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” 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 REGULAR ADMINISTRATIVE COMMITTEE MEETING OF FEBRUARY 9, 2005
   Recommendation: Approve the minutes as submitted.

4. PROCUREMENT POLICIES AND PROCEDURES
   Recommendation: Receive revised program, discuss as the Committee desires and provide direction to staff.

5. COLOR COPIER UPGRADE
   Recommendation: Authorize the General Manager to enter into a new lease agreement with Xerox Capital Services for a color copier and extend the current lease for one of the existing copiers.

6. DOCUMENT IMAGING PROJECT WORK PLAN
   Recommendation: For information.

7. DIRECTOR’S TRAVEL AND CONFERENCE BUDGET
   Recommendation: For information.

8. ADMINISTRATIVE CODE REVISIONS
   Recommendation: Discuss any Administrative Code revisions and recommend the Board consider adoption of any such revisions as recommended by the Committee.

9. DEPARTMENT REPORT
   Recommendation: For information.
10. **CLOSED SESSION**  
Labor Negotiations per Government Code §54957.6  
Negotiator: J. Arnoldo Beltran  
Bargaining Group: American Federation of State County & Municipal Employees (AFSCME)  
Discussion: Terms and conditions for Memorandum of Understanding for bargaining group

11. **ADJOURNMENT**

Posted by Abigail C. Andom, Deputy Secretary, March 4, 2005.
MINUTES OF FEBRUARY 9, 2005
REGULAR MEETING OF THE ADMINISTRATIVE COMMITTEE
OF THE BOARD OF DIRECTORS
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA

A regular meeting of the Administrative Committee of the Board of Directors of the Water Replenishment District of Southern California was scheduled for February 9, 2005 at 2:25 p.m. at the District Office, 12621 E. 166th Street, Cerritos, California. Chairperson Willard H. Murray, Jr. called the meeting to order and presided thereover and Deputy Secretary Abigail C. Andom recorded the minutes.

I. DETERMINATION OF QUORUM
Attendees included:
Committee: Directors Willard H. Murray, Jr. and Norm Ryan
Staff: Tina Graham

II. PUBLIC COMMENT
None.

III. MINUTES OF THE REGULAR ADMINISTRATIVE COMMITTEE OF JANUARY 12, 2005
The minutes were approved as submitted.

IV. RESPONSE TO DIRECTOR ACOSTA’S REQUEST FOR REVIEW OF PRIOR BOARD ACTION ON JANUARY 5, 2005
President Murray announced that this item was agendized in response to Director Pat Acosta’s request for the Board of Directors to reconsider the actions it made at its January 5, 2005 meeting. In particular, the Board’s decision to not set a limit on the number of conferences and seminars directors can attend, the increase in the communications allowance from $200 to $300 a month, and not requiring receipts for directors expenses less than $25.00 and travel expenses less than $25.00 for staff.

The Committee determined the increase in the communications allowance was appropriate, and that expenses less than $25.00 made by directors and travel expenses less than $25 made by staff do not need receipts. The Committee concluded no further discussion was necessary.

Discussion followed on setting a limit on the number of conferences and seminars directors can attend. President Murray stated he would like to see a budget amount set as a pool for all directors to use. Director Ryan replied there are some directors who belong to certain committees that may not need to travel as much as others will, citing the members of the Groundwater Quality Committee as an example. On the other hand, he felt the members of the
External Affairs Committee have a greater need to travel for legislative and outreach purposes. Director Ryan added the Finance Committee is currently reviewing the same subject and will report its recommendations to the Administrative Committee at its next meeting.

V. ADMINISTRATIVE CODE REVISIONS
Director Ryan stated the Administrative Committee, a few months back, had reviewed the District’s medical reimbursement benefit. It was the Committee’s recommendation that only those dependents that meet ACWA’s documentation of dependents are entitled to the medical reimbursement benefit.

Manager of Administration and Human Resources Tina Graham reminded the Committee the Board had adopted an Affidavit of Dependency Form. The purpose of the form is to verify medical and dental expense reimbursement eligibility for dependents not covered by ACWA’s medical plan.

Director Ryan responded the Affidavit of Dependency form will not resolve a potential problem of abuse and requested this item be agendized for the March 2, 2005 Board meeting. President Murray concurred.

President Murray announced that staff had prepared proposed revisions to the Administrative Code that may need to be approved as a result of the current language in the Employees’ MOU. President Murray asked for the item to be agendized for discussion at the next Administrative Committee meeting.

Director Murray asked staff to have District Counsel draft new language such that the District’s Procurement Policy and Procedures are no more stringent than the State requirements. Director Ryan concurred.

Lastly, Director Murray stated a few months back he had asked for and was provided a list of items the Administrative Committee had reviewed and were still pending. He asked if staff had completed all the pending items. Ms. Graham stated the work plan for the document imaging system is the only item on the list that is pending. Director Murray asked that the item be agendized for the next Committee meeting.

VI. DEPARTMENT REPORT
Ms. Graham presented the Committee with an update of department activities. She provided the Committee with a list of the various training programs staff went to the past year. Ms. Graham noted the oaths of office for the directors were sent to the County
and will be returned to the District with the County Recorder’s signature. She also stated the Human Resources Department is in the process of completing an internal audit of its procedures and files, and its manuals and forms have been updated.

President Murray asked staff to provide information at the next Administrative Committee meeting relative to who is responsible for the training programs at the district.

Lastly, Ms. Graham informed the Committee that Director Albert Robles will be hosting the next ACWA Region 8 meeting on Thursday, March 10 at 10:00 a.m. in the District offices. Lunch will be provided for the attendees followed by a tour of the Robert W. Goldsworthy Desalter facility. She asked the Committee to let staff know if they intend to participate.

VII. ADJOURNMENT
With no other business to come before the Committee, the meeting was adjourned at 3:46 p.m.

__________________________
Chairperson

ATTEST:

__________________________
Director
DATE: MARCH 9, 2005

TO: ADMINISTRATIVE COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: PROCUREMENT POLICIES AND PROCEDURES

SUMMARY
At the February 9 meeting the Committee directed staff to contact General Counsel and ask Counsel to review and revise Administrative Code Section 10, Procurement Policies and Procedures. Attached for the Committee review is a report from Mr. Kevin Collins and the proposed revisions to the Administrative Code.

