

**MIDWAY CITY SANITARY DISTRICT
REGULAR MEETING
BOARD OF DIRECTORS
DISTRICT OFFICE
14451 CEDARWOOD AVENUE
WESTMINSTER, CA**

**Tuesday, April 4, 2023
5:30 P.M.**

AGENDA

OUR MISSION STATEMENT

THE BOARD OF DIRECTORS AND EMPLOYEES OF MIDWAY CITY SANITARY DISTRICT WORK DILIGENTLY TO PROVIDE SEWER AND SOLID WASTE SERVICES TO THE RESIDENTS OF THE DISTRICT. OUR TOP PRIORITY IS TO ACCOMPLISH THIS IN AN ETHICAL, EFFICIENT, AND COST-EFFECTIVE MANNER THAT WILL PROTECT THE HEALTH AND SAFETY OF THOSE WE SERVE.

In accordance with the requirements of California Government Code Section 54954.2, this Agenda is posted not less than 72 hours prior to the meeting date and time above. All written materials relating to each agenda item are available for public inspection in the office of the Board Secretary.

In the event any matter not listed on this agenda is proposed to be submitted to the Board for discussion and/or action, it will be done in compliance with Section 54954.2, or as set forth on a Supplemental Agenda posted not less than 72 hours prior to the meeting.

Please Note: The District complies with the provisions of the Americans with Disabilities Act (ADA). Anyone needing special assistance please contact the District's Secretary at (714) 893-3553, at least one business day prior to the meeting so that we may accommodate you.

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE AND INVOCATION**
- 2. ROLL CALL AND DECLARATION OF QUORUM**
- 3. PUBLIC COMMENTS**

All persons wishing to address the Board on specific Agenda items or matters of general interest should do so at this time. As determined by the President, speakers may be deferred until the specific item is taken for discussion and remarks may be limited to three (3) minutes.

4. APPROVAL OF THE MINUTES

- A. Approval of the Minutes of the Regular Meeting on March 21, 2023

5. APPROVAL OF EXPENDITURES

- A. Approval of Demands in the Amount of \$1,196,468.01

6. REPORTS

The President, General Manager, General Counsel and other staff present verbal reports on miscellaneous matters of general interest to the Directors. These reports are for information only and require no action by the Directors.

- A. Report of President
- B. Report of General Manager
- C. Report from the District Luncheon on March 22, 2023
- D. Report from OC San District Meeting on March 22, 2023
- E. Report from the Building Project Ad Hoc Committee Meeting on March 28, 2023
- F. Report from the ISDOC Virtual Quarterly Meeting on March 30, 2023

7. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered routine and will be acted upon at the same time unless separate discussion and/or action is requested by a Board Member, the public, or staff.

- A. Approve the Statement of Work for Audit Services, the Agreed-upon Procedures, and Compilation & Preparation Between the Midway City Sanitary District and CliftonLarsonAllen, LLP to Perform the Independent Audit for Fiscal Year 2022-2023
- B. Approve Request of Solid Waste Driver Robert Mayfield to Received 40 hours of Vacation Pay in Lieu of Time Off Due to Financial Hardship

8. OLD BUSINESS:

None

9. NEW BUSINESS

- A. CONSIDERATION OF RESOLUTION NO. 2023-09 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, APPROVING AMENDED PURCHASING POLICY AND PROCEDURES **(Roll Call Vote)**
- B. Consider Approval of a Consultant Agreement between the Midway City Sanitary District and Kenneth Robbins to Provide Temporary Consulting and Advisory Services in an Amount Not to Exceed \$15,600

- C. Consider Approval of Notice of Termination / Non-Renewal of the Automatic Renewal and Extension Provision of the Exclusive Franchise Agreement with CR&R Incorporated

10. INFORMATIONAL ITEMS

- A. March 29, 2023 CR&R Request for Support to Utilize Landfills Outside of Orange County

11. BOARD CONCERNS/COMMENTS

12. GM/STAFF CONCERNS/COMMENTS

13. GENERAL COUNSEL CONCERNS/COMMENTS

14. CLOSED SESSION

CLOSED SESSION: During the course of conducting the business set forth on this agenda as a regular meeting of the Board, the Chair may convene the Board in closed session to consider matters of pending real estate negotiations, pending or potential litigation, or personnel matters, pursuant to Government Code Sections 54956.8, 54956.9, 54957 or 54957.6, as noted.

Reports relating to (a) purchase and sale of property; (b) matters of pending or potential litigation; (c) employment actions or negotiations with employee representatives; or which are exempt from public disclosure under the California Public Records Act, may be reviewed by the Board during a permitted closed session and are not available for public inspection. At such time as the Board takes final action on any of these subjects, the minutes will reflect all required disclosures of information.

- A. CONFERENCE WITH LABOR WITH LABOR NEGOTIATORS (Government Code Section 54957.6) Agency Designated Representatives: Interim General Manager Robert Housley and Labor Counsel Joseph Larsen, Employee Organization: American Federation of State, County, and Municipal Employees, LOCAL 1734-01

15. ADJOURNMENT TO TUESDAY, APRIL 18, 2023

**MINUTES OF THE REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE MIDWAY CITY
SANITARY DISTRICT OF ORANGE COUNTY
14451 CEDARWOOD AVENUE
WESTMINSTER, CA 92683**

March 21, 2023

CALL TO ORDER

President T. Diep called the regular meeting of the Governing Board of the Midway City Sanitary District to order at 14451 Cedarwood Avenue, Westminster, California on Tuesday, March 21, 2023 at 5:36 PM.

BOARD MEMBERS PRESENT:

Tyler Diep
Andrew Nguyen
Chi Charlie Nguyen
Sergio Contreras
Mark Nguyen

STAFF PRESENT:

Robert Housley, General Manager
Cynthia Olsder, Executive/Board Secretary
Nick Castro, Director of Operations/Safety
Milo Ebrahimi, District Engineer

OTHERS PRESENT:

James Eggart, General Counsel

PLEDGE AND INVOCATION

Director of Operations & Safety led the Pledge of Allegiance. General Counsel gave the Invocation.

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MARCH 7, 2023

A motion was made by Director A. Nguyen, seconded by Director S. Contreras, to approve the minutes of the Regular Meeting of March 7, 2023. The motion was approved by the following 5-0 vote:

AYES: A. Nguyen, C. Nguyen, M. Nguyen, S. Contreras, T. Diep

NAYS:

ABSTAIN:

ABSENT:

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$294,682.97

#	CK #	DATE	AMOUNT	VENDOR CHECKS:	MEMO:
1	14447	3/2	36.96	Betty Jo Greene	Refund for check # 338 received on 2/17/23 - Deposit 02/23/23
2	14448	3/2	1,891.48	Clean Energy	CNG Station site inspection
3	14449	3/2	568.74	Cummins Pacific LLC	Pressure sensor for solid waste
4	14450	3/2	287.11	Daniels Tire Service	Restock tires for solid waste
5	14451	3/2	98.02	Spectrum Enterprise (Time Warner Cable)	Internet Services Feb-2023
6	14452	3/2	1,348.16	Standard Insurance Company Life	Life Insurance & AD&D premiums
7	14453	3/10	560.00	Ayala's Car Wash	Washing and cleaning of district's fleet
8	14454	3/10	2,942.93	Bodyworks Equip. Inc.	Parts for Heil system for solid waste trucks
9	14455	3/10	106.90	Cameron Welding Supply	Propane for Shop
10	14456	3/10	208.44	City of Westminster-Water Billing	Westminster lift station water
11	14457	3/10	899.95	CRC Cloud	Monthly IT maintenance & Support
12	14458	3/10	2,119.28	Cummins Pacific LLC	Valve pressure and elbow adapter for solid waste
13	14459	3/10	45.90	Cynthia Loan Olsder	Employee reimbursements
14	14460	3/10	2,270.92	Daniels Tire Service	Restock tires for solid waste
15	14461	3/10	741.14	Driveshaftpro	Mack system parts for solid waste trucks
16	14462	3/10	612.75	Frontier Communications	District office phones & lift stations
17	14463	3/10	743.09	Haaker Equipment Co.	Sewer supplies for sewer trucks
18	14464	3/10	1,450.00	Me Viet Nam Productions	Talk Show 15 minute (5) 2/11-26/23
19	14465	3/10	14,523.20	Orange County Sanitation District	Permit Fees Feb-2023
20	14466	3/10	66.56	Petty Cash - Robert Housley	Petty Cash Feb-2023
21	14467	3/10	1,821.46	Pro-Vision, Inc.	Camera system for Samara system for new truck NG-18
22	14468	3/10	1,650.00	Radio Bolsa Corp.	Radio talk shows (5) 3/7-10/23
23	14469	3/10	59,900.00	Rengel + Company Architects, Inc	Building project management Feb-2023
24	14470	3/10	4,201.59	SDRMA - Employee Benefits	Dental and vision benefits
25	14471	3/10	348.67	SoCal Auto & Truck Parts, Inc.	Tools and supplies for shop use
26	14472	3/10	14,956.31	SoCalGas	Natural Gas for offices, shop, and wash rack
27	14473	3/10	300.00	Streamline	Website monthly member fee
28	14474	3/10	27.50	Underground Service Alert	Underground dig alerts Feb-2023
29	14475	3/10	555.48	UniFirst Corporation	Employee uniform & laundry services
30	14476	3/10	10,222.00	Woodruff, Spradlin & Smart	Legal Services Jan-2023
31			\$ 125,504.54	CHECKS SUBTOTAL	
32					
33				PAYROLL:	MEMO
34	ACH	3/3	\$ 7,977.82	Paychex	Board of Directors Payroll - Checks, Taxes, & Direct Deposits
35	ACH	3/3	\$ 823.50	Nationwide Retirement Solutions	457 Deferred Compensation (Board of Directors)
36	ACH	3/8	\$ 78,696.39	Paychex	Employee Payroll - Checks, Taxes, & Direct Deposits
37	ACH	3/8	\$ 5,519.23	Nationwide Retirement Solutions	457 Deferred Compensation (Employees)
38			\$ 93,016.94	ACH TRANSFERS SUBTOTAL	
39					
40				ACH PAYMENTS:	MEMO
41	ACH	3/2	\$ 6,874.74	CalPERS	Board of Directors Health Insurance Premiums for Mar-23
42	ACH	3/2	\$ 67,566.95	CalPERS	Active Employee and Retiree Health Ins Premiums Mar-23
43	ACH	3/13	1,719.80	Chevron Texaco (Wex Bank)	Gasoline and diesel fuel for Mar-23
44			\$ 76,161.49	ACH TRANSFERS SUBTOTAL	
45					
46			\$ 294,682.97	TOTAL EXPENDITURES (ACCOUNTS PAYABLE CHECKS, PAYROLL, ACH TRANSFERS)	
47					

A motion was made by Director C. Nguyen, seconded by Director A. Nguyen, to approve the expenditure in the amount of \$294,682.97. The motion was approved by the following 5-0 vote:

AYES: S. Contreras, A. Nguyen, C. Nguyen, M. Nguyen, T. Diep

NAYS:

ABSTAIN:

ABSENT:

REPORTS

Report of President:

None

Report of Interim General Manager

GM, R. Housley introduced the District Engineer, Milo Ebrahimi. He reported that the building construction project is still delayed due to rain. He reported that Anthony Torres-Gomez, one of the drivers, had been recognized by the District for his exceptional customer service and given a gift certificate. He reported that an email will be sent out setting up a date for a field trip to the CR&R Anaerobic Digestion Plant for April from 9 am to 3 pm. Additionally, GM R. Housley reported that he encouraged staff members to participate in a number of online webinars offered by OC San to better acquaint staff with the agency and its services.

Report from VietLink Radio Outreach on March 2, 2023

Director A. Nguyen and Director C. Nguyen attended the radio recording to discuss the District's services and forthcoming events.

Report from Radio Bolsa Radio Outreach on March 6, 2023

Director M. Nguyen and Director S. Contreras attended the radio recording to discuss the District's services and forthcoming events.

Report from VNCR Radio Outreach on March 6, 2023

Director A. Nguyen and Director C. Nguyen attended the radio recording to discuss the District's services and forthcoming events.

Report from OC San District Special Meeting on March 8, 2023

Director A. Nguyen reported that this was the first in-person meeting and it primarily focused on refreshing, updating and reviewing the procedure.

Report from Franchise Committee Meeting on March 10, 2023

Director S. Contreras reported that he would like the District to coordinate with CR&R to organize an educational event with the Westminster school district.

GM R. Housley explained how CR&R determines when to deliver the organic bins. He reported that the organic bins are being rolled out based on the account number and the date the owner signed up for service. Additionally, he reported that 30-40% of the organic bins have been rolled out. Going forward, CR&R will distribute the organic bin by area so that everyone in the same geographic area has it delivered at the same time, and CR&R will continue to work on providing information about the organic bin drop off to the property owners. At the next franchise meeting, CR&R will present dates for a residential and commercial characterization study.

Director C. Nguyen reported that the District should consider collaborating with the City of Westminster's Community Preservation Unit (CPU) to help remove unsightly garbage and other refuse littering the community.

Report from the Clean-up Event at Westminster Village Park on March 11, 2023

Director A. Nguyen reported that the event's low attendance may have been caused by the weather.

President T. Diep reported that he has suggested new ideas to the General Manager for promoting the clean-up events.

Report from the Building Project Ad Hoc Committee on March 14, 2023

Director S. Contreras and Director M. Nguyen reported that everything is proceeding as planned and deferred to GM R. Housley to give an update.

Director C. Nguyen stated that he would like the District to seek a second opinion before approving any change order forms.

Report from the Open House Assemblymember Tri Ta on March 16, 2023

It was a respectable turnout, according to the Directors. Residents, elected officials, and police officers gathered to congratulate him.

CONSENT CALENDAR

- A. Approve and File the Treasurer's Investment Report for February 2023
- B. Approve the March 10, 2023, Franchise Committee Report

A motion was made by Director S. Contreras, seconded by Director A. Nguyen, to approve the Consent Calendar. The motion was approved by the following 5-0 vote:

AYES: S. Contreras, A. Nguyen, M. Nguyen, C. Nguyen, T. Diep
NAYS:
ABSTAIN:
ABSENT:

OLD BUSINESS:

None

NEW BUSINESS

A. Consider Rescheduling the May 16, 2023 Regular Board Meeting

A staff report and recommendation were provided and considered by the Board. A motion was made by President T. Diep, seconded by Director S. Contreras, to approve rescheduling the May 16, 2023 Regular Board Meeting to May 15, 2023 at 5:30 p.m. The motion was approved by the following 5-0 vote:

AYES: S. Contreras, A. Nguyen, M. Nguyen, C. Nguyen, T. Diep

NAYS:

ABSTAIN:

ABSENT:

B. Consider and Approve Scheduling the Public Budget Workshops/Study Sessions and Public Hearing for Budget Adoption for Fiscal Year 2023-2024

A staff report and recommendation were provided and considered by the Board. A motion was made by President T. Diep, seconded by Director C. Nguyen, to schedule the first and second public budget workshops/study sessions for April 17, 2023 at 5:30 p.m. and May 22, 2023 at 5:30 p.m. and to schedule the Public Hearing for budget adoption for fiscal year 2023-2024 for June 6, 2023 at 5:30 p.m. The motion was approved by the following 5-0 vote:

AYES: S. Contreras, A. Nguyen, M. Nguyen, C. Nguyen, T. Diep

NAYS:

ABSTAIN:

ABSENT:

C. Consider Authorizing the General Manager to Purchase Up to Three (3) New Class C Passenger Vehicles in an Amount Not To Exceed a Total of \$160,000.00

A staff report and recommendation were provided and considered by the Board. A motion was made by President T. Diep, seconded by Director S. Contreras, to authorize the General Manager to negotiate and enter into a contract on behalf of the District to purchase one (1) new class "C" passenger vehicle for District staff job-related use within the annual budgeted amount of \$160,000.00 for vehicle purchases. The motion was approved by the following 5-0 vote:

AYES: S. Contreras, A. Nguyen, M. Nguyen, C. Nguyen, T. Diep

NAYS:

ABSTAIN:

ABSENT:

D. Review and Discussion on Tires Purchased and Repaired for the District’s Fleet of Heavy-Duty Trucks and Vehicles

A staff report was provided and considered by the Board. A motion was made by Director C. Nguyen, seconded by Director A. Nguyen, to receive and file the report. The motion was approved by the following 5-0 vote:

AYES: S. Contreras, A. Nguyen, M. Nguyen, C. Nguyen, T. Diep
NAYS:
ABSTAIN:
ABSENT:

E. A RESOLUTION NO. 2023-08 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY CALIFORNIA, ESTABLISHING A VOLUNTEER INTERNSHIP PROGRAM

A staff report and recommendation were provided and considered by the Board. A motion was made by Director C. Nguyen, seconded by Director S. Contreras, to adopt Resolution No.2023-08, approving the establishment of a volunteer internship program. The motion was approved by the following 5-0 roll call vote:

AYES: S. Contreras, A. Nguyen, M. Nguyen, C. Nguyen, T. Diep
NAYS:
ABSTAIN:
ABSENT:

INFORMATIONAL ITEMS

- 1. City of Westminster Bunny Hop Events

Received and File

BOARD CONCERNS/COMMENTS

The Directors welcomed Milo Ebrahimi to the District.

President T. Diep reminded the Directors of the District Employee luncheon on March 22, 2023.

Director C. Nguyen thanked staffs who participated in the Westminster Village Park Clean-up event.

GM/STAFF CONCERNS/COMMENT

GM, R. Housley commented that banners, door hangers, and yard signs for the Clean-up event had been ordered and would be ready for the April event.

GM, R. Housley shared that the administration luncheon day is set for Thursday, April 27, 2023.

GENERAL COUNSEL CONCERNS/COMMENTS

None

CLOSED EXECUTIVE SESSION

CLOSED SESSION: During the course of conducting the business set forth on this agenda as a regular meeting of the Board, the Chair may convene the Board in closed session to consider matters of pending real estate negotiations, pending or potential litigation, or personnel matters, pursuant to Government Code Sections 54956.8, 54956.9, 54957 or 54957.6, as noted.

Reports relating to (a) purchase and sale of property; (b) matters of pending or potential litigation; (c) employment actions or negotiations with employee representatives; or which are exempt from public disclosure under the California Public Records Act, may be reviewed by the Board during a permitted closed session and are not available for public inspection. At such time as the Board takes final action on any of these subjects, the minutes will reflect all required disclosures of information.

- A. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)
Agency Designated Representatives: Interim General Manager Robert Housley and Labor Counsel Joseph Larsen, Employee Organization: American Federation of State, County, and Municipal Employees, LOCAL 1734-01

The Board did not convene into closed session.

ADJOURNMENT

President T. Diep adjourned the meeting at 6:55 p.m. to the next Board meeting to be held at the District on Tuesday, April 4, 2023 at 5:30 p.m.

Andrew Nguyen, Secretary

AGENDA ITEM 5A

Date: April 4, 2023

To: Board of Directors

Prepared by: Robert Housley, Director of Finance & Human Resources

Subject: Approval of Demands in the Amount of \$1,196,468.01

BACKGROUND

The laws of the State of California governing Special Districts provide that the Midway City Sanitary District Board of Directors shall review for approval all payments made by the District.

A Register of Demands is provided at each regular Midway City Sanitary District Board Meeting describing each payment made or to be made by the District during the specified period. The report is designed to communicate fiscal activity based upon adopted and approved budget appropriations.

The demands on the attached register have been duly reviewed by the Treasurer.

FISCAL IMPACT

The total value of demands for this period is \$1,196,468.01. This includes expenses, payroll and payroll related disbursements.

Sufficient funds are available to process all payments.

RECOMMENDATION

Staff recommends that the Board of Directors review and approve the attached Register of Demands.

