

**MEETING OF THE ADMINISTRATIVE COMMITTEE  
OF THE BOARD OF DIRECTORS  
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA  
4040 PARAMOUNT BOULEVARD, LAKEWOOD, CALIFORNIA 90712  
12:00 P.M., TUESDAY, NOVEMBER 22, 2011**

**AGENDA**

Each item on the agenda, no matter how described, shall be deemed to include any appropriate motion, whether to adopt a minute motion, resolution, payment of any bill, approval of any matter or action, or any other action. Items listed as "For information" or "For discussion" may also be the subject of an "action" taken by the Board or a Committee at the same meeting.

- 1. DETERMINATION OF QUORUM**
- 2. PUBLIC COMMENT**
- 3. MINUTES OF THE MEETING OF AUGUST 8, 2011**  
*Staff Recommendation:* For approval.
- 4. WRD ADMINISTRATION BUILDING HVAC SERVICE CONTRACTS WITH CLIMATE PRO MECHANICAL AND SIGNET CONTROLS INC.**  
*Staff Recommendation:* (1) Enter into a Professional Services Contract with Climate Pro Mechanical, subject to approval of form by District Counsel, for an amount not to exceed \$20,200 to reconfigure the current system and to provide HVAC maintenance services over a period of two years; and (2) Enter into a Professional Services Contract with Signet Controls Inc., subject to approval of form by District Counsel, for an amount not to exceed \$23,400 to reconfigure the current system, to integrate a computer monitoring system and to provide maintenance services for the building environmental control system over a period of two years.
- 5. ADMINISTRATIVE CODE REVISION – APPROVAL OF STAFF EXPENSES**  
*Staff Recommendation:* Authorize the Manager of Finance and Administration, in addition to the General Manager and Chief Financial Officer, to approve reimbursement of staff expenses, and adopt Resolution No. 11-917 revising Section 7.3.2 of the Administrative Code.
- 6. ADMINISTRATIVE CODE REVISION – REMOVAL OF MANAGEMENT VEHICLE ALLOWANCE**  
*Staff Recommendation:* Revise Section 9 – District Management of the Administrative Code, delete Section 9.3 and adopt Resolution No. 11-918.

7. **ADMINISTRATIVE CODE REVISIONS**  
*Staff Recommendation:* Discuss any Administrative Code revisions with the Committee for possible recommendation to the Board.
8. **RECONCILIATION OF ADMINISTRATIVE CODE WITH WRD'S LABOR MOU**  
*Staff Recommendation:* For discussion.
9. **DEPARTMENT REPORT**  
*Staff Recommendation:* For information.
10. **DIRECTOR'S REPORTS, INQUIRIES AND FOLLOW-UP OF DIRECTIONS TO STAFF**
11. **ADJOURNMENT**

Posted by Abigail C. Andom, Deputy Secretary, November 17, 2011.

In compliance with the Americans with Disabilities Act (ADA), if special assistance is needed to participate in the Board meeting, please contact Deputy Secretary Abigail Andom at (562) 921-5521 for assistance to enable the District to make reasonable accommodations.

All public records relating to an agenda item on this agenda are available for public inspection at the time the record is distributed to all, or a majority of all, members of the Board. Such records shall be available at the District office located at 4040 Paramount Boulevard, Lakewood, California 90712.

Agendas and minutes are available at the District's website, [www.wrd.org](http://www.wrd.org).

UNAPPROVED  
MINUTES

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MINUTES

**MINUTES OF AUGUST 8, 2011  
MEETING OF THE ADMINISTRATIVE COMMITTEE  
OF THE BOARD OF DIRECTORS  
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA**

A meeting of the Administrative Committee of the Board of Directors of the Water Replenishment District of Southern California was held on August 8, 2011 at 12:30 p.m. at the District Office, 4040 Paramount Boulevard, Lakewood, California. Chairperson Willard H. Murray, Jr. called the meeting to order and presided thereover. Deputy Secretary Abigail C. Andom recorded the minutes.

**1. DETERMINATION OF QUORUM**

Attendees included:

Committee: Directors Willard H. Murray, Jr. and  
Sergio Calderon (Alternate)  
Staff: Scott Ota, Jenna Shaunessy

**2. PUBLIC COMMENT**

None.

**3. MINUTES OF THE MEETING OF JULY 11, 2011**

The minutes were approved as submitted.

**4. ACWA JPIA INSURANCE COVERAGE**

Chief Financial Officer Scott Ota stated that at the June 23, 2011 Board meeting, President Sergio Calderon requested the Administrative Committee to review the District's insurance policies for liability, property and workers compensation coverage with the Association of California Water Agencies Joint Powers Insurance Authority (ACWA/JPIA). Mr. Ota stated that the Administrative Committee met on July 11 and, after discussion, the Committee recommended staff send ACWA/JPIA a letter of intent to withdraw from the JPIA's Liability, Property and Workers Compensation Programs and requested staff to come back to the Committee with additional information on alternatives and other risk-based pooled programs.

Mr. Ota noted that staff sent the letter to ACWA/JPIA as directed by the Committee. He explained that the JPIA Agreement provides for withdrawal from the joint pooled protection program only at the end of the policy year and stated that WRD has given the JPIA twelve-months notice of its intent to withdraw from said pooled protection program. He stated that the soonest the District can withdraw from each pooled insurance program is as follows: Liability Insurance – 10/1/12; Property Insurance – 4/13/13; and Workers Compensation – 7/1/13.

Mr. Ota stated that staff has also contacted local water agencies for information on their liability, property and workers compensation insurance programs. He noted that of the 13 water agencies contacted – nine are covered by ACWA/JPIA, one is covered by Grundy Insurance, one by Goodwin 7 Associates, and two are self-insured.

Mr. Ota also informed the Committee that staff contacted over 50 insurance companies and only a handful can meet the District's current insurance coverage. He noted that staff will also be meeting with some of the companies to discuss what they can offer the District.

Discussion followed. Director Calderon stated that he wanted to make sure that the District gets the best value possible and would like to evaluate what the industry has to offer.

The Committee recommended the Board approve the issuance of request for qualifications (RFQ) for insurance and risk management services.

**5. ADMINISTRATIVE CODE REVISIONS**

The Item was continued to the next meeting.

**6. DEPARTMENT REPORT**

Mr. Ota referred to the written report and provided an update on the Department's activities.

**7. DIRECTOR'S REPORTS, INQUIRIES AND FOLLOW-UP OF DIRECTIONS TO STAFF**

None.

**8. ADJOURNMENT**

With no other business to come before the Committee, the meeting was adjourned at 1:10 p.m.

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Chair

ATTEST:

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Member



**MEMORANDUM**

**ITEM NO. 4**

<p><i>Prepared by:</i> Jim McDavid <i>Reviewed by:</i> Ted Johnson <i>Approved by:</i> Robb Whitaker</p>
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**DATE: NOVEMBER 22, 2011**

**TO: ADMINISTRATIVE COMMITTEE**

**FROM: ROBB WHITAKER, GENERAL MANAGER**

**SUBJECT: WRD ADMINISTRATION BUILDING HVAC SERVICE CONTRACTS WITH CLIMATE PRO MECHANICAL AND SIGNET CONTROLS INC.**

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**SUMMARY**

As part of the remodel of the administration building in 2006-2007 an automated building environmental control system was installed to manage the heating and cooling needs for the building. The system was commissioned prior to the building being occupied in March 2007. In December, 2009, the two air conditioning (HVAC) units for the administration building were replaced in order to improve the efficiency and reduce the energy footprint of the facility. The new units have dramatically reduced the electrical consumption for the building. Further improvements to the existing system can provide additional savings by realizing the full efficiencies the system is capable of providing. These improvements will not only allow for increased energy and associated cost savings but they will allow for the ability to monitor the entire system which will allow us to better troubleshoot periodic episodes where the system appears to be overwhelmed at times, such as during special events held in the building. Installation of these improvements, as well as the ongoing service of the system, will require the services of two separate factory authorized vendors.

As it relates to the ongoing service of the new HVAC units, WRD is in need of a new vendor for this service. During the first year of operation the maintenance of the new HVAC units was covered under warranty. Since that time maintenance was provided under a contract with a firm involved with the installation of the units, F.M. Thomas. Over the duration of the maintenance contract the performance by F. M. Thomas has diminished to the point that staff felt compelled to seek maintenance services from another contractor. In the process of investigating alternative vendors, the contractor that is being used by the City of Long Beach staff to service the Leo J. Vander Lans advanced water treatment facility, Climate Pro Mechanical, was contacted to service the administration building during an emergency situation. This contractor has proven to be extremely responsive and highly competent in servicing the units. In addition, they have demonstrated a very professional attitude in integrating their services with that of the building environmental controls contractor and are competitively priced.

As it relates to the improvements and ongoing service to the environmental control system (not including the new HVAC units), WRD is in need of a new vendor for these services as well. The automated environmental control system is a proprietary system that requires servicing by factory authorized maintenance vendors. Each vendor is assigned a territorial service area and becomes the sole service entity for that given area. The service vendor originally

assigned to the WRD administration building was the firm Climatec. WRD maintained a service contract with Climatec for several years. Similar to the experience with the building environmental control system, the performance by Climatec staff has diminished to the point that WRD staff felt compelled to solicit maintenance services from another contractor. This involved notifying the manufacturer of our intent to seek the services from a factory authorized vendor from an adjacent service territory. The vendor that was identified is Signet Controls Inc. This contractor has proven to be extremely responsive and highly competent in servicing the environmental control system. In addition, they have demonstrated a very professional attitude in integrating their services with that of the current building HVAC maintenance contractor.

Experience with the various service contractors has shown that it is advantageous to have an ongoing service contract with a dedicated vendor. Entities that have ongoing service contracts are usually given priority over "call-in" parties in situations where an immediate site visit is required. Therefore, staff is recommending service contracts be issued to both Climate Pro Mechanical and Signet Controls Inc. for the period of two (2) years. In addition, both the HVAC units and the building environmental control system have issues requiring immediate attention on a one-time basis.

Climate Pro Mechanical has provided a quote in the amount of \$4,100 per year for a two year service program commitment along with a quote in the amount of \$10,900 to reconfigure the system. The annual service fees for the following year will remain constant at \$4,100 per year. Signet Controls Inc. has provided a quote in the amount of \$2,800 per year for two year service program along with a quote of \$16,200 to reconfigure the system and integrate a computer monitoring system. The annual service fees for the following year will remain constant at \$2,800 per year.

### **FISCAL IMPACT**

The total cost for the current fiscal year will be \$36,700. This includes a 10% contingency for each of the two quotes for reconfiguration work. Funds are available in the current year's budget for this work. The annual service fees for the following year will be budgeted for in the fiscal year 2012-13 budget.