Mr. Collins is on call for jury duty. Unless he is required to report for service, he will attend the meeting and answer any questions the Committee may have.

FISCAL IMPACT
Unknown at this time.

STAFF RECOMMENDATION
Receive revised program, discuss as the Committee desires and provide direction to staff.
MEMORANDUM

TO: Administrative Committee of the Board of Directors of the Water Replenishment District of Southern California
FROM: Kevin Collins
DATE: March 4, 2005
RE: Revisions to Procurement Policies and Procedures
OUR FILE NO.: 2347-006
CC: Robb Whitaker, Mario Garcia, Ed Casey

Pursuant to the Board’s instruction I have prepared a revised draft of the District’s Procurement Policies and Procedures excluding provisions that are not expressly required by statute or law. A copy of the revised document is attached along with a red-lined version highlighting the changes.
EXHIBIT A

Draft Revised Procurement Policies and Procedures
1. GENERAL PROVISIONS

a. Definitions
   (i) Board: The Board of Directors of the Water Replenishment District of Southern California.
   (ii) Contract 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 $25,000 or more.
   (iii) Director: A member of the Board of Directors of the Water Replenishment District of Southern California.
   (iv) District: The Water Replenishment District of Southern California.
   (v) General Counsel: The General Counsel of the Water Replenishment District of Southern California.
   (vi) General Manager: The General Manager of the Water Replenishment District of Southern California.
   (vii) 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.
   (viii) President: The President of the Board of Directors of the Water Replenishment District of Southern California.
   (ix) 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 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, and professional services, including, but not limited to, legal, legislative, public affairs, public relations, and engineering services, regardless of
price shall be made pursuant to 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) All contracts and other documents executed by the district that require or authorize the district to expend ten thousand dollars ($10,000) or more shall be authorized by the board of directors and signed by the president and the secretary except that the board may, by resolution for a specific expenditure, authorize the district 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).
   *Authority: Water Code § 60622(a)*
   (ii) All contracts and other documents executed by the district that require or authorize the district to expend less than ten thousand dollars ($10,000) may be approved and signed by the district manager or other district representative authorized by the board of directors, provided, however, that the 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) or more, without the board's prior approval.
   *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.

g. Advertising for Contracts
   (i) Before making any contract totaling twenty-five thousand dollars ($25,000) or more within any 12-month period, the District shall advertise for bids.
   Authority: Water Code § 60602(a)
   (ii) Notwithstanding subdivision (i), if a proposed expenditure described in the annual District budget for any item of supplies or services equals or exceeds twenty-five thousand dollars ($25,000), the district shall advertise for bids before making any contract for that item during the year to which that budget applies.
   Authority: Water Code § 60602(b)
   (iii) Except as otherwise provided in these Procurement Policies and Procedures, the advertising requirements of Sections (1)(g)(i) and (ii) do not apply to any of the following contracts:
   (A) The recruitment, hiring and dismissal of District employees and officers.
       Authority: Water Code § 60602(c)(1).
   (B) Contracts with other public entities undertaken to perform the purposes and activities of the District.
       Authority: Water Code § 60602(c)(2).
   (C) Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered.
       Authority: Water Code § 60602(c)(3).
   (D) Contracts solely for the purpose of retaining expert witnesses for litigation.
       Authority: Water Code § 60602(c)(4).
   (E) Contracts for proprietary information or systems.
       Authority: Water Code § 60602(c)(5).
   (F) Contracts for professional services provided that they are let on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.
       Authority: Water Code §§ 60602(c)(6)
   (G) Contracts for architectural, engineering, environmental, land surveying, geological or construction project management services provided they are let on the basis of demonstrated competence and on the professional qualifications necessary for the 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.
Authority: Water Code §§ 60602(c)(6)
(H) Contracts for legal services that are let on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services.
Authority: Water Code § 60602(c)(7).

i. **Bid Protests**
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.

j. **Contract Solicitations**
(i) 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.
(ii) 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.

(iii) 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.

2. CONSTRUCTION CONTRACTS

a. Definition of Construction Contract
A “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, sodding, 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.
Authority: Civil Code § 3106.

b. Advertising for Bids
(i) Before making any Construction Contract totaling twenty-five thousand dollars ($25,000) or more, the District shall first advertise for bids as hereinafter set forth.
Authority: Water Code §§ 60602(a), 60604.
(ii) When the District is required to advertise for bids for a Construction Contract, the District shall do so by advertising in a newspaper of general circulation in Los Angeles County at least once a week for four consecutive weeks.
Authority: Water Code § 60604.
(iii) If less than the whole work provided for in the plans and specifications for a given construction project is to be performed by the Person to whom a Construction Contract will be awarded, the portion of the work to be performed must be particularly described in the advertisement for bids.
Authority: Water Code § 60606
(iv) Advertisements for bids shall set forth all of the following information:
(1) That plans and specifications for the work to be done can be seen and obtained at the District’s offices;
(2) That the Board will receive sealed bids for the contract;
(3) That the contract will be awarded to the lowest responsive and responsible bidder; and  
(4) That bids will be publicly opened at a given time and place.  

Authority: Water Code § 60608.

c. Small Business Enterprise Outreach Program  
(i) 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. The District's Small Business Enterprise Outreach Program is adopted pursuant to Public Contact Code Section 2002.  
(ii) 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.  
(iii) SBE Subcontractor Participation Goal. Notwithstanding the requirement that the District award Construction Contracts to the lowest responsive and responsible bidder, all bidders for Construction Contracts greater than $100,000 must subcontract not less than 20% of their bid amount to SBEs 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.  
(1) 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 materialmen.  
(2) 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: (i) evidence that the bidder has identified portions of the work that may be subcontracted to SBEs, (ii) evidence that the bidder has contacted SBE certifying agencies to identify potential SBE subcontractors for the portions of the work to be subcontracted, (iii) 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, and (iv) 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.

(3) 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 SBEs certification or other appropriate documentary evidence by the certifying public entity. Proof of certification shall be subject to verification by the District.

(iv) 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.


d. Submission of Bids; Bidders’ Security; Return of Bidders’ Security
For Construction Contracts totaling $25,000 or more:

(i) All bids for Construction Contracts shall be presented under seal to the District. Bids shall remain open and subject to acceptance by the District for not less than sixty (60) days following the Board action to approve the award of a contract.