**DISBURSEMENTS FOR
April 4, 2023**

#	CK #	DATE	AMOUNT	VENDOR CHECKS:	MEMO:
1	14477	3/23	1,079.47	Anthony J. Vela	Reimburse sewer and trash ADU 2019-23
2	14478	3/23	468.81	AT&T (Brookhurst Lift Station)	Brookhurst Mar-2023
3	14479	3/23	379.16	AT&T Mobility (First Net)	Cell phone service Feb-2023
4	14480	3/23	670.00	Ayala's Car Wash	Washing and cleaning of district's fleet
5	14481	3/23	3,949.79	Bodyworks Equip. Inc.	Heil parts for solid waste trucks
6	14482	3/23	557.45	Cameron Welding Supply	Welding supplies for shop
7	14483	3/23	84.94	City of Westminster Hydrant	Hydrant water service Mar-2023
8	14484	3/23	190,971.98	CR Transfer, Inc.	Tonnage Fees Jan-2023
9	14485	3/23	359.90	CRC Cloud	Computer software for admin staff
10	14486	3/23	19,296.91	Cummins Pacific LLC	Engine and valve repairs to solid waste trucks
11	14487	3/23	2,669.26	Daniels Tire Service	Restock tires for solid waste
12	14488	3/23	5,890.00	Davis Farr LLP	Accounting assistance Jan-2023
13	14489	3/23	1,268.56	Driveshaftpro	Drive shaft for solid waste trucks
14	14490	3/23	659.47	Hillco Fastener Warehouse Inc.	Restock lock nuts and bolts for solid waste
15	14491	3/23	828.36	Merchants Building Maintenance, LLC	Janitorial services Mar-2023
16	14492	3/23	1,528.02	Motion and Flow Control Products, Inc.	Hydraulic hoses for solid waste truck
17	14493	3/23	91,109.98	Orange County Treasurer-Tax Collector	General election held on 11/08/22
18	14494	3/23	114.00	Paychex - Employee Screening	New hire employee screening
19	14495	3/23	252.22	Pitney Bowes Global Financial Services	Postage machine 04/10 - 07/09/23
20	14496	3/23	201.00	Pitney Bowes/Purchase Power	Postage for Feb-2023
21	14497	3/23	416.50	Rutan & Tucker, LLP	Legal Services Feb-2023
22	14498	3/23	1,803.52	Safety-Kleen Systems, Inc.	Hydraulic oil for solid waste trucks
23	14499	3/23	490.26	Snap-On Tools	Tools for shop use
24	14500	3/23	125.12	SoCalGas	Natural Gas for offices, shop, and wash rack
25	14501	3/23	1,349.00	Spectrum Enterprise (Time Warner Cable)	Internet Services Mar-2023
26	14502	3/23	322.17	Staples Business Credit	Membership fee Feb-2023
27	14503	3/23	414,024.84	TEC of California, Inc. - Trucks	Mack truck front loader 2023
28	14504	3/23	555.48	UniFirst Corporation	Employee uniform & laundry services
29	14505	3/23	1,500.00	Viet Link Radio	Radio outreach
30	14506	3/23	2,062.50	VNCR	Radio outreach
31	14507	3/23	243,736.33	Woodcliff Corporation - Contractor	Building project pay application #5 Feb-2023
32	14508	3/23	12,828.23	Woodcliff Corporation - Escrow Account	Building project pay application #5 - Retention payment
33	14509	3/23	8,900.50	Woodruff, Spradlin & Smart	Legal services Feb-2023
34			\$ 1,010,453.73	CHECKS SUBTOTAL	
35					
36				PAYROLL:	MEMO
37	ACH	3/22	\$ 77,256.37	Paychex	Employee Payroll - Checks, Taxes, & Direct Deposits
38	ACH	3/22	\$ 5,645.28	Nationwide Retirement Solutions	457 Deferred Compensation (Employees)
39			\$ 82,901.65	ACH TRANSFERS SUBTOTAL	
40					
41				ACH PAYMENTS:	MEMO
42	ACH	3/8	\$ 15,252.31	CalPERS	Retirement Contributions for 02/20-03/05/23
43	ACH	3/22	\$ 15,391.27	CalPERS	Retirement Contributions for 03/06-03/19/23
44	ACH	3/24	\$ 6,874.74	CalPERS	Board of Directors Health Insurance Premiums for Apr-23
45	ACH	3/24	\$ 65,594.31	CalPERS	Active Employee and Retiree Health Ins Premiums Apr-23
46			\$ 103,112.63	ACH TRANSFERS SUBTOTAL	
47					
48			\$ 1,196,468.01	TOTAL EXPENDITURES (ACCOUNTS PAYABLE CHECKS, PAYROLL, ACH TRANSFERS)	
49					
50				BANK TRANSFERS:	
51	UB	3/14	\$ 665,000.00	Transfer Funds from UB Money Market to UB Checking	
52	UB	3/23	\$ 500,000.00	Transfer Funds from LAIF to UB Checking	
53			\$ 1,165,000.00	BANK TRANSFERS	

AGENDA ITEM 7A

Date: April 4, 2023

To: Board of Directors

Prepared by: Robert Housley, General Manager

Subject: Approve the Statement of Work for Audit Services, the Agreed-upon Procedures, and Compilation & Preparation Between the Midway City Sanitary District and CliftonLarsonAllen, LLP to Perform the Independent Audit for Fiscal Year 2022-2023

BACKGROUND

At the January 7, 2020 meeting, the Board of Directors selected CliftonLarsonAllen LLP (CLA) to provide independent audit services for the Midway City Sanitary District beginning for FY 19-20, for a total period of five (5) years, and ending with FY 23-24.

Local government agencies are required by law to have an independent audit of their annual financial statements. The purpose of this audit is for the independent audit firm to express an opinion about whether the financial statements are free of material misstatements and in conformance with generally accepted accounting principles and in compliance with the Government Accounting Standards Board Statements.

The Board of Directors is directly responsible for the appointment, compensation, retention, and oversight of the work of any independent accountants engaged for the purpose of preparing or issuing an independent audit report or performing other independent audit, review, or attest services. All independent accounting firms are thus engaged to report directly to the Board of Directors.

The Statement of Work letters for engagement are attached for review and approval.

STAFF RECOMMENDATION

Staff recommends that the Board of Directors approve the statement of work for audit services, the agreed-upon procedures, and compilation & preparation between the Midway City Sanitary District and CliftonLarsonAllen, LLP to perform the independent audit for Fiscal Year 22-23.

FISCAL IMPACT

Per the Statement(s) of Work, gross fees for services and materials will not exceed \$25,000. For comparison purposes, last year's cost was \$19,490.

Attachments:

1. CLA Statement of Work - Audit Services 22-23 (pink)
2. CLA Statement of Work - Compilation & Preparation 22-23 (purple)
3. CLA Statement of Work - Agreed-upon Procedures 22-23 (blue)



Statement of Work - Audit Services

March 21, 2023

This document constitutes a statement of work ("SOW") pursuant to our contract, Professional Services Agreement, related to CliftonLarsonAllen LLP ("CLA," "we," "us," and "our") audit of Midway City Sanitary District ("you," "your," or "the entity") financial statements for the year ended June 30, 2023.

This SOW communicates, among other things, certain matters required by our professional standards, confirms our understanding of the scope and objectives of the engagement, identifies the responsibilities of both CLA and the entity as it relates to the conduct of the audit, and describes the nature and limitations of the services we will provide to you, including nonaudit services.

Kassie Radermacher, CPA, CFE, is responsible for the performance of the audit engagement.

Scope of audit services

We will audit the financial statements of the entity as of and for the year ended June 30, 2023, which collectively comprise the basic financial statements of Midway City Sanitary District, and the related notes to the financial statements.

The Governmental Accounting Standards Board (GASB) provides for certain required supplementary information (RSI) to accompany the entity's basic financial statements.

The following RSI will be subjected to certain limited procedures, but will not be audited.

- Management's discussion and analysis.
- GASB-required supplementary pension and OPEB schedules.

Nonaudit services

We will also provide the following nonaudit services:

- Preparation of your financial statements and the related notes.
- Preparation of the required supplementary information (RSI).

Audit objectives

The objectives of our audit of the financial statements are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to

issue an auditors' report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP). Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS) will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

Our audit will be conducted in accordance with U.S. GAAS and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require us to be independent of the entity and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. Our audit will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinions.

We will apply certain limited procedures to the RSI in accordance with U.S. GAAS. However, we will not express an opinion or provide any assurance on the RSI because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. We will also perform procedures to enable us to express an opinion on whether the supplementary information (as identified above) other than RSI accompanying the financial statements is fairly stated, in all material respects, in relation to the financial statements as a whole.

We will issue a written report upon completion of our audit of your financial statements.

Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph to our auditors' report, or if necessary, withdraw from the engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming opinions on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express opinions or issue a report, or withdrawing from the engagement.

We will also provide a report (which does not include an opinion) on internal control over financial reporting and on compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements, as required by Government Auditing Standards. The report on internal control over financial reporting and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) that the report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that the entity is subject to an audit requirement

that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit conducted in accordance with U.S. GAAS and the standards for financial audits contained in Government Auditing Standards may not satisfy the relevant legal, regulatory, or contractual requirements.

Auditor responsibilities, procedures, and limitations

We will conduct our audit in accordance with U.S. GAAS and the standards for financial audits contained in *Government Auditing Standards*.

Those standards require that we exercise professional judgment and maintain professional skepticism throughout the planning and performance of the audit. As part of our audit, we will:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and evaluate whether audit evidence obtained is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the amounts and disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on our evaluation of audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the entity's ability to continue as a going concern for a reasonable period of time.

Although our audit planning has not been concluded and modifications may be made, we have identified the following significant risks of material misstatement as part of our audit planning:

- Management override of controls.
- Revenue recognition.

There is an unavoidable risk, because of the inherent limitations of an audit, together with the inherent limitations of internal control, that some material misstatements may not be detected, even though the audit is properly planned and performed in accordance with U.S. GAAS and Government Auditing Standards. Because we will not perform a detailed examination of all transactions, material misstatements, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations

of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity, may not be detected. Because the determination of waste and abuse is subjective, Government Auditing Standards do not require auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management and those charged with governance of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management and those charged with governance of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential.

Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting fraud or errors that are material to the financial statements and to preventing and detecting misstatements resulting from noncompliance with provisions of laws, regulations, contracts, and grant agreements that have a material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*. An audit is not designed to provide assurance on internal control or to identify deficiencies, significant deficiencies, or material weaknesses in internal control. However, we will communicate to you in writing significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we identify during the audit that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the entity's compliance with the provisions of laws, regulations, contracts, and grant agreements that have a material effect on the financial statements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to Government Auditing Standards.

We will include in our report on internal control over financial reporting and on compliance relevant information about any identified or suspected instances of fraud and any identified or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements that may have occurred that are required to be communicated under Government Auditing Standards.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Management responsibilities

Our audit will be conducted on the basis that you (management and, when appropriate, those charged with governance) acknowledge and understand that you have certain responsibilities that are fundamental to the conduct of an audit.

You are responsible for the preparation and fair presentation of the financial statements and RSI in accordance with U.S. GAAP.

Management's responsibilities include the selection and application of accounting principles; recording and reflecting all transactions in the financial statements; determining the reasonableness of significant accounting estimates included in the financial statements; adjusting the financial statements to correct material misstatements; and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the entity's ability to continue as a going concern for 12 months beyond the financial statement date.

You are responsible for the design, implementation, and maintenance of effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including evaluating and monitoring ongoing activities and safeguarding assets to help ensure that appropriate goals and objectives are met. You are responsible for the design, implementation, and maintenance of internal controls to prevent and detect fraud; assessing the risk that the financial statements may be materially misstated as a result of fraud; and for informing us about all known or suspected fraud affecting the entity involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for implementing systems designed to achieve compliance with applicable laws and regulations and the provisions of contracts and grant agreements; identifying and ensuring that the entity complies with applicable laws, regulations, contracts, and grant agreements; and informing us of all instances of identified or suspected noncompliance whose effects on the financial statements should be considered. You are responsible for taking timely and appropriate steps to remedy any fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we may report.

You are responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including amounts and disclosures, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters, and for the accuracy and completeness of that information (including information from within and outside of the general and subsidiary ledgers); (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.

You agree to inform us of events occurring or facts discovered subsequent to the date of the financial statements that may affect the financial statements.

Management is responsible for providing us with a written confirmation concerning representations made by you and your staff to us in connection with the audit and the presentation of the basic financial statements and RSI. During our engagement, we will request information and explanations from you

regarding, among other matters, the entity's activities, internal control, future plans, specific transactions, and accounting systems and procedures. The procedures we will perform during our engagement and the conclusions we reach as a basis for our report will be heavily influenced by the representations that we receive in the representation letter and otherwise from you. Accordingly, inaccurate, incomplete, or false representations could cause us to expend unnecessary effort or could cause a material fraud or error to go undetected by our procedures. In view of the foregoing, you agree that we shall not be responsible for any misstatements in the entity's financial statements that we may fail to detect as a result of misrepresentations made to us by you.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies to us of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the "Audit objectives" section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other engagements or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

Responsibilities and limitations related to nonaudit services

For all nonaudit services we may provide to you, management agrees to assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience to understand and oversee the services; evaluate the adequacy and results of the services; and accept responsibility for the results of the services. Management is also responsible for ensuring that your data and records are complete and that you have received sufficient information to oversee the services.

Use of financial statements

Should you decide to include or incorporate by reference these financial statements and our auditors' report(s) thereon in a future private placement or other offering of equity or debt securities, you agree that we are under no obligation to re-issue our report or provide consent for the use of our report in such a registration or offering document. We will determine, at our sole discretion, whether we will re-issue our report or provide consent for the use of our report only after we have performed the procedures we consider necessary in the circumstances. If we decide to re-issue our report or consent to the use of our report, we will be required to perform certain procedures including, but not limited to, (a) reading other information incorporated by reference in the registration statement or other offering document and (b) subsequent event procedures. These procedures will be considered an engagement separate and distinct from our audit engagement, and we will bill you separately. If we decide to re-issue our report or consent to the use of our report, you agree that we will be included on each distribution of draft offering materials and we will receive a complete set of final documents. If we decide not to re-issue our report or decide to withhold our consent to the use of our report, you may be required to engage another firm to audit periods covered by our audit reports, and that firm will likely bill you for its services. While the successor auditor may request access to our workpapers for those periods, we are under no obligation to permit such access.

If the parties (i.e., you and CLA) agree that CLA will not be involved with your official statements related to municipal securities filings or other offering documents, we will require that any official statements or other offering documents issued by you with which we are not involved clearly indicate that CLA is not involved with the contents of such documents. Such disclosure should read as follows:

CliftonLarsonAllen LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. CliftonLarsonAllen LLP also has not performed any procedures relating to this offering document.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website or submitted on a regulator website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in those sites or to consider the consistency of other information in the electronic site with the original document.

We may issue preliminary draft financial statements to you for your review. Any preliminary draft financial statements should not be relied on or distributed.

Engagement administration and other matters

We expect to begin our audit in August 2023.

We understand that your employees will prepare all confirmations, account analyses, and audit schedules we request and will locate any documents or invoices selected by us for testing. A list of information we expect to need for our audit and the dates required will be provided in a separate communication.

We will provide copies of our reports to the entity; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing confidential or sensitive information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the sole and exclusive property of CLA and constitutes confidential and proprietary information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to California State Controller's Office, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of CLA personnel. Furthermore, upon request, we may provide copies or electronic versions of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date or for any additional period requested by the California State Controller's Office. If we are aware that a federal or state awarding agency, pass-through entity, or auditee is contesting an audit

finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Professional standards require us to be independent with respect to you in the performance of these services. Any discussion that you have with our personnel regarding potential employment with you could impair our independence with respect to this engagement. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence and objectivity. Further, any employment offers to any staff members working on this engagement without our prior knowledge may require substantial additional procedures to ensure our independence. You will be responsible for any additional costs incurred to perform these procedures.

Our audit engagement ends on delivery of our signed report. Any additional services that might be requested will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific SOW for that service.

Government Auditing Standards require that we make our most recent external peer review report publicly available. The report is posted on our website at www.CLAconnect.com/Aboutus/.

Fees

Our professional fees will not exceed \$23,230, which includes the entity's audit and the management letter. This estimate is based on anticipated cooperation from your personnel and their assistance with locating requested documents and preparing requested schedules. If the requested items are not available on the dates required or are not accurate, the fees and expenses will likely be higher. Our invoices, including applicable state and local taxes, will be rendered each month as work progresses and are payable on presentation.

Unanticipated services

We do not anticipate encountering the need to perform additional services beyond those described in this letter. Below are listings of services considered to be outside the scope of our engagement. If any such service needs to be completed before the audit can proceed in an efficient manner, we will determine whether we can provide the service and maintain our independence. If appropriate, we will notify you and provide a fair and reasonable price for providing the service. We will bill you for the service at periodic dates after the additional service has been performed.

Changes in engagement timing and assistance by your personnel

The fee estimate is based on anticipated cooperation from your personnel and their assistance with timely preparation of confirmations and requested schedules. If the requested items are not available on the dates required or are not accurate, we will advise management. Additional time and costs may be necessary because of such unanticipated delays. Examples of situations that may cause our estimated fee to increase include:

- Significant delays in responding to our requests for information such as reconciling variances or providing requested supporting documentation (e.g., invoices, contracts, and other documents)
- Rescheduling our fieldwork

- Schedule disruption caused by litigation, financial challenges (going concern), loan covenants (waivers), etc.
- Identifying a significant number of proposed audit adjustments
- Schedules prepared by your personnel that do not reconcile to the general ledger
- Numerous revisions to information and schedules provided by your personnel
- Restating financial statements for accounting errors in the prior year
- Lack of availability of entity personnel during audit fieldwork

Other fees

You also agree to compensate us for any time and expenses, including time and expenses of legal counsel, we may incur in responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings that we are asked to respond to on your behalf.

Unexpected circumstances

We will advise you if unexpected circumstances require significant additional procedures resulting in a substantial increase in the fee estimate.

Changes in accounting and audit standards

Standard setters and regulators continue to evaluate and modify standards. Such changes may result in new or revised financial reporting and disclosure requirements or expand the nature, timing, and scope of the activities we are required to perform. To the extent that the amount of time required to provide the services described in the SOW increases due to such changes, our fee may need to be adjusted. We will discuss such circumstances with you prior to performing the additional work.

Agreement

We appreciate the opportunity to provide to you the services described in this SOW under the Professional Services Agreement and believe this SOW accurately summarizes the significant terms of our audit engagement. This SOW and the Professional Services Agreement constitute the entire agreement regarding these services and supersedes all prior agreements (whether oral or written), understandings, negotiations, and discussions between you and CLA related to audit services. If you have any questions, please let us know. Please sign, date, and return this SOW to us to indicate your acknowledgment and understanding of, and agreement with, the arrangements for our audit of your financial statements including the terms of our engagement and the parties' respective responsibilities.

Sincerely,

CliftonLarsonAllen LLP

Response:

This letter correctly sets forth the understanding of Midway City Sanitary District.

CLA
CLA

Kassie Radermacher

Kassie Radermacher, CPA, CFE, Principal

Client
Midway City Sanitary District

SIGN:

Tyler Diep, Board President

DATE:



March 21, 2023

Statement of Work - Compilation Services

This document constitutes a statement of work ("SOW"), which serves as an addendum to our contract, Professional Services Agreement, made by and between CliftonLarsonAllen LLP ("CLA," "we," "us," and "our") and Midway City Sanitary District ("you," "your," or "the entity") dated January 7, 2020. We are pleased to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services CLA will provide for the entity as of and for the year ended June 30, 2023.

Kassie Radermacher, CPA, CFE is responsible for the performance of the compilation engagement.

Year-end financial statements

We will prepare the financial statements of Midway City Sanitary District, which comprise the financial statements identified below, to be included in the form prescribed by California State Controller's Office, and perform a compilation engagement with respect to those financial statements.

Special Districts Financial Transactions Report (hereinafter referred to as financial statements)

Engagement objectives

The objectives of our engagement are to:

- Prepare the financial statements in accordance with the requirements prescribed by the California State Controller's Office based on information provided by you.
- Apply accounting and financial reporting expertise to assist you in the presentation of the financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements in order for them to be in accordance with the requirements prescribed by the California State Controller's Office.

