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. APPROVAL OF THE MINUTES OF SEPTEMBER 3, 2009
   Staff Recommendation: Approve as submitted.

4. ADMINISTRATIVE CODE CHANGES: STAFF OUT OF STATE TRAVEL AND HOSTING OF EVENTS AT THE DISTRICT
   Staff Recommendation: For discussion.

5. VEHICLE ALLOWANCE
   Staff Recommendation: For discussion.

6. PROCUREMENT POLICIES AND PROCEDURES
   Staff Recommendation: For discussion.

7. CEQA POLICY
   Staff Recommendation: For discussion.

8. DEPARTMENT REPORT
   Staff Recommendation: For information.

9. DIRECTOR'S REPORTS, INQUIRIES AND REVIEW OF DIRECTIONS TO STAFF

10. ADJOURNMENT

   Posted by Abigail C. Andom, Deputy Secretary, October 16, 2009.
In compliance with the Americans with Disabilities Act (ADA), if special assistance is needed to participate in the Board meeting, please contact Deputy Secretary Abigail Andon at (562) 921-5521 for assistance to enable the District to make reasonable accommodations.

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

Agendas and minutes are available at the District's website, www.wrd.org.
MINUTES OF SEPTEMBER 3, 2009
SPECIAL MEETING OF THE ADMINISTRATIVE COMMITTEE
OF THE BOARD OF DIRECTORS
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA

A special meeting of the Administrative Committee of the Board of Directors of the Water Replenishment District of Southern California was held on September 3, 2009 at 12:30 p.m. at the District Office, 4040 Paramount Boulevard, Lakewood, California. Chairperson Lillian Kawasaki called the meeting to order and presided thereover. Deputy Secretary Abigail C. Andom recorded the minutes.

1. DETERMINATION OF QUORUM
   Attendees included:
   Committee: Directors Lillian Kawasaki and Rob Katherman
   Staff: Scott Ota, Jenna Shaunessy, District Counsel Jamie Casso

2. PUBLIC COMMENT
   None.

3. APPROVAL OF THE MINUTES OF JULY 15, 2009
   The Committee approved the minutes as submitted.

   The agenda items were taken out of order.

5. VEHICLE ALLOWANCE
   District Counsel Jamie Casso stated that the Board at its August 7, 2009 meeting adopted changes to the District’s Administrative Code pertaining to director’s compensation and reimbursement of expenses for members of the Board and District employees. At the meeting, a request was made of the Administrative Committee regarding review of the director’s vehicle allowance.

   Discussion was held. There was consensus between the Committee members of either keeping the vehicle allowance at the current $308 a month for all Board members or receiving reimbursement for actual mileage during any given month at the current IRS rate for business mileage reimbursement. The Committee requested the item be continued to next month’s meeting.

4. PROCUREMENT POLICIES AND PROCEDURES
   Discussion followed on the proposed changes to the District’s procurement policies and procedures. The Committee recommended the policies and procedures: (1) be divided into three
categories: construction, professional services, and goods and materials; (2) define request for proposals (RFP), request for qualifications (RFQ), etc. and when each is used; (3) contain a formal bid process, e.g., when to advertise for a bid, etc.; (4) contain a provision for sole sourcing, when is it acceptable, and a dollar threshold; (5) is Board approval needed for issuance of RFP/RFQ.

The Committee recommended the item be continued to next month’s meeting.

6. **DEPARTMENT REPORT**
Director Kawasaki requested a draft CEQA policy be discussed at next month’s meeting.

7. **DIRECTOR’S REPORTS, INQUIRIES AND REVIEW OF DIRECTIONS TO STAFF**
The next Administrative Committee meeting was scheduled for Thursday, September 24 at 12:00 p.m.

8. **ADJOURNMENT**
With no other business to come before the Committee, the meeting was adjourned at 2:10 p.m.

____________________________________
Chairperson

ATTEST:

____________________________________
Director
DATE: OCTOBER 19, 2009
TO: ADMINISTRATIVE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: ADMINISTRATIVE CODE CHANGES: STAFF OUT OF STATE TRAVEL AND HOSTING OF EVENTS AT THE DISTRICT

SUMMARY
At the August 7, 2009 Special Board Meeting, the Board adopted changes to the Administrative Code pertaining to directors' compensation and reimbursement of expenses for members of the Board and District employees.