(ii) All bids for Construction Contracts shall be accompanied by bidder’s security, which shall remain in full force and effect, and subject to forfeiture, for the same period of time as bids are required to remain open and subject to acceptance. Bid security shall be in an amount to be determined by the District, but not less than 10% of the total amount of a bidder’s bid, and shall be in one of the following forms:

(1) Cash.
(2) Cashier’s check made payable to the District.
(3) Certified check made payable to the District.
(4) Bidder’s bond issued and executed by an admitted surety insurer, made payable to the District in a form approved by the General Manager and General Counsel.

(iii) Upon award of a Construction Contract by the Board, the District shall return bidders’ security no later than sixty (60) days following such award.

Authority: Water Code § 60610.
e. **Withdrawal of Bids**

(i) Bids for Construction Contracts 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.

(ii) The exclusive method for withdrawing bids after the deadline for submission of bids shall be pursuant to the provisions of Chapter 5 of Part 1, Division 2, of the California Public Contract Code, commencing with Section 5100, governing Relief of Bidders. Bids for Construction Contracts 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:

1. A mistake was made;
2. 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;
3. The mistake made the bid materially different than the bidder intended it to be; and
4. 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.

(iii) 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.


f. **Opening of Bids**

For Construction Contracts totaling $25,000 or more, all bids shall be publicly opened at the District’s offices immediately after the deadline for submission of bids. Two (2) District employees and/or representatives shall be present at all 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, and a list identifying the name of each bidder and the amount
of its bid shall be produced and made available for inspection and copying as a public record.

g. **Interpretation of Bids**
In the event of any ambiguity in a bid submitted for a Construction Contract, 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.

h. **Award of Contracts**
Following the public opening of bids for Construction Contracts totaling $25,000 or more, and any evaluation by the District of such bids, bidders, and other materials required to be submitted before the award of any Construction Contract, the Board at its sole discretion may:
(i) Award a contract to the lowest responsive and responsible bidder; or
(ii) Reject all bids and, at the District’s discretion, re-advertise for bids for the contract; or
(iii) Proceed to construct the construction project under its own superintendence.

*Authority: Water Code § 60612; Public Contract Code § 1103.*

i. **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 Construction 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 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.
j. Performance and Payment Bonds; Proof of Contractor’s License; Proof of Insurance

(i) The award of any Construction Contract by the Board is contingent upon the receipt and approval by the District of the bond and insurance documentation required by this paragraph, and upon the bidder’s compliance with the Contractors State License Law (Business & Professions Code Sections 7000, et seq.) The bond and insurance documentation required by this paragraph must be received by the District not later than ten (10) calendar days after the Board’s award of the contract, which period may be extended at the District’s discretion, but in no event later than the start of construction.

(ii) The submission of a bid in response to a Contract Solicitation shall be deemed a representation by the bidder that it is ready, willing and able to submit the bonds and insurance documentation required by this paragraph if it is awarded a contract for the project, and that it is properly licensed pursuant to the Contractors State License Law to perform the work called for in the Contract Solicitation. The bid of any bidder who fails to comply with the requirements of this paragraph shall be deemed non-responsive, and the bidder shall forfeit its bid security. Thereafter, the Board at its discretion may award a contract for the project as provided in these Procurement Policies and Procedures.

(iii) Every Construction Contract awarded by the District shall provide for the filing with the District of separate payment and performance bonds.

Authority: Civil Code §§ 3247, 3248; Water Code § 60620.

(iv) 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. 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 (1) verifying that the payment bond is in the form previously approved by the General Manager and the General Counsel, (2) 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 (3) ensuring that the payment bond is in the proper amount and complies with any additional requirements set forth in the Contract Solicitation.
Authority: Civil Code § 3248.

(v) 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.

(vi) Bidders shall furnish satisfactory proof of all insurance required by law, by the Contract Solicitation and the Construction Contract to the District. Such insurance shall include, without limitation, workers compensation insurance as required by California law.

(vii) After bids are opened, but before a Construction Contract is awarded, the District shall verify that the successful bidder was 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.


k. Emergency Solicitation of Construction Contracts

In the event of an emergency relating to the repair or replacement of District facilities, if notice for bids to let contracts will not be given, the District shall comply with Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

Water Code § 60614.

l. Contract Solicitations and Construction Contracts – Required Forms

(i) Contract Solicitations for construction services shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) Construction Contracts shall be in a form approved by the General Manager and the General Counsel.

m. Bidder Responsibility and Pre-qualification

(i) Bidder Responsibility.

(1) 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.

(2) 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.

(3) Before a bidder is deemed to be non-responsible and its bid rejected, the District shall notify the bidder in writing of the reasons for its preliminary finding that the bidder is non-responsible, and provide the bidder an opportunity to respond to those reasons. Upon receipt of a response from a bidder preliminarily determined to be non-responsible, the District shall make its final determination as to whether the bidder is responsible. If a bidder does not respond within five (5) working days from the date of a written notice from the District that the bidder has been preliminarily found to be non-responsible, the bidder shall be deemed to have consented to the District’s preliminary finding of non-responsibility, and the District shall thereafter reject the bidder’s bid.

(ii) Prequalification.

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


3. CONTRACTS FOR THE PURCHASE OF MATERIALS ONLY

a. Contracts for the Purchase of Materials Only – Defined

A contract for the purchase of materials only is an agreement between the District and any Person for the purchase of supplies, materials, equipment, or other tangible goods of any kind to be permanently incorporated in any public work of improvement being undertaken by the District.

The provisions of this section shall be further governed by applicable provisions concerning proprietary information or systems where the materials, equipment or tangible goods involved require the use of said
information or systems, and the Board has made a determination concerning the need for said information or systems.

b. Advertising for Bids and Award of Contracts – Contracts Equal to or Greater Than $25,000

(i) Before making any contract for the purchase of materials only totaling $25,000 or more, the District shall first advertise for bids in a newspaper of general circulation in Los Angeles County in the manner provided for by law. In addition, the District may utilize any other reasonable method to notify qualified potential bidders of the advertisement for bids.

   Authority: Water Code § 60602.

(ii) Contract Solicitations for contracts for the purchase of materials only equal to or greater than $25,000 shall set forth all of the following information:

   (1) That the specifications or description of the materials to be purchased can be seen and obtained at the District’s offices;

   (2) That the District will receive sealed bids for the contract;

   (3) That the contract will be awarded to the lowest responsive and responsible bidder, or else the Board shall reject all bids.