### **STAFF RECOMMENDATION**

- (1) Enter into a Professional Services Contract with Climate Pro Mechanical, subject to approval of form by District Counsel, for an amount not to exceed \$20,200 to reconfigure the current system and to provide HVAC maintenance services over a period of two years ; and
- (2) Enter into a Professional Services Contract with Signet Controls Inc., subject to approval of form by District Counsel, for an amount not to exceed \$23,400 to reconfigure the current system, to integrate a computer monitoring system and to provide maintenance services for the building environmental control system over a period of two years.



## MEMORANDUM

### ITEM NO. 5

*Prepared by:* Abbie Andom

*Reviewed by:* Scott M. Ota

*Approved by:* Robb Whitaker

**DATE: NOVEMBER 22, 2011**

**TO: ADMINISTRATIVE COMMITTEE**

**FROM: ROBB WHITAKER, GENERAL MANAGER**

**SUBJECT: ADMINISTRATIVE CODE REVISION – APPROVAL OF STAFF EXPENSES**

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### SUMMARY

Section 7.3.2. of the Administrative Code requires the General Manager or Chief Financial Officer to approve or reject all requests for reimbursement of expenses submitted by staff. To improve efficiency, it is recommended that the Manager of Finance and Administration, in addition to the General Manager and Chief Financial Officer, be authorized to approve reimbursement of expenses submitted by staff.

The proposed changes to Section 7.3.2 of the Administrative Code to allow for approval of staff expenses by the Manager of Finance and Administration are attached.

### FISCAL IMPACT

None.

### STAFF RECOMMENDATION

Authorize the Manager of Finance and Administration, in addition to the General Manager and Chief Financial Officer, to approve reimbursement of staff expenses, and adopt Resolution No. 11-917 revising Section 7.3.2 of the Administrative Code.

### 7.3.2

#### ***Approval of Staff Expenses: General Manager Approval***

The General Manager, ~~or~~ the Chief Financial Officer *or the Manager of Finance and Administration*, acting as an agent of the General Manager, shall approve or reject all requests and claims for reimbursement by staff and shall report such ~~approval/rejection~~ to the Finance Committee at its monthly meeting.

Reimbursements shall be detailed on Expense Report Forms provided by the District. Itemized receipts documenting each expense shall be attached to the Expense Report Forms and provide description of the expense, date incurred, name(s) of attendees (if any), location and description of the District business purpose. Additionally, Expense Report Forms shall document that expenses meet the requirements, rates and policies as set forth in this Chapter.

For each incidental expense less than \$25, submission of documentation the Finance Committee deems acceptable shall be sufficient for purposes of this section.

If a claim or request is submitted to the General Manager, ~~or~~ *the* Chief Financial Officer *or the Manager of Finance and Administration without documentation*, with documentation he/ ~~or~~ she deems inadequate, ~~or without documentation~~, *or* expenses in excess of the rates provided in this Chapter, which were not approved by the Board of Directors at a public meeting prior to incurring the expense, that claim or request shall be rejected. A claim or request initially rejected can later be submitted for approval if it is supported by adequate documentation at such later time. A claim or request initially rejected can be appealed to the Finance Committee.

Requests for reimbursement must be submitted within 90 days of the date the expense was incurred. Specifically excluded from this time limit are expenses incurred for medical, dental, eye care, or other expenses that require processing by an insurance or benefit provider or an expense where backup documentation was delayed beyond the control of the employee.

In order to properly close the accounting records for each fiscal year, standard accounting practices required that all reimbursement for non-excluded expenses be submitted and approved no later than 90 days after the end of the fiscal year (September 30).

Any reimbursement for a non-excluded expense submitted after 90 days must be approved by the Board of Directors.

## RESOLUTION NO. 11-917

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA AMENDING SECTION 7.3.2 OF CHAPTER 7 OF THE ADMINISTRATIVE CODE RELATING TO APPROVAL OF STAFF EXPENSES

**WHEREAS**, Water Code Section 60183 authorizes the Water Replenishment District of Southern California ("District") to adopt procedures relating to auditing and payment of demands; and

**WHEREAS**, Water Code Section 60183 authorizes the District to prescribe standards for approval of checks and warrants, prepared and issued in the District's ordinary course of business; and

**WHEREAS**, the proposed amendments to Section 7.3.2 of Chapter 7 of the Administrative Code were considered by the Administrative Committee at its November 14, 2011, meeting; and

**WHEREAS**, Section 7.3.2. of the Administrative Code requires the General Manager or Chief Financial Officer to approve or reject all requests for reimbursement of expenses submitted by staff; and

**WHEREAS**, the addition of the Manager of Finance and Administration approving or rejecting all requests for reimbursement of expenses by staff would enhance operational efficiency; and

**WHEREAS**, the Administrative Committee recommends the approval of this Resolution relating to the District's process for payment of staff expenses.

#### **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The Section 7.3.2 of Chapter 7 entitled "Reimbursement of Expenses for Members of the Board of Directors and District Employees" of the District's Administrative Code, is hereby amended to read in its entirety as follows:

#### **"7.3.2 Approval of Staff Expense**

The General Manager, the Chief Financial Officer or the Manager of Finance and Administration, acting as an agent of the General Manager, shall approve or reject all requests and claims for reimbursement by staff and shall report such rejection to the Finance Committee at its monthly meeting.

Reimbursements shall be detailed on Expense Report Forms provided by the District. Itemized receipts documenting each expense shall be attached to the Expense Report Forms and provide description of the expense, date incurred, name(s) of attendees (if any), location and description of the District business

purpose. Additionally, Expense Report Forms shall document that expenses meet the requirements, rates and policies as set forth in this Chapter.

For each incidental expense less than \$25, submission of documentation the Finance Committee deems acceptable shall be sufficient for purposes of this section.

If a claim or request is submitted to the General Manager, the Chief Financial Officer or the Manager of Finance and Administration without documentation, with documentation he/she deems inadequate, or expenses in excess of the rates provided in this Chapter, which were not approved by the Board of Directors at a public meeting prior to incurring the expense, that claim or request shall be rejected. A claim or request initially rejected can later be submitted for approval if it is supported by adequate documentation at such later time. A claim or request initially rejected can be appealed to the Finance Committee.

Requests for reimbursement must be submitted within 90 days of the date the expense was incurred. Specifically excluded from this time limit are expenses incurred for medical, dental, eye care, or other expenses that require processing by an insurance or benefit provider or an expense where backup documentation was delayed beyond the control of the employee.

In order to properly close the accounting records for each fiscal year, standard accounting practices required that all reimbursement for non-excluded expenses be submitted and approved no later than 90 days after the end of the fiscal year (September 30).

Any reimbursement for a non-excluded expense submitted after 90 days must be approved by the Board of Directors.”

PASSED, APPROVED AND ADOPTED THIS \_\_\_ day of \_\_\_\_\_ 2011 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA

\_\_\_\_\_  
Sergio Calderon, President

ATTEST:

\_\_\_\_\_  
Robert Katherman, Secretary

\_\_\_\_\_  
Date



## MEMORANDUM

ITEM NO. 6

*Prepared by:* Abbie Andom

*Reviewed by:* Scott M. Ota

*Approved by:* Robb Whitaker

**DATE: NOVEMBER 22, 2011**

**TO: ADMINISTRATIVE COMMITTEE**

**FROM: ROBB WHITAKER, GENERAL MANAGER**

**SUBJECT: ADMINISTRATIVE CODE REVISION – REMOVAL OF MANAGEMENT VEHICLE ALLOWANCE**

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### SUMMARY

Section 9.3 of the Administrative Code provides the Assistant General Manager with a vehicle allowance of \$450 per month in addition to salary payment. Staff would like to proposed deletion of Section 9.3.

### FISCAL IMPACT

Annual savings of \$5400.

### STAFF RECOMMENDATION

Revise Section 9 – District Management of the Administrative Code, delete Section 9.3 and adopt Resolution No. 11-918.

**9.3 ~~Management Vehicle Allowance~~**

~~In addition to salary payment as established by the Board, the Assistant General Manager shall receive a vehicle allowance of \$450 per month.~~

RESOLUTION NO. 11-918

RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA  
AMENDING SECTION 9.3 OF CHAPTER 9 OF THE ADMINISTRATIVE CODE  
RELATING TO MANAGEMENT VEHICLE ALLOWANCE

**WHEREAS**, the Water Replenishment District of Southern California (the "District") is organized and operates pursuant to the Water Replenishment District Act, Water Code Section 60000 *et seq.* ("Enabling Act") and the District's Administrative Code;

**WHEREAS**, the Board of Directors at its February 18, 2000 meeting approved modifications to the Administrative Code providing an increase to the vehicle allowance of the Assistant General Manager to \$450 a month;

**WHEREAS**, the proposed amendment to Section 9.3 of Chapter 9 of the Administrative Code constitutes considerable savings to the District;

**WHEREAS**, the Administrative Committee recommends the approval of this Resolution relating to the District's management vehicle allowance.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The Section 9.3 of Chapter 9 entitled "Management Vehicle Allowance" of the Administrative Code is hereby deleted in its entirety as follows:

~~"9.3 Management Vehicle Allowance~~

~~In addition to salary payment as established by the Board, the Assistant General Manager shall receive a vehicle allowance of \$450 per month."~~

PASSED, APPROVED AND ADOPTED THIS \_\_\_ day of \_\_\_\_\_ 2011 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA

\_\_\_\_\_  
Sergio Calderon, President

ATTEST:

\_\_\_\_\_  
Robert Katherman, Secretary

\_\_\_\_\_  
Date



## MEMORANDUM

ITEM NO. 7

*Prepared by:* Scott Ota  
*Reviewed by:* Scott Ota  
*Approved by:* Robb Whitaker

**DATE:** NOVEMBER 22, 2011  
**TO:** ADMINISTRATIVE COMMITTEE  
**FROM:** ROBB WHITAKER, GENERAL MANAGER  
**SUBJECT:** ADMINISTRATIVE CODE REVISIONS

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### SUMMARY

At the meeting of the Water Resources Committee on September 12, 2011, Director Robles asked that the Administrative Committee review the process of evaluating Request for Qualifications and Request for Proposals as documented in Chapter 10 of the Administrative Code. Specifically, Sections 10.3.2 Requests for Proposal and 10.3.3 Request for Qualifications.

Staff will discuss possible revisions with the Committee. The current relevant section of the Administrative Code is attached.

### FISCAL IMPACT

None.

### STAFF RECOMMENDATION

Discuss any Administrative Code revisions with the Committee for possible recommendation to the Board.