Our responsibilities

We will conduct our engagement in accordance with Statements on Standards for Accounting and Review Services (SSARSS) promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants (AICPA) and comply with the AICPA's Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care.

Engagement procedures and limitations

We are not required to, and will not, verify the accuracy or completeness of the information you will provide

to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion, a conclusion, nor provide any assurance on the financial statements and any supplementary information.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the entity or noncompliance with laws and regulations. We have no responsibility to identify and communicate deficiencies in your internal control as part of this engagement. You agree that we shall not be responsible for any misstatements in the entity's financial statements that we may not identify as a result of misrepresentations made to us by you.

Our Report

As part of our engagement, we will issue a report that will state that we did not audit or review the financial statements and that, accordingly, we do not express an opinion, a conclusion, nor provide any assurance on them.

Our report will indicate that the financial statements are prepared in accordance with the requirements prescribed by the California State Controller's Office, and are not intended to be a presentation in accordance with accounting principles generally accepted in the United States of America.

The report will include a statement that the report is intended solely for the information and use of management, those charged with governance, others within the entity, California State Controller's Office and is not intended to be and should not be used by anyone other than these specified parties.

There may be circumstances in which the report may differ from its expected form and content. If, for any reason, we are unable to complete the compilation of your financial statements, we will not issue a report on such statements as a result of this engagement.

Management responsibilities

The engagement to be performed is conducted on the basis that you (management and, when appropriate, those charged with governance) acknowledges and understands that our role is to prepare financial statements in accordance with the requirements prescribed by the California State Controller's Office and assist management in the presentation of the financial statements in accordance with the requirements prescribed by the California State Controller's Office. Management, and those charged with governance, as appropriate, have the following overall responsibilities that are fundamental to our undertaking the engagement in accordance with SSARs:

-- The selection of the financial reporting framework to be applied in the preparation of the financial statements and determining that the financial reporting framework is acceptable in the circumstances.

-- The preparation and fair presentation of the financial statements in accordance with the requirements prescribed by the California State Controller's Office.

-- The inclusion of all informative disclosures required to be included in the form prescribed by the California State Controller's Office, if applicable.

- The presentation of the supplementary information, if applicable.
- The design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- The prevention and detection of fraud.
- To ensure that the entity complies with the laws and regulations applicable to its activities.
- The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement.
- To provide us with the following:
 - Access to all information relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters.
 - Additional information that may be requested for the purpose of the engagement.
 - Unrestricted access to persons within the entity with whom we determine it necessary to communicate.

Responsibilities and limitations related to accounting services

For all accounting services we may provide to you, including the preparation of your financial statements, management agrees to assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience to understand and oversee the services; evaluate the adequacy and results of the services; and accept responsibility for the results of the services. Management is also responsible for ensuring that your data and records are complete and that you have received sufficient information to oversee the services.

Use of financial statements

The financial statements and our compilation report thereon are for management's use. If you intend to reproduce and publish the financial statements and our report thereon, they must be reproduced in their entirety. Inclusion of the financial statements in a document, such as an annual report or an offering document, should be done only with our prior approval of the document. You are responsible to provide us the opportunity to review such documents before issuance.

With regard to the electronic dissemination of financial statements that have been subjected to a compilation engagement, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in those sites or to consider the consistency of other information in the electronic site with the original document.

We may issue a preliminary draft financial statements to you for your review. Any preliminary draft financial statements should not be relied on or distributed.

Engagement administration and other matters

A list of information we expect to need for our engagement and the dates required will be provided in a separate communication.

Our engagement ends on delivery of our signed report. Any additional services that might be requested will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific SOW for that service.

Fees

Our professional fees will not exceed \$1,250. This estimate is based on anticipated cooperation from your personnel and their assistance with locating requested documents and preparing requested schedules. If the requested items are not available on the dates required or are not accurate, the fees and expenses will likely be higher. Our invoices, including applicable state and local taxes, will be rendered each month as work progresses and are payable on presentation.

Unexpected circumstances

We will advise you if unexpected circumstances require significant additional procedures resulting in a substantial increase in the fee estimate.

Changes in accounting and SSARs

Standard setters and regulators continue to evaluate and modify standards. Such changes may result in new or revised financial reporting and disclosure requirements or expand the nature, timing, and scope of the activities we are required to perform. To the extent that the amount of time required to provide the services described in the SOW increases due to such changes, our fee may need to be adjusted. We will discuss such circumstances with you prior to performing the additional work.

Agreement

We appreciate the opportunity to provide to you the services described in this SOW under the Professional Services Agreement and believe this SOW accurately summarizes the significant terms of our compilation engagement. This SOW and the Professional Services Agreement constitute the entire agreement regarding these services and supersedes all prior agreements (whether oral or written), understandings, negotiations, and discussions between you and CLA related to compilation services. If you have any questions, please let us know. Please sign, date, and return this SOW to us to indicate your acknowledgment and understanding of, and agreement with, the arrangements for our engagement to prepare your financial statements and to perform a compilation engagement with respect to those same financial statements, and the parties' respective responsibilities.

Sincerely,

CliftonLarsonAllen LLP

CLA
CLA

Kassie Radermacher

Kassie Radermacher, CPA, CFE, Principal

SIGNED 3/21/2023, 2:01:07 PM PDT

Client
Midway City Sanitary District

SIGN:

Tyler Diep, Board President

DATE:



Statement of Work - Agreed-upon Procedures

March 21, 2023

This document constitutes a statement of work ("SOW") that serves as an addendum to our contract, Professional Services Agreement, made by and between CliftonLarsonAllen LLP ("CLA", "we," "us," and "our") and Midway City Sanitary District ("you," "your," or "the entity") dated January 7, 2020. We are pleased to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services CLA will provide for the entity as of and for the year ended June 30, 2023.

Kassie Radermacher, CPA, CFE is responsible for the performance of the agreed-upon procedures engagement.

Scope, objective, and responsibilities

We will apply the agreed-upon procedures which Midway City Sanitary District and the League of California Cities (as presented in the League publication entitled "Article XIII-B Appropriations Limit Uniform Guidelines") has specified and agreed to, listed in the attached schedule, to the Appropriations Limit Worksheet No 6 of District as of or for the year ended June 30, 2023. District is responsible for the Appropriations Limit Worksheet No 6.

Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require us to be independent of the entity or responsible party, as applicable, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our engagement. Midway City Sanitary District agrees to and acknowledges the procedures performed or to be performed are appropriate for the intended purpose of the requirements of Section 1.5 of Article XIII-B of the California Constitution. The intended users of the agreed-upon procedures report are Board of Directors and management of the District. Intended users in addition to Midway City Sanitary District may be requested to agree to the procedures and acknowledge that the procedures performed are appropriate for the intended purpose. Consequently, we make no representation regarding the appropriateness of the procedures enumerated in the attached schedule either for the purpose for which this report has been requested or for any other purpose. The intended users assume the risk that such procedures might be inappropriate for the intended purpose and the risk that they might misunderstand or otherwise inappropriately use findings properly reported by CLA.

Our responsibility is to perform the specified procedures and report the findings in accordance with the attestation standards. For purposes of reporting findings, you specified a threshold of \$100 for reporting

exceptions. Because the agreed-upon procedures listed in the attached schedule do not constitute an examination, audit, or review, we will not express an opinion or conclusion on the the Appropriations Limit Worksheet No 6 or the District's financial statements or any elements, accounts, or items thereof. Also, we will not express an opinion or conclusion on the effectiveness of District's internal control over financial reporting or any part thereof. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

At the conclusion of the engagement, you agree to provide a written representation letter that includes your agreement and acknowledgement that the procedures performed are appropriate for the intended purpose of the engagement and, if applicable, that you have obtained from necessary other parties their agreement to the procedures and acknowledgement that the procedures performed are appropriate for their purposes.

We will issue a written report upon completion of our engagement that lists the procedures performed and our findings. This report is intended solely for the information and use of Board of Directors and management of the District, and should not be used by anyone other than the specified parties. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report and withdraw from this engagement. Our report will include a statement indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

An agreed-upon procedures engagement is not designed to detect instances of fraud or noncompliance with laws or regulations; however, we will communicate to you any known and suspected fraud and noncompliance with laws or regulations affecting the the Appropriations Limit Worksheet No 6 that come to our attention, unless they are clearly inconsequential. In addition, if, in connection with this engagement, matters come to our attention that contradict the the Appropriations Limit Worksheet No 6, we will disclose those matters in our report. Such disclosures, if any, may not necessarily include all matters that might have come to our attention had we performed additional procedures or an examination or review.

Management is responsible for providing us with (1) access to all information of which you are aware that is relevant to the the Appropriations Limit Worksheet No 6 and the agreed-upon procedures, such as records, documentation, and other matters, and for the accuracy and completeness of that information; (2) additional information that we may request for the purpose of performing the agreed-upon procedures; and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain evidence relating to performing the procedures. You agree to inform us of events occurring or facts discovered subsequent to the date of the the Appropriations Limit Worksheet No 6 that may affect the the Appropriations Limit Worksheet No 6.

Engagement administration and other matters

A list of information we expect to need for the engagement and the dates required will be provided in a separate communication.

CLA will not disclose any of your confidential, proprietary, or privileged information to any persons without the authorization of your management or unless required by law. This confidentiality provision does not prohibit us from disclosing your information to one or more of our affiliated companies in order to provide services that you have requested from us or from any such affiliated company. Any such affiliated company

shall be subject to the same restrictions on the use and disclosure of your information as apply to us.

Our engagement ends on delivery of our signed report. Any additional services that might be requested will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific SOW for that service.

Fees

Our professional fees will not exceed \$520. This estimate is based on anticipated cooperation from your personnel and their assistance with locating requested documents and preparing requested schedules. If the requested items are not available on the dates required or are not accurate, the fees and expenses will likely be higher. Our invoices, including applicable state and local taxes, will be rendered each month as work progresses and are payable on presentation.

Agreement

We appreciate the opportunity to be of service to you and believe this SOW accurately summarizes the significant terms of our engagement. This SOW, in addition to our contract, Professional Services Agreement, constitutes the entire agreement regarding these services and supersedes all prior agreements (whether oral or written), understandings, negotiations, and discussions between you and CLA. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this SOW, please sign, date, and return the enclosed copy to us.

Sincerely,

CliftonLarsonAllen LLP

CLA
CLA

Kassie Radermacher

Kassie Radermacher, CPA, CFE, Principal

Client
Midway City Sanitary District

SIGN:

Tyler Diep, Board President

DATE:

Schedule of Procedures to be Performed for the Fiscal Year Ending June 30, 2023

- We will obtain the completed Appropriations Limit Worksheet No. 6 for the year ended June 30, 2023, and compare the limit and annual adjustment factors included in that worksheet to the limit and annual adjustment factors that were adopted by resolution of the Board of Directors. We also compare the population and inflation options included in the aforementioned worksheet to those that were selected by a recorded vote of the Board of Directors.
- For the Appropriations Limit Worksheet No. 6, we will add last year's limit to the total adjustments, and compare the resulting amount to this year's limit. We will also recalculate the adjustment factor and the adjustment for inflation and population, and compare the results to the amounts on Worksheet No. 6.
- We will compare the prior year appropriations limit presented in the accompanying Appropriations Limit Worksheet No. 6 to the prior year appropriations limit adopted by the Board of Directors for the prior year.

AGENDA ITEM 7B

Date: April 4, 2023

To: Board of Directors

Prepared by: Leanne Luu, Admin Secretary/Human Resources Coordinator

Subject: Approve Request of Solid Waste Driver Robert Mayfield to Receive 40 hours of Vacation Pay in Lieu of Time Off Due to Financial Hardship

BACKGROUND

Robert Mayfield began working at the District in November 1996 and currently receives 25 days of vacation per year. Under the 2015 Employees Memorandum of Understanding (MOU) effective July 1, 2015 employees are eligible for vacation payout in lieu of time off under the following requirements:

The MOU States:

ARTICLE 5

Vacation Leave

G. The policy of the DISTRICT is to encourage full utilization of vacation time off by all employees. However, each December, an employee may file an irrevocable request to cash-out up to eighty (80) hours of vacation leave. The DISTRICT shall pay each request in the first paycheck of January of the following year. In order to be eligible for this cash-out, the employee must have a remaining balance of at least forty (40) hours of accrued vacation after cashing-out and must have taken a minimum of forty (40) vacation hours in the prior twelve (12) months. Upon an employee's showing of an unforeseen financial hardship, the Board may grant an additional request that an employee be paid his/her regular rate of pay in lieu of taking up to forty (40) hours of his/her vacation time off in eight (8) hour increments. A decision on such a request is at the sole discretion of the Board of Directors and shall be decided on a case-by-case basis.

STAFF RECOMMENDATION

Staff recommends the Board review approve Robert Mayfield's request to receive 40 hours of vacation pay in lieu of time off due to financial hardship.

FISCAL IMPACT

Forty (40) hours at employee's current rate of pay is \$1,188.80

Attached: Letter from Robert Mayfield RE: Financial hardship

AGENDA ITEM 9A

Date: April 4, 2023

To: Board of Directors

Prepared by: Robert Housley, General Manager

Subject: CONSIDERATION OF RESOLUTION NO. 2023-09 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, APPROVING AMENDED PURCHASING POLICY AND PROCEDURES

BACKGROUND/DISCUSSION

The Midway City Sanitary District purchasing policies and procedures were last updated in June of 2017. It is best practice for the Board to review its policies from time-to-time and to update them accordingly. Staff has prepared proposed updates the purchasing policies and procedures for the Board's consideration. The proposed changes are shown in the redline comparison included as Attachment 1. A proposed Resolution adopting the updated policies and procedures, which includes a clean copy of the updated document, is included as Attachment 2.

The proposed changes are intended to update relevant definitions and references, modify purchasing thresholds to reflect increased costs, incorporate changes in state law since the last revision, and provide additional clarity and criteria for contract evaluations and approvals. Procurement policies are a balance between accountability, transparency, and efficiency. Staff believes that the proposed changes achieve all three of those criteria.

Substantive changes are summarized below:

1. General Manager's Purchasing Authority – Increases the General Manager's approval authority for purchases of goods and services from \$20,000 to \$40,000.
2. Change Orders – Establishes new authority for the General Manager to approve change orders up to the cumulative amount of 10% of the awarded contract or up to \$15,000, whichever is greater, or as otherwise expressly authorized by the Board of Directors.
3. Indemnification Agreements – Establishes express authority for the General Manager to enter into agreements providing for indemnification of the other party when the value of the agreement is within the General Manager's purchasing authority or the agreement is for the District's use of public or private property.
4. Small Contracts – Increases the threshold for when bidding is not required for purchases of goods and services from \$5,000 to \$10,000.

5. Informal Bidding and RFP Procedures – Clarifies the procurement procedures for professional services and the informal bidding procedures purchases of goods and general services valued between \$10,000 and \$125,000.
6. Prevailing Wage Contracts – Updates the provisions pertaining to Prevailing Wage Contracts to reflect changes in State law and to provide additional direction and clarity to staff and contractors.
7. Public Works Contracts – Clarifies procedures for bid solicitations, openings, and evaluations and adds procedures for bid protests.
8. Contractor Registration – Adds language to clarify that all contractors must be authorized to do business in the State, County, and City and properly registered with the Secretary of State.

STAFF RECOMMENDATION

Staff Recommends the Board either (1) adopt Resolution No. 2023-09, adopting the amended Purchasing Policy and Procedures, as proposed, or (2) provide alternative direction to Staff.

FISCAL IMPACT

No significant fiscal impact is anticipated.

Attachments:

1. Redline Showing Proposed Changes to Purchasing Policy and Procedures
2. Proposed Resolution 2023-09 Approving Amended Purchasing Policy and Procedures (clean)

MIDWAY CITY SANITARY DISTRICT PURCHASING POLICY AND PROCEDURES

Section 1: Introduction

This policy shall be known as the Midway City Sanitary District's (District) Purchasing Policy and Procedures (Policy). Its purpose is to: establish policies and procedures for the purchase of Goods, Services, and the award of Contracts for Public Works Projects at the lowest possible cost commensurate with the quality needed; exercise positive financial control over purchases; ensure the District complies with state laws governing the award of Contracts for Goods, Services and Public Works Projects; and clearly define authority for District purchases.

Section 2: Administrative Rules and Procedures

The General Manager ~~and Finance/HR Director~~ may issue and enforce such administrative rules and procedures as required and necessary to carry out the intent and purposes of this Policy.

Section 3: Authorization by the Board of Directors

The purchase of any Goods and/or Services having an estimated value greater than ~~\$20,000,40,000~~, and/or award of Contracts for Public Works Projects having an estimated value greater than \$15,000, shall be subject to approval by the Board of Directors. Procurements shall not be artificially split or divided into different individual Contracts so as to keep each Contract amount below monetary thresholds set forth in this Policy. Notwithstanding the foregoing, the General Manager ~~or Finance/HR Director~~ may approve ~~procurements~~Procurements valued greater than the amounts specified above in emergency situations pursuant to Section 9, Paragraph E, and Section 10, Paragraph B.11., herein.

Section 4: Specific Authorization for General Manager ~~and Finance/HR Director~~ to Purchase and Enter into Contracts

- A. The General Manager ~~and Finance/HR Director are~~is authorized to approve Procurements of Goods and/or Services having an estimated value of ~~\$20,000-40,000~~ or less, and to award ~~contracts~~Contracts for Public Works Projects having an estimated value of \$15,000 or less, without prior authorization from the Board of Directors. The General Manager ~~and/or Finance/HR Director~~ shall require that such Procurements be made in conformance with the policies established herein. The Board of Directors may require that the General Manager ~~or Finance/HR Director~~ provide periodic reports regarding Procurements made under such authorization to the Board of Directors at a regular meeting.
- B. The General Manager is authorized to approve Change Orders or amendments to Contracts for Goods and/or Services for changes or additions to the original scope of Goods and/or Services up to the

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cumulative amount of ten percent of the awarded Contract amount or \$15,000, whichever is greater, or as otherwise expressly authorized by the Board of Directors. For Change Orders or amendments to Contracts approved by the Board of Directors, the General Manager shall inform the Board of Directors of the Change Order or amendment at the next regular Board meeting after it is authorized. Except as set forth herein, changes to Contracts approved or awarded by the Board of Directors require Board of Directors' approval.

C. The General Manager is authorized to execute agreements on behalf of the District, in a form approved District Counsel, providing for indemnification by the District of the other party to the agreement (a) where the value of the agreement, other than indemnification, does not exceed \$40,000 and Board of Directors' approval of the agreement is not otherwise required, or (b) for the use of public or private property by the District, provided, however, that any such indemnity provision shall be specifically limited to claims, losses, damages, or injuries arising from the District's use of such property.

D. The General Manager ~~and Finance/HR Director~~ shall have the authority to:

1. Determine the purchasing method(s) to be used, which shall be consistent with this Policy.
2. Procure Goods, Services and/or award Contracts for Public Works Projects required by the District in accordance with the purchasing policies set forth in this Policy and/or as directed by the Board of Directors.
3. Negotiate and recommend the execution of Contracts for the procurement of Goods, Services and/or Public Works Projects.
4. Act to procure the needed quality in Goods and/or Services, along with the award of Contracts for Public Works Projects, at the least overall expense to the District.
5. Delegate appropriate authority to District staff.
6. Endeavor to obtain as full and open competition as reasonable ~~on~~for Procurements.
7. Prepare, update, and implement rules and procedures consistent with this Policy governing the purchase of Goods, and Services, and the award of Contracts for Public Works Projects for the District.

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Section 5: Decentralized Purchasing

The District's purchasing system is decentralized in order to maintain a continuous supply of Goods and/or Services necessary to support the District's operations and meet the District's obligations to the public. Each Originating Department is responsible for compliance with the District's policies, procedures and any and all applicable laws.