   (4) That bids will be publicly opened at a given time and place.

   Authority: Water Code § 60616.

(iii) Contracts for the purchase of materials only shall be awarded to the lowest responsible and responsive bidder, or else the District shall reject all bids.

   Authority: Water Code § 60616.

(iv) After rejecting all bids, the Board may thereafter re-advertise for bids as provided above, or solicit responsive bids from not less than three responsible bidders to furnish the materials. Upon receipt of a bid lower than the lowest previously rejected bid, the Board may award a contract for the furnishing of the materials to the bidder who submitted the lowest price.

   Authority: Water Code §§ 60616, 60618.

(v) The District shall follow the procedures for opening bids provided for the opening of bids for Construction Contracts under these Procurement Policies and Procedures.

c. Required Forms

(i) Contract Solicitations for contracts for the purchase of materials only shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) Contracts for the purchase of materials only shall be in a form approved by the General Manager and the General Counsel.
d. **Emergency Solicitation of Contracts for the Purchase of Materials Only**

In the event of an emergency, the District may solicit and enter into contracts for the purchase of materials only in accordance with the provisions of Section 22050 of the Public Contract Code.

*Water Code § 60614.*

## 4. CONTRACTS WITH PRIVATE ARCHITECTS, ENGINEERING, GEOLOGICAL, LAND SURVEYING, AND CONSTRUCTION PROJECT MANAGEMENT FIRMS

### a. **Selection Procedure Policy**

The award of contracts by the District for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services (hereafter "Professional Construction Services") shall be based on demonstrated competence and qualifications for the types of services to be performed at fair and reasonable prices to the District. Except as hereinafter set forth, the District’s Procurement Policies and Procedures for such services are intended to be consistent with the provisions appearing at Chapter 10 of Division 5, Title 1, of the Government Code, commencing with Section 4525.

*Authority: Water Code § 60602(c)(6); Government Code §§ 4525, et seq.*

### b. **Definitions**

(i) "Architectural, landscape architectural, engineering, geological, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, geological, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

*Authority: Government Code § 4525(d).*

(ii) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements herein for management and supervision of work performed on District construction projects.

*Authority: Government Code § 4525(e).*

(A) In addition to possessing the license required by the immediately preceding paragraph, any Person performing construction management services for the District, including personnel carrying out onsite responsibilities, shall possess demonstrated expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project
scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.  

*Authority: Government Code § 4529.5*

(iii) “Environmental services” includes those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.  

*Authority: Government Code § 4525(f).*

c. **Contract Solicitations and Advertising for Professional Construction Services**  

(i) Contract Solicitations for Professional Construction Services totaling $25,000 or more shall be accomplished by issuance of a request for qualifications announcing the project for which the services are to be performed. The announcement shall be made in the publication of the respective professional society or other publication reasonably calculated to reach its intended audience. The requests for qualifications 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.  

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

d. **Evaluation of Proposals and Award of Contracts for Professional Construction Services**  

(i) The District shall conduct discussions with interested firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services, and then shall select therefrom, 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. 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. 

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

e. **Required Forms**

   (i) All Contract Solicitations for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services, shall be accomplished using a form approved by the General Manager and the General Counsel.

   (ii) All Contracts for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services, shall be in a form approved by the General Manager and the General Counsel.

5. **PROFESSIONAL SERVICES CONTRACTS**

a. **Contracts for Professional Services Including Legal Services**

   Contracts for professional services, including legal services, shall be awarded on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. 

   *Authority: Water Code §§ 60602(6), 60602(7)*

b. **Required Forms**

   All Contracts Professional Services shall be accomplished using a form approved by the General Manager and the General Counsel.

6. **SERVICES CONTRACTS**

   a. **Solicitation and Award of Contracts for Services Other Than Professional Services**

   Contract Solicitations for services other than professional services totaling $25,000 or more shall be accomplished by issuance of a request for proposals. Requests for proposals for such services may be solicited from those firms that have indicated in advance their interest in providing the applicable service, by advertising in relevant trade publications, and/or by notice to lists of known providers.

   (i) Contracts for services under this paragraph shall be awarded to the lowest responsible bidder. Before issuance of any Contract Solicitation for services under this paragraph, District staff shall, to the greatest extent possible for the type of service in question,
develop objective criteria for the evaluation of proposals, which shall be included in the Contract Solicitation.

(ii) Before making any contract for services under this paragraph totaling twenty-five thousand dollars ($25,000) or more, the District shall first advertise for requests for proposals in a newspaper of general circulation in Los Angeles County in the manner provided for by law

    Authority: Water Code § 60602

b. Required Forms

(i) All Contract Solicitations for services under this paragraph, including shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) All Contracts for professional services, including Professional Construction Services and other professional services, shall be in a form approved by the General Manager and the General Counsel.
EXHIBIT B

Redlined Version of Draft Revised Procurement Policies and Procedures
1. GENERAL PROVISIONS

a. Definitions
   (i) **Board**: The Board of Directors of the Water Replenishment District of Southern California.
   (ii) **Contract 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 $25,000 or more.
   (iii) **Director**: A member of the Board of Directors of the Water Replenishment District of Southern California.
   (iv) **District**: The Water Replenishment District of Southern California.
   (v) **General Counsel**: The General Counsel of the Water Replenishment District of Southern California.
   (vi) **General Manager**: The General Manager of the Water Replenishment District of Southern California.
   (vii) **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.
   (viii) **President**: The President of the Board of Directors of the Water Replenishment District of Southern California.
   (ix) **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 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, and professional services, including, but not limited to, legal, legislative, public affairs, public relations, and engineering services, regardless of price shall be made pursuant to 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 and Contract Solicitations; Signing of Contracts**
   (i) The Board shall approve the award of all contracts totaling $25,000 or more. The award of contracts valued at less than $25,000 may be approved by the General Manager; however, the General Manager shall provide a written report to the Board summarizing the award of all such contracts at each regularly scheduled meeting of the Board.
   (iii) All contracts to be **and other documents** executed by the District that require or authorize the district to expend ten thousand dollars ($10,000) or more shall be authorized by the board of directors and signed by the President and the Secretary except that the board may, by resolution for a specific expenditure, authorize the district 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).
   Authority: Water Code § 60622.60622(a)
   (iv) All Contract Solicitations shall indicate whether the contract
   (ii) All contracts and other documents executed by the district that require or authorize the district to expend less than ten thousand dollars ($10,000) may be renewed for similar work for substantially the same price or fee upon approval and signed by the district manager or other district representative authorized by the Board.

e. **Circumvention of Procurement Policies and Procedures**
   (i) No dollar thresholds set for particular procurements in these Procurement Policies and Procedures shall be circumvented by the award of more than one contract to directors, provided, however, that the same Person covering manager may not execute multiple contracts or documents on behalf of the same or
substantially district with the same subject matter in any twelve-month period.