## 10.1 CONSTRUCTION CONTRACTS

### 10.1.1 General Provisions

(a) **Definitions**

**Board.** The Board of Directors of the Water Replenishment District of Southern California.

**Construction Contract.** The term Construction Contract means a written agreement between the District and any Person pursuant to which such person in exchange for payment by the District performs any of the following activities by itself or through others: the construction, alteration, addition to, or repair, in whole or in part, of any building, structure, wharf, bridge, ditch, flume, aqueduct, well, tunnel, fence, machinery, railroad, road, or the seeding, soding, or planting of any lot or tract of land for landscaping purposes, the filling, leveling, excavation, or grading of any lot or tract of land, the demolition of buildings, and the removal of buildings.

**Construction Solicitation.** The term Contract Solicitation shall include any and all means by which the Water Replenishment District of Southern California seeks proposals, bids or prices, including without limitation requests for proposals and invitations to bid, for the purpose of entering into a contract totaling twenty-five thousand dollars (\$25,000.00) or more

**Director.** A member of the Board of Directors of the Water Replenishment District of Southern California

**District.** The Water Replenishment District of Southern California.

**General Counsel.** The General Counsel of the Water Replenishment District of Southern California.

**General Manager.** The General Manager of the Water Replenishment District of Southern California.

**Person.** Person refers to any natural person, corporation of any kind, partnership of any kind, business entity of any kind, organization, association, or governmental entity.

**President.** The President of the Board of Directors of the Water Replenishment District of Southern California.

**Secretary.** The Secretary of the Board of Directors of the Water Replenishment District of Southern California.

(b) **Intent – These Procurement Policies and Procedures shall govern all construction contract procurements by the District and shall be incorporated by reference into all Contract Solicitations issued by the**

District and contracts entered into by the District. These Procurement Policies and Procedures are intended to implement the requirements Part 8 of Division 18 of the California Water Code, commencing with Section 60600, and to provide guidance to District personnel and all other Persons in the carrying out of any contract procurements by the District

- (c) All Contracts Shall be in Writing – All expenditures for construction work, materials, equipment, and supplies regardless of price shall be made pursuant to a contract. All District contracts shall be in writing in a form prescribed by the General Manager and approved by the General Counsel. At minimum, each contract shall include the relevant scope of work, duration, and terms of payment.

Authority: Water Code § 60230.5.

- (d) Board Approval of Contracts; Signing of Contracts

- (i) \$10,000.00 or more-All contracts and other documents executed by the District that require or authorize the District to expend ten thousand dollars (\$ 10,000.00) or more shall be authorized by the Board and signed by the President and the Secretary except that the Board may, by resolution for a specific expenditure, authorize the General Manager or other District representative to sign contracts and other documents in the name of the District, not to exceed twenty-five thousand dollars (\$ 25,000.00).

Authority: Water Code § 60622(a).

- (ii) Less than \$10,000.00-All contracts and other documents executed by the District that require or authorize the District to expend less than ten thousand dollars (\$10,000.00) may be approved and signed by the General Manager or other District representative authorized by the Board, provided, however, that the General Manager may not execute multiple contracts or documents on behalf of the District with the same person or entity within a one-year period that cumulatively total ten thousand dollars (\$ 10,000.00) or more, without the Board's prior approval.

- (iii) Authority: Water Code § 60622(b)

- (e) Prohibition Against Unlawful Activities – Procurement practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration are prohibited, and District Officers, Directors, and employees shall not participate in a Contract Solicitation or the award of a contract in which she or he knows or has reason to know she or he has a financial interest.

Further, no District Officer, Director or employee shall make, participate in making or in any way attempt to use his or her official position to

influence a District procurement decision in which he or she knows or has reason to know he or she has a financial interest or has a family relationship with any Person seeking a contract with the District.

Authority; Government Code § 87100.

- (f) Claims Against the District – All claims against the District are subject to the Claims Presentation procedures of the District’s Administrative Code, these Procurement Policies and Procedures, and the provisions of California Government Code sections 900, et seq. Alternatively, claims may be submitted by mutual agreement to mediation or binding arbitration.

### **10.1.2 Competitive Bidding**

- (a) Before advertising for any bid, District staff shall obtain Board approval of the Contract Solicitation.
- (b) Where the amount or value involved is less than twenty-five thousand dollars (25,000.00) an informal contract solicitation may be made by the General Manager without written bid and by informal quotes through telephone, mail or electronic inquiry, comparison of prices on file or otherwise. Every attempt shall be made to receive at least three price quotations.
- (c) Before making any contract totaling \$25,000.00 or more within any 12 month period, the District shall advertise for bids by issuing a Contract Solicitation.
- (d) The District shall advertise the Contract Solicitation in a newspaper of general circulation in Los Angeles County at least once a week for four consecutive weeks.
- (i) The District may advertise Contract Solicitations in a publication of the respective professional society or other publication reasonably calculated to reach its intended audience. The Contract Solicitations may also be made by solicitation to those firms that have indicated in advance their interest in providing the applicable service, by advertising in relevant trade publications, or by notice to lists of known providers.
- (e) The Contract solicitation shall set forth all of the following;
- (i) That plans and specifications for the work to be done can be seen and obtained at the District’s offices; \_\_\_\_\_
- (ii) That the Board will receive sealed bids for the contract;
- (iii) That the contract will be awarded to the lowest responsive and responsible bidder; and
- (iv) That bids will be publicly opened at a given time and place.

- (v) If less than the whole work provided for in the plans and specifications is to be done. The portion of the work to be performed must be particularly described in the contract Solicitation.
- (f) No Contract solicitation shall be prepared in a manner that limits participation to a single concern, entity or person except as otherwise permitted by law including, without limitation, Public Contract Code Section 3400, and except upon a finding of necessity by the Board based upon the unique nature of the services or materials to be provided, public emergency, or the demonstrated absence of any alternative provides of such services or materials and the impossibility of modifying the District's requirements to avoid such limitation.  
In issuing any Contract Solicitation or awarding any contract, the District shall not discriminate against any contractor or consultant on the basis of race, color, religion, sex, marital status or national origin.  
After issuance of a Contract Solicitation, the district shall not change any material provision in the contract solicitation except by issuance of a formal written addendum to the Contract solicitation.
- (g) All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:
- (i) Cash;
  - (ii) A cashier's check made payable to the District;
  - (iii) A certified check made payable to the District; or
  - (iv) A bidder's bond executed by an admitted surety insurer, made payable to the District.
- (h) Bids shall be opened in public at the time and place stated in the notice inviting bids. Two (2) District employees and/or representatives shall be present at the bid openings. As each bid is opened, the bidder's name and bid amount shall be announced. At the conclusion of the bid opening, the name of the apparent low bidder and its bid amount shall be announced. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.
- (i) Following the public opening of bids, the Board may do any of the following:
- (i) Let the work to the lowest responsible bidder;
  - (ii) Reject any or all bids and re-advertise for proposals; or
  - (iii) Proceed to construct the work under its own superintendence.
- Authority; Water Code §§ 60602, 60606, 60608, 60612; Public Contract Code § 1103

- (j) Upon an award of a Construction Contract to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.
- (k) After bids are opened, but before a Construction contract is awarded, the District shall verify that the successful bidder is properly licensed as a contractor pursuant to the Contractors State License Law to perform the work for which it submitted a bid at the time its bid was submitted. This duty may be discharged by contacting the Contractors State License Board of the Department of General Services' Department of Consumer Affairs concerning the successful bidder's contractor's license status and classification, and making a written record of such inquiry.
- (l) Every Construction Contract awarded by the District shall provide for the filing with the District of separate payment and performance bonds in accordance with the provisions of Civil Code Sections 3247 and 3248. Failure to comply with the requirements of this Section within ten (10) days of award of the construction Contract shall cause revocation of the award, and the bidder shall forfeit its bid security. Thereafter the Board at its discretion may award a contract for the project as provided herein.
- (m) The District must approve any payment bond before it is accepted. Any payment bond filed with the District shall be in a form approved by the General Manager and the General Counsel, and may not be approved unless it strictly conforms with the requirements of California Civil Code Section 3248, is issued by an admitted surety insurer, and complies with any additional requirements set forth in the contract Solicitation.
- (i) The District shall investigate the sufficiency of any payment bond and the surety thereon before it is accepted. The District's duty to investigate may be discharged by (i) verifying that the payment bond is in the form previously approved by the General Manager and the General Counsel, (ii) verifying with the State of California Department of Insurance or other governmental agency charged with maintaining such information that the surety on the bond is an admitted surety insurer, and (iii) ensuring that the payment bond is in the proper amount and complies with any additional requirements set forth in the Contract Solicitation.
- (ii) Performance bonds shall be in a form approved by the General Manager and the General Counsel conditioned on the full and faithful performance of the contract, in an amount not less than twenty-five percent (25%) of the total amount of the successful bidder's bid, and shall be issued by an admitted surety insurer.
- Authority: Water Code § 60610, 60620, Business & Professions Code §§ 7000, et seq.; Civil Code §§ 3247, 3248

- (n) Bidders shall furnish to the District satisfactory proof of all insurance required by law, the Contract Solicitation, and any other contract. Such insurance shall include, without limitation, workers compensation insurance as required by California law. Failure to comply with the requirements of this Section within ten (10) days of award of the Construction Contract shall cause revocation of the award, and the bidder shall forfeit its bid security. Thereafter the Board at its discretion may award a contract for the project as provided herein.

### **10.1.3 Exceptions**

Except as otherwise provided in these Procurement Policies and Procedures, the advertising requirements of Sections 10.1.2 do not apply to any of the following contracts:

- (a) Contracts with public entities and cooperative funding agreements undertaken to perform the purposes and activities of the district.
- (b) When an emergency exists involving a sudden, unexpected occurrence or discovery of a condition or circumstance 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.
- (c) In case of an emergency relating to the repair or replacement of District facilities, the District shall comply with Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

Authority: Water Code § 60602©; Public Contract Code §§ 1102, 20168, 22050; Government Code § 53060

### **10.1.4 Splitting Orders Prohibited**

It is unlawful to split or separate into smaller orders the purchase of supplies, materials, equipment or services for the purpose of evading the competitive bidding provisions of this Chapter.

### **10.1.5 Bidder Responsibility and Prequalification**

- (a) Bidder Responsibility

A “responsible” bidder means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work called for by the Contract solicitation. The District shall determine whether the bidder is “responsible” by considering the following:

- (i) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (ii) The ability of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (iii) The reputation and experience of the bidder;

- (iv) The prior and current compliance by the bidder with applicable law;
- (v) The sufficiency of the bidder's financial and staffing resources for performing the contract or providing the service;
- (vi) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- (vii) The ability of the bidder to provide future maintenance and service; and
- (viii) The District may include in its Contract Solicitations questions and requests for documentation for the purposes of determining whether a bidder is "responsible." Such questions may concern, without limitation, the bidder's prior experience on projects of a similar nature and size, the bidder's technical capabilities, the bidder's financial capability, and the bidder's references.