Section 6: Authorization for Payment(s)

Authority to approve payments for Goods, Services, and Public Works Contracts will lie with the District General Manager ~~and/or Finance/HR Director~~, subject to review by the Board Treasurer and approval and/or ratification by the Board of Directors at a Board meeting.

Section 7: Encumbrance of Funds

Except in cases of emergency, no Contract or Procurement shall be made for Goods, Services, or Public Works Projects unless an unencumbered appropriation in the current fiscal year budget can be identified, or unless authorized by the Board of Directors.

Section 8: Ethics

- A. District personnel shall not accept gifts, rebates, kickbacks, personal services, or in any way incur personal gain from any Contractor, actual or potential, doing business with the District.
- B. No District employee or Board Member shall have a direct or indirect individual interest in any Contract or purchase of goods or services entered into by the District, or shall derive any personal benefit from the District's purchase of Goods and/or Services. Without limiting the foregoing, no District employee or Board Member shall make any Contract, participate in the making of any Contract, or in any way attempt to use his or her official position to influence any decision on any Contract, in violation of Government Code sections 87100 *et seq.* or Government Code section 1090.
- C. No District employee or Board Member shall use the purchasing procedures to obtain property or services for personal use or by misrepresenting to Contractors that personal purchases are for the District (i.e., for the purpose of obtaining price discounts). Notwithstanding the above, Mechanics in the Fleet Maintenance Department may personally purchase their own tools from Contractors which may be used in the maintenance of the District's fleet. These tools are the property of the individual mechanic, and the District has no obligation to purchase or replace tools personally bought by the employee.

**MIDWAY CITY SANITARY DISTRICT
PURCHASING POLICY AND PROCEDURES**

Section 9: Bidding, Purchasing and Contracting for Goods and/or Services

A. ~~\$5,000~~10,000 or less:

No bidding is required for ~~purchases that are \$5,000~~Contracts for Goods and/or Services of \$10,000 or less, ~~which includes~~including all applicable taxes and shipping. At the discretion of the General Manager ~~or Finance/HR Director~~, at least two (2) quotes shall be obtained to ensure the lowest overall cost to the District.

B. More than ~~\$5,000,10,000~~, and up to and including \$125,000:

~~The~~Except as otherwise provided in this Policy, the following Informal Bid Process is required for ~~procurements~~Procurements of Goods and/or General (but not Professional) Services, including taxes and shipping, that is estimated to be more than ~~\$5,000,10,000~~, and up to and including \$125,000:

1. ~~At~~Written informal bids or proposals shall be solicited from at least three (3) vendors ~~shall be asked to submit informal bids. Notices inviting bids shall be mailed (email, faxed, et cetera) to vendors on the Qualified Bidders List or vendors otherwise~~ identified by District staff not less than ten (10) days before bids/proposals are due.
2. When soliciting informal bids, ~~or proposals~~, District staff shall: (1) describe the Goods and/or Services in general terms; (2) advise vendors how to obtain additional information about the Goods and/or Services; (3) state the date, time, method and place for the submission of ~~sealed~~ bids/proposals; (4) for particular ~~services~~Services, advise prospective vendors when the award will be based on the Best Value evaluation as determined by the Board of Directors or General Manager, as applicable; (5) advise vendors that the District may reject any and/or all bids or proposals received, and may waive any minor irregularities in each bid or proposal received; and (6) include any other information required by federal, state or local law, as applicable.

C. Over \$125,000:

~~A~~Except as otherwise provided in this Policy, a Formal Bid Process is required for procurements of Goods and/or General Services, including taxes and shipping, that is estimated to be over \$125,000. The District shall solicit formal sealed bids in accordance with the following procedures:

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1. Publish a Notice Inviting Bids that contains (a) a description of the Goods and/or Services required, (b) a description of the selection process, (c) bidder's security requirement, if applicable, (d) performance bond requirements, if applicable, and (e) such provisions, terms, and conditions, consistent with this Policy, that are deemed necessary, desirable, and/or advantageous to the District;
2. Open the bids publicly at the time and place designated in the Notice Inviting Bids, and record the amount of each bid;
3. Determine whether the bids are responsive to the Notice Inviting Bids; and
4. Take one of the following actions:
 - (a) Award the Contract to the lowest Responsive and Responsible Bidder;
 - (b) Reject any and all bids presented and/or re-advertise the bid; or
 - (c) Declare that the Goods and/or Services may be acquired at a lower cost by negotiation in the open market and authorize the ~~procurement~~Procurement in that manner.
5. If two or more bids received are for the same total amount or unit price, the District may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders at the time of the award.

D. Professional Services

To ensure the selection of Professional Services ~~for private architectural, professional engineering, environmental, land surveying and construction project management services~~ are based on demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required, the following procedures shall be followed for the ~~procurement~~Procurement of Professional Services:

1. ~~\$20,000~~40,000 or less

For the Procurement of Professional ~~Design Service Contracts Services~~ estimated ~~at \$20,000~~to cost \$40,000 or less, the General Manager ~~or Finance/HR Director~~ shall informally request at least two (2) proposals from vendors providing the type of services needed. The General Manager shall engage the most qualified person or firm based upon demonstrated competence and on professional qualifications necessary for the satisfactory performance of the

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services required, as determined in the sole discretion of the General Manager.

2. Over \$~~20,000~~40,000

(a) A For the Procurement of Professional Services estimated to cost more than \$40,000, a Request for Proposals shall be issued for each Professional Service requested. Multiple projects may be bundled into one Request for Proposals such that multiple Contract awards may result from one Request for Proposals and selection may be based upon specialized services. Each Request for Proposals shall require that proposals contain, at a minimum, the following information:

- i. The firm's qualifications for performing the proposed work.
- ii. The firm's relevant experience and performance on similar projects.
- iii. A fee proposal, based on the method of compensation specified in the Request for Proposal, and an estimate of total fees.
- iv. The firm's ability to complete the work within the time allotted.
- v. The personnel that will be assigned to the project.
- vi. A statement that the firm's engagement for the project would not create a conflict of interest.
- vii. Any other information required to properly evaluate the firm's qualifications and experience with similar projects.
- viii. Proposals for construction management services shall demonstrate that the designated personnel have 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.

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- (b) The District shall publicize each Request for Proposals by one or more of the following methods:
 - i. Advertising in the publications of professional societies;
 - ii. Mailing, electronic mailing, or faxing the Request for Proposals to each vendor who has submitted a Statement of Qualifications;
 - iii. Mailing, electronic mailing, or faxing the Request for Proposals to at least three firms qualified to furnish the required services as identified in the Qualified Bidders List or as otherwise identified by District staff;
 - iv. Posting the Request for Proposals on the District website; and/or
 - v. Using other publication methods that may be beneficial to increasing the number of qualified proposals received by the District.
- (c) The General Manager ~~and/or Finance/HR Director~~ shall evaluate the proposals for the Board of Director's review. In his or her discretion, the General Manager may appoint an evaluation committee to evaluate the proposals.
- (d) All proposals shall be evaluated and ranked, from most qualified to least qualified, based on each firm's demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required.
- (e) The General Manager ~~and/or Finance/HR Director~~ may conduct interviews of firms based on the proposal rankings in order to determine final rankings.
- (f) At the Board's Direction, the General Manager ~~and/or Finance/HR Director~~ shall negotiate a Contract with the firm that the General Manager and/or the evaluation committee deems to be most qualified. If the General Manager ~~or Finance/HR Director~~ is unable to negotiate a satisfactory Contract with the firm deemed to be most qualified, the General Manager ~~or Finance/HR Director~~ shall terminate negotiations with that firm and may negotiate with the firm deemed to be second most qualified. If those negotiations

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fail, the General Manager ~~or Finance/HR Director~~ shall negotiate with the third most qualified firm, and so on, until an agreement is reached or the General Manager ~~or Finance/HR Director~~ determines that it is in the best interest of the District to reject the remaining firms. If the Board of Directors determines that it is in the best interest of the District, the Board of Directors may award more than one Contract to the most qualified firms or reject all proposals.

E. **Emergency Purchases for Goods and/or Services**

Where the Board of Directors, or General Manager ~~or Finance/HR Director~~ determines that an emergency exists, any one of them may authorize the purchase of Goods and/or Services without following the District's procurement procedures set forth herein, including competitive bidding procedures and/or obtaining contracting approval as otherwise normally required. If the emergency purchase is for Professional Services, such purchase shall be based upon a vendor's demonstrated competence and qualifications for the types of services to be performed at a fair and reasonable price. For the purposes of this exception, emergency procurements are those purchases that are required to prevent immediate interruption or cessation of necessary services or to safeguard life, property, or the public health and welfare.

For all emergency purchases that would otherwise require Board of Directors' approval due to contract amount, or which would have otherwise required a Formal Bid Process ~~or Informal Bid Process~~, the General Manager shall inform the Board of Directors of the Procurement at the next regular Board meeting after the purchase is authorized.

F. **Prevailing Wage Service Contracts**

Contracts over \$1,000 for certain Services, including, but not limited to, installation, maintenance, ~~or~~ repair work, or certain other work done for the District, may be Prevailing Wage Contracts subject to the requirements of Labor Code section 1720 *et seq.* and other laws and requiring the payment of prevailing wages. including, without limitation, requirements that Contractors be registered with the Department of Industrial Relations ("DIR") and maintain certified payroll records, and that for Prevailing Wage Contracts over \$25,000 involving construction, alteration, demolition, installation, or repair work, and Prevailing Wage Contracts over \$15,000 involving maintenance work, the District not enter into or award a Contract to a Contractor that is not registered with the DIR and that the District submit notice of Contract award through DIR's PWC-100 system within 30 days of the award, but in no event later than the first day in which a Contractor

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begins work. Notwithstanding the provisions of this Policy, for Contracts for Services that are Prevailing Wage Contracts, a Procurement process shall be utilized, which complies with all aspects of state and local law governing Prevailing Wage Contracts, including, but not limited to, the Public Contract Code, Labor Code, State Regulations, Ordinances, Resolutions and Policies of the Board of Directors as may be adopted from time-to-time.

Section 10: Bidding, Purchasing and Contracting for Public Works Projects

A. \$15,000 or Less

A Formal Bid Process is not required for Public Works Projects valued at \$15,000 or less. For ~~procurement~~Procurement of Public Works Projects valued at \$15,000 or less, the processes identified for Goods and/or Services above may be used based on the corresponding monetary value.

B. More than \$15,000

1. For Procurement of Public Works Projects over \$15,000 and subject to Public Contract Code section 20800 *et seq.*, ~~the~~a Formal Bid Process shall ~~comply~~be utilized, which complies with all aspects of federal, state and local law governing formal competitive bidding, including, but not limited to, the Public Contract Code, Government Code, Labor Code, State Regulations, Federal Regulations, grant requirements, Ordinances, Resolutions and Policies of the Board of Directors as may be adopted from time-to-time.
2. The notice inviting formal bids shall comply with the requirements set forth in Public Contract Code section 20804. At a minimum, the notice inviting formal bids shall:
 - (a) Describe the project in general terms and state the project to be done;
 - (b) State how to obtain more detailed information about the project. The specifications shall not call for a designated material, product, thing, or service by specific brand or trade name unless the District complies with the requirements under Public Contract Code section 3400 *et seq.*;
 - (c) State the deadline, including date, time and place, for the submission of sealed bids that is at least ten (10) calendar days after publication or posting of the notice;

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- (d) Require bidders to post 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;
 - (e) State that a payment bond is required for a Contract for a Public Works Project involving an expenditure in excess of twenty-five thousand dollars (\$25,000) as required pursuant to Civil Code section 9550. For Contracts at or below \$25,000, a payment bond may be required;
 - (f) Include a provision stating that the Contractor will be permitted to substitute securities for any monies withheld by the District to ensure performance of the Contract pursuant to Public Contract Code section 22300;
 - (g) Specify the classification of the contractor's license the Contractor must possess at the time a Contract is awarded as required pursuant to Public Contract Code section 3300;
 - (h) Include all statements required to be included in calls for bids and bid invitations for Prevailing Wage Contracts pursuant to State law, including, without limitation, Labor Code sections 1771.1(b) and 1771.4(a) and Public Contract Code section 6109;
 - (i) ~~(f)~~ Advise vendors that the District may reject any and/or all bids received and re-advertise, and that the District may waive any minor irregularities in each bid received;
 - (j) ~~(g)~~ Set forth a procedure that shall be followed in the event of a tie between the lowest Responsive and Responsible bidders;
 - (k) ~~(h)~~ Include any other information required by federal, state or local law, as applicable, or whatever provisions, consistent with this Policy, that the General Manager ~~or Finance/HR Director~~ determines are necessary, desirable, and/or advantageous to the District.
3. Each notice inviting bids shall be published in a newspaper of general circulation or posted in at least three public places in the District at least ten (10) days before the date for the opening of bids

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consistent with the requirements set forth in Public Contract Code section 20804.

4. Bid Opening:

- (a) Sealed bids shall be submitted to the ~~District office~~place designated in the notice inviting bids, time stamped when received, and shall clearly identify the bidder and the name of the project on the envelope.
- (b) Bidders may modify or withdraw their bids prior to the deadline for submitting bids, without penalty. However, any modifications submitted after the bid opening will not be accepted. Such modification will be returned to the bidder, unopened.
- (c) Bids shall be opened in public at the time and place stated in the public notice.
- (d) The ~~Board President~~General Manager or his/her designee shall open the bids and shall record all bids received.
- (e) Bids shall be submitted so that they will be received at the place designated in the notice inviting bids not later than the exact time specified in the notice. Any bid received after the exact time specified in the notice shall be returned to the bidder, unopened. A bid shall be considered to have been timely submitted if it is received at any time during the sixty second duration of the minute of of the exact time specified in the notice (for example, if the notice provides that the bid is to be submitted no later than 2:00, the bid will be considered timely submitted as long as it is received before 2:01).
- (f) When a bidder's security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. When a bidder's security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid. Unsuccessful bidders shall be entitled to return of the bid security within a reasonable period of time, but no later than 60 days from the time award is made.

The successful bidder must execute the Contract and file acceptable documents within thirty (30) calendar days from the date of award unless extended in writing by the ~~Board~~

**MIDWAY CITY SANITARY DISTRICT
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~~of Directors or their designee~~General Manager. Failure to execute the Contract shall be just cause for annulment of the award and forfeiture of the bidder's security, not as a penalty, but as liquidated damages. The Board of Directors may, upon refusal or failure of the successful bidder to execute the Contract, award the Contract to the next lowest Responsive and Responsible Bidder.

5. Bid Protests:

- (a) Any bidder claiming that another bidder is not a Responsive and Responsible Bidder shall submit a formal written protest conforming to the requirements of this section to the General Manager or his/her designee in person, by U.S. mail, or to the address and in the manner otherwise specified in the bid solicitation. Any protest not conforming to the requirements of this section may be rejected as invalid.
- (b) Unless a longer period is specified in the request for bids, to be considered a valid protest, a bid protest must be received by the General Manager or designee no later than 5:00 p.m. on the fifth business day after the date of the bid opening. If the fifth business day falls on a weekend or a District holiday, the deadline to submit a protest shall be extended to 5:00 p.m. on the next business day.
- (c) A bidder submitting the protest shall concurrently transmit a copy of the protest to the bidder deemed the apparent lowest bidder and to any other bidder that is the subject of the protest.
- (d) Bid protests must include the name, address and telephone number of the protestor and/or the person representing the protesting party. The written protest must set forth, in detail, all grounds for the protest, including, without limitation, all facts, supporting documentation, legal authorities, and arguments in support of the grounds for the protest. All factual contentions must be supported by evidence. Any matters not set forth in the formal written protest will be deemed waived.
- (e) The General Manager shall review a timely bid protest and transmit a written determination on the protest stating the reasons for the determination to the protesting bidder and all other affected bidders. Such determination may be transmitted by U.S. mail or email and shall be deemed transmitted on the date it is deposited in the U.S. mail or sent

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via email. The General Manager may base his/her determination on the written protest alone or may informally gather evidence from the person(s) filing the protest or any other person having relevant information.

(f) If a bidder disagrees with the determination on the protest made by the General Manager, the bidder may appeal the General Manager's determination to the Board of Directors. Any such appeal shall be in writing, and shall be filed with the General Manager within five business days of transmittal of the General Manager's determination. The Board of Directors shall not consider award of the Contract until the time for appeal has expired.

(g) The procedures and time limits set forth in this section are mandatory and are a bidder's sole and exclusive administrative remedy in the event of a bid protest. A bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue a bid protest and/or legal challenge to the District's award of the Contract.

6. ~~5.~~ Evaluation of Bids:

The General Manager shall independently evaluate and determine whether each bidder is a Responsive and Responsible Bidder and make a recommendation to the Board of Directors regarding award of the Contract. The Board of Directors shall award the Contract to the lowest Responsive and Responsible Bidder. In determining whether a Bidder is Responsible, ~~staff~~the District will take into consideration:

- (a) Ability, capacity, and skill;
- (b) Ability to meet the time requirements;
- (c) Character, integrity, and reputation;
- (d) Previous Contractor experience;
- (e) Financial resources available for contract performance; ~~and~~
- (f) Ability to provide future maintenance and service (warranties), if necessary; and
- (g) Any other criteria identified in request for bids, instructions to bidders or specifications relevant to the trustworthiness, quality, fitness, or capacity of a bidder to perform the Contract.

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If the General Manager determines that any bidder is not a Responsive Bidder and/or a Responsible Bidder, the General Manager shall notify the bidder in writing of the basis of this determination and any related information or evidence received from others or adduced as a result of an independent investigation, afford the bidder an opportunity to rebut such determination and/or adverse evidence, and permit the bidder to present evidence that it is a Responsive and Responsible Bidder prior to consideration of award of the Contract by the Board of Directors.

7. ~~6.~~ Rejection of Bids:

The District reserves the right to reject any and/or all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bids or the bidding process if it is deemed in the best interest of the District.

If, after the first invitation of bids, all bids are rejected, the District may elect to re-advertise for bids, re-evaluate the project, or cancel the project to consider it at a later date.

8. ~~7.~~ Tie Bids:

If tie low responsive and responsible bids are received, quality and service being equal, the District may, at its discretion:

- i. Reject any and/or all bids presented and re-advertise;
- ii. Accept either one or accept the lowest bid made by negotiation with the tie bidders; or
- iii. Award the bid to any one of the low tie bidders by lot occurring during a public meeting.

9. ~~8.~~ No Bids:

If the District does not receive any bids for a particular project, the Board of Directors may have the project done without completing a further Formal Bid Process, and the Board of Directors may direct the General Manager to award a construction Contract through a Negotiated Procurement.

10~~9.~~ Awarding:

Unless the District rejects all bids, the Board of Directors shall award the Contract to the lowest Responsible and Responsive Bidder. The Board of Directors shall award the Contract during a public meeting.

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For Contracts over \$25,000, the Board of Directors shall require that the Contractor awarded the Contract file, before commencement of work, a payment (performance) bond that is no less than 100 percent of the total amount due under the Contract. For Contracts at or below \$25,000, a payment (performance) bond may be required.

1140. Change Orders:

The General Manager and/or Finance Director are authorized to ~~issue~~approve Change Orders for changes or additions to the original scope of services up to ~~and including \$5,000, the cumulative amount of ten percent of the awarded contract amount or \$15,000, whichever is greater,~~ or as otherwise expressly authorized by the Board of Directors. For such ~~change orders~~Change Orders, the General Manager shall inform the Board of Directors of the ~~change order~~Change Order at the next regular Board meeting after it is authorized. Except as set forth herein, changes to formal Contracts awarded by the Board of Directors require Board of Directors' approval.

1244. Specified Emergencies:

In the event of an emergency as defined in Public Contract Code section 1102 as "a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services" or as described in Public Contract Code section 20806 as "work to prepare for national or local defense", the District may enter into a Contract for the construction of a Public Works Project through Negotiated Procurement if the Board of Directors adopts findings by a four-fifths vote of its members declaring that the public interest and necessity demand the immediate expenditure of District funds to safeguard life, health, or property. In the event the Board of Directors is unavailable in an emergency, as defined in this paragraph, the General Manager is authorized to enter into a Contract for the repair or replacement of a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without following the District's procurement procedures set forth herein, including competitive bidding procedures and/or obtaining contracting approval as otherwise normally required. The District shall comply with the requirements set forth in Public Contract Code section 20806 and Public Contract Code sections 22050 *et seq.*, for specified emergencies.