(ii) If a proposed expenditure described in the annual District budget for any item of supplies or services equals or exceeds $25,000, the District shall advertise for bids before making any contract for that item during the year to which that budget applies, same person or entity within a one-year period that cumulatively total ten thousand dollars ($10,000) or more, without the board’s prior approval.

Authority: Water Code § 6060260622(b).

fg. 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.

gf. 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.
h. **Exclusions**

i. **Advertising for Contracts**

(i) Before making any contract totaling twenty-five thousand dollars ($25,000) or more within any 12-month period, the District shall advertise for bids.  
**Authority: Water Code § 60602(a)**

(ii) Notwithstanding subdivision (i), if a proposed expenditure described in the annual District budget for any item of supplies or services equals or exceeds twenty-five thousand dollars ($25,000), the district shall advertise for bids before making any contract for that item during the year to which that budget applies.  
**Authority: Water Code § 60602(b)**

The advertising requirements (iii) Except as otherwise provided in these Procurement Policies and Procedures shall, the advertising requirements of Sections (1)(g)(i) and (ii) do not apply to any of the following contracts:

(iA) The recruitment, hiring and dismissal of District employees and officers.  
**Authority: Water Code § 60602(c)(1).**

(iiB) Contracts with other public entities undertaken to perform the purposes and activities of the District.  
**Authority: Water Code § 60602(c)(2).**

(iiiC) Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered.  
**Authority: Water Code § 60602(c)(3).**

(ivD) Contracts solely for the purpose of retaining expert witnesses for litigation.  
**Authority: Water Code § 60602(c)(4).**

(vE) Contracts for proprietary information or systems.  
**Authority: Water Code § 60602(c)(5).**

(viF) Contracts for professional services, including contracts for architectural, engineering, geological, land surveying services that they are let on the basis of demonstrated competence and construction management on the professional qualifications necessary for the satisfactory performance of the services required.  
**Authority: Water Code §§ 60602(c)(6), 60602(d).**

(viiG) Contracts for legal architectural, engineering, environmental, land surveying, geological or construction project management services that they are let on the basis of demonstrated competence and on the professional qualifications necessary for the
satisfactory performance of the services pursuant to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the California Government Code.

**Authority:** Water Code §§ 60602(c)(6)

(H) Contracts for legal services that are let on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services.

**Authority:** Water Code § 60602(c)(7).

Further, the requirements for letting the contracts described in Sections 4 through 6 of these Procurement Policies and Procedures shall not apply to the matters described in (i) through (iv) of this Section 1(h).

**Authority:** Water Code § 60602(c)(7).

### i. Bid Protests

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.

### j. Contract Solicitation

**Solicitations**
(i) 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.

(ii) 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.

(iii) 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.

2. CONSTRUCTION CONTRACTS

a. Definition of Construction Contract
   A “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, sodding, 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.
   Authority: Civil Code § 3106.

b. Advertising for Bids
   (i) Before making any Construction Contract totaling twenty-five thousand dollars ($25,000) or more, the District shall first advertise for bids as hereinafter set forth.
   Authority: Water Code §§ 60602(a), 60604.
   (ii) When the District is required to advertise for bids for a Construction Contract, the District shall do so by advertising in a newspaper of general circulation in Los Angeles County at least once a week for four consecutive weeks.
Authority: Water Code § 60604.

(iii) If less than the whole work provided for in the plans and specifications for a given construction project is to be performed by the Person to whom a Construction Contract will be awarded, the portion of the work to be performed must be particularly described in the advertisement for bids.

Authority: Water Code § 60606

(iv) Advertisements for bids shall set forth all of the following information:

1. That plans and specifications for the work to be done can be seen and obtained at the District's offices;
2. That the Board will receive sealed bids for the contract;
3. That the contract will be awarded to the lowest responsive and responsible bidder; and
4. That bids will be publicly opened at a given time and place.

Authority: Water Code § 60608.

(v) Small Business Enterprise Outreach Program

(i) 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. The District’s Small Business Enterprise Outreach Program is adopted pursuant to Public Contact Code Section 2002.

(ii) 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.

(iii) SBE Subcontractor Participation Goal. Notwithstanding the requirement that the District award Construction Contracts to the lowest responsive and responsible bidder, all bidders for Construction Contracts greater than $100,000 must subcontract not less than 20% of their bid amount to SBEs 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.
(1) 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 materialmen.

(2) Bidders for District contracts of $100,000 or more must subcontract at least twenty (20) percent of the value of the contract in question to Small Business Enterprises certified as such by the Los Angeles County Metropolitan Transportation Authority or by the State of California Department of General Services Office of Small Business Certification and Resources (the “SBE Participation Requirement”). The SBE Participation Requirement shall be included in the term “Good Faith Efforts” shall refer to objective criteria formulated and applied uniformly and incorporated in applicable District Contract Solicitations—Bidders will be required by District staff in consultation with District counsel which shall include: (i) evidence that the bidder has identified portions of the work that may be subcontracted to identify in their bids the SBEs, (ii) evidence that the bidder has contacted SBE certifying agencies to identify potential SBE subcontractors they proposed to utilize for the portions of the work to satisfy be subcontracted, (iii) evidence that the bidder has sent written invitations to bid to SBE Participation Requirement. Bids that do not satisfy subcontractors so identified or to other SBE subcontractors eligible for the SBE Participation Requirement shall work to be rejected as non-responsive subcontracted, and (iv) 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.

(3) 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 SBEs certification or other appropriate documentary evidence by the certifying public entity. Proof of certification shall be subject to verification by the District.