(b) Pre-qualification

Should the District determine that the scope, technical complexity, or other unusual features of a proposed project warrant the prequalification of bidders, or that it would be in the District's best interests to pre-qualify bidders for recurring or particular types of contracts, the District may establish pre-qualification procedures in accordance with the provisions of Public Contract code Section 20101. Any such pre-qualification procedures shall be first approved by the General Manager and the General Counsel.

Authority: Public Contract Code §§ 1103, 20101, 10.1.7

**10.1.6 Withdrawal of Bids**

Bids may be withdrawn by bidders at any time before the deadline for submission of bids set forth in the applicable Contract Solicitation. To be effective, written notice of such withdrawal must be received by the District before the deadline for submission of bids. Any such withdrawal will be without prejudice to the submission of a new bid by the same bidder, so long as the bid is timely submitted and complies with all provisions of the Contract solicitation and these Procurement Policies and Procedures.

Bids may not be changed or withdrawn after the deadline for submission of bids, except that the District may consent to relieve a bidder from its bid, without forfeiting its bid security, on the grounds of mistake provided that the bidder establishes to the satisfaction of the District that:

- (a) A mistake was made;
- (b) The bidder gave the public entity written notice within five calendar days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred;

- (c) The mistake made the bid materially different from what the bidder intended it to be; and
- (d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.

If the District consents to relieve a bidder of its bid after the deadline for submission of bids without forfeiting its bid security, the District shall prepare a report documenting that the bidder has satisfactorily established each of the four elements set forth in the immediately preceding subparagraph. The report shall thereafter be available for inspection as a public record.

Authority; Public Contract Code §§ 5100, et seq.

#### **10.1.7 Interpretation of Bids**

In the event of any ambiguity in a bid, the District shall resolve such ambiguity as follows; unit prices shall govern over any extension thereof by the bidder, and prices for individual bid items or elements shall govern over the summation thereof by the bidder. The District may correct a bid by multiplying the bidder's unit price for a particular bid item by the applicable quantity, and by adding the bid items together to obtain the bidder's total bid. Bids so construed shall be deemed to be the bid submitted by the bidder. If an ambiguity in a bid cannot be resolved by the foregoing method, the bid shall be deemed non-responsive and rejected by the District.

#### **10.1.8 Forfeiture of Bid Security**

If the bidder who has been determined by the District to be the lowest responsive and responsible bidder fails or refuses to enter into a contract for the project in question, or otherwise refuses to be bound by its bid, that bidder's bid security shall, at the District's discretion, be forfeited to the District upon three (3) calendar days written notice by the district, regardless of whether the Board awards the contract in question to another bidder, re-advertises for bids, or abandons the project altogether, subject only to the provisions of these Procurement Policies and Procedures governing withdrawal of bids.

The amount of the forfeiture shall be limited to the amount of the bid security or the difference between the rejected bid and the next lowest responsive bid accepted by the District, whichever is lower. Thereafter, the Board may at its discretion award a contract for the project as provided in these Procurement Policies and Procedures.

#### **10.1.9 Bidder Protest of Award**

A bidder may protest the award of a contract by submitting to the District a written protest stating the grounds for the protest along with supporting documentation. The protest must be received by the District before the Board action to approve the award of the contract in question; the Board will not

consider the award of any contract where the bid opening has taken place 72 hours or less prior to the Board meeting. The General Manager in consultation with the General Counsel shall investigate the grounds for the protest, examine the documentation, make inquiries as necessary, and accept or reject the protest in writing within five working days of receipt. If the protest is accepted, the District may at its discretion reject the bid or proposal in question and thereafter award the contract in accordance with these Procurement Policies and Procedures or else reject all bids or proposals.

Protest determinations of the General Manager may be appealed to the board at its next scheduled meeting, provided the appeal is filed by the end of the second business day of the General Manager's determination and is otherwise eligible for posting on the agenda. The President of the Board may call a special Board meeting to hear and rule on the appeal.

Bid protests that do not comply with the deadlines and filing requirements set forth above shall not be considered. The award of any contract by the District shall be contingent on the final resolution of any protest thereof.

#### **10.1.10 Required Forms**

Contract Solicitations shall be accomplished using a form approved by the General Manager and the General Counsel.

#### **10.1.11 Small Business Enterprise Outreach Program**

It is the District's policy to encourage and promote broad-based participation in its contracting activities by all potential participants so as to maximize competition for District Contracts, to attract the greatest number of qualified bidders and to stimulate participation by responsible bidders who might otherwise be prevented from participating in the district's procurement activities.

- (a) Small Business Enterprise (SBE) Outreach Program. The District's program is adopted pursuant to Public Contract Code Section 2002. For purposes of this section, a Small Business Enterprise (SBE) shall mean a small business enterprise certified as such by any branch of the Federal Government, the State of California, or by any other Public Entity within the State of California as defined by California Public Contract Code Section 1100.
- (b) SBE Subcontractor Participation Goal, notwithstanding the requirement that the district award a contract to the lowest responsive and responsible bidder, all bidders for contracts greater than \$100,000.00 must subcontract not less than 20% of their bid amount to SBEs or demonstrate that they made good faith effort to do so. The district will reject as non-responsive bids by Bidders who fail to either meet the SBE Subcontractor Participation Goal or to demonstrate that they made a good faith effort to meet the SBE Subcontractor Participation Goal.
  - (i) The term "subcontractor" for purposes of the SBE Subcontractor Participation Goal shall have the meaning set forth at Public

Contract code Section 4113 but shall also include suppliers and material men.

- (ii) The term “Good Faith Efforts” shall refer to objective criteria formulate and applied uniformly and incorporated in applicable District Contract Solicitations by district staff in consultation with District counsel which shall include;
  - (1) evidence that the bidder has identified portions of the work that may be subcontracted to SBEs;
  - (2) evidence that the bidder has contacted SBE certifying agencies to identify potential SBE subcontractors for the portions of the work to be subcontracted;
  - (3) evidence that the bidder has sent written invitation to bid to SBE subcontractors so identified or to other SBE subcontractors eligible for the work to be subcontracted; and
  - (4) evidence that the bidder has attempted on at least two occasions to follow up its written invitations to bid and the results of those attempts.
- (c) To qualify for the SBE Subcontractor Participation Goal, SBEs must be certified as such at the time a bid is submitted to the District. Proof of certification must be submitted to the District not later than two business days after the deadline for submitting bids. Proof shall include a copy of each SBE’s certification or other appropriate documentary evidence by the certifying public entity. Proof of certification shall be subject to verification by the District.
- (d) Before advertising for bids, the Board may modify the subcontractor participation requirement created by this section for particular procurements, or exempt particular procurements from the subcontractor participation requirement, if the Board determines that it would be in the District’s best interest to do so based on the nature of the services, equipment or materials to be procured or other relevant factors.

Authority; Pub. Contract Code § 200210.1.13

#### **10.1.12 Used Equipment**

The General Manager is authorized to purchase on behalf of the District any such item of used equipment in an amount not to exceed twenty-five thousand dollars (\$25,000.00), if it is determined that a savings can be realized only by effectuating such purchase prior to the next regular meeting of the District’s Board. Any such purchase in excess of ten thousand dollars (\$10,000.00) shall promptly be reported to the Board.

#### **10.1.13 Hazardous Substances**

The General Manager is authorized to remove or cause to be removed any hazardous waste from any district property or facility provided that the cost of removal related to any single occurrence does not exceed twenty-five thousand dollars (\$25,000.00). All removal of hazardous waste shall be in accordance with state and federal laws.

#### **10.1.14 Sole Source Contracts**

The District is authorized to suspend the competitive bidding process and enter into a sole source agreement with a particular service provider or contractor only in circumstances where competitive bidding would be incongruous or would not result in any advantage to the District. In circumstances where the District enters into a sole source agreement, the Board must adopt finding which support the conclusion that competitive proposals work an incongruity and are unavailing, or that competitive proposals do not produce any advantage. The board must also approve the sole source contract.

#### **10.1.15 Design Build**

This Section is reserved for design build policies to be adopted in accordance with Public Contract code Section 20193 et seq.

#### **10.1.16 Local Preference Policies and Procedures**

##### **10.1.16.1 Definitions**

**Local Business.** A vendor, contractor or consultant who has a valid physical business address and an established place of business located within the County of Los Angeles. The vendor, contractor or consultant shall operate or perform the business on a day-to-day basis, and hold a valid business license issued by any jurisdiction within the County of Los Angeles continuously for at least six (6) months prior to the date any bid is opened or any request for qualifications or request for proposal is due.

##### **10.1.16.2 Findings**

The District annually spends significant funds on supplies, materials, equipment, contractual and professional services, and construction contracts. The funds used to make these purchases are derived in large measure from taxes and fees derived from local businesses. The District has determined that funds generated in the community should, to the extent possible, be placed back in the local economy. It is therefore in the best interest of the District to give a preference to Local Businesses when the District enters into contracts for supplies, materials, and equipment construction contracts under twenty-five thousand dollars (\$25,000.00) and all professional services agreements. The application of such preference must be

reasonable in light of the dollar-value received in relation to such expenditure.

The District further finds that Local Businesses are at a competitive disadvantage in light of the current economic conditions and hardships in Los Angeles County. Current data evidences that sales tax rate in Los Angeles County is higher than that in other surrounding jurisdictions, housing and land values are generally higher, and wage rates paid to employees are higher. The District finds that it should promote and stimulate Local Businesses by requiring that purchases of supplies, materials, equipment, contractual and professional services, and construction contracts be acquired from Local Businesses.

The District further finds that this action is necessary to grow the local economy and preserve the Local Businesses that have diligently served Los Angeles County for many years. Strategies that encourage people to buy locally are an important component of economic sustainability. Retaining local dollars within a community reduces economic export, increases the financial productivity of taxpayer dollars, and increases the consumption of local goods and services while fostering a sustainable community. The district recognizes that sustainable procurement policies are an important step towards a sustainable economy. By leveraging the purchasing power of the District to buy local supplies, equipment, materials and services, the local economy is strengthened. These actions work to stimulate employment and help foster and maintain a vital economic community.

**10.1.16.3 Statement of Policy**

It is the policy of the District to promote employment and business opportunities for local residents and firms on contracts for supplies, materials, equipment, and construction contracts under twenty-five thousand dollars (\$25,000.00), and all professional services agreements, and to give preference to local residents, workers, businesses, contractors, and consultants to the extent consistent with the law and the public interest.