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C. Design-Build

Where authorized by the Public Contract Code or other statute, the District may utilize a design-build selection process for the award of Public Works Contracts.

D. Prevailing Wage Contracts for Public Works Projects

Contracts over \$1,000 for Public Works Projects are Prevailing Wage Contracts subject to the requirements of Labor Code section 1720 *et seq.* and requiring the payment of prevailing wages, including, without limitation, requirements that Contractors be registered with the Department of Industrial Relations (“DIR”) and maintain certified payroll records, and that for Prevailing Wage Contracts over \$25,000 involving construction, alteration, demolition, installation, or repair work, and Prevailing Wage Contracts over \$15,000 involving maintenance work, the District not enter into or award a Contract to a Contractor that is not registered with the DIR and that the District submit notice of Contract award through DIR’s PWC-100 system within 30 days of the award, but in no event later than the first day in which a Contractor begins work.

Section 11: Other Exceptions from Bidding Requirements

- A. It is recognized that no set of rules or procedures can take every circumstance into account and it is also recognized that occasionally circumstances may arise where it is in the District’s best interest to deviate from them. In such cases the department supervisors shall bring the need to the General Manager’s ~~and/or Finance/HR Director~~’s attention. The General Manager ~~and/or the Finance/HR Director~~, on a case by case basis, may waive any of the requirements of this Policy for purchases of Goods and/or Services of ~~\$20,000~~40,000 or less. The District Board of Directors, on a case by case basis, may waive any of the requirements of this Policy for (1) purchases of Goods and/or Services greater than ~~\$20,000~~40,000 or (2) the award of Contracts for Public Works Projects greater than \$15,000, if permitted by State law.
- B. Where specified in this Policy, Goods and Services may be purchased by, and the award of Contracts for Public Works Projects may be made by, Negotiated Procurement. Negotiated Procurements are permitted: (1) where competitive bidding would be impossible, impractical, or incongruous, or would not result in any advantage to the District in its efforts to contract for the greatest public benefit; (2) in an emergency; (3) when the Goods and/or Services can be obtained from only one source or the price is controlled by law; (4) when the amount involved is ~~\$5,000~~10,000 or less; or (5) where compelling economic or administrative considerations warrant

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employment of alternate purchasing procedures. Such considerations may include, but are not limited to, circumstances in which services have been previously rendered by a Contractor who has thereby gained and exhibited unique and/or superior experience and/or expertise in relation to the District's operational requirements. Such procurement shall be negotiated by the General Manager ~~or Finance/HR Director~~ as authorized by the Board of Directors.

- C. No provision in this Policy shall be interpreted or construed to prohibit or prevent the District from renewing or extending existing Contracts for Goods and/or Services, provided that normal procurement procedures were used in the original selection. Renewal or extension of such Contracts obligating the District to any payment exceeding ~~\$20,000~~40,000 per year shall be subject to approval by the Board of Directors.

- D. When another public agency or government purchasing cooperative organization has awarded a Contract for Goods and/or Services pursuant to a process substantially similar to the processes described in this Policy, the District may acquire such Goods and/or Services on the same or substantially similar terms without conducting its own separate Procurement process. Cooperative and "piggyback" purchasing provides a means for the District to join with other public agencies, businesses, or government purchasing cooperative organizations for the purpose of collectively preparing specifications, and requesting and receiving bids, quotations or proposals, or utilizing the quotations and bids obtained by other governmental agencies. Examples of cooperative or piggyback purchasing include, but are not limited to, purchases made using another agency's contract, joint buying within a regional area, participation in the State of California Multiple Awards Schedules (CMAS) program and statewide commodity contracts and the utilization of contracts negotiated by municipal leagues or organizations such as the California Special Districts Association (CSDA), and California Association of Sanitation Agencies (CASA). Any Contract or arrangement for such cooperative purchases shall be subject to approval by the Board of Directors if such approval would otherwise be required. The General Manager shall inform the Board of Directors any cooperative or piggyback purchases made within the purchasing authority of the General Manager ~~or Finance/HR Director~~ at the next regular Board meeting after the purchase is made.

Section 12: Sole Source

Sole Source procurement of Goods and/or Services shall not be used unless there is substantial evidence that only one source exists to fulfill the District's requirements. [The Services necessary to monitor, maintain, and service the District's sewer SCADA system.](#)

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which are currently reasonably available from a single vendor, is one example of Sole Source Procurement is appropriate. Except as otherwise authorized in emergency situations, all Sole Source purchases over \$~~5,000~~40,000 require approval by the Board of Directors.

Sole Source purchases shall be well documented and provide verification that a good faith search for competition has been made or that the requested item or service provider is deemed to be the only one practicably available.

Sole Source restrictions may be waived in the event of an emergency in order to protect the health and safety of the community.

Section 13: Solid Waste and Recycling Carts and Bins

Solid waste and recycling carts and bins are typically ordered in bulk to meet the needs of the District and to take advantage of cost savings whenever feasible. A single order for carts or bins may exceed the dollar amount triggering use of an Informal Bid Process as set forth in Section 10. ~~The~~Notwithstanding Section 10, herein, the General Manager ~~or Finance/HR Director may~~is authorized make such purchases so long as such purchases are within the District's approved budget, or unless otherwise directed by the Board of Directors. For purchases under this Section that would otherwise require Board of Directors' approval ~~due to contract amount, or would have otherwise required a Formal Bid Process or Informal Bid Process,~~ the General Manager shall inform the Board of Directors of the Procurement at the next regular Board meeting after the purchase is authorized.

Section 14: Local Preference

For the purchase of Goods and/or Services, excluding Contracts for Public Works Projects, when two or more proposals or request for quotations are the same, in unit, quality, service and total cost, preference may be given to the Local Vendor.

Preference may be given to a Local Vendor if the quote for Services or Goods, including all applicable taxes and shipping, is no more than 5% higher than the lowest bid (quote) received.

Section 15: Surplus Property

The Board of Directors shall approve the disposition of all Surplus Property. Surplus Property may be offered for sale using any of the processes identified below, transferred to another Department, traded-in for new equipment or material, donated, recycled or disposed of through the solid waste collection system. All Surplus Property that is for sale shall be sold "as is" and "where is," with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered for sale or as otherwise directed by the Board of Directors. Appropriate methods

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of sale are as follows: public auction; sealed bids; negotiated sale; sell as salvage; or as otherwise directed by the Board of Directors.

Section 16: Execution of Contracts

After award, all Contracts for Goods and/or Services at or under \$~~20,000~~40,000, and all Contracts for Public Works Projects at or under \$15,000, shall be executed on behalf of the District by the General Manager ~~or Finance/HR Director~~ unless otherwise directed by the Board of Directors. Contracts for Goods and/or Services over \$~~20,000~~40,000, and Contracts for Public Works Projects over \$15,000, shall be executed on behalf of the District by the President of the Board of Directors, or his or her designee, after Board approval, unless the Board of Directors authorizes the General Manager to execute the Contract. Prior to execution of any Contract, the Contractor shall demonstrate that it is authorized to do business in California, the County of Orange, and the City of Westminster. Contractors that are organized as a corporation, limited liability company, or other entity under the laws of another state must be properly registered with the California Secretary of State pursuant to applicable law.

Section 17: Approval by General Counsel

District Counsel shall approve, in writing, the District's standard Contract (agreement) form. In the event that the District's standard Contract form is not applicable, the Board of Directors, or General Manager ~~or Finance/HR Director~~, at their discretion, may direct District Counsel to review any other Contract for approval as to form.

Section 18: Noncompliance

Any Contract entered into which fails in any respect to comply with the provisions of this Policy may be voided by the Board of Directors.

Section 19: Precedence over Prior Policies, Procedures, or Actions

Upon approval by the Board of Directors, this Policy shall be deemed to take precedence over any other prior Board of Director policies, procedures, or actions that are in conflict with or inconsistent with the provisions of this Policy. If Staff identifies any conflict or inconsistency between this Policy and any other approved District policy or procedure, Staff shall inform the Board of Directors of such conflict or inconsistency in writing.

Section 20: Definitions

For the purposes of this section, the words and terms set forth below shall be construed in accordance with the following definitions:

- ~~A. "Authorized Agent" when used with respect to the District, shall mean the General Manager, the Finance/Human Resources Director (Finance/HR Director) or their respective designee.~~

**MIDWAY CITY SANITARY DISTRICT
PURCHASING POLICY AND PROCEDURES**

- A. ~~B.~~ "Best Value" shall mean the overall combination of quality, price, and other elements of a proposal/bid (or combination of several proposals or bids) that, when considered together, provide the greatest overall benefit in response to the requirements described in the solicitation documents.
- B. ~~C.~~ "Budgeted" shall mean the amount of appropriations within a fund adopted for expenditure by the Board of Directors.
- C. ~~D.~~ "Change Order" shall mean a properly executed written agreement entered into between the District and the Contractor, or a directive unilaterally issued by the District, covering modifications to the original Contract, which may result in adjustments to the scope of work, cost and/or period of performance.
- D. ~~E.~~ "Contract" shall mean any type of arrangement for the purchase of Goods and/or Services, including construction services for Public Works Projects. Contracts may be referred to in various ways, including "contract", "agreement", or "purchase order."
- E. ~~F.~~ "Contractor" shall mean any person or entity that has a Contract with the District.
- F. ~~G.~~ "Formal Bid Process" shall mean a competitive selection process requiring a public notice inviting bids, availability of specifications, bid opening, determination of lowest responsive and responsible bidder, and awarding or rejection of the bid(s).
- G. ["General Manager" means the general manager of the District or person designated by the general manager to exercise some or all of the authority or to perform all or some of the duties prescribed in this Policy.](#)
- H. "General Services" shall mean the furnishing of labor, time or effort by a Contractor, including, but not limited to: (a) routine, recurring, and usual work for the preservation or protection of a publicly-owned, or publicly-operated facility for intended purposes; (b) minor repainting; (c) resurfacing of streets and highways; (d) landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems; and (e) work performed to keep, operate and maintain publicly-owned wastewater or solid waste disposal systems.
- I. "Goods" shall mean fixed, movable, disposable, and/or reusable products, commodities, or items used by the District, including but not limited to, office supplies, program supplies, subscriptions, equipment, vehicles, fuel and vehicle supplies, tools, computers, computer hardware and software,

**MIDWAY CITY SANITARY DISTRICT
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landscape and irrigation supplies, power tools, janitorial supplies, office furniture, and fixtures, which shall be furnished to or used by any department.

- J. "Informal Bid Process" shall mean a ~~bidding and~~competitive selection process used, when applicable, to ensure the most competitive price or Best Value is received for Goods and/or Services, while avoiding the time and expense involved in formal bidding. The process requires ~~a notice inviting informal bids, availability of project details, bid opening, determination of lowest responsive and responsible bidder, and awarding or rejection of the bid(s).~~the solicitation of written informal bids and/or proposals from potential vendors and the selection of a vendor based either on the lowest cost commensurate with the quality and scope needed, or Best Value, and subject to any limitations imposed by state law.
- K. "Local Vendor" shall mean a firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed within the District's boundaries.
- L. "Negotiated Procurement" shall mean a selection process whereby the General Manager identifies one or more prospective Contractors of his or her choice, negotiates with one or more of them, and awards the Contract to one of them based on the best interest of the District.
- M. "Originating Department" shall mean any District department requiring Goods, Services, and/or the award of Contracts for Public Works Projects.
- N. "Prevailing Wage Contract" shall mean any Contract requiring the payment of prevailing wages and subject to requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code (Section 1720 *et seq.*). Prevailing Wage Contracts may include, without limitation, Contracts for either Public Works Projects or Services that involve construction, alteration, demolition, installation, maintenance, ~~or~~ repair work, or certain other work done for the District; street, sewer, or other improvement work; the laying of carpet; ~~or~~ the hauling of refuse from a public works site to an outside disposal facility; ~~Pursuant to Senate Bill 854, the District is required to notify the Department of Industrial Relations within five (5) days of letting any public works contract over \$1,000;~~ or the on hauling of materials used for paving, grading, and fill onto a public works site, if the individual driver's work is integrated into the flow process of construction.
- O. "Procurement" shall mean buying, purchasing, renting, leasing, or otherwise acquiring any Goods, Services, construction, construction services, or professional services.

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- P. "Professional Services" shall mean services provided by any specially trained, educated, experienced or licensed person, company, corporation, or firm, and which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience.
- Q. "Professional Services Agreements (PSA)" shall mean Contracts negotiated for Professional Services, which are based on demonstrated competence, professional qualifications for the services required, availability, and fair and reasonable cost.
- R. "Public Works Project" shall mean any construction, reconstruction, alteration, enlargement, renewal, or replacement of sewer or other facilities that the District is authorized to do, including, but not limited to, the furnishing of supplies or materials for any such work as defined pursuant to Public Contract Code section 20801.
- S. "Purchase Order" shall mean a commercial document issued by a buyer to a seller, indicating types, quantities, and agreed prices for products or services the seller will provide to the buyer.
- T. "Qualified Bidders List" shall mean one list for ongoing service requirements for the same or very similar services, including general services, professional services, and qualified construction contractors, categorized by the type of product sold or work performed for use in soliciting bids.
- ~~U. "RFQ" or "RFP" shall mean Request for Quotes or Request for Proposals.~~
- U. ~~V.~~ "Responsible Bidder" shall mean a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work or services proposed.
- V. ~~W.~~ "Responsive Bidder" shall mean a bidder who has submitted a bid which conforms in all material respects to the terms and conditions, specifications and other requirements requested.
- W. ~~X.~~ "Services" shall mean the furnishing of labor, time or effort by a Contractor. Services include both General Services and Professional Services, unless otherwise specified.
- X. ~~Y.~~ "Sole Source" shall mean an award for Goods and/or Services that are (i) of a unique nature based on their quality, durability, availability, fitness or qualifications for a particular use; or (ii) only available from one source.

**MIDWAY CITY SANITARY DISTRICT
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Y. ~~Z.~~ "Surplus Property" means property, other than real property, no longer needed by District departments for their operations, obsolete property, property in poor or non-working condition, or property that is a by-product (i.e., scrap metal, used tires, oil, etc.).

Document comparison by Workshare 9.5 on Thursday, March 30, 2023 12:34:43 PM

Input:	
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Document 2 ID	interwovenSite://DMS-WSS-LAW.ONACP.COM/IMDB1/1762210/1
Description	#1762210v1<IMDB1> - MCSD Purchasing Policy - March 2023 (Clean)
Rendering set	Standard

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Insertion	
Deletion	
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Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Style change	0
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Total changes	271
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RESOLUTION NO. 2023-09

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE MIDWAY CITY SANITARY DISTRICT OF
ORANGE COUNTY APPROVING AMENDED
PURCHASING POLICY AND PROCEDURES.**

THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT FINDS AND DETERMINES AS FOLLOWS:

A. The Midway City Sanitary District Board of Directors previously adopted amended Purchasing Policy and Procedures in 2014 and revised said Purchasing Policy and Procedures in 2015, 2016, and 2017.

B. The Board of Directors has determined that the existing Purchasing Policy and Procedures should be revised and updated.

C. Rents, the cost of land, wages and benefits, taxes, insurance rates and the administrative costs of doing business are substantially higher for businesses located within the District's jurisdictional boundaries than for many businesses located elsewhere.

D. It is well-documented that other states and jurisdictions are actively soliciting local businesses to relocate elsewhere based on the higher cost of doing business locally, the result of which is an erosion of the local economic base. Erosion of the local economic base will reduce District options available for obtaining goods and services which is likely to increase the District's costs in obtaining goods and services.

E. It is in the interests of the District's ratepayers that businesses currently located within the District's jurisdictional boundaries remain locally based instead of relocating to outlying areas or other states.

F. Based upon the foregoing, the District's local vendor preference is supportive of local economic development and maintained local economic viability.

NOW, THEREFORE, the Board of Directors of the Midway City Sanitary District resolves as follows:

Section 1: The Purchasing Policy and Procedures attached hereto as Exhibit A are hereby approved.

2. Section 2: The District's Purchasing Policy and Procedures adopted in 2014 and amended in 2015, 2016, and 2017 are hereby rescinded.

PASSED AND ADOPTED, at a regular meeting of the Board of Directors of Midway City Sanitary District of Orange County, California, held this 4th day of April, 2023.

Tyler Diep, President

ATTEST:

Andrew Nguyen, Secretary

Exhibit A

MIDWAY CITY SANITARY DISTRICT
PURCHASING POLICIES AND PROCEDURES

CERTIFICATION

I, Andrew Nguyen, Secretary of the MIDWAY CITY SANITARY DISTRICT of Orange County, California, do hereby certify that the foregoing Resolution No. 2023-09 was duly adopted at a meeting of the Governing Board of said District held on the 4th day of April, 2023 by the following vote of the members of the Board:

AYES:
NOES:
ABSENT:

and I further certify that Tyler Diep, as President, and Andrew Nguyen, as Secretary, signed and approved said Resolution No. 2023-09 on the 21st day of March, 2023.

Andrew Nguyen, Secretary

(District Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Andrew Nguyen, Secretary of the Midway City Sanitary District of Orange County, California, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 2023-09 passed and adopted by the Board of Directors of said District at a meeting thereof held on the 4th day of April, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal of said District this 4th day of April, 2023.

Andrew Nguyen, Secretary

**MIDWAY CITY SANITARY DISTRICT
PURCHASING POLICY AND PROCEDURES**

Section 1: Introduction

This policy shall be known as the Midway City Sanitary District's (District) Purchasing Policy and Procedures (Policy). Its purpose is to: establish policies and procedures for the purchase of Goods, Services, and the award of Contracts for Public Works Projects at the lowest possible cost commensurate with the quality needed; exercise positive financial control over purchases; ensure the District complies with state laws governing the award of Contracts for Goods, Services and Public Works Projects; and clearly define authority for District purchases.

Section 2: Administrative Rules and Procedures

The General Manager may issue and enforce such administrative rules and procedures as required and necessary to carry out the intent and purposes of this Policy.

Section 3: Authorization by the Board of Directors

The purchase of any Goods and/or Services having an estimated value greater than \$40,000, and/or award of Contracts for Public Works Projects having an estimated value greater than \$15,000, shall be subject to approval by the Board of Directors. Procurements shall not be artificially split or divided into different individual Contracts so as to keep each Contract amount below monetary thresholds set forth in this Policy. Notwithstanding the foregoing, the General Manager may approve Procurements valued greater than the amounts specified above in emergency situations pursuant to Section 9, Paragraph E, and Section 10, Paragraph B.11., herein.

Section 4: Specific Authorization for General Manager to Purchase and Enter into Contracts

- A. The General Manager is authorized to approve Procurements of Goods and/or Services having an estimated value of \$40,000 or less, and to award Contracts for Public Works Projects having an estimated value of \$15,000 or less, without prior authorization from the Board of Directors. The General Manager shall require that such Procurements be made in conformance with the policies established herein. The Board of Directors may require that the General Manager provide periodic reports regarding Procurements made under such authorization to the Board of Directors at a regular meeting.

- B. The General Manager is authorized to approve Change Orders or amendments to Contracts for Goods and/or Services for changes or additions to the original scope of Goods and/or Services up to the cumulative amount of ten percent of the awarded Contract amount or \$15,000, whichever is greater, or as otherwise expressly authorized by the Board of Directors. For Change Orders or amendments to Contracts

**MIDWAY CITY SANITARY DISTRICT
PURCHASING POLICY AND PROCEDURES**

approved by the Board of Directors, the General Manager shall inform the Board of Directors of the Change Order or amendment at the next regular Board meeting after it is authorized. Except as set forth herein, changes to Contracts approved or awarded by the Board of Directors require Board of Directors' approval.