(iv) Before advertising for bids, the Board may modify the percentage SBE Participation Requirement.
participation requirement created by this section for particular procurements, or exempt particular procurements from the SBE-Participation Requirement 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.


cd. Submission of Bids; Bidders’ Security; Return of Bidders’ Security

For Construction Contracts totaling $25,000 or more:
(i) All bids for Construction Contracts shall be presented under seal to the District. Bids shall remain open and subject to acceptance by the District for not less than sixty (60) days following the Board action to approve the award of a contract.
(ii) All bids for Construction Contracts shall be accompanied by bidder’s security, which shall remain in full force and effect, and subject to forfeiture, for the same period of time as bids are required to remain open and subject to acceptance. Bid security shall be in an amount to be determined by the District, but not less than 10% of the total amount of a bidder’s bid, and shall be in one of the following forms:
   (1) Cash.
   (2) Cashier’s check made payable to the District.
   (3) Certified check made payable to the District.
   (4) Bidder’s bond issued and executed by an admitted surety insurer, made payable to the District in a form approved by the General Manager and General Counsel.
(iii) Upon award of a Construction Contract by the Board, the District shall return bidders’ security no later than sixty (60) days following such award.

Authority: Water Code § 60610.
Withdawal of Bids
(i) Bids for Construction Contracts 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.

(ii) The exclusive method for withdrawing bids after the deadline for submission of bids shall be pursuant to the provisions of Chapter 5 of Part 1, Division 2, of the California Public Contract Code, commencing with Section 5100, governing Relief of Bidders. Bids for Construction Contracts 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:

(1) A mistake was made;
(2) 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;
(3) The mistake made the bid materially different than the bidder intended it to be; and
(4) 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.

(iii) 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.

(iv) All Contract Solicitations shall indicate whether the contract to be awarded may be renewed for similar work for substantially the same price or fee upon approval by the Board.

Opening of Bids
For Construction Contracts totaling $25,000 or more, all bids shall be publicly opened at the District’s offices immediately after the deadline for
submission of bids. Two (2) District employees and/or representatives shall be present at all 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, and a list identifying the name of each bidder and the amount of its bid shall be produced and made available for inspection and copying as a public record.

fg. Interpretation of Bids
In the event of any ambiguity in a bid submitted for a Construction Contract, 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.

gh. Award of Contracts
Following the public opening of bids for Construction Contracts totaling $25,000 or more, and any evaluation by the District of such bids, bidders, and other materials required to be submitted before the award of any Construction Contract, the Board at its sole discretion shall may:
(i) Award a contract to the lowest responsive and responsible bidder; or
(ii) Reject all bids and, at the District’s discretion, re-advertise for bids for the contract; or
(iii) Proceed to construct the construction project under its own superintendence.

Authority: Water Code § 60612; Public Contract Code § 1103.
h].  **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 Construction 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 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.

ij.  **Performance and Payment Bonds; Proof of Contractor’s License; Proof of Insurance**  

(i) The award of any Construction Contract by the Board is contingent upon the receipt and approval by the District of the bond and insurance documentation required by this paragraph, and upon the bidder’s compliance with the Contractors State License Law (Business & Professions Code Sections 7000, et seq.) The bond and insurance documentation required by this paragraph shall **must** be received by the District not later than ten (10) calendar days after the Board’s award of the contract, which period may be extended at the District’s discretion, but in no event later than the start of construction.

(ii) The submission of a bid in response to a Contract Solicitation shall be deemed a representation by the bidder that it is ready, willing and able to submit the bonds and insurance documentation required by this paragraph if it is awarded a contract for the project, and that it is properly licensed pursuant to the Contractors State License Law to perform the work called for in the Contract Solicitation. The bid of any bidder who fails to comply with the requirements of this paragraph shall be deemed non-responsive, and the bidder shall forfeit its bid security. Thereafter, the Board at its discretion may award a contract for the project as provided in these Procurement Policies and Procedures.
(iii) Every Construction Contract awarded by the District shall provide for the filing with the District of separate payment and performance bonds.

Authority: Civil Code §§ 3247, 3248; Water Code § 60620.

(iv) 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. 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 (1) verifying that the payment bond is in the form previously approved by the General Manager and the General Counsel, (2) 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 (3) ensuring that the payment bond is in the proper amount and complies with any additional requirements set forth in the Contract Solicitation.

Authority: Civil Code § 3248.

(v) 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.

(vi) Bidders shall furnish satisfactory proof of all insurance required by law, by the Contract Solicitation and the Construction Contract to the District. Such insurance shall include, without limitation, workers compensation insurance as required by California law.

(vii) After bids are opened, but before a Construction Contract is awarded, the District shall verify that the successful bidder was 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.

**jk. Emergency Solicitation of Construction Contracts**

In the event of an emergency relating to the repair or replacement of District facilities, if notice for bids to let contracts will not be given, the District shall comply with Chapter 2.5 (commencing with Section 22050) of the Public Contract Code. *Water Code § 60614.*

**kl. Contract Solicitations and Construction Contracts – Required Forms**

(i) Contract Solicitations for construction services shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) Construction Contracts shall be in a form approved by the General Manager and the General Counsel.

**lm. Bidder Responsibility and Pre-qualification**

(i) Bidder Responsibility.

(1) 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.

(2) 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.

(3) Before a bidder is deemed to be non-responsible and its bid rejected, the District shall notify the bidder in writing of the reasons for its preliminary finding that the bidder is non-responsible, and provide the bidder an opportunity to respond to those reasons. Upon receipt of a response from a bidder preliminarily determined to be non-responsible, the District shall make its final determination as to whether the bidder is responsible. If a bidder does not respond within five (5) working days from the date of a written notice from the District that the bidder has been preliminarily found to be non-responsible, the bidder shall be deemed to have consented to the District’s preliminary finding of non-
responsibility, and the District shall thereafter reject the bidder’s bid.

(ii) Prequalification.
Should the District determine that the scope, technical complexity, or other unusual features of a proposed construction project warrant the prequalification of bidders, or that it would be in the District’s best interests to prequalify bidders for recurring or particular types of Construction Contracts, the District may establish prequalification procedures in accordance with the provisions of Public Contract Code Section 20101. Any such prequalification procedures shall be first approved by the General Manager and the General Counsel.

3. CONTRACTS FOR THE PURCHASE OF MATERIALS ONLY

a. Contracts for the Purchase of Materials Only – Defined
A contract for the purchase of materials only is an agreement between the District and any Person for the purchase of supplies, materials, equipment, or other tangible goods of any kind, including for purposes of example and without limitation, construction materials, tools, machinery, office equipment, electronic equipment, furniture, fixtures and hardware. A contract for the purchase of materials only shall not exclude a contract because it also involves the incidental furnishing of services, including for purposes of example and without limitation, delivery, set up, installation, repair, warranty service, and customer support to be permanently incorporated in any public work of improvement being undertaken by the District.