**10.1.16.4 Local Preference in Construction Contracts**

- a) In the bidding of, or letting for procurement of construction contracts in an amount less than twenty-five thousand dollars (\$25,000.00) as provided in Section 10.1.2 of this Chapter, the Board or the General Manager shall give a preference to Local Businesses in making such purchase or awarding such contract in an amount not to exceed five percent (5%) of the Local Business' total bid or informal quote. In order for a Local Business to be

eligible to claim the preference, the business shall request the preference when responding to the informal quote, and shall provide a copy of its current business license from a jurisdiction in Los Angeles County prior to being awarded the contract.

- b) In the event the District utilizes the competitive bid process to award a contract for the procurement of construction contracts in an amount less than twenty-five thousand dollars (\$25,000.00), the Board or the General Manager shall give a preference to Local Businesses in making such purchase or awarding such contract in an amount not to exceed five percent (5%) of the Local Business' total bid. The total bid price shall include not only the base bid price but also adjustments to that base bid price resulting from alternates requested in the Contract Solicitation. In order for a Local Business to be eligible to claim the preference, the business must request the preference in the response to the Contract Solicitation and provide a copy of its current business license from a jurisdiction in Los Angeles County prior to being awarded the contract.

**10.1.16.5 Exceptions to Local Business Preference Policy**

The preference set forth in this Section shall not apply to the following purchases or contracts:

- a) Supplies, equipment or material provided under a cooperative purchasing agreement.
- b) Purchases or contracts which are funded in whole or in part by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the preference.
- c) Purchases made or contracts let under emergency situations.

**10.1.16.6 Quality and Fitness**

The preferences established in this Section shall in no way be construed to inhibit, limit or restrict the right and obligation of the District or the General Manager to compare quality and fitness, and services proposed and compare the qualifications, character, responsibility, and fitness of all persons, firms, or corporations submitting bids or proposals. In addition, the preferences established in this Section shall in no way be construed to prohibit the right of the District or the General Manager from giving any other preference permitted by law or this Chapter.

**10.1.16.7 Application**

The Local Business Preference provided in this Section shall apply to new construction contracts first solicited as of the effective date of the enabling resolution. This Section shall be

implemented in a manner consistent with otherwise applicable provisions of this Chapter and competitive bidding laws.

**10.1.16.8 Verification of Local Business Preference Eligibility**

Any vendor/contractor of construction contracts claiming to be a Local Business shall so certify in the bid, or in the informal quote, in writing to the General Manager. The General Manager shall not be required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor or consultant meets the definition of Local Business.

**10.1.16.9 Enforcement**

- a) The information furnished by each bidder requesting a Local Business Preference shall be under penalty of perjury.
- b) No Person shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Business for the purpose of this Section.
- c) No Person shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to any official of a municipality or other public entity located in Los Angeles County for the purpose of influencing the certification or denial of certification of any entity as a Local Business
- d) A Person which has obtained certification as a Local Business by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:
  - i) Pay to the District any difference between the contract amount and what the District's costs would have been if the contract had been properly awarded; and
  - ii) Be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved.
- e) The penalties identified above shall also apply to any Person that has previously obtained proper certification and, as a result of a change in its status would no longer be eligible for certification, fails to notify the District of this information prior to responding to a Contract Solicitation or accepting a contract award.

## 10.2 CONTRACTS FOR THE PURCHASE OF MATERIALS, SUPPLIES AND EQUIPMENT

### 10.2.1 General Provisions

#### (a) Definitions

**Board.** The Board of Directors of the Water Replenishment district of Southern California.

**Contract for Purchase of Materials.** An agreement between the District and any Person for the purchase of supplies, material, equipment or other tangible goods of any kind.

**Construction Solicitation.** The term Contract Solicitation shall include any and all means by which the Water Replenishment District of Southern California seeks proposals, bids or prices, including without limitation requests for proposals and invitations to bid, for the purpose of entering into a contract totaling twenty-five thousand dollars (\$25,000.00) or more

**Director.** A member of the Board of Directors of the Water Replenishment District of Southern California

**District.** The Water Replenishment District of Southern California.

**General Counsel.** The General Counsel of the Water Replenishment District of Southern California.

**General Manager.** The General Manager of the Water Replenishment District of Southern California.

**Person.** Person refers to any natural person, corporation of any kind, partnership of any kind, business entity of any kind, organization, association, or governmental entity.

**President.** The President of the Board of Directors of the Water Replenishment District of Southern California.

**Secretary.** The Secretary of the Board of Directors of the Water Replenishment District of Southern California.

(b) Intent – These Procurement Policies and Procedures shall govern all contracts for the purchase of materials, supplies and equipment by the District and shall be incorporated by reference into all Contract Solicitations issued by the District and contracts entered into by the district. These Procurement Policies and Procedures are intended to implement the requirements Part 8 of Division 18 of the California Water Code, commencing with Section 60600, and to provide guidance to District personnel and all other Persons in the carrying out of any contract procurements by the District.

(c) All Contracts Shall be in Writing – All expenditures for the purchase of materials, equipment, and supplies regardless of price shall be made pursuant to a contract. All District contracts shall be in writing in a form

prescribed by the General Manager and approved by the General Counsel. At minimum, each contract shall include the relevant scope of work, duration, and terms of payment.

Authority; Water Code § 60230.5

(d) Board Approval of Contracts; Signing of Contracts.

(i) \$10,000.00 or more – all contracts and other documents executed by the district that require or authorize the District to expend ten thousand dollars (\$10,000.00) or more shall be authorized by the Board and signed by the President and the Secretary except that the Board may, by resolution for a specific expenditure, authorize the General Manager or other District representative to sign contracts and other documents in the name of the District, not to exceed twenty-five thousand dollars (\$25,000.00).

Authority; Water Code § 60622(a) ii.

(ii) Less than \$10,000.00 – All contracts and other documents executed by the District that require or authorize the District to expend less than ten thousand dollars (\$10,000.00) may be approved and signed by the General Manager or other District representative authorized by the board, provided, however, that the General Manger may not execute multiple contracts or documents on behalf of the District with the same person or entity within a one-year period that cumulatively total ten thousand dollars (\$10,000.00) or more, without the Board's prior approval.

Authority; Water Code § 60622(b)

Where the purchase of materials, supplies and equipment has previously been authorized by the Board, the General Manger, when it has been determined that it will be in the best interest of the District to do so, may, during the term of the original authorization, purchase from the vendor additional quantities or services, provided the additional cost thereof does not exceed twenty-five percent (25%) of the amount originally authorized.

(e) Prohibition Against Unlawful Activities – Procurement practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration are prohibited, and District Officers, Directors, and employees shall not participate in a Contract solicitation or the award of a contract in which she or he knows or has reason to know she or he has a financial interest.

Further, no District Officer, Director or employee shall make, participate in making or in any way attempt to use his or her official position to influence a District procurement decision in which he or she knows or

has reason to know he or she has a financial interest or has a family relationship with any Person seeking a contract with the District.

Authority: Government Code § 87100.

- (f) Claims Against the District – all claims against the District are subject to the Claims Presentation procedures of the district's Administrative Code, these Procurement Policies and Procedures, and the provisions of California Government Code sections 900, et seq. Alternatively, claims may be submitted by mutual agreement to mediation or binding arbitration.

### **10.2.2 Competitive Bidding**

- (a) Before advertising for any bid, District staff shall obtain Board approval of the contract solicitation.
- (b) Where the amount or value involved is less than twenty-five thousand dollars (\$25,000.00), an informal contract solicitation may be made by the General Manager without written bid, and by informal quotes through telephone, mail or electronic inquiry, comparison of prices on file or otherwise. Every attempt shall be made to receive at least three price quotations.
- (c) Before making any contract totaling \$25,000.00 or more within any 12 month period, the District shall advertise for bids by issuing a Contract Solicitation.
- (d) The District shall advertise the Contract solicitation in a newspaper of general circulation in Los Angeles County at least once a week for four consecutive weeks.
- (i) The District may advertise Contract solicitations in a publication of the respective professional society or other publication reasonably calculated to reach its intended audience. The Contract Solicitations may also be made by solicitation to those firms that have indicated in advance their interest in providing the applicable service, by advertising in relevant trade publications, or by notice to lists of known providers.
- (e) The Contract Solicitation shall set forth all of the following:
- (i) That plans and specifications for the work to be done can be seen and obtained at the District's offices;
- (ii) That the Board will receive sealed bids for the contract;
- (iii) That the contract will be awarded to the lowest responsive and responsible bidder; and
- (iv) That bids will be publicly opened at a given time and place.
- (f) If less than the whole work provided for in the plans and specifications is to be done, the portion of the work to be performed must be particularly described in the Contract Solicitation.

- (g) No Contract Solicitation shall be prepared in a manner that limits participation to a single concern, entity or person except as otherwise permitted by law including, without limitation, Public Contract Code Section 3400, and except upon a finding of necessity by the Board based upon the unique nature of the services or materials to be provided, public emergency, or the demonstrated absence of any alternative providers of such services or materials and the impossibility modifying the District's requirements to avoid such limitation.
- In issuing any Contract Solicitation or awarding any contract, the District shall not discriminate against any contractor or consultant on the basis of race, color, religion, sex, marital status or national origin.
- After issuance of a Contract Solicitation, the District shall not change any material provision in the Contract Solicitation except by issuance of a formal written addendum to the Contract Solicitation.
- (h) All bids for the purchase of materials, supplies, and/or equipment, shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:
- (i) Cash;
  - (ii) A cashier's check made payable to the District;
  - (iii) A certified check made payable to the district; or
  - (iv) A bidder's bond executed by an admitted surety insurer, made payable to the district.
- (i) Bids shall be opened in public at the time and place stated in the notice inviting bids. Two (2) District employees and/or representatives shall be present at the bid openings. As each bid is opened, the bidder's name and bid amount shall be announced. At the conclusion of the bid opening, the name of the apparent low bidder and its bid amount shall be announced. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.
- (j) Following the public opening of bids, the Board may do any of the following:
- (i) Let the work to the lowest responsible bidder;
  - (ii) Reject any or all bids and re-advertise for proposals; or
  - (iii) In the case of contracts for the purchase of materials only, the Board may reject all bids and thereafter may solicit offers from not less than three responsible persons to furnish materials.
- Authority: Water code §§ 60602, 60606, 60608, 60612, 60616, Public Contract Code § 1103
- (k) Upon an award of a contract for materials, supplies and/or equipment to the lowest bidder, the security of an unsuccessful bidder shall be

returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

- (l) Every contract for materials, supplies and/or equipment awarded by the District shall provide for the filing with the District of separate payment and performance bonds, when applicable, in accordance with the provisions of Civil Code Sections 3247 and 3248. Failure to comply with the requirements of this Section within ten (10) days of award of the contract for materials, supplies and/or equipment shall cause revocation of the award, and the bidder shall forfeit its bid security. Thereafter the Board at its discretion may award a contract for the project as provided herein.
- (m) The District must approve any payment bond before it is accepted. Any payment bond filed with the District shall be in a form approved by the General Manager and the General Counsel, and may not be approved unless it strictly conforms with the requirements of California Civil Code Section 3248, issued by an admitted surety insurer, and complies with any additional requirements set forth in the Contract Solicitation.
- (i) The District shall investigate the sufficiency of any payment bond and the surety thereon before it is accepted. The District's duty to investigate may be discharged by (i) verifying that the payment bond is in the form previously approved by the General manager and the General Counsel, (ii) verifying with the State of California Department of Insurance or other governmental agency charged with maintaining such information that the surety on the bond is an admitted surety insurer, and (iii) ensuring that the payment bond is in the proper amount and complies with any additional requirements set forth in the Contract Solicitation.
- (ii) Performance bonds, when applicable, shall be in a form approved by the General Manger and the General Counsel conditioned on the full and faithful performance of the contract, in an amount not less than twenty-five percent (25%) of the total amount of the successful bidder's bid, and shall be issued by an admitted surety insurer.
- Authority: Water Code § 60610, 60620; Business & Professions Code §§ 7000, et seq.; Civil Code §§ 3247, 3248
- (n) Bidders shall furnish to the District satisfactory proof of all insurance required by law, the Contract solicitation and any other contract. Such insurance shall include, without limitation, workers compensation insurance as required by California law. Failure to comply with the requirements of this Section within ten (10) days of award of the contract for materials, supplies and/or equipment shall cause revocation of the award, and the bidder shall forfeit its bid security. Thereafter the

Board at its discretion may award a contract for the project as provided herein.

### **10.2.3 Exceptions**

Except as otherwise provided in these Procurement Policies and Procedures, the advertising requirements of Sections 10.2.1 do not apply to any of the following contracts:

- (a) Contracts with public entities and cooperative funding agreements undertaken to perform the purposes and activities of the District.
- (b) When an emergency exists involving a sudden, unexpected occurrence or discovery of a condition or circumstance that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss of impairment of life, health, property, or essential public services.
- (c) In case of an emergency relating to the repair or replacement of District facilities, the District shall comply with Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

Authority: Water Code § 60602©; Public Contract Code §§ 1102, 20168, 2205010.2.4

### **10.2.4 Splitting Orders Prohibited**

It is unlawful to split or separate into smaller orders the purchase of supplies, materials or equipment for the purpose of evading the competitive bidding provisions of this Chapter.

### **10.2.5 Bidder Responsibility and Prequalification**

#### (a) Bidder Responsibility

A “responsible” bidder means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work called for by the Contract Solicitation. The District shall determine whether the bidder is “responsible” by considering the following:

- (i) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- (ii) The ability of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (iii) The reputation and experience of the bidder;
- (iv) The prior and current compliance by the bidder with applicable law;
- (v) The sufficiency of the bidder’s financial and staffing resources for performing the contract or providing the service;

- (vi) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- (vii) The ability of the bidder to provide future maintenance and service; and
- (viii) The District may include in its Contract solicitations questions and requests for documentation for the purposes of determining whether a bidder is "responsible." Such questions may concern, without limitation, the bidder's prior experience on projects of a similar nature and size, the bidder's technical capabilities, the bidder's financial capability, and the bidder's references.

(b) Pre-qualification

Should the District determine that the scope, technical complexity, or other unusual features of a proposed project warrant the prequalification of bidders, or that it would be in the District's best interests to pre-qualify bidders for recurring or particular types of contracts, the District may establish pre-qualification procedures in accordance with the provisions of Public Contract Code Section 20101. Any such pre-qualification procedures shall be first approved by the General Manager and the General Counsel.

**10.2.6 Withdrawal of Bids**

Bids may be withdrawn by bidders at any time before the deadline for submission of bids set forth in the applicable Contract Solicitation. To be effective, written notice of such withdrawal must be received by the district before the deadline for submission of bids. Any such withdrawal will be without prejudice to the submission of a new bid by the same bidder, so long as the bid is timely submitted and complies with all provisions of the Contract Solicitation and these Procurement Policies and Procedures.

Bids may not be changed or withdrawn after the deadline for submission of bids, except that the District may consent to relieve a bidder from its bid, without forfeiting its bid security, on the grounds of mistake provided that the bidder establishes to the satisfaction of the District that:

- (a) A mistake was made;
- (b) The bidder gave the public entity written notice within five calendar days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred;
- (c) The mistake made the bid materially different from what the bidder intended it to be; and
- (d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.

If the District consents to relieve a bidder of its bid after the deadline for submission of bids without forfeiting its bid security, the District shall

prepare a report documenting that the bidder has satisfactorily established each of the four elements set forth in the immediately preceding subparagraph. The report shall thereafter be available for inspection as a public record.

Authority: Public Contract Code §§ 5100, et seq.

#### **10.2.7 Interpretation of Bids**

In the event of any ambiguity in a bid, the District shall resolve such ambiguity as follows: unit prices shall govern over any extension thereof by the bidder, and prices for individual bid items or elements shall govern over the summation thereof by the bidder. The District may correct a bid by multiplying the bidder's unit price for a particular bid item by the applicable quantity, and by adding the bid items together to obtain the bidder's total bid. Bids so construed shall be deemed to be the bid submitted by the bidder. If an ambiguity in a bid cannot be resolved by the foregoing method, the bid shall be deemed non-responsive and rejected by the District.

#### **10.2.8 Forfeiture of Bid Security**

If the bidder who has been determined by the District to be the lowest responsive and responsible bidder fails or refuses to enter into a contract for the project in question, or otherwise refuses to be bound by its bid, that bidder's bid security shall, at the District's discretion, be forfeited to the District upon three (3) calendar days written notice by the District, regardless of whether the Board awards the contract in question to another bidder, re-advertises for bids, or abandons the project altogether, subject only to the provisions of these Procurement Policies and Procedures governing withdrawal of bids.

The amount of the forfeiture shall be limited to the difference between the rejected bid and the next lowest responsive bid accepted by the district. Thereafter, the Board may at its discretion award a contract for the project as provided in these Procurement Policies and Procedures.

#### **10.2.9 Small Business Enterprise Outreach Program**

It is the District's policy to encourage and promote broad-based participation in its contracting activities by all potential participants so as to maximize competition for District Contracts, to attract the greatest number of qualified bidders and to stimulate participation by responsible bidders who might otherwise be prevented from participating in the District's procurement activities.

- (a) Small Business Enterprise (SBE) Outreach Program. The District's program is adopted pursuant to Public Contract Code Section 2002. For purposes of this section, a Small Business Enterprise (SBE) shall mean a small business enterprise certified as such by any branch of the Federal Government, the State of California, or by any other Public Entity within the State of California as defined by California Public Contract Code Section 1100.

- (b) SBE Subcontractor Participation Goal. Notwithstanding the requirement that the District award a contract to the lowest responsive and responsible bidder, all bidders for contracts greater than \$100,000.00 must subcontract not less than 20% of their bid amount to SBE or demonstrate that they made good faith efforts to do so. The District will reject as non-responsive bids by Bidders who fail to either meet the SBE Subcontractor Participation Goal or to demonstrate that they made a good faith effort to meet the SBE Subcontractor Participation Goal.
- (i) The term "subcontractor" for purposes of the SBE Subcontractor Participation Goal shall have the meaning set forth at Public Contract Code Section 4113 but shall also include suppliers and material men.
- (ii) The term "Good Faith Efforts" shall refer to objective criteria formulated and applied uniformly and incorporated in applicable District Contract Solicitations by District staff in consultation with District counsel which shall include:
- (1) Evidence that the bidder has identified portions of the work that may be subcontracted to SBEs
  - (2) Evidence that the bidder has contacted SBE certifying agencies to identify potential SBE subcontractors for the portions of the work to be subcontracted
  - (3) Evidence that the bidder has sent written invitations to bid to SBE subcontractors so identified or to other SBE subcontractors eligible for the work to be subcontracted
  - (4) Evidence that the bidder has attempted on at least two occasions to follow up its written invitations to bid and the results of those attempts.
- (c) To qualify for the SBE Subcontractor Participation Goal, SBE must be certified as such at the time a bid is submitted to the District. Proof of certification must be submitted to the District not later than two business days after the deadline for submitting bids. Proof shall include a copy of each SBE's certification or other appropriate documentary evidence by the certifying public entity. Proof of certification shall be subject to verification by the District.
- (d) Before advertising for bids, the Board may modify the subcontractor participation requirement created by this section for particular procurements, or exempt particular procurements from the subcontractor participation requirement, if the Board determines that it would be in the District's best interest to do so based on the nature of the services, equipment or materials to be procured or other relevant factors.

**10.2.10 Bidder Protest of Award**

A bidder may protest the award of a Contract by submitting to the District a written protest stating the grounds for the protest along with supporting documentation. The protest must be received by the District before the Board action to approve the award of the contract in question; the Board will not consider the award of any contract where the bid opening has taken place 72 hours or less prior to the Board meeting. The General Manager in consultation with the General Counsel shall investigate the grounds for the protest, examine the documentation, make inquiries as necessary, and accept or reject the protest in writing within five working days of receipt. If the protest is accepted, the District may at its discretion reject the bid or proposal in question and thereafter award the contract in accordance with these Procurement Policies and Procedures or else reject all bids or proposals.

Protest determinations of the General Manager may be appealed to the Board at its next scheduled meeting, provided the appeal is filed by the end of the second business day of the General Manager's determination and is otherwise eligible for posting on the agenda. The President of the Board may call a special Board meeting to hear and rule on the appeal.

Bid protests that do not comply with the deadlines and filing requirements set forth above shall not be considered. The award of any contract by the District shall be contingent on the final resolution of any protests thereof.

**10.2.11 Required Forms**

Contract Solicitation shall be accomplished using a form approved by the General Manger and the General Counsel.

**10.2.12 Used Equipment**

The General Manager is authorized to purchase on behalf of the District any such item of used equipment in an amount not to exceed twenty-five thousand dollars (25,000.00). If it is determined that a savings can be realized only by effectuating such purchase prior to the next regular meeting of the District's Board. Any such purchase in excess of ten thousand dollars (10,000.00) shall be reported to the Board.

**10.2.13 Hazardous Substances**

The General Manager is authorized to remove or cause to be removed any hazardous waste from any District property or facility provided that the cost of removal related to any single occurrence does not exceed twenty-five thousand dollars (\$25,000.00). All removal of hazardous waste shall be in accordance with state and federal laws.