Section 7.2.6 Travel and Transportation Expenses of the WRD Administrative Code now reads:

"The Board of Directors shall approve requests for international travel (outside the 50 states) for Directors prior to reimbursable expenses being incurred.

Out of State travel for staff shall be pre-approved by the Board of Directors."

An out of state travel request for staff was recently reviewed by the Water Resources Committee. The Water Resources Committee recommended the Administrative Committee review travel approvals for staff to make it the same as directors.

A request has also been made of the Administrative Committee regarding hosting events at the District offices. District Counsel will provide information at the meeting.

FISCAL IMPACT
None.

STAFF RECOMMENDATION
For discussion.
DATE: OCTOBER 19, 2009
TO: ADMINISTRATIVE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: VEHICLE ALLOWANCE

SUMMARY
At the August 7, 2009 Special Board Meeting, the Board adopted changes to the Administrative Code pertaining to directors’ compensation and reimbursement of expenses for members of the Board and District employees. At the meeting, a request was made of the Administrative Committee regarding review of the directors’ vehicle allowance.

At the September 3, 2009 Administrative Committee Meeting, discussion was held and there was consensus between the Committee members of keeping the vehicle allowance at the current $308 a month for all Board members or receiving reimbursement for actual mileage during any given month at the current IRS rate for business mileage reimbursement. The Committee requested the item be continued to this month’s meeting.

FISCAL IMPACT
None.

STAFF RECOMMENDATION
For discussion.
DATE: OCTOBER 19, 2009

TO: ADMINISTRATIVE COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: PROCUREMENT POLICIES AND PROCEDURES

SUMMARY
The Committee Chair recently requested a review of the District's Procurement Policies and Procedures to ensure that they are compliant with best public agency practices and applicable statutory restrictions. The Committee reviewed the suggested revisions to the policies and procedures at its September 3rd meeting. At the direction of the Committee, District Counsel further revised WRD's Procurement Policies and incorporated portions of MWD's procurement policies.

FISCAL IMPACT
None.

STAFF RECOMMENDATION
For discussion.
10. PROCUREMENT POLICIES AND PROCEDURES

10.1 General Provisions

The general provisions of Section 10.1 shall apply to all Sections of this Chapter.

10.1.1 Definitions

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

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

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

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

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

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

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

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

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

10.1.2 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.
10.1.3 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.

10.1.4 Board Approval of Contracts; Signing of Contracts

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

Authority: Water Code § 60622(a)

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

Authority: Water Code § 60622(B)

(c) Where the purchase of materials, supplies, equipment and/or services has previously been authorized by the Board, the General Manager, when it has been determined that it will be in the best interest of the District to do so, may, during the term of the original authorization, purchase from the vendor additional quantities or services, provided the additional cost thereof does not exceed twenty-five percent (25%) of the amount originally authorized.
10.1.5 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.

10.1.6 Claims Against the District

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

10.1.710.2 Advertising for Contracts Competitive Bidding

(a) Before making any contract totaling twenty-five thousand dollars ($25,000.00) or more within any 12-month period, the District shall advertise for bids.

Authority: Water Code § 60602(a)

(b) Notwithstanding subdivision (ia), if a proposed expenditure described in the annual District budget for any item of supplies or services equals or exceeds twenty-five thousand dollars ($25,000.00), the district shall advertise for bids before making any contract for that item during the year to which that budget applies.

(c) The District shall advertise the Contract Solicitation in a newspaper of general circulation in Los Angeles County at least once a week for four consecutive weeks.

(d) The District may advertise Contract Solicitations in a publication of the respective professional society or other publication reasonably calculated to reach its intended audience. The Contract Solicitations may also be made by solicitation to those firms that have indicated in advance their interest in providing the applicable service, by advertising in relevant trade publications, or by notice to lists of known providers.
(e) The Contract Solicitation shall set forth all of the following:

(i) That plans and specifications for the work to be done can be seen and obtained at the District’s offices;

(ii) That the Board will receive sealed bids for the contract;

(iii) That the contract will be awarded to the lowest responsive and responsible bidder; and

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

(f) If less than the whole work provided for in the plans and specifications is to be done, the portion of the work to be performed must be particularly described in the Contract Solicitation.

