District officers;
3. District staff, their families, or agents, unless the staff member certifies that he or she has not had any involvement or influence in the bidding process or contract award, and agrees to abide by the conflict of interest provisions set forth in Article 4, Chapter 1, Division 4 of Title 1 (commencing with section 1090) of the Government Code of the State of California.



## **APPENDIX - Statutory Provisions**

1. California Government Code §§1090, 1091, 1091.5 (Conflict of Interest)
2. California Health & Safety Code §13905 (Petty Cash Fund)
3. California Public Contract Code §20812 (Special Services Contracts)
4. California Public Contract Code §20813 (Construction Contracts)
5. California Government Code §§4000 et seq. (Cost Records)