- C. The General Manager is authorized to execute agreements on behalf of the District, in a form approved District Counsel, providing for indemnification by the District of the other party to the agreement (a) where the value of the agreement, other than indemnification, does not exceed \$40,000 and Board of Directors' approval of the agreement is not otherwise required, or (b) for the use of public or private property by the District, provided, however, that any such indemnity provision shall be specifically limited to claims, losses, damages, or injuries arising from the District's use of such property.

- D. The General Manager shall have the authority to:
 - 1. Determine the purchasing method(s) to be used, which shall be consistent with this Policy.
 - 2. Procure Goods, Services and/or award Contracts for Public Works Projects required by the District in accordance with the purchasing policies set forth in this Policy and/or as directed by the Board of Directors.
 - 3. Negotiate and recommend the execution of Contracts for the procurement of Goods, Services and/or Public Works Projects.
 - 4. Act to procure the needed quality in Goods and/or Services, along with the award of Contracts for Public Works Projects, at the least overall expense to the District.
 - 5. Delegate appropriate authority to District staff.
 - 6. Endeavor to obtain as full and open competition as reasonable for Procurements.
 - 7. Prepare, update, and implement rules and procedures consistent with this Policy governing the purchase of Goods and Services, and the award of Contracts for Public Works Projects for the District.

**MIDWAY CITY SANITARY DISTRICT
PURCHASING POLICY AND PROCEDURES**

Section 5: Decentralized Purchasing

The District's purchasing system is decentralized in order to maintain a continuous supply of Goods and/or Services necessary to support the District's operations and meet the District's obligations to the public. Each Originating Department is responsible for compliance with the District's policies, procedures and any and all applicable laws.

Section 6: Authorization for Payment(s)

Authority to approve payments for Goods, Services, and Public Works Contracts will lie with the District General Manager, subject to review by the Board Treasurer and approval and/or ratification by the Board of Directors at a Board meeting.

Section 7: Encumbrance of Funds

Except in cases of emergency, no Contract or Procurement shall be made for Goods, Services, or Public Works Projects unless an unencumbered appropriation in the current fiscal year budget can be identified, or unless authorized by the Board of Directors.

Section 8: Ethics

- A. District personnel shall not accept gifts, rebates, kickbacks, personal services, or in any way incur personal gain from any Contractor, actual or potential, doing business with the District.

- B. No District employee or Board Member shall have a direct or indirect individual interest in any Contract or purchase of goods or services entered into by the District, or shall derive any personal benefit from the District's purchase of Goods and/or Services. Without limiting the foregoing, no District employee or Board Member shall make any Contract, participate in the making of any Contract, or in any way attempt to use his or her official position to influence any decision on any Contract, in violation of Government Code sections 87100 *et seq.* or Government Code section 1090.

- C. No District employee or Board Member shall use the purchasing procedures to obtain property or services for personal use or by misrepresenting to Contractors that personal purchases are for the District (i.e., for the purpose of obtaining price discounts). Notwithstanding the above, Mechanics in the Fleet Maintenance Department may personally purchase their own tools from Contractors which may be used in the maintenance of the District's fleet. These tools are the property of the individual mechanic, and the District has no obligation to purchase or replace tools personally bought by the employee.

Section 9: Bidding, Purchasing and Contracting for Goods and/or Services

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A. \$10,000 or less:

No bidding is required for Contracts for Goods and/or Services of \$10,000 or less, including all applicable taxes and shipping. At the discretion of the General Manager, at least two (2) quotes shall be obtained to ensure the lowest overall cost to the District.

B. More than \$10,000, and up to and including \$125,000:

Except as otherwise provided in this Policy, the following Informal Bid Process is required for Procurements of Goods and/or General (but not Professional) Services, including taxes and shipping, that is estimated to be more than \$10,000, and up to and including \$125,000:

1. Written informal bids or proposals shall be solicited from at least three (3) vendors identified by District staff not less than ten (10) days before bids/proposals are due.
2. When soliciting informal bids or proposals, District staff shall: (1) describe the Goods and/or Services in general terms; (2) advise vendors how to obtain additional information about the Goods and/or Services; (3) state the date, time, method and place for the submission of bids/proposals; (4) for particular Services, advise prospective vendors when the award will be based on the Best Value evaluation as determined by the Board of Directors or General Manager, as applicable; (5) advise vendors that the District may reject any and/or all bids or proposals received, and may waive any minor irregularities in each bid or proposal received; and (6) include any other information required by federal, state or local law, as applicable.

C. Over \$125,000:

Except as otherwise provided in this Policy, a Formal Bid Process is required for procurements of Goods and/or General Services, including taxes and shipping, that is estimated to be over \$125,000. The District shall solicit formal sealed bids in accordance with the following procedures:

1. Publish a Notice Inviting Bids that contains (a) a description of the Goods and/or Services required, (b) a description of the selection process, (c) bidder's security requirement, if applicable, (d) performance bond requirements, if applicable, and (e) such provisions, terms, and conditions, consistent with this Policy, that are deemed necessary, desirable, and/or advantageous to the District;

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2. Open the bids publicly at the time and place designated in the Notice Inviting Bids, and record the amount of each bid;
3. Determine whether the bids are responsive to the Notice Inviting Bids; and
4. Take one of the following actions:
 - (a) Award the Contract to the lowest Responsive and Responsible Bidder;
 - (b) Reject any and all bids presented and/or re-advertise the bid; or
 - (c) Declare that the Goods and/or Services may be acquired at a lower cost by negotiation in the open market and authorize the Procurement in that manner.
5. If two or more bids received are for the same total amount or unit price, the District may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders at the time of the award.

D. Professional Services

To ensure the selection of Professional Services are based on demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required, the following procedures shall be followed for the Procurement of Professional Services:

1. \$40,000 or less

For the Procurement of Professional Services estimated to cost \$40,000 or less, the General Manager shall informally request at least two (2) proposals from vendors providing the type of services needed. The General Manager shall engage the most qualified person or firm based upon demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required, as determined in the sole discretion of the General Manager.

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2. Over \$40,000

- (a) For the Procurement of Professional Services estimated to cost more than \$40,000, a Request for Proposals shall be issued for each Professional Service requested. Multiple projects may be bundled into one Request for Proposals such that multiple Contract awards may result from one Request for Proposals and selection may be based upon specialized services. Each Request for Proposals shall require that proposals contain, at a minimum, the following information:
 - i. The firm's qualifications for performing the proposed work.
 - ii. The firm's relevant experience and performance on similar projects.
 - iii. A fee proposal, based on the method of compensation specified in the Request for Proposal, and an estimate of total fees.
 - iv. The firm's ability to complete the work within the time allotted.
 - v. The personnel that will be assigned to the project.
 - vi. A statement that the firm's engagement for the project would not create a conflict of interest.
 - vii. Any other information required to properly evaluate the firm's qualifications and experience with similar projects.
 - viii. Proposals for construction management services shall demonstrate that the designated personnel have 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.
- (b) The District shall publicize each Request for Proposals by one or more of the following methods:

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- i. Advertising in the publications of professional societies;
 - ii. Mailing, electronic mailing, or faxing the Request for Proposals to each vendor who has submitted a Statement of Qualifications;
 - iii. Mailing, electronic mailing, or faxing the Request for Proposals to at least three firms qualified to furnish the required services as identified in the Qualified Bidders List or as otherwise identified by District staff;
 - iv. Posting the Request for Proposals on the District website; and/or
 - v. Using other publication methods that may be beneficial to increasing the number of qualified proposals received by the District.
- (c) The General Manager shall evaluate the proposals for the Board of Director's review. In his or her discretion, the General Manager may appoint an evaluation committee to evaluate the proposals.
- (d) All proposals shall be evaluated and ranked, from most qualified to least qualified, based on each firm's demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required.
- (e) The General Manager may conduct interviews of firms based on the proposal rankings in order to determine final rankings.
- (f) At the Board's Direction, the General Manager shall negotiate a Contract with the firm that the General Manager and/or the evaluation committee deems to be most qualified. If the General Manager is unable to negotiate a satisfactory Contract with the firm deemed to be most qualified, the General Manager shall terminate negotiations with that firm and may negotiate with the firm deemed to be second most qualified. If those negotiations fail, the General Manager shall negotiate with the third most qualified firm, and so on, until an agreement is reached or the General Manager determines that it is in the best interest of the District to reject the remaining firms. If the Board of Directors determines that it is in the best interest of the District, the Board of Directors may

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award more than one Contract to the most qualified firms or reject all proposals.

E. Emergency Purchases for Goods and/or Services

Where the Board of Directors or General Manager determines that an emergency exists, any one of them may authorize the purchase of Goods and/or Services without following the District's procurement procedures set forth herein, including competitive bidding procedures and/or obtaining contracting approval as otherwise normally required. If the emergency purchase is for Professional Services, such purchase shall be based upon a vendor's demonstrated competence and qualifications for the types of services to be performed at a fair and reasonable price. For the purposes of this exception, emergency procurements are those purchases that are required to prevent immediate interruption or cessation of necessary services or to safeguard life, property, or the public health and welfare.

For all emergency purchases that would otherwise require Board of Directors' approval due to contract amount, or which would have otherwise required a Formal Bid Process, the General Manager shall inform the Board of Directors of the Procurement at the next regular Board meeting after the purchase is authorized.

F. Prevailing Wage Service Contracts

Contracts over \$1,000 for certain Services, including, but not limited to, installation, maintenance, repair work, or certain other work done for the District, may be Prevailing Wage Contracts subject to the requirements of Labor Code section 1720 *et seq.* and other laws and requiring the payment of prevailing wages. including, without limitation, requirements that Contractors be registered with the Department of Industrial Relations ("DIR") and maintain certified payroll records, and that for Prevailing Wage Contracts over \$25,000 involving construction, alteration, demolition, installation, or repair work, and Prevailing Wage Contracts over \$15,000 involving maintenance work, the District not enter into or award a Contract to a Contractor that is not registered with the DIR and that the District submit notice of Contract award through DIR's PWC-100 system within 30 days of the award, but in no event later than the first day in which a Contractor begins work. Notwithstanding the provisions of this Policy, for Contracts for Services that are Prevailing Wage Contracts, a Procurement process shall be utilized, which complies with all aspects of state and local law governing Prevailing Wage Contracts, including, but not limited to, the Public Contract Code, Labor Code, State Regulations, Ordinances, Resolutions and Policies of the Board of Directors as may be adopted from time-to-time.

Section 10: Bidding, Purchasing and Contracting for Public Works Projects

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A. \$15,000 or Less

A Formal Bid Process is not required for Public Works Projects valued at \$15,000 or less. For Procurement of Public Works Projects valued at \$15,000 or less, the processes identified for Goods and/or Services above may be used based on the corresponding monetary value.

B. More than \$15,000

1. For Procurement of Public Works Projects over \$15,000 and subject to Public Contract Code section 20800 *et seq.*, a Formal Bid Process shall be utilized, which complies with all aspects of federal, state and local law governing formal competitive bidding, including, but not limited to, the Public Contract Code, Government Code, Labor Code, State Regulations, Federal Regulations, grant requirements, Ordinances, Resolutions and Policies of the Board of Directors as may be adopted from time-to-time.
2. The notice inviting formal bids shall comply with the requirements set forth in Public Contract Code section 20804. At a minimum, the notice inviting formal bids shall:
 - (a) Describe the project in general terms and state the project to be done;
 - (b) State how to obtain more detailed information about the project. The specifications shall not call for a designated material, product, thing, or service by specific brand or trade name unless the District complies with the requirements under Public Contract Code section 3400 *et seq.*;
 - (c) State the deadline, including date, time and place, for the submission of sealed bids that is at least ten (10) calendar days after publication or posting of the notice;
 - (d) Require bidders to post 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;
 - (e) State that a payment bond is required for a Contract for a Public Works Project involving an expenditure in excess of twenty-five thousand dollars (\$25,000) as required pursuant

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to Civil Code section 9550. For Contracts at or below \$25,000, a payment bond may be required;

- (f) Include a provision stating that the Contractor will be permitted to substitute securities for any monies withheld by the District to ensure performance of the Contract pursuant to Public Contract Code section 22300;
 - (g) Specify the classification of the contractor's license the Contractor must possess at the time a Contract is awarded as required pursuant to Public Contract Code section 3300;
 - (h) Include all statements required to be included in calls for bids and bid invitations for Prevailing Wage Contracts pursuant to State law, including, without limitation, Labor Code sections 1771.1(b) and 1771.4(a) and Public Contract Code section 6109;
 - (i) Advise vendors that the District may reject any and/or all bids received and re-advertise, and that the District may waive any minor irregularities in each bid received;
 - (j) Set forth a procedure that shall be followed in the event of a tie between the lowest Responsive and Responsible bidders;
 - (k) Include any other information required by federal, state or local law, as applicable, or whatever provisions, consistent with this Policy, that the General Manager determines are necessary, desirable, and/or advantageous to the District.
3. Each notice inviting bids shall be published in a newspaper of general circulation or posted in at least three public places in the District at least ten (10) days before the date for the opening of bids consistent with the requirements set forth in Public Contract Code section 20804.

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4. Bid Opening:

- (a) Sealed bids shall be submitted to the place designated in the notice inviting bids, time stamped when received, and shall clearly identify the bidder and the name of the project on the envelope.
- (b) Bidders may modify or withdraw their bids prior to the deadline for submitting bids, without penalty. However, any modifications submitted after the bid opening will not be accepted. Such modification will be returned to the bidder, unopened.
- (c) Bids shall be opened in public at the time and place stated in the public notice.
- (d) The General Manager or his/her designee shall open the bids and shall record all bids received.
- (e) Bids shall be submitted so that they will be received at the place designated in the notice inviting bids not later than the exact time specified in the notice. Any bid received after the exact time specified in the notice shall be returned to the bidder, unopened. A bid shall be considered to have been timely submitted if it is received at any time during the sixty second duration of the minute of of the exact time specified in the notice (for example, if the notice provides that the bid is to be submitted no later than 2:00, the bid will be considered timely submitted as long as it is received before 2:01).
- (f) When a bidder's security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. When a bidder's security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid. Unsuccessful bidders shall be entitled to return of the bid security within a reasonable period of time, but no later than 60 days from the time award is made.

The successful bidder must execute the Contract and file acceptable documents within thirty (30) calendar days from the date of award unless extended in writing by the General Manager. Failure to execute the Contract shall be just cause for annulment of the award and forfeiture of the bidder's security, not as a penalty, but as liquidated damages. The

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Board of Directors may, upon refusal or failure of the successful bidder to execute the Contract, award the Contract to the next lowest Responsive and Responsible Bidder.

5. Bid Protests:

- (a) Any bidder claiming that another bidder is not a Responsive and Responsible Bidder shall submit a formal written protest conforming to the requirements of this section to the General Manager or his/her designee in person, by U.S. mail, or to the address and in the manner otherwise specified in the bid solicitation. Any protest not conforming to the requirements of this section may be rejected as invalid.
- (b) Unless a longer period is specified in the request for bids, to be considered a valid protest, a bid protest must be received by the General Manager or designee no later than 5:00 p.m. on the fifth business day after the date of the bid opening. If the fifth business day falls on a weekend or a District holiday, the deadline to submit a protest shall be extended to 5:00 p.m. on the next business day.
- (c) A bidder submitting the protest shall concurrently transmit a copy of the protest to the bidder deemed the apparent lowest bidder and to any other bidder that is the subject of the protest.
- (d) Bid protests must include the name, address and telephone number of the protestor and/or the person representing the protesting party. The written protest must set forth, in detail, all grounds for the protest, including, without limitation, all facts, supporting documentation, legal authorities, and arguments in support of the grounds for the protest. All factual contentions must be supported by evidence. Any matters not set forth in the formal written protest will be deemed waived.
- (e) The General Manager shall review a timely bid protest and transmit a written determination on the protest stating the reasons for the determination to the protesting bidder and all other affected bidders. Such determination may be transmitted by U.S. mail or email and shall be deemed transmitted on the date it is deposited in the U.S. mail or sent via email. The General Manager may base his/her determination on the written protest alone or may informally gather evidence from the person(s) filing the protest or any other person having relevant information.

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- (f) If a bidder disagrees with the determination on the protest made by the General Manager, the bidder may appeal the General Manager's determination to the Board of Directors. Any such appeal shall be in writing, and shall be filed with the General Manager within five business days of transmittal of the General Manager's determination. The Board of Directors shall not consider award of the Contract until the time for appeal has expired.
- (g) The procedures and time limits set forth in this section are mandatory and are a bidder's sole and exclusive administrative remedy in the event of a bid protest. A bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue a bid protest and/or legal challenge to the District's award of the Contract.

6. Evaluation of Bids:

The General Manager shall independently evaluate and determine whether each bidder is a Responsive and Responsible Bidder and make a recommendation to the Board of Directors regarding award of the Contract. The Board of Directors shall award the Contract to the lowest Responsive and Responsible Bidder. In determining whether a Bidder is Responsible, the District will take into consideration:

- (a) Ability, capacity, and skill;
- (b) Ability to meet the time requirements;
- (c) Character, integrity, and reputation;
- (d) Previous Contractor experience;
- (e) Financial resources available for contract performance;
- (f) Ability to provide future maintenance and service (warranties), if necessary; and
- (g) Any other criteria identified in request for bids, instructions to bidders or specifications relevant to the trustworthiness, quality, fitness, or capacity of a bidder to perform the Contract.

If the General Manager determines that any bidder is not a Responsive Bidder and/or a Responsible Bidder, the General Manager shall notify the bidder in writing of the basis of this determination and any related information or evidence received from others or adduced as a result of an independent investigation, afford the bidder an opportunity to rebut such determination and/or adverse evidence, and permit the bidder to present evidence that it is a

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Responsive and Responsible Bidder prior to consideration of award of the Contract by the Board of Directors.

7. Rejection of Bids:

The District reserves the right to reject any and/or all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bids or the bidding process if it is deemed in the best interest of the District.

If, after the first invitation of bids, all bids are rejected, the District may elect to re-advertise for bids, re-evaluate the project, or cancel the project to consider it at a later date.

8. Tie Bids:

If tie low responsive and responsible bids are received, quality and service being equal, the District may, at its discretion:

- i. Reject any and/or all bids presented and re-advertise;
- ii. Accept either one or accept the lowest bid made by negotiation with the tie bidders; or
- iii. Award the bid to any one of the low tie bidders by lot occurring during a public meeting.

9. No Bids:

If the District does not receive any bids for a particular project, the Board of Directors may have the project done without completing a further Formal Bid Process, and the Board of Directors may direct the General Manager to award a construction Contract through a Negotiated Procurement.

10. Awarding:

Unless the District rejects all bids, the Board of Directors shall award the Contract to the lowest Responsible and Responsive Bidder. The Board of Directors shall award the Contract during a public meeting. For Contracts over \$25,000, the Board of Directors shall require that the Contractor awarded the Contract file, before commencement of work, a payment (performance) bond that is no less than 100 percent of the total amount due under the Contract. For Contracts at or below \$25,000, a payment (performance) bond may be required.

11. Change Orders:

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The General Manager and/or Finance Director are authorized to approve Change Orders for changes or additions to the original scope of services up to the cumulative amount of ten percent of the awarded contract amount or \$15,000, whichever is greater, or as otherwise expressly authorized by the Board of Directors. For such Change Orders, the General Manager shall inform the Board of Directors of the Change Order at the next regular Board meeting after it is authorized. Except as set forth herein, changes to formal Contracts awarded by the Board of Directors require Board of Directors' approval.

12. Specified Emergencies:

In the event of an emergency as defined in Public Contract Code section 1102 as "a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services" or as described in Public Contract Code section 20806 as "work to prepare for national or local defense", the District may enter into a Contract for the construction of a Public Works Project through Negotiated Procurement if the Board of Directors adopts findings by a four-fifths vote of its members declaring that the public interest and necessity demand the immediate expenditure of District funds to safeguard life, health, or property. In the event the Board of Directors is unavailable in an emergency, as defined in this paragraph, the General Manager is authorized to enter into a Contract for the repair or replacement of a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without following the District's procurement procedures set forth herein, including competitive bidding procedures and/or obtaining contracting approval as otherwise normally required. The District shall comply with the requirements set forth in Public Contract Code section 20806 and Public Contract Code sections 22050 *et seq.*, for specified emergencies.