The provisions of this section shall be further governed by applicable provisions concerning proprietary information or systems where the materials, equipment or tangible goods involved require the use of said information or systems, and the Board has made a determination concerning the need for said information or systems.

b. Advertising for Bids and Award of Contracts – Contracts Equal to or Greater Than $25,000
(i) Before making any contract for the purchase of materials only totaling $25,000 or more, the District shall first advertise for bids in a newspaper of general circulation in Los Angeles County in the manner provided for by law. In addition, the District may utilize any other reasonable method to notify qualified potential bidders of the advertisement for bids.

Authority: Water Code § 60602.

(ii) Contract Solicitations for contracts for the purchase of materials only equal to or greater than $25,000 shall set forth all of the following information:

1. That the specifications or description of the materials to be purchased can be seen and obtained at the District’s offices;
2. That the District will receive sealed bids for the contract;
3. That the contract will be awarded to the lowest responsive and responsible bidder, or else the Board shall reject all bids.
4. That bids will be publicly opened at a given time and place.

Authority: Water Code § 60616.

(iii) Contracts for the purchase of materials only shall be awarded to the lowest responsible and responsive bidder, or else the District shall reject all bids.

Authority: Water Code § 60616.

(iv) After rejecting all bids, the Board may thereafter re-advertise for bids as provided above, or solicit responsive bids from not less than three responsible bidders to furnish the materials. Upon receipt of a bid lower than the lowest previously rejected bid, the Board may award a contract for the furnishing of the materials to the bidder who submitted the lowest price.

Authority: Water Code §§ 60616, 60618.

(v) The District shall follow the procedures for opening bids provided for the opening of bids for Construction Contracts under these Procurement Policies and Procedures.

c. Required Forms

(i) Contract Solicitations for contracts for the purchase of materials only shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) Contracts for the purchase of materials only shall be in a form approved by the General Manager and the General Counsel.

d. Emergency Solicitation of Contracts for the Purchase of Materials Only
In the event of an emergency, the District may solicit and enter into contracts for the purchase of materials only in accordance with the provisions of Section 22050 of the Public Contract Code. 
Water Code § 60614.

4. CONTRACTS WITH PRIVATE ARCHITECTS, ENGINEERING, GEOLOGICAL, LAND SURVEYING, AND CONSTRUCTION PROJECT MANAGEMENT FIRMS

a. Selection Procedure Policy
The award of contracts by the District for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services (hereafter "Professional Construction Services") shall be based on demonstrated competence and qualifications for the types of services to be performed at fair and reasonable prices to the District. Except as hereinafter set forth, the District's Procurement Policies and Procedures for such services are intended to be consistent with the provisions appearing at Chapter 10 of Division 5, Title 1, of the Government Code, commencing with Section 4525. 
Authority: Water Code § 60602(c)(6); Government Code §§ 4525, et seq.

b. Definitions
(i) "Architectural, landscape architectural, engineering, geological, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, geological, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform. 
Authority: Government Code § 4525(d).

(ii) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements herein for management and supervision of work performed on District construction projects. 
Authority: Government Code § 4525(e).

(A) In addition to possessing the license required by the immediately preceding paragraph, any Person performing construction management services for the District, including personnel carrying out onsite responsibilities, shall possess demonstrated expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and
negotiation, and general management and administration of a construction project.

Authority: Government Code § 4529.5

(iii) “Environmental services” includes those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.

Authority: Government Code § 4525(f).

c. Contract Solicitations and Advertising for Professional Construction Services

(i) Contract Solicitations for Professional Construction Services totaling $25,000 or more shall be accomplished by issuance of a request for proposals. Requests for proposals for such qualifications announcing the project for which the services are to be performed. The announcement shall be made in the publication of the respective professional society or other publication reasonably calculated to reach its intended audience. The requests for qualifications may also be solicited from made by solicitation to those firms that have indicated in advance their interest in providing the applicable service, by advertising in relevant trade publications, and or by notice to lists of known providers.

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

d. Evaluation of Proposals and Award of Contracts for Professional Construction Services

Proposals by Persons offering to perform architectural, landscape-architectural, engineering, geological, environmental, land surveying, and construction project management services over $25,000 shall be evaluated by the District, and the contract or contracts awarded by the Board, in the following manner:

(i) The General Manager shall appoint a District evaluation committee, which shall have responsibility for formulating the scope of work and technical requirements for the services being solicited, including the request for proposals, and for evaluating proposals received. Requests for proposals shall set forth all of the following information:

(1) That the District will receive sealed proposals for the contract;

(2) That proposals must be received by the District at a given date, time and place; and
(3) That proposals will be evaluated and a contract awarded by the District in accordance with these Procurement Policies and Procedures, and such additional consistent provisions of the request for proposals, if any.

(ii) All proposals shall be reviewed by the evaluation committee to determine which proposals meet the format and submission requirements specified in the request for proposal. Proposals not meeting format and submission requirements shall be rejected as non-responsive.

(iii) Of the proposals submitted, the evaluation committee 

The District shall evaluate and rank in order of preference no less than three of the firms deemed to be the most highly qualified to provide the services requested. In order to perform this ranking, the evaluation committee may conduct discussions with proposers, including interested firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. The methods used to rank proposals and then shall ensure that any ranking is select therefrom, in order of preference, based on standardized, objective criteria established by the District, and on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of no less than three of the firms deemed to be most highly qualified to provide the services required at a fair and reasonable price to the District.

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

(iv) The evaluation committee, in consultation with the General Manager, 

The District shall thereafter negotiate a contract with the firm that submitted the proposal ranked highest by the evaluation committee District at compensation which is fair and reasonable to the District. If the evaluation committee 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 evaluation committee 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. Should the evaluation committee District be unable to negotiate a satisfactory contract with any of the selected firms, the evaluation committee, in consultation with the General Manager 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.

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

(v) When the evaluation committee has successfully concluded negotiations for a contract for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services, it shall report to the General Manager, who shall report the evaluation committee’s recommendation for award of a contract to the Board. The Board may thereafter, at its sole discretion, award the contract to the firm recommended by the General Manager and evaluation committee or reject all proposals.