**10.2.14 Sole Source Contracts**

The District is authorized to suspend the competitive bidding process and enter into a sole source agreement with a particular service provider or contractor only in circumstances where competitive bidding would be

incongruous or would not result in any advantage to the District. In circumstances where the District enters into a sole source agreement, the Board must adopt findings which support the conclusion that competitive proposals work an incongruity and are unavailing, or that competitive proposals do not produce any advantage. The Board must also adopt the sole source contract.

#### **10.2.15 Design Build**

This Section is reserved for design build policies to be adopted in accordance with Public Contract Code Section 20193 et seq.

#### **10.2.16 Local Preference Policies and Procedures**

##### **10.2.16.1 Definitions**

**Local Business.** A vendor, contractor or consultant who has a valid physical business address and an established place of business located within the County of Los Angeles. The vendor, contractor or consultant shall operate or perform the business on a day-to-day basis, and hold a valid business license issued by any jurisdiction within the County of Los Angeles continuously for at least six (6) months prior to the date any bid is opened or any request for qualifications or request for proposal is due.

##### **10.2.16.2 Findings**

The District annually spends significant funds on supplies, materials, equipment, contractual and professional services, and construction contracts. The funds used to make these purchases are derived in large measure from taxes and fees derived from local businesses. The District has determined that funds generated in the community should, to the extent possible, be placed back in the local economy. It is therefore in the best interest of the District to give a preference to Local Businesses when the District enters into contracts for supplies, materials, equipment, and construction contracts under twenty-five thousand dollars (\$25,000.00) and all professional services agreements. The application of such preference must be reasonable in light of the dollar-value received in relation to such expenditure.

The District further finds that Local Businesses are at a competitive disadvantage in light of the current economic conditions and hardships in Los Angeles County. Current data evidences that sales tax rate in Los Angeles County is higher than that in other surrounding jurisdictions, housing and land values are generally higher, and wage rates paid to employees are higher. The District finds that it should promote and stimulate Local Businesses by requiring that purchases of supplies, materials, equipment, contractual and professional services, and construction contracts be acquired from Local Businesses.

The District further finds that this action is necessary to grow the local economy and preserve the Local Businesses that have diligently served

Los Angeles County for many years. Strategies that encourage people to buy locally are an important component of economic sustainability. Retaining local dollars within a community reduces economic export, increases the financial productivity of taxpayer dollars, and increases the consumption of local goods and services while fostering a sustainable community. The District recognizes that sustainable procurement policies are an important step towards a sustainable economy. By leveraging the purchasing power of the District to buy local supplies, equipment, materials and services, the local economy is strengthened. These actions work to stimulate employment and help foster and maintain a vital economic community.

**10.2.16.3 Statement of Policy**

It is the policy of the district to promote employment and business opportunities for local residents and firms on contracts for supplies, materials, equipment, and construction contracts under twenty-five thousand dollars (\$25,000.00), and all professional services agreements, and give preference to local residents, workers, businesses, contractors, and consultants to the extent consistent with the law and the public interest.

**10.2.16.4 Local Preference in Purchasing of Supplies, Materials and/or Equipment**

- a) In the bidding of, or letting for procurement of, supplies, materials and /or equipment in an amount less than twenty-five thousand dollars (\$25,000.00) as provided in Section 10.2.2(b) of this Chapter, the Board or the General Manger my give a preference to Local Businesses in making such purchase or awarding such contract in an amount not to exceed five percent (5%) of the Local Business' total bid or informal quote. In order for a Local Business to be eligible to claim the preference, the business shall request the preference when responding to the informal quote, and shall provide a copy of its current business license from a jurisdiction in Los Angeles County prior to being awarded the contract.
- b) In the event the District utilizes the competitive bid process to award a contract for the procurement of supplies, materials and/or equipment, in an amount less than twenty-five thousand dollars (\$25,000.00), the Board or the General Manger shall give a preference to Local Businesses in making such purchase or awarding such contract in an amount not to exceed five percent (5%) of the Local Business' total bid. The total bid price shall include not only the base bid price but also adjustments to that base bid price resulting from alternates requested in the Contract

Solicitation. In order for a Local Business to be eligible to claim the preference, the business must request the preference in the response to the Contract solicitation and provide a copy of its current business license from a jurisdiction in Los Angeles County prior to being awarded the contract.

**10.2.16.5 Exceptions to Local Business Preference Policy**

The preference set forth in this Section shall not apply to the following purchases or contracts

- (a) Supplies, equipment or materials provided under a cooperative purchasing agreement.
- (b) Purchases or contracts which are funded in whole or in part by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the preference.
- (c) Purchases made or contracts let under emergency situations.

**10.2.16.6 Quality and Fitness**

The preferences established in this Section shall in no way be construed to inhibit, limit or restrict the right and obligation of the District or the General Manger to compare quality and fitness for use of supplies, materials, equipment, and services proposed for purchase and compare the qualifications, character, responsibility, and fitness of all persons, firms, or corporations submitting bids or proposals. In addition, the preferences established in this Section shall in no way be construed to prohibit the right of the district or the General manger from giving any other preference permitted by law or this Chapter.

**10.2.16.7 Application**

The Local Business Preference provided in this Section shall apply to new contracts for supplies, materials, and/or equipment first solicited as of the effective date of the enabling resolution. This Section shall be implemented in a manner consistent with otherwise applicable provisions of this Chapter and competitive bidding laws.

**10.2.16.8 Verification of Local Business Preference Eligibility**

Any vendor/contractor of supplies, materials, and/or equipment claiming to be a Local Business, shall so certify in the bid, or in the informal quote, in writing to the General manger. The General Manger shall not be required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor or consultant meets the definition of Local Business.

**10.2.16.9 Enforcement**

- (a) The information furnished by each bidder requesting a Local Business Preference shall be under penalty of perjury.

- (b) No Person shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Business for the purpose of this Section.
- (c) No Person shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to any official of a municipality or other public entity located in Los Angeles County for the purpose of influencing the certification or denial of certification of any entity as a Local Business.
- (d) A Person which has obtained certification as a Local Business by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:
  - i Pay to the District any difference between the contract amount and what the District's costs would have been if the contract had been properly awarded: and
  - ii Be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved.
- (e) The penalties identified above shall also apply to any Person the has previously obtained proper certification and, as a result of a change in its status would no longer be eligible for certification, fails to notify the District of this information prior to responding to a Contract Solicitation or accepting a contract award.

## 10.3 PROFESSIONAL SERVICES CONTACTS

### 10.3.1 General Provisions

#### (a) Definitions

**Board.** The Board of Directors of the Water Replenishment District of Southern California.

**Contract Solicitation.** The term Contract Solicitation shall include any and all means by which the Water Replenishment District of Southern California seeks proposal, bids or prices, including without limitation requests for proposal, requests for qualifications and invitations to bid, for the purpose of entering into a contract totaling twenty-five thousand dollars \*(\$25,000.00) or more.

**Director.** A member of the Board of Directors of the Water Replenishment District of Southern California.

**District.** The Water Replenishment District of Southern California.

**General Counsel.** The General Counsel of the Water Replenishment District of Southern California.

**General Manager.** The General Manager of the Water Replenishment District of Southern California.

**Person.** Person refers to any natural person, corporation of any kind, partnership of any kind, business entity of any kind, organization, association, or governmental entity.

**President.** The President of the Board of Directors of the Water Replenishment District of Southern California

**Professional Services Contract.** Contracts for professional services shall include, but shall not be limited to, architectural, engineering, environmental, land surveying, geological, or construction project management services that are let on the basis of demonstrated competence and on the professional qualifications necessary for satisfactory performance of the service required pursuant to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the California Government Code; legal services that are let on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services; and special services and advice in financial, economic, accounting, engineering, legal or administrative matters if such persons are specially trained and experienced and competent to perform the special services required.

**Secretary.** The Secretary of the Board of Directors of the Water Replenishment District of Southern California.

(b) Intent – These Procurement Policies and Procedures shall govern all contracts for professional services by the District and shall be

incorporated by reference into all contract solicitations issued by the District and contracts entered into by the district. These Procurement Policies and Procedures are intended to implement the requirements Part 8 of Division 18 of the California Water Code, commencing with Section 60600, and to provide guidance to District personnel and all other Persons in the carrying out of any contract procurements by the District.

- (c) All Contracts Shall be in Writing – All expenditures for professional services regardless of price shall be made pursuant to a contract. All District contracts shall be in writing in a form prescribed by the General Manager and approved by the General Counsel. At minimum, each contract shall include the relevant scope of work, duration, and terms of payment.

Authority: Water Code § 60230.5.

- (d) Board Approval of Contracts; Signing of Contracts

- (i) \$10,000.00 or more – All contracts and other documents executed by the District that require or authorize the District to expend ten thousand dollars (\$10,000.00) or more shall be authorized by the Board and signed by the President and the Secretary except that the Board may, by resolution for a specific expenditure, authorize the General Manger or other District representative to sign contracts and other documents in the name of the district, not to exceed twenty-five thousand dollars (\$25,000.00).

Authority: Water Code § 60622 (a)

- (ii) Less than \$10,000.00 – all contracts and other documents executed by the district that require or authorize the district to expend less than ten thousand dollars (\$10,000.00) may be approved and signed by the General Manger or other district representative authorized by the Board, provided, however, that the General Manger may not execute multiple contracts or documents on behalf of the District with the Same person or entity within a one-year period that cumulatively total ten thousand dollars (\$10,000.00) or more, without the Board's prior approval.

Authority: Water Code § 60622

The General Manger's authority as set forth herein shall not be used for the payment or contracting of local, state or federal advocacy services.

- (e) Prohibition Against Unlawful Activities – Procurement practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration are prohibit, and District Officers, Directors, and employees shall not participate in a Contract

Solicitation or the award of a contract in which she or he knows or has reason to know she or he has a financial interest.

Further, no District Office, Director or employee shall make, participate in making or in any way attempt to use his or her official position to influence a District procurement decision in which he or she knows or has reason to know he or she has a financial interest or has a family relationship with any Person seeking a contract with the District.

Authority: Government Code § 87100.

- (f) Claims Against the District – All claims against the District are subject to the Claims Presentation procedures of the District’s Administrative Code, these Procurement Policies and Procedures, and the provisions of California Government Code sections 900, et seq. Alternatively, claims may be submitted by mutual agreement to mediation or binding arbitration.

### **10.3.2 Request for Proposal**

Before making any contract for professional services, the District may solicit a request for proposal for such services. However, a request for proposal is not required for professional services contracts.