(g) No Contract Solicitation shall be prepared in a manner that limits participation to a single concern, entity or person except as otherwise permitted by law including, without limitation, Public Contract Code Section 3400, and except upon a finding of necessity by the Board based upon the unique nature of the services or materials to be provided, public emergency, or the demonstrated absence of any alternative providers of such services or materials and the impossibility modifying the District’s requirements to avoid such limitation.

In issuing any Contract Solicitation or awarding any contract, the District shall not discriminate against any contractor or consultant on the basis of race, color, religion, sex, marital status or national origin.

After issuance of a Contract Solicitation, the District shall not change any material provision in the Contract Solicitation except by issuance of a formal written addendum to the Contract Solicitation.

(h) Bids shall be opened in public at the time and place stated in the notice inviting bids. Two (2) District employees and/or representatives shall be present at the bid openings. As each bid is opened, the bidder’s name and bid amount shall be announced. At the conclusion of the bid opening, the name of the apparent low bidder and its bid amount shall be announced. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

(i) Following the public opening of bids, the Board may do any of the following:

(i) Let the work to the lowest responsible bidder;

(ii) Reject any or all bids and readvertise for proposals; or
(iii) Proceed to construct the work under its own superintendence.

Authority: Water Code §§ 60602, 60606, 60608, 60612; Public Contract Code § 1103

Authority: Water Code § 60602(b)

(e) 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:

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

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

• 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).

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

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

• 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)

• 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)

• 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).
10.2.1 Exceptions

Except as otherwise provided in these Procurement Policies and Procedures, the advertising requirements of Sections 10.1.7 do not apply to any of the following contracts:

(a) The recruitment, hiring and dismissal of District employees and officers.
(b) Contracts with other public entities undertaken to perform the purposes and activities of the District.
(c) Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered.
(d) Contracts solely for the purpose of retaining expert witnesses for litigation.
(e) Contracts for proprietary information or systems.
(f) Contracts for professional and services, including, but not limited to, architectural, engineering, environmental, land surveying, geological or construction project management services that are let on the basis of demonstrated competence and on the professional qualifications necessary for 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.
(g) 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.
(h) Contracts for special services and advice in financial, economic, accounting, engineering, legal or administrative matters if such persons are specially trained and experienced and competent to perform the special services required.
(i) When an emergency exists involving a sudden, unexpected occurrence or discovery of a condition or circumstance that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.
(j) In case of an emergency relating to the repair or replacement of District facilities, the District shall comply with Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

Authority: Water Code § 60602(c); Public Contract Code §§ 1102, 20168, 22050; Government Code § 53060

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

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

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

10.1.9 Contract Solicitations

No Contract Solicitation shall be prepared in a manner that limits participation to a single concern, entity or person except as otherwise permitted by law including, without limitation, Public Contract Code Section 3400, and except upon a finding of necessity by the Board based upon the unique nature of the services or materials to be provided, public emergency, or the demonstrated absence of any alternative providers of such services or materials and the impossibility modifying the District's requirements to avoid such limitation.

In issuing any Contract Solicitation or awarding any contract, the District shall not discriminate against any contractor or consultant on the basis of race, color, religion, sex, marital status or national origin.

After issuance of a Contract Solicitation, the District shall not change any material provision in the Contract Solicitation except by issuance of a formal written addendum to the Contract Solicitation.

10.2.2 Splitting Orders Prohibited

It is unlawful to split or separate into smaller orders the purchase of supplies, materials, equipment or services for the purpose of evading the competitive bidding provisions of this Chapter.
10.2.3 Procedures for purchases of less than twenty-five thousand dollars

Where the amount or value involved is more than one thousand dollars ($1,000.00) but less than twenty-five thousand dollars ($25,000.00), the purchase may be made by the General Manager without written bid, and by informal quotes through telephone or mail inquiry, comparison of prices on file or otherwise. Every attempt shall be made to receive at least three price quotations. At the discretion of the Board or General Manager, the competitive bid process specified in Section 10.1.7 may be used for the acquisition of goods and services where the value is more than one thousand dollars ($1,000.00) but less than twenty-five thousand dollars ($25,000.00).