(vi) Following the award of a contract, all proposals and evaluation-ranking sheets shall become public records available for inspection and copying.

e. **Required Forms**

(i) All Contract Solicitations for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services, shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) All Contracts for architectural, landscape architectural, engineering, geological, environmental, land surveying, and construction project management services, shall be in a form approved by the General Manager and the General Counsel.

5. **PROFESSIONAL SERVICES CONTRACTS**

a. **Contract Solicitations**

Contracts for Other Professional Services Including Legal Services

Contracts for professional services totaling $25,000 or more shall be accomplished by issuance of a request for proposals or qualifications. Professional services covered by this Article shall include including legal, legislative, accounting, public affairs and public relations services. (i) Contracts for Professional Services totaling more $25,000 or more, shall be awarded on the basis of demonstrated competence of the bidder whose proposal offers the District the best combination of expertise, experience, professional qualifications, price and overall value necessary for the satisfactory performance of the services required.
b. **Required Forms**

(i) All Contract Solicitations for **Contracts** Professional Services shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) All Contracts for Professional Services shall be in a form approved by the General Manager and the General Counsel, including, when appropriate, any standardized or form contracts prepared by District Counsel.

(iii) District shall use, when appropriate, any standardized or form contracts prepared by District Counsel, which form contract may be modified to take into account the circumstances of a particular contract. Such modifications shall be subject to approval by District Counsel.

6. **SERVICES CONTRACTS**

a. **Solicitation and Award of Contracts for Services Other Than Professional Services**

Contract Solicitations for services other than professional services totaling $25,000 or more shall be accomplished by issuance of a request for proposals. Requests for proposals for such services may be solicited from those firms that have indicated in advance their interest in providing the applicable service, by advertising in relevant trade publications, and/or by notice to lists of known providers.

(i) Contracts for services under this paragraph shall be awarded to the lowest responsible bidder. Before issuance of any Contract Solicitation for services under this paragraph, District staff shall, to the greatest extent possible for the type of service in question, develop objective criteria for the evaluation of proposals, which shall be included in the Contract Solicitation.

(ii) Before making any contract for services under this paragraph totaling twenty-five thousand dollars ($25,000) or more, the District shall first advertise for requests for proposals in a newspaper of general circulation in Los Angeles County in the manner provided for by law.

*Authority: Water Code § 60602*
b. **Required Forms**

(i) All Contract Solicitations for services under this paragraph, including shall be accomplished using a form approved by the General Manager and the General Counsel.

(ii) All Contracts for professional services, including Professional Construction Services and other professional services, shall be in a form approved by the General Manager and the General Counsel.
MEMORANDUM

ITEM NO. 5

DATE: MARCH 9, 2005
TO: ADMINISTRATIVE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: COLOR COPIER UPGRADE

SUMMARY
In an effort to increase productivity and reduce outside vendor costs, a new copier is proposed to replace the current primary (black & white) copier. New features include color copies, scan to email, fax and document finishing such as hole-punching and paper folding.

<table>
<thead>
<tr>
<th></th>
<th>Current</th>
<th>Proposed</th>
</tr>
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<tbody>
<tr>
<td>Downstairs copier</td>
<td>B&amp;W (Model DC465)</td>
<td>New color copier</td>
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<tr>
<td></td>
<td>$787.65/month</td>
<td>$992.52/month</td>
</tr>
<tr>
<td></td>
<td>60-month lease expires 6/15/06</td>
<td>new 60-month lease</td>
</tr>
<tr>
<td>Upstairs copier</td>
<td>B&amp;W (Model DC425)</td>
<td>B&amp;W (Model DC425)</td>
</tr>
<tr>
<td></td>
<td>$335.47/month</td>
<td>$189.89/month</td>
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<tr>
<td></td>
<td>60-month lease expires 11/21/07</td>
<td>extended to 11/21/09 to reduce costs</td>
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<tr>
<td>Total</td>
<td>$1123.12/month</td>
<td>$1182.41/month</td>
</tr>
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</table>

Because this change requires a new lease agreement and a lease extension that total more than $64,000, the board must approve the proposed action.

FISCAL IMPACT
The net difference between the existing situation and proposed change is $59.29 per month or just over $700 per year. The proposal also involves a new 60-month lease and a two-year extension of an existing lease.

STAFF RECOMMENDATION
Authorize the General Manager to enter into a new lease agreement with Xerox Capital Services for a color copier and extend the current lease for one of the existing copiers.
DATE: MARCH 9, 2005
TO: ADMINISTRATIVE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: DOCUMENT IMAGING PROJECT WORK PLAN

SUMMARY
For the past year and a half, the District has undergone the effort of converting many of its documents to an image format that can be easily accessed through typical database-type queries. The documents that have been scanned thus far include the following:

✓ agendas
✓ minutes
✓ contracts
✓ invoices
✓ lab reports

Staff will provide a status update and work plan of the document imaging project to the committee.

FISCAL IMPACT
None.

STAFF RECOMMENDATION
For information only.
MEMORANDUM

ITEM NO. 7

DATE: MARCH 9, 2005

TO: ADMINISTRATIVE COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: DIRECTORS’ TRAVEL AND CONFERENCE BUDGET

SUMMARY
At the February 9 Administrative Committee meeting there was discussion regarding the conference budget for Directors. Director Ryan stated that the Finance Committee was in the process of reviewing the Directors’ budget and expected to continue the discussion at the March Finance Committee meeting. President Murray asked for this item to be agendized for today’s meeting so the Administrative Committee could receive an update of the results of the budget discussions by the Finance Committee.

FISCAL IMPACT
Unknown.

STAFF RECOMMENDATION
For information.
MEMORANDUM
ITEM NO. 8

DATE: MARCH 9, 2005
TO: ADMINISTRATIVE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: ADMINISTRATIVE CODE REVISIONS

SUMMARY
Changes to the Administrative Code will be presented and discussed at the meeting.

FISCAL IMPACT
None.

STAFF RECOMMENDATION
Discuss any Administrative Code revisions and recommend the Board consider adoption of any such revisions as recommended by the Committee.
DATE: MARCH 9, 2005
TO: ADMINISTRATIVE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: DEPARTMENT REPORT

SUMMARY
Staff will provide an update of department activities.

FISCAL IMPACT
None.

STAFF RECOMMENDATION
For information.