Requests for proposals equal to or greater than twenty-five thousand dollars (\$25,000.00) shall be advertised in a publication of the respective professional society or by any other means reasonably calculated to reach its intended audience. Where the amount or value involved is less than twenty-five thousand dollars (\$25,000.00), an informal solicitation may be made by the General Manager by informal quotes through telephone, mail or electronic inquiry, comparison of prices on file or otherwise. Every attempt shall be made to receive at least three price quotations.

Before issuing any request for proposal, District staff shall obtain board approval.

- (a) Evaluation of Request for Proposals and Award of Contracts for Professional Services

- (i) Upon review and receipt of the request for proposal from interested firms, the District shall there from, in order of preference, based upon criteria established by the District, no less than three of the firms deemed to be most highly qualified to provide the services required.

The District shall then conduct discussions with the firms identified in Subsection (a) regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

After meeting with the firms, the District shall select there from, in order of preference, based upon criteria established by the District, no less than three of the firms deemed to be most highly qualified to provide the services required.

Authority: Water code § 60602(c) (6), Government code § 4527(a).

- (ii) The District shall thereafter negotiate a contract with the firm ranked highest by the District at compensation which is fair and reasonable to the District. If the District is unable to negotiate a satisfactory contract with the highest ranked firm at a price that is fair and reasonable to the District, negotiations with such firm shall be formally terminated. The District shall then undertake negotiations with the second highest ranked firm. Failing accord with the second highest ranked firm, negotiations with such firm shall be formally terminated, and negotiations commenced with the third highest ranked firm.
- (iii) Should the District be unable to negotiate a satisfactory contract with any of the selected firms, the District shall select additional firms in order of their competence and qualifications and continue negotiations in accordance with these Procurement Policies and Procedures until an agreement is reached.
- (iv) Upon negotiating a contract with the highest ranked firm, the contract shall be submitted to the Board of approval.

Authority: Water Code § 60602(c) (6), Government Code § 4528(a).

(b) Proof of Insurance

Bidders shall furnish satisfactory proof of all insurance required by law, by the Contract Solicitation and the contract to the District. Such insurance shall include, without limitation, workers compensation insurance as required by California law. Failure to comply with the requirements of this Section within ten (10) days of award of the Contract for Professional Services shall cause revocation of the award. Thereafter the Board at its discretion may award a contract for the project as provided herein.

**10.3.3 Request for Qualifications**

The District from time to time may issue a request for qualifications for the purpose of developing a list of qualified consultants to provide professional services for future work. Prior to issuing a request for qualifications, District staff shall obtain Board approval of the request for qualifications. Request for qualifications may be advertised in a publication of the respective professional society or by any other means reasonably calculated to reach its intended audience.

Upon review and receipt of the qualifications from interested consultants, the District shall develop the list of qualified consultants based upon criteria established by the District.

Prior To negotiating a scope of work for any request for qualifications authorizing the District to expend ten thousand dollars (\$10,000.00) or more, District staff shall obtain Board approval for the scope of work.

The District may choose a consultant from the qualified list to perform a specific scope of services as needed. The scope of work and terms and

conditions for the services shall be negotiated by staff, and approved by District Counsel and shall be presented to the Board for consideration.

#### **10.3.4 Hazardous Substances**

The General Manager is authorized to remove or cause to be removed any hazardous waste from any District property or facility provided that the cost of removal related to any single occurrence does not exceed twenty-five thousand dollars (\$25,000.00). All removal of hazardous waste shall be in accordance with state and federal laws.

#### **10.3.5 Local Preference Policies and Procedures**

##### **10.3.5.1 Definitions**

**Local Business.** A vendor, contractor or consultant who has a valid physical business address and an established place of business located within the County of Los Angeles. The vendor, contractor or consultant shall operate or perform the business on a day-to-day basis, and hold a valid business license issued by any jurisdiction within the County of Los Angeles continuously for at least six (6) months prior to the date any bid is opened or any request for qualifications or request for proposal is due.

##### **10.3.5.2 Findings**

The District annually spends significant funds on supplies, materials, equipment, contractual and professional services, and construction contracts. The funds used to make these purchases are derived in large measure from taxes and fees derived from local businesses. The District has determined that funds generated in the community should, to the extent possible, be placed back in the local economy. It is therefore in the best interest of the District to give a preference to Local Businesses when the District enters into contracts for supplies, materials, equipment, and construction contracts under twenty-five thousand dollars (\$25,000.00) and all professional services agreements. The application of such preference must be reasonable in light of the dollar-value received in relation to such expenditure.

The District further finds that Local Businesses are at a competitive disadvantage in light of the current economic conditions and hardships in Los Angeles County. Current data evidences that sales tax rate in Los Angeles County is higher than that in other surrounding jurisdictions, housing and land values are generally higher, and wage rates paid to employees are higher. The District finds that it should promote and stimulate Local Businesses by requiring that purchases of supplies, materials, equipment, contractual and professional services, and construction contracts be acquired from Local Businesses.

The District further finds that this action is necessary to grow the local economy and preserve the Local Businesses that have diligently served Los Angeles County for many years. Strategies that encourage people

to buy locally are an important component of economic sustainability. Retaining local dollars within a community reduces economic export, increases the financial productivity of taxpayer dollars, and increases the consumption of local goods and services while fostering a sustainable community. The District recognizes that sustainable procurement policies are an important step towards a sustainable economy. By leveraging the purchasing power of the District to buy local supplies, equipment, materials and services, the local economy is strengthened. These actions work to stimulate employment and help foster and maintain a vital economic community.

**10.3.5.3 Statement of Policy**

It is the policy of the district to promote employment and business opportunities for local residents and firms on contracts for supplies, materials, equipment, and construction contracts under twenty-five thousand dollars (\$25,000.00), and all professional services agreements, and give preference to local residents, workers, businesses, contractors, and consultants to the extent consistent with the law and the public interest.

**10.3.5.4 Local Preference in Professional Services**

In awarding contracts for professional services, including consultant services, preference to Local Businesses shall be given whenever practicable pursuant to this Section consistent with the Statement of Policy above. The contractor or consultant will also, to the extent legally possible, solicit applications for employment and proposals for subcontractors for work associated with the proposed contract from local residents and firms as opportunities occur and hire qualified local residents and firms whenever feasible. In order for a Local Business to be eligible to claim the preference, the business must request the preference in the response to the request for proposal and provide a copy of its current business license from a jurisdiction in Los Angeles County.

**10.3.5.5 Exceptions to Local Business Preference Policy**

The preference set forth in this Section shall not apply to the following purchases or contracts:

- (a) Supplies, equipment or materials provided under a cooperative purchasing agreement
- (b) Purchases or contracts which are funded in whole or in part by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the preference.
- (c) Purchases made or contracts let under emergency situations.

**10.3.5.6 Quality and Fitness**

The preferences established in this Section shall in no way be construed to inhibit, limit or restrict the right and obligation of the District or the General Manger to compare quality and fitness for use of supplies, materials, equipment, and services proposed for purchase and compare the qualifications, character, responsibility, and fitness of all persons, firms, or corporations submitting bids or proposals. In addition, the preferences established in this Section shall in no way be construed to prohibit the right of the District or the General Manger from giving any other preference permitted by law or this chapter.

**10.3.5.7 Application**

The Local Business Preference provided in this Section shall apply to new construction contracts first solicited as of the effective date of the enabling resolution. This Section shall be implemented in a manner consistent with otherwise applicable provisions of this Chapter and competitive bidding laws.

**10.3.5.8 Verification of Local Business Preference Eligibility**

Any vendor/contractor of construction contracts claiming to be a Local Business shall so certify in the bid, or in the informal quote, in writing to the General Manager. The General Manager shall not be required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor or consultant meets the definition of Local Business.

**10.3.5.9 Enforcement**

- (a) The information furnished by each bidder requesting a Local Business Preference shall be under penalty of perjury.
- (b) No Person shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Business for the purpose of this Section.
- (c) No Person shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to any official of a municipality or other public entity located in Los Angeles County for the purpose of influencing the certification or denial of certification of any entity as a Local Business.
- (d) A Person which has obtained certification as a Local Business by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification,

and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

- i* Pay to the District any difference between the contract amount and what the District's costs would have been if the contract had been properly awarded: and
  - ii* Be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved.
- (e) The penalties identified above shall also apply to any Person the has previously obtained proper certification and, as a result of a change in its status would no longer be eligible for certification, fails to notify the District of this information prior to responding to a Contract Solicitation or accepting a contract award.



**MEMORANDUM**

**ITEM NO. 8**

*Prepared by: Scott M Ota  
Reviewed by: Scott M Ota  
Approved by: Robb Whitaker*

**DATE: NOVEMBER 22, 2011**  
**TO: ADMINISTRATIVE COMMITTEE**  
**FROM: ROBB WHITAKER, GENERAL MANAGER**  
**SUBJECT: RECONCILIATION OF ADMINISTRATIVE CODE WITH WRD'S LABOR MOU**

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**SUMMARY**

District Counsel will provide an oral report to the Committee regarding the reconciliation of the WRD Administrative Code and the Memorandum of Understanding (MOU) between the District and the Employees Association.

**FISCAL IMPACT**

None.

**STAFF RECOMMENDATION**

For discussion.



## MEMORANDUM

ITEM NO. 9

*Prepared by:* Scott Ota

*Reviewed by:* Scott Ota

*Approved by:* Robb Whitaker

**DATE: NOVEMBER 22, 2011**

**TO: ADMINISTRATIVE COMMITTEE**

**FROM: ROBB WHITAKER, GENERAL MANAGER**

**SUBJECT: DEPARTMENT REPORT**

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### SUMMARY

Staff has been working on the following projects:

- Worked with Interim District Counsel on seven California Public Records Requests (CPRA) from Sedgwick on behalf of Central Basin Municipal Water District;
- Continued managed the recruitment process for the Assistant General Manager position;
- Creating lawsuit directory to maintains copies of all important documents relating to the proceedings involving the WRD;
- Prepared monthly Director's expenses;
- Provided AB1825 training for Directors;
- Coordinated annual maintenance on fire suppression sprinkler system, extinguishers and defibrillator unit;
- Provided documentation for the MOU negotiation process;
- Arranged various travel for staff and Directors;
- October 12, 2011 attended and prepared minutes for the Water Resources Committee meeting;
- October 21, 2011 attended and prepared minutes for the meeting of the Board of Directors;
- October 26, 2011 attended and prepared minutes for the Finance Committee meeting;

- October 2, 2011 attended and prepared minutes for the Special Meeting of the Board of Directors;
- October 7, 2011 attended and prepared minutes for the meeting of the Board of Directors;
- Continued work on various personnel, human resource and legal issues.

**FISCAL IMPACT**

None

**STAFF RECOMMENDATION**

For information.