10.3 Construction Contracts

10.3.1 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, soding, or planting of any lot or tract of land for landscaping purposes, the filling, leveling, excavation, or grading of any lot or tract of land, the demolition of buildings, and the removal of buildings.

Authority: Civil Code § 3106.

10.3.2 All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder’s security:

(a) __Cash__

(b) __A cashier’s check made payable to the District__

(c) __A certified check made payable to the District; or__

(d) __A bidder’s bond executed by an admitted surety insurer, made payable to the District__

10.3.3 Upon an award of a Construction Contract to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the District beyond 60 days from the time the award is made.

10.3.4 After bids are opened, but before a Construction Contract is awarded, the District shall verify that the successful bidder is properly licensed as a contractor pursuant to the Contractors State License Law to perform the work for which it submitted a bid at the time its bid was submitted. This duty may be discharged by contacting the Contractors State License Board of the
10.3.5 Every Construction Contract awarded by the District shall provide for the filing with the District of separate payment and performance bonds in accordance with the provisions of Civil Code Sections §§ 3247 and 3248.

10.3.6 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.

(a) The District shall investigate the sufficiency of any payment bond and the surety thereon before it is accepted. The District's duty to investigate may be discharged by (i) verifying that the payment bond is in the form previously approved by the General Manager and the General Counsel, (ii) verifying with the State of California Department of Insurance or other governmental agency charged with maintaining such information that the surety on the bond is an admitted surety insurer, and (iii) ensuring that the payment bond is in the proper amount and complies with any additional requirements set forth in the Contract Solicitation.

Performance bonds shall be in a form approved by the General Manager and the General Counsel conditioned on the full and faithful performance of the contract, in an amount not less than twenty-five percent (25%) of the total amount of the successful bidder's bid, and shall be issued by an admitted surety insurer.

Authority: Water Code § 60610, 60620; Business & Professions Code §§ 7000, et seq; Civil Code §§ 3247, 3248

10.4 Contracts for the Purchase of Materials Only

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.

10.4.1 Contracts for the purchase of materials only shall be awarded to the lowest responsible bidder, except that the Board may reject any or all bids for the
furnishing of materials only and thereafter either readvertise for bids or solicit offers from not less than three (3) responsible Persons to furnish materials.

Authority: Water Code §§ 60616

10.2.2 Advertising for Bids

(a) 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.

(b) 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.

(c) 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.

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

• That plans and specifications for the work to be done can be seen and obtained at the District's offices;

• That the Board will receive sealed bids for the contract;

• That the contract will be awarded to the lowest responsive and responsible bidder; and

• That bids will be publicly opened at a given time and place.

Authority: Water Code § 60606.

10.5 Professional Services Contracts

10.5.1 Evaluation of Proposals and Award of Contracts for Professional Services

(a) 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).

(b) 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).

10.5.2 Faithful Performance Bond; Proof of Insurance

The award of any contract by the Board is contingent upon the receipt and approval by the District of the bond and insurance documentation required by this Section, and, when applicable, 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 Section 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 contract commencement date.

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

(b) Any Person to whom a contract is awarded shall enter into a bond, to be approved by the District, payable to the District for its use, for twenty-five (25)-percent (25%) of the amount of the contract price, conditioned for the full and faithful performance of the contract. The work shall be done under the direction and to the satisfaction of, and be approved by the District.

Authority: Water Code § 60620; Labor Code §§ 3700, et seq.

10.2.3 Small Business Enterprise Outreach Program

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

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

(b) SBE Subcontractor Participation Goal. Notwithstanding the requirement that the District award 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.

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.

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.

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.
Before advertising for bids, the Board may modify the subcontractor participation requirement created by this section for particular procurements, or exempt particular procurements from the subcontractor participation requirement, if the Board determines that it would be in the District's best interest to do so based on the nature of the services, equipment or materials to be procured or other relevant factors.


10.2.4 Submission of Bids; Bidders' Security; Return of Bidders’ Security

For Construction Contracts totaling $25,000 or more:

(a) 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.

(b) 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:

- Cash
- Cashier’s check made payable to the District
- Certified check made payable to the District
- 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

(c) 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.

10.6 Bidder Responsibility and Prequalification

The terms of this Section shall apply to all Sections of this Chapter.

(a) Bidder Responsibility

A “responsible” bidder means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work called for by the Contract Solicitation. The District shall determine whether the bidder is “responsible” by considering the following:
(i) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(ii) The ability of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(iii) The reputation and experience of the bidder;

(iv) The prior and current compliance by the bidder with applicable law;

(v) The sufficiency of the bidder's financial and staffing resources for performing the contract or providing the service;

(vi) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(vii) The ability of the bidder to provide future maintenance and service; and

(viii) The District may include in its Contract Solicitations questions and requests for documentation for the purposes of determining whether a bidder is "responsible." Such questions may concern, without limitation, the bidder's prior experience on projects of a similar nature and size, the bidder's technical capabilities, the bidder's financial capability, and the bidder's references.

(b) Pre-qualification

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


10.2.510.7 Withdrawal of Bids

The terms of this Section shall apply to all Sections of this Chapter.

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.

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:

(a) A mistake was made;

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

(c) The mistake made the bid materially different from the bidder intended it to be; and

(d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.

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

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

10.2.6 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.

10.2.710.8 Interpretation of Bids

The terms of this Section shall apply to all Sections of this Chapter.
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.

10.2.8 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:

(a) Award a contract to the lowest responsive and responsible bidder; or

(b) Reject all bids and, at the District's discretion, re-advertise for bids for the contract; or

(c) Proceed to construct the construction project under its own superintendence.


10.2.9 10.9 Forfeiture of Bid Security

The terms of this Section shall apply to all Sections of this Chapter.

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

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

10.2.10 Performance and Payment Bonds; Proof of Contractor License; Proof of Insurance
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.

(a) Performance and Payment Bonds. 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.

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.

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 (i) verifying that the payment bond is in the form previously approved by the General Manager and the General Counsel, (ii) verifying with the State of California Department of Insurance or other governmental agency charged with maintaining such information that the surety on the bond is an admitted surety insurer, and (iii) ensuring that the payment bond is in the proper amount and complies with any additional requirements set forth in the Contract Solicitation.

Authority: Civil Code § 3248.

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.
(b) Proof of insurance. 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.

(c) Licensed as Contractor. 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.


10.2.11 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.

10.2.12 Contract Solicitations and Construction Contracts—Required Forms

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

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

10.2.13 Bidder Responsibility and Prequalification

(a) Bidder Responsibility

A "responsible" bidder means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work called for by the Contract Solicitation.

The District 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.

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.

(b) Pre-qualification

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 pre-qualify bidders for recurring or particular types of construction contracts, the District may establish pre-qualification procedures in accordance with the provisions of Public Contract Code Section 20101. Any such pre-qualification procedures shall be first approved by the General Manager and the General Counsel.

10.10 Authority: Public Contract Code §§ 1103, 20101. Small Business Enterprise Outreach Program

The terms of this Section shall apply to all Sections of this Chapter.

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

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

(b) SBE Subcontractor Participation Goal. Notwithstanding the requirement that the District award a contract to the lowest responsive and responsible bidder, all bidders for contracts greater than $100,000.00 must subcontract not less than 20% of their bid amount to SBEs or demonstrate that they made good faith efforts to do so. The District will reject as non-
responsive bids by Bidders who fail to either meet the SBE Subcontractor Participation Goal or to demonstrate that they made a good faith effort to meet the SBE Subcontractor Participation Goal.

(i) The term "subcontractor" for purposes of the SBE Subcontractor Participation Goal shall have the meaning set forth at Public Contract Code Section 4113 but shall also include suppliers and materialmen.

(ii) The term "Good Faith Efforts" shall refer to objective criteria formulated and applied uniformly and incorporated in applicable District Contract Solicitations by District staff in consultation with District counsel which shall include:

(1) evidence that the bidder has identified portions of the work that may be subcontracted to SBEs;

(2) evidence that the bidder has contacted SBE certifying agencies to identify potential SBE subcontractors for the portions of the work to be subcontracted;

(3) evidence that the bidder has sent written invitations to bid to SBE subcontractors so identified or to other SBE subcontractors eligible for the work to be subcontracted; and

(4) evidence that the bidder has attempted on at least two occasions to follow up its written invitations to bid and the results of those attempts.

(c) To qualify for the SBE Subcontractor Participation Goal, SBEs must be certified as such at the time a bid is submitted to the District. Proof of certification must be submitted to the District not later than two business days after the deadline for submitting bids. Proof shall include a copy of each SBEs certification or other appropriate documentary evidence by the certifying public entity. Proof of certification shall be subject to verification by the District.

(d) Before advertising for bids, the Board may modify the subcontractor participation requirement created by this section for particular procurements, or exempt particular procurements from the subcontractor participation requirement, if the Board determines that it would be in the District’s best interest to do so based on the nature of the services, equipment or materials to be procured or other relevant factors.

10.11 Bidder Protest of Award

The terms of this Section shall apply to all Sections of this Chapter.

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

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

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

10.12 Required Forms

The terms of this Section shall apply to all Sections of this Chapter.

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

10.13 Surplus Supplies and Equipment

At such times as determined by the General Manager, reports shall be prepared showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The General Manager shall have the authority to sell, trade or exchange all said supplies and equipment. Such sales will be made pursuant to Section 10.1.7.

10.14 Used Equipment

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

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

10.3 Contracts for the Purchase of Materials Only

10.3.1 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.

10.3.2 Advertising for Bids and Award of Contracts—Contracts Equal To or Greater Than $25,000

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.

(a) 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:

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

- That the District will receive sealed bids for the contract;

- That the contract will be awarded to the lowest responsive and responsible bidder, or else the Board shall reject all bids;

- That bids will be publicly opened at a given time and place.
Authority: Water Code § 60616.

(b) 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.

(c) 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.

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

10.3.3 Required Forms

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.

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

10.3.4 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.

10.4 Contracts with Private Architects, Engineering, Geological, Land Surveying, and Construction Project Management Firms

10.4.1 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(e)(6); Government Code §§ 4525, et seq.

10.4.2 Definitions

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).

Construction Project Management. 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).

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

Environmental Services. 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).

10.4.3 Contract Solicitations and Advertising for Professional Construction Services

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)

10.4.4 Evaluation of Proposals and Award of Contracts for Professional Construction Services

(a) 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).

(b) 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).

10.4.5 Required Forms

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.

All Contract Solicitations 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.
10.5 Professional Services Contracts

10.5.1 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)

10.5.2 Required Forms

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

10.6 Service Contracts

10.6.1 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.

(a) 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.

(b) 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

10.6.2 Required Forms

All Contract Solicitations for services under this paragraph, including shall be accomplished using a form approved by the General Manager and the General Counsel.
All Contract Solicitations for services under this paragraph, 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. 7

DATE: OCTOBER 19, 2009

TO: ADMINISTRATIVE COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: CEQA POLICY

SUMMARY
The Administrative Committee requested a review of the District’s compliance with the California Environmental Quality Act (“CEQA”) for applicable projects.

The Committee requested District Counsel review MWD’s Administrative Code - CEQA compliance policy. That policy provides timelines for MWD’s General Manager to follow in ensuring CEQA compliance for MWD projects. MWD’s policy, in pertinent part, states:

Division XI
MISCELLANEOUS
Chapter Sec.
1 Environmental Matters 11100
2 Other Matters 11200
3 Purpose and Effect of Adoption of Administrative Code 11300 Chapter 1 ENVIRONMENTAL MATTERS Sec.
11100. Time Limitation for Completion of Certain Documentation § 11100. Time Limitation for Completion of Certain Documentation.
(a) The maximum time limit for completion of environmental impact reports for District projects described in subdivision (c) of Public Resources Code Section 21065 shall be one year.
(b) The maximum time limit for completion of negative declarations for District projects described in subdivision (c) of Public Resources Code Section 21065 shall be 105 days.
(c) The time limits provided for in Sections 11100(a) and 11100(b) shall be measured from the date on which an application requesting approval of a project subject to such limits is received and accepted as complete by the General Manager.
(d) The General Manager is delegated the authority to adopt lists and criteria by which to determine the completeness of applications.
(e) Reasonable extensions of the aforesaid time periods may be made by the General Manager in the event Title 14 California Administrative Code Section 15109 or other applicable law permits additional time.
(f) This chapter is only applicable to projects for which the District is a lead agency as defined in Division 13 of the Public Resources Code and Division 6, Chapter 3 of 14 California Administrative Code.
FISCAL IMPACT
None.

STAFF RECOMMENDATION
For discussion.