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C. Design-Build

Where authorized by the Public Contract Code or other statute, the District may utilize a design-build selection process for the award of Public Works Contracts.

D. Prevailing Wage Contracts for Public Works Projects

Contracts over \$1,000 for Public Works Projects are Prevailing Wage Contracts subject to the requirements of Labor Code section 1720 *et seq.* and requiring the payment of prevailing wages, including, without limitation, requirements that Contractors be registered with the Department of Industrial Relations (“DIR”) and maintain certified payroll records, and that for Prevailing Wage Contracts over \$25,000 involving construction, alteration, demolition, installation, or repair work, and Prevailing Wage Contracts over \$15,000 involving maintenance work, the District not enter into or award a Contract to a Contractor that is not registered with the DIR and that the District submit notice of Contract award through DIR’s PWC-100 system within 30 days of the award, but in no event later than the first day in which a Contractor begins work.

Section 11: Other Exceptions from Bidding Requirements

- A. It is recognized that no set of rules or procedures can take every circumstance into account and it is also recognized that occasionally circumstances may arise where it is in the District’s best interest to deviate from them. In such cases the department supervisors shall bring the need to the General Manager’s attention. The General Manager, on a case by case basis, may waive any of the requirements of this Policy for purchases of Goods and/or Services of \$40,000 or less. The District Board of Directors, on a case by case basis, may waive any of the requirements of this Policy for (1) purchases of Goods and/or Services greater than \$40,000 or (2) the award of Contracts for Public Works Projects greater than \$15,000, if permitted by State law.
- B. Where specified in this Policy, Goods and Services may be purchased by, and the award of Contracts for Public Works Projects may be made by, Negotiated Procurement. Negotiated Procurements are permitted: (1) where competitive bidding would be impossible, impractical, or incongruous, or would not result in any advantage to the District in its efforts to contract for the greatest public benefit; (2) in an emergency; (3) when the Goods and/or Services can be obtained from only one source or the price is controlled by law; (4) when the amount involved is \$10,000 or less; or (5) where compelling economic or administrative considerations warrant employment of alternate purchasing procedures. Such considerations may

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include, but are not limited to, circumstances in which services have been previously rendered by a Contractor who has thereby gained and exhibited unique and/or superior experience and/or expertise in relation to the District's operational requirements. Such procurement shall be negotiated by the General Manager as authorized by the Board of Directors.

- C. No provision in this Policy shall be interpreted or construed to prohibit or prevent the District from renewing or extending existing Contracts for Goods and/or Services, provided that normal procurement procedures were used in the original selection. Renewal or extension of such Contracts obligating the District to any payment exceeding \$40,000 per year shall be subject to approval by the Board of Directors.

- D. When another public agency or government purchasing cooperative organization has awarded a Contract for Goods and/or Services pursuant to a process substantially similar to the processes described in this Policy, the District may acquire such Goods and/or Services on the same or substantially similar terms without conducting its own separate Procurement process. Cooperative and "piggyback" purchasing provides a means for the District to join with other public agencies, businesses, or government purchasing cooperative organizations for the purpose of collectively preparing specifications, and requesting and receiving bids, quotations or proposals, or utilizing the quotations and bids obtained by other governmental agencies. Examples of cooperative or piggyback purchasing include, but are not limited to, purchases made using another agency's contract, joint buying within a regional area, participation in the State of California Multiple Awards Schedules (CMAS) program and statewide commodity contracts and the utilization of contracts negotiated by municipal leagues or organizations such as the California Special Districts Association (CSDA), and California Association of Sanitation Agencies (CASA). Any Contract or arrangement for such cooperative purchases shall be subject to approval by the Board of Directors if such approval would otherwise be required. The General Manager shall inform the Board of Directors any cooperative or piggyback purchases made within the purchasing authority of the General Manager at the next regular Board meeting after the purchase is made.

Section 12: Sole Source

Sole Source procurement of Goods and/or Services shall not be used unless there is substantial evidence that only one source exists to fulfill the District's requirements. The Services necessary to monitor, maintain, and service the District's sewer SCADA system, which are currently reasonably available from a single vendor, is one example of Sole Source Procurement is appropriate. Except as otherwise authorized in emergency

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situations, all Sole Source purchases over \$40,000 require approval by the Board of Directors.

Sole Source purchases shall be well documented and provide verification that a good faith search for competition has been made or that the requested item or service provider is deemed to be the only one practicably available.

Sole Source restrictions may be waived in the event of an emergency in order to protect the health and safety of the community.

Section 13: Solid Waste and Recycling Carts and Bins

Solid waste and recycling carts and bins are typically ordered in bulk to meet the needs of the District and to take advantage of cost savings whenever feasible. A single order for carts or bins may exceed the dollar amount triggering use of an Informal Bid Process as set forth in Section 10. Notwithstanding Section 10, herein, the General Manager is authorized make such purchases so long as such purchases are within the District's approved budget, or unless otherwise directed by the Board of Directors. For purchases under this Section that would otherwise require Board of Directors' approval, the General Manager shall inform the Board of Directors of the Procurement at the next regular Board meeting after the purchase is authorized.

Section 14: Local Preference

For the purchase of Goods and/or Services, excluding Contracts for Public Works Projects, when two or more proposals or request for quotations are the same, in unit, quality, service and total cost, preference may be given to the Local Vendor.

Preference may be given to a Local Vendor if the quote for Services or Goods, including all applicable taxes and shipping, is no more than 5% higher than the lowest bid (quote) received.

Section 15: Surplus Property

The Board of Directors shall approve the disposition of all Surplus Property. Surplus Property may be offered for sale using any of the processes identified below, transferred to another Department, traded-in for new equipment or material, donated, recycled or disposed of through the solid waste collection system. All Surplus Property that is for sale shall be sold "as is" and "where is," with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered for sale or as otherwise directed by the Board of Directors. Appropriate methods of sale are as follows: public auction; sealed bids; negotiated sale; sell as salvage; or as otherwise directed by the Board of Directors.

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Section 16: Execution of Contracts

After award, all Contracts for Goods and/or Services at or under \$40,000, and all Contracts for Public Works Projects at or under \$15,000, shall be executed on behalf of the District by the General Manager unless otherwise directed by the Board of Directors. Contracts for Goods and/or Services over \$40,000, and Contracts for Public Works Projects over \$15,000, shall be executed on behalf of the District by the President of the Board of Directors, or his or her designee, after Board approval, unless the Board of Directors authorizes the General Manager to execute the Contract. Prior to execution of any Contract, the Contractor shall demonstrate that it is authorized to do business in California, the County of Orange, and the City of Westminster. Contractors that are organized as a corporation, limited liability company, or other entity under the laws of another state must be properly registered with the California Secretary of State pursuant to applicable law.

Section 17: Approval by General Counsel

District Counsel shall approve, in writing, the District's standard Contract (agreement) form. In the event that the District's standard Contract form is not applicable, the Board of Directors or General Manager, at their discretion, may direct District Counsel to review any other Contract for approval as to form.

Section 18: Noncompliance

Any Contract entered into which fails in any respect to comply with the provisions of this Policy may be voided by the Board of Directors.

Section 19: Precedence over Prior Policies, Procedures, or Actions

Upon approval by the Board of Directors, this Policy shall be deemed to take precedence over any other prior Board of Director policies, procedures, or actions that are in conflict with or inconsistent with the provisions of this Policy. If Staff identifies any conflict or inconsistency between this Policy and any other approved District policy or procedure, Staff shall inform the Board of Directors of such conflict or inconsistency in writing.

Section 20: Definitions

For the purposes of this section, the words and terms set forth below shall be construed in accordance with the following definitions:

- A. "Best Value" shall mean the overall combination of quality, price, and other elements of a proposal/bid (or combination of several proposals or bids) that, when considered together, provide the greatest overall benefit in response to the requirements described in the solicitation documents.

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- B. "Budgeted" shall mean the amount of appropriations within a fund adopted for expenditure by the Board of Directors.
- C. "Change Order" shall mean a properly executed written agreement entered into between the District and the Contractor, or a directive unilaterally issued by the District, covering modifications to the original Contract, which may result in adjustments to the scope of work, cost and/or period of performance.
- D. "Contract" shall mean any type of arrangement for the purchase of Goods and/or Services, including construction services for Public Works Projects. Contracts may be referred to in various ways, including "contract", "agreement", or "purchase order."
- E. "Contractor" shall mean any person or entity that has a Contract with the District.
- F. "Formal Bid Process" shall mean a competitive selection process requiring a public notice inviting bids, availability of specifications, bid opening, determination of lowest responsive and responsible bidder, and awarding or rejection of the bid(s).
- G. "General Manager" means the general manager of the District or person designated by the general manager to exercise some or all of the authority or to perform all or some of the duties prescribed in this Policy.
- H. "General Services" shall mean the furnishing of labor, time or effort by a Contractor, including, but not limited to: (a) routine, recurring, and usual work for the preservation or protection of a publicly-owned, or publicly-operated facility for intended purposes; (b) minor repainting; (c) resurfacing of streets and highways; (d) landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems; and (e) work performed to keep, operate and maintain publicly-owned wastewater or solid waste disposal systems.
- I. "Goods" shall mean fixed, movable, disposable, and/or reusable products, commodities, or items used by the District, including but not limited to, office supplies, program supplies, subscriptions, equipment, vehicles, fuel and vehicle supplies, tools, computers, computer hardware and software, landscape and irrigation supplies, power tools, janitorial supplies, office furniture, and fixtures, which shall be furnished to or used by any department.
- J. "Informal Bid Process" shall mean a competitive selection process used, when applicable, to ensure the most competitive price or Best Value is

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received for Goods and/or Services, while avoiding the time and expense involved in formal bidding. The process requires the solicitation of written informal bids and/or proposals from potential vendors and the selection of a vendor based either on the lowest cost commensurate with the quality and scope needed, or Best Value, and subject to any limitations imposed by state law.

- K. "Local Vendor" shall mean a firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed within the District's boundaries.
- L. "Negotiated Procurement" shall mean a selection process whereby the General Manager identifies one or more prospective Contractors of his or her choice, negotiates with one or more of them, and awards the Contract to one of them based on the best interest of the District.
- M. "Originating Department" shall mean any District department requiring Goods, Services, and/or the award of Contracts for Public Works Projects.
- N. "Prevailing Wage Contract" shall mean any Contract requiring the payment of prevailing wages and subject to requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code (Section 1720 *et seq.*). Prevailing Wage Contracts may include, without limitation, Contracts for either Public Works Projects or Services that involve construction, alteration, demolition, installation, maintenance, repair work, or certain other work done for the District; street, sewer, or other improvement work; the laying of carpet; the hauling of refuse from a public works site to an outside disposal facility; or the on hauling of materials used for paving, grading, and fill onto a public works site, if the individual driver's work is integrated into the flow process of construction.
- O. "Procurement" shall mean buying, purchasing, renting, leasing, or otherwise acquiring any Goods, Services, construction, construction services, or professional services.
- P. "Professional Services" shall mean services provided by any specially trained, educated, experienced or licensed person, company, corporation, or firm, and which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience.

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- Q. "Professional Services Agreements (PSA)" shall mean Contracts negotiated for Professional Services, which are based on demonstrated competence, professional qualifications for the services required, availability, and fair and reasonable cost.
- R. "Public Works Project" shall mean any construction, reconstruction, alteration, enlargement, renewal, or replacement of sewer or other facilities that the District is authorized to do, including, but not limited to, the furnishing of supplies or materials for any such work as defined pursuant to Public Contract Code section 20801.
- S. "Purchase Order" shall mean a commercial document issued by a buyer to a seller, indicating types, quantities, and agreed prices for products or services the seller will provide to the buyer.
- T. "Qualified Bidders List" shall mean one list for ongoing service requirements for the same or very similar services, including general services, professional services, and qualified construction contractors, categorized by the type of product sold or work performed for use in soliciting bids.
- U. "Responsible Bidder" shall mean a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work or services proposed.
- V. "Responsive Bidder" shall mean a bidder who has submitted a bid which conforms in all material respects to the terms and conditions, specifications and other requirements requested.
- W. "Services" shall mean the furnishing of labor, time or effort by a Contractor. Services include both General Services and Professional Services, unless otherwise specified.
- X. "Sole Source" shall mean an award for Goods and/or Services that are (i) of a unique nature based on their quality, durability, availability, fitness or qualifications for a particular use; or (ii) only available from one source.
- Y. "Surplus Property" means property, other than real property, no longer needed by District departments for their operations, obsolete property, property in poor or non-working condition, or property that is a by-product (i.e., scrap metal, used tires, oil, etc.).

AGENDA ITEM 9B

Date: April 4, 2023

To: Board of Directors

Prepared by: Robert Housley, General Manager

Subject: Consider Approval of a Consultant Agreement between the Midway City Sanitary District and Kenneth Robbins to Provide Temporary Consulting and Advisory Services in an Amount Not to Exceed \$15,600

BACKGROUND/DISCUSSION

Former General Manager Kenneth Robbins retired from the District in December of 2022. Mr. Robbins has many years of experience and a vast institutional knowledge of the District's sewer system, engineering software system, regulatory compliance, and current and past projects. With the hiring of a District Engineer, it would be helpful for the General Manager and District Engineer to be able to consult with Ken from time to time during this transition period as questions come up to ensure that essential information and knowledge is not lost and is effectively transitioned over to the new District Engineer. Staff proposes that the District enter into a temporary consultant agreement with Mr. Robbins for this limited purpose.

The Proposed Consultant Agreement would be for a 6-month term and would provide for District personnel to consult with Mr. Robbins on an as-needed basis as questions arise and for Mr. Robbins to provide consultation and advice only. Mr. Robbins would be an independent contractor, would not be under the District's supervision or control, would not maintain office space at the District, and would not be performing functions assigned to the General Manager, the District Engineer, or any other current employee. It is anticipated that the services provided by Mr. Robbins would consist of no more than 20 hours per month, on average, over the 6-month term of the agreement, and the proposed not-to-exceed amount of \$15,600 is based on 120 total hours.

STAFF RECOMMENDATION

Staff recommends that the Board approve and authorize the General Manager to execute the proposed consultant agreement with Kenneth Robbins to provide temporary consulting and advisory services, in an amount not to exceed \$15,600.00.

FISCAL IMPACT

No more than \$15,600 (20 hours a month x \$130.00 per hour x 6 months = \$15,600).

Attachment: Proposed Consultant Agreement

CONSULTANT AGREEMENT

THIS AGREEMENT is made this 5th day of April 2023, by and between the **MIDWAY CITY SANITARY DISTRICT** ("DISTRICT") and Kenneth Robbins ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Midway City Sanitary District Board authorization dated April 4, 2023.
2. District desires to utilize the services of CONSULTANT to provide as-needed consulting and advisory services to DISTRICT.
3. CONSULTANT is qualified by virtue of experience, training, education, and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** This Agreement shall be for a term of six (6) months, commencing April 5, 2023, and terminating on October 5, 2023 commence following full execution of this Agreement and shall continue, unless sooner terminated pursuant to Subsection 3.4.
2. **Services to be Provided.** DISTRICT desires to utilize the services of CONSULTANT to provide limited consultation and advice regarding the history of the District's current sewer system and capital infrastructure, compliance with regulatory requirements, use of District software systems, and development of an updated sewer system master plan, on an as-needed basis, as requested and authorized by DISTRICT's General Manager or his designee. The services to be provided by CONSULTANT shall be limited to providing consultation and advice of a limited scope and shall not replace or serve as a substitute for tasks intended to be performed by any DISTRICT employee. This Agreement does not guarantee any specific amount of work. CONSULTANT understands and agrees that DISTRICT is not obligated to request any specific amount of services from CONSULTANT. DISTRICT understands and agrees that CONSULTANT is not obligated to provide any specific amount of services and may decline to provide services requested by DISTRICT. CONSULTANT warrants that all services that are provided by CONSULTANT will be performed in a competent, professional and satisfactory manner. By executing this Agreement, CONSULTANT warrants that it has carefully considered how the work should be performed and fully understands the facilities, difficulties, and restrictions attending performance of the work under this Agreement.

3. **Compensation.** CONSULTANT shall be compensated as follows:
 - 3.1 **Amount.** For all services performed under this Agreement, DISTRICT will compensate CONSULTANT in arrears at the hourly rate of One Hundred Thirty Dollars (\$130.00) per hour. Charges for services shall be in increments of no more than fifteen minutes. The hourly rate set forth herein is intended to cover all of CONSULTANT's reasonable incidental costs to perform the services; CONSULTANT shall not be entitled to reimbursement for mileage, supplies and equipment necessary to perform the services, or other similar expenses incidental to the services to be provided. Total Compensation under this Agreement shall not exceed the total amount of Fifteen Thousand Six Hundred Dollars (\$15,600.00). Unless otherwise mutually agreed by the parties in writing, CONSULTANT shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein.
 - 3.2 **Payment.** For work under this Agreement, payment shall be made per monthly invoice submitted by CONSULTANT for work completed. Invoices shall contain a detailed description of the work that was completed on each day and the time that was spent on that particular item. Charges for services shall be in increments of no more than fifteen minutes.
 - 3.3 **Records of Expenses.** CONSULTANT shall keep complete and accurate records of all time worked and costs and expenses incidental to services covered by this Agreement, if any. These records will be made available at reasonable times to DISTRICT.
 - 3.4 **Termination.** DISTRICT and CONSULTANT shall each have the right to terminate this Agreement, without cause, by giving fifteen (15) days' written notice of termination. If the Agreement is terminated by DISTRICT, then the provisions of paragraph 3 would apply to that portion of the work completed. In such event, DISTRICT will compensate CONSULTANT for work performed through the date of termination. CONSULTANT is required to present evidence to support performed work.
4. **Insurance requirements.** The DISTRICT agrees to waive all insurance requirements except that CONSULTANT shall submit and maintain evidence of current automobile insurance acceptable to DISTRICT during the contract period. Additional insurance will not be required.
5. **Non-Liability of Officials and Employees of the District.** No official or employee of DISTRICT shall be personally liable to CONSULTANT in the event of any default or breach by DISTRICT, or for any amount which may become due to CONSULTANT.

6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is understood and agreed to that CONSULTANT shall act as and be an independent contractor and not as an agent, officer, or employee of the DISTRICT, and that no relationship of employer-employee exists between the parties. During the performance of this Agreement, CONSULTANT shall act in an independent capacity and shall not act as a DISTRICT officer, employee, or agent. The personnel performing the services under this Agreement on behalf of CONSULTANT (if any) shall at all times be under CONSULTANT's exclusive direction and control. Neither DISTRICT nor any of its officers, employees, or agents shall have control over the conduct of CONSULTANT, except as set forth in this Agreement. CONSULTANT may complete all services requested by DISTRICT free of daily supervision or evaluation of daily performance by DISTRICT and according to CONSULTANT's own methods, and the end product, final result, and/or manner and means by which CONSULTANT performs all services shall not be subject to DISTRICT's control. CONSULTANT shall not maintain an office or any other type of fixed business location at DISTRICT's offices. CONSULTANT shall not obtain or be entitled to any rights or benefits which accrue to, or are payable to, DISTRICT'S employees in connection with services provided pursuant to this Agreement. Except for fees paid to CONSULTANT as provided for in this Agreement, DISTRICT shall not pay salaries, wages, or other compensation to CONSULTANT for the performance of services under this Agreement. DISTRICT is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of this Agreement and is not required to issue W-2 Forms for income and employment tax purposes for CONSULTANT. DISTRICT shall not be liable for compensation or indemnification to CONSULTANT for injury or sickness arising out of performing services hereunder. CONSULTANT hereby agrees to indemnify and hold DISTRICT harmless from any and all claims or liabilities that DISTRICT may incur arising from any contention by any third party, including, but not limited to, any federal or state agency or other entity, that an employer-employee relationship exists by reason of this Agreement, including, without limitation, claims that DISTRICT is responsible for retirement or other benefits allegedly accruing to CONSULTANT.
8. **Compliance with Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by DISTRICT, unless disclosure is required by law.

10. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of DISTRICT. CONSULTANT shall provide DISTRICT with copies of these items upon demand or upon termination of this Agreement.
11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
12. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(CONSULTANT)

Kenneth Robbins
9272 Kern Avenue
Westminster, CA 92683

(DISTRICT)

Midway City Sanitary District
Attention: General Manager
14451 Cedarwood Avenue
Westminster, CA 92863

13. **Familiarity with Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by DISTRICT, it shall immediately inform DISTRICT of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from DISTRICT.
14. **Time of Essence.** Time is of the essence in the performance of this Agreement, subject, however, to exercise of the standard of care required for performance of the services.
15. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONSULTANT were a substantial inducement for DISTRICT to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the DISTRICT. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of DISTRICT. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to DISTRICT for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and DISTRICT. All persons engaged in the work will be

considered employees of CONSULTANT. DISTRICT will deal directly with and will make all payments to CONSULTANT.

16. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
17. **Indemnification.** CONSULTANT agrees to protect, defend, and hold harmless DISTRICT and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless DISTRICT, is due to the negligence of DISTRICT, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.
18. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by DISTRICT and CONSULTANT.
19. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the DISTRICT and CONSULTANT.
20. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.
21. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
22. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.
23. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument and any executed counterpart may be delivered by facsimile, transmission, by portable document format (PDF) via email, or by other mutually agreed upon electronic means with the same effect as if an originally executed counterpart had been delivered.

IN WITNESS THEREOF, DISTRICT and CONSULTANT have caused this Agreement to be executed by their duly authorized respective officers as of the date first written above.

"DISTRICT"
MIDWAY CITY SANITARY DISTRICT

"CONSULTANT"
KENNETH R. ROBBINS

By: _____
Robert Housley, General Manager

By: _____
Kenneth Robbins, an individual

APPROVED AS TO FORM

James H. Eggart, General Counsel

Date: _____

AGENDA ITEM 9C

Date: April 4, 2023

To: Board of Directors

Prepared by: Robert Housley, General Manager

Subject: Consider Approval of Notice of Termination / Non-Renewal of the Automatic Renewal and Extension Provision of the Exclusive Franchise Agreement with CR&R Incorporated

BACKGROUND/DISCUSSION

In 1998, the District entered into an Exclusive Franchise Agreement with CR&R Incorporated and Rainbow Disposal for bin refuse collection and disposal and recycling services in the District. The Agreement was amended in 2002, 2004, 2011, and 2017. Rainbow's interest in the Agreement was transferred and assigned to CR&R in 2016.

The Agreement originally had an 8 ½ year term. However, pursuant to the 2004 Second Amendment, the term was increased to 10 years with an automatic renewal and extension (i.e., "evergreen") provision. This provision was further amended in 2011 to how it reads now. In effect, Section 2 provides for a ten (10) year term that is automatically extended on November 21st of each year by one (1) additional year, so that the remaining term shall continue to be ten (10) years. Section 2 further provides that should either party desire that said automatic renewal and extension provision be terminated, such party shall give the other written notice of non-renewal not less than two (2) years prior to July 1st of any year of the Agreement, and that any such notice shall serve to terminate the automatic renewal and extension provision. The Third Amendment containing the current version of Section 2 is attached to this Agreement.

Staff proposes that the District give notice of termination / non-renewal of the automatic renewal and extension provision pursuant to Section 2 of the Agreement prior to July 1st. Doing so will establish a set date the Agreement expires (November 20, 2035) and give the District the future option to evaluate potential competitive alternatives. Pursuant to Section 2 of the Agreement, the parties can mutually agree to reinstate the automatic renewal and extension provision at any time before the Agreement expires.

STAFF RECOMMENDATION

Staff Recommends the Board approve and authorize the General Manager to sign the attached Notice of Termination / Non-Renewal of Automatic Renewal and Extension Provision of the Exclusive Franchise Agreement Between the Midway City Sanitary District and CR&R Incorporated.

FISCAL IMPACT

No significant immediate fiscal impact is anticipated. The Exclusive Franchise Agreement will continue to remain in effect through November 20, 2035.

Attachments:

1. Third Amendment to Exclusive Franchise Agreement
2. Proposed Notice Letter

**THIRD AMENDMENT TO
EXCLUSIVE FRANCHISE AGREEMENT**

This **THIRD AMENDMENT TO EXCLUSIVE FRANCHISE AGREEMENT** (the "Third Amendment") is made as of November 21, 2011 (the "Effective Date"), between **MIDWAY CITY SANITARY DISTRICT** (the "District") and **CR&R INCORPORATED** and **RAINBOW DISPOSAL COMPANY, INC., dba RAINBOW ENVIRONMENTAL SERVICES COMPANY** (collectively the "Contractor").

WHEREAS, on December 15, 1998, District and Contractor entered into an Exclusive Franchise Agreement for the provision of collection and disposal of refuse and recycling service within the jurisdictional boundaries of the District (the "Original Agreement"); and

WHEREAS, on March 19, 2002, District and Contractor entered into an Amendment Agreement (the "First Amendment") extending the term of the Agreement and amending certain other provisions of the Original Agreement; and

WHEREAS, on August 17, 2004, District and Contractor entered into a Second Amendment To Exclusive Franchise Agreement (the "Second Amendment") extending the term of the Agreement and amending certain other provisions of the Original Agreement and First Amendment; and

WHEREAS, the Original Agreement, the First Amendment, and the Second Amendment are referred to collectively herein as the "Agreement;" and

WHEREAS, the parties wish to further amend the Agreement as set forth herein below.

NOW, THEREFORE, for and in consideration of the terms and conditions of this Third Amendment, District and Contractor hereby agree as follows:

1. SECTION 1, DEFINITIONS AND TERMS, of the Agreement is hereby amended to add definitions for "Environmental Laws," "Hazardous Contaminant," "Hazardous Substance," and "Hazardous Waste" as follows:

"G. "Environmental Laws" shall mean all federal and state statutes, county, local and District ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Federal Clean Air Act, 42 USC §7401 et seq.; the Toxic Substances Control Act, 15 USC §2601

et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

H. "Hazardous Contaminant" shall mean any "Hazardous Material," as that term is defined under California Health & Safety Code Section 25501(o); any "Hazardous Substance," as that term is defined herein or under California Health & Safety Code Sections 25281(h), 25501(p), 25501.1 and under Title 42, Section 6901(14) of the United States Code; any "Hazardous Waste," as that term is defined herein and under Title 42, Section 6903(5) of the United States Code and under California Health & Safety Code Section 25501(q); any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include materials identified in any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

I. "Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances," "hazardous materials," "Hazardous Wastes," "toxic waste," "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i)

the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.(CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7401 et seq.; and (vii) California Water Code §13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

J. "Hazardous Waste" shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code, Div. 20, Chap. 6.5 including but not limited to §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.) (RCRA), all future amendments thereto, and all rules and regulations promulgated thereunder.

2. SECTION 2, TERM OF AGREEMENT, of the Agreement is hereby amended in its entirety to read as follows:

"SECTION 2: TERM OF AGREEMENT.

The term of this Agreement shall be for a minimum of ten (10) years from the Effective Date of the Third Amendment, commencing November 21, 2011, 2011, and shall be in full force and effect through November 21, 2021, unless earlier terminated in accordance with the provisions of this Agreement. On November 21, 2012, and each year thereafter, the term of this Agreement shall be automatically extended one (1) additional year, so that the remaining term shall continue to be ten (10) years. In no event shall said term, including any extension thereof, at any time exceed a total period of ten (10) years, and should either party desire that said automatic renewal and extension provision be terminated, such party shall give the other written notice of non-renewal not less than two (2) years prior to July 1st of any year of the Agreement. Any such notice shall serve to terminate the automatic one (1) year renewal and extension provision only, and this Agreement shall remain in effect for the balance of the term then outstanding. In the event that either party exercises its right to terminate said automatic renewal and extension provision, it is acknowledged that the parties may nevertheless subsequently reinstate the automatic renewal and extension provided by mutual written agreement."

3. Paragraph E of SECTION 5, RECYCLING OBLIGATIONS, of the Agreement is hereby amended to add subparagraph (6) to read as follows:

"6. District shall have the option to divert the green/yard waste material from solid waste containers with the recovery systems at the MRFs. The diversion will be accomplished by running the solid waste from the solid waste containers through a system of trommels, conveyors and sorting technology. The Contractor shall recover green/yard waste and organic material from the exiting solid waste cart at the MRFs with a guaranteed 75% minimum recycling diversion."

4. Paragraph H of SECTION 5, RECYCLING OBLIGATIONS, of the Agreement is hereby amended to read in its entirety as follows:

"H. Contractor Reports. Contractor shall cause written reports, including but not limited to quarterly waste reports and quarterly over-the-top reports, to be prepared, obtained and timely submitted to the District on forms approved by the District, which will enable the District to meet all of the reporting requirements of the Act, and any amendments thereto. Upon request, Contractor shall give an oral report to the Board regarding the required reports or other Agreement-related information."

5. SECTION 5, RECYCLING OBLIGATIONS, of the Agreement is hereby amended to add paragraph O to read as follows:

"O. Holiday Trees—Annually. The District conducts an annual holiday tree recycling program following December 25th each year for rate payers within the District. Contractor agrees that it will, without cost to the District, provide a front loader solid waste truck to the District for daily pickup of trees placed at the curbside in conjunction with the annual holiday tree recycling program. Contractor agrees to provide said front loader solid waste truck to the District annually upon request of the District for at least twelve (12) days, or such longer period as the District reasonably determines necessary. The District will transport the trees to the MRF selected by the District for recycling into alternative daily cover, biomass fuel, or mulch."

6. Paragraph A of SECTION 10, CHARGES AND COLLECTIONS, of the Agreement is hereby amended to read in its entirety as follows:

"A. Commercial Bin Collection Rates. Contractor shall provide commercial bin collection services to its commercial customers pursuant to this Agreement at rates it sets, charges to, and collects from such customers, which Commercial Bin Collection rates shall not exceed those set forth in the attached Exhibit "A", which sets out the maximum Commercial Bin Collection rates that may be charged by

the Contractor, as such maximum rates may be adjusted from time to time pursuant to the terms hereof. The total maximum rates consist of a service component and a landfill component. Commencing on July 1, 2015, the service component and the landfill component associated with any of the maximum rates as set forth in Exhibit "A" may be adjusted by the Contractor, and such maximum rates may be adjusted by the Contractor annually thereafter on each subsequent July 1st during the Term hereof, (i) by multiplying the then-current service component by a percentage equal to the change in the Consumer Price Index for All Urban Consumers, not seasonally adjusted, all items index (CPI-U) – Los Angeles County, Riverside County, Orange County average ("Service Component CPI"), for the twelve (12) month period ending on the date of December 31 immediately prior to the applicable Adjustment Date (the "Service Component CPI Adjustment"), and (ii) by multiplying the then current landfill component by a percentage equal to the annual percentage change in the amount of the landfill dumping fees (also referred to herein as the "Contract Rate") imposed by the County of Orange ("County") as of the applicable Adjustment Date pursuant to the then-current waste disposal agreement between County and District (the "Landfill Component CPI Adjustment"). Notwithstanding the foregoing, in any year in which the annual change in the Service Component CPI exceeds three percent (3%), the Service Component CPI Adjustment shall be calculated by multiplying the then current service component by a percentage equal to the sum of (i) three percent (3%) and (ii) one-half of the change in the Service Component CPI in excess of three percent (3%). For example, if the annual change in the Service Component CPI in a given year is four percent (4%), the Service Component CPI Adjustment would be limited to three and one-half percent (3.5%). Notwithstanding the foregoing, in no event shall the annual Service Component CPI Adjustment exceed eight percent (8%)

in any one year period. In addition, commencing on July 1, 2015, and notwithstanding the foregoing, (1) no Landfill Component CPI Adjustment shall be made until such time as the Contract Rate imposed by the County equals or exceeds thirty-one dollars and ninety nine cents (\$31.99) per ton; and (2) on the first Adjustment Date that the Contract Rate imposed by the County exceeds thirty one dollars and ninety nine cents (\$31.99) per ton, the Landfill Component CPI Adjustment shall be calculated by multiplying the then current landfill component by a percentage equal to the quotient of the (i) the difference between the Contract Rate as of the applicable Adjustment Date and \$31.99 per ton, and (ii) \$31.99 per ton [current landfill component x ((Contract Rate - \$31.99) ÷ \$31.99)]. On or before April 10 of each year, Contractor shall provide the District with a revised Exhibit "A" reflecting the Service Component CPI Adjustment and the Landfill Component CPI Adjustment, along with data supporting the basis for its calculations, so that the District may review and verify the accuracy of the Contractor's calculations. Contractor shall provide District and each of its customers with at least thirty (30) days advance written notice of all rate adjustments. Contractor may only implement commercial rate increases in addition to those authorized in by this Agreement through a written amendment to this Agreement."

7. Paragraph E of SECTION 10, CHARGES AND COLLECTIONS, of the Agreement is hereby amended to read in its entirety as follows:

"E. Landfill Cost Increases. Contractor may adjust the landfill component of the maximum rates set forth on Exhibit "A" to reflect any increase in landfill dumping fees imposed by the County pursuant to the then-current waste disposal agreement between County and District, which increased landfill dumping fees are in excess of the Landfill Component CPI Adjustment, provided that Contractor provides District and each of its customers with thirty (30) days

advance written notice of the increase in such fees and the reason for any increases in such fees. Along with the notice to District, Contractor shall submit financial and accounting data to District which clearly identifies the amount of the rate increase due to increased landfill charges and the basis therefore as justified by the County. Contractor shall immediately adjust the landfill component of the maximum rates to reflect any decrease in landfill dumping fees implemented by the County and shall provide District with written notice regarding the decrease and the reason(s) therefor.”

8. SECTION 11, FRANCHISE FEE, of the Agreement is hereby amended to read in its entirety as follows:

"SECTION 11: FRANCHISE FEE.

For and in consideration of the Exclusive Franchise granted herein, for the entire Term of this Agreement, Contractor shall pay to District a franchise fee equal to a percentage of the total gross revenues collected from all bin collection services provided pursuant to this Agreement (the “Franchise Fee”). As of the Effective Date of the Third Amendment, the Franchise Fee is nine percent (9%). Commencing on the first day of the first full month following the Effective Date of the Third Amendment, the Franchise Fee shall be ten percent (10%). Commencing July 1, 2013, the Franchise Fee shall be thirteen percent (13%). Commencing July 1, 2014, the Franchise Fee shall be fourteen percent (14%). The Franchise Fee amount shall be paid by the Contractor to the District on a monthly basis, by the 15th day of each month for total gross revenues received in the immediately preceding month. Such payment shall be delinquent if not received on the 20th day of each month at which time interest at the rate of one percent (1%) per month on the amount due shall be imposed. Along with payments of the monthly Franchise Fee, Contractor shall provide the District with a summary of all revenues collected during each monthly

period, including but not limited to monthly detailed aging report, drop-off bin report, and over-the-top report. The Franchise Fee shall not be considered received until the summary of revenues has been received by the District."

9. Subparagraph 1 of Paragraph B of SECTION 12, INSURANCE AND BONDING PROVISIONS, of the Agreement is hereby amended to read in its entirety as follows:

"1. Contractor shall maintain in full force and effect during the term of this Agreement, commercial or comprehensive general liability insurance, automobile liability insurance, and employer's liability insurance, for the benefit of any person or persons or Contractor's employees who may be injured or sustain property damage as a result of Contractor's performance of work under this Agreement. This coverage shall be in the following amounts:

Comprehensive General Liability: Ten Million Dollars (\$10,000,000.00) limit aggregate and Ten Million Dollars (\$10,000,000.00) limit per occurrence for bodily injury, personal injury, and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

Automobile Liability: Ten Million Dollars (\$10,000,000.00) limit aggregate and Ten Million Dollars (\$10,000,000.00) limit per occurrence for bodily injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

Employer's Liability: Employer's Liability limits
of One Million Dollars (\$1,000,000.00) per
occurrence.

Such policy(ies) shall name the District, its Directors, officers, agents, and employees, as additional insureds, and shall be issued by a company authorized to do business in this state which has an "A" policyholder's rating and a financial rating of at least Class VII in accordance with the most current Best's Guide Rating. Said insurance coverage will provide primary insurance for the District to the exclusion of any other insurance or self-insured retention levels which the District may carry with respect to claims and injuries arising out of the activities of Contractor. Variance from the insurance requirements set forth in this Agreement may occur only if authorized by District's Board of Directors."

10. Paragraph C of SECTION 12, INSURANCE AND BONDING PROVISIONS, of the Agreement is hereby amended to read in its entirety as follows:

"C. Indemnity.

- i. CR&R Incorporated and Rainbow Environmental Services Company each hereby agree to and shall indemnify and hold harmless District, and its Directors, officers, employees, agents and volunteers (collectively the indemnitees) from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including, but not limited to (1) the negligence or willful misconduct of CR&R Incorporated and/or Rainbow Environmental Services

Company, and their respective officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of CR&R Incorporated and/or Rainbow Environmental Services Company, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement (including without limitation CR&R Incorporated and Rainbow Environmental Services Company's obligation to ensure the District complies with the requirements of the then-current waste disposal agreement between County and District), applicable laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of CR&R Incorporated and/or Rainbow Environmental Services Company, and their respective officers, employees, agents, Companies and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the approval and execution of, or any provisions hereof in this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution).

- ii. The foregoing indemnity and hold harmless provisions shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the indemnitees negligence, but shall not extend to matters resulting from the indemnitees sole negligence, or willful misconduct.
- iii. CR&R Incorporated and Rainbow Environmental Services Company each further agree to and shall, upon demand of

the District, at CR&R Incorporated and Rainbow Environmental Services Company's sole cost and expense, defend (with attorneys acceptable to the District) District and its Directors, officials, officers, employees, agents and volunteers against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse the District for any and all costs and expenses the District incurs in providing any such defense, either before, during or after the time CR&R Incorporated and Rainbow Environmental Services Company elect to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by CR&R Incorporated and Rainbow Environmental Services Company.

- iv. CR&R Incorporated and Rainbow Environmental Services Company each further agree, upon demand of the District, made by and through the District General Counsel, that it shall protect District and appear in and defend the District and its Directors, officials, officers, employees, contractors, agents and volunteers, in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other persons, or the limits of District's authority with respect to the grant of licenses, franchises or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide solid waste collection, handling, recycling, and/or disposal services in the District.

- v. In addition, CR&R Incorporated and Rainbow Environmental Services Company's duty to defend, indemnify and hold harmless herein, includes all fines and/or penalties imposed by the State of California Department of Resources Recycling and Recovery, or any successor department or agency, subject to the restrictions set forth in California Integrated Waste Management Act, Public Resources Code section 40000 et seq., if the requirements of the Act are not met by CR&R Incorporated and/or Rainbow Environmental Services Company with respect to the waste stream collected under this Agreement, and such failure is (1) due to the failure of CR&R Incorporated and/or Rainbow Environmental Services Company to meet their obligations under this Agreement, or (2) due to CR&R Incorporated and/or Rainbow Environmental Services Company's delays in providing information that prevents CR&R Incorporated, Rainbow Environmental Services Company or District from submitting reports required by the Act in a timely manner.
- vi. In addition, CR&R Incorporated and Rainbow Environmental Services Company's duty to defend, indemnify and hold harmless herein, includes payment of costs, attorney fees and damages incurred by and judgments entered against District relating to claims or allegations that District is setting rates for service under this Agreement or in connection with the application of Article XIIC and Article XIID of the California Constitution (Proposition 218) for the imposition, payment or collection of rates and fees for services provided by CR&R Incorporated and/or Rainbow Environmental Services Company under this Agreement.

- vii. Claims included within the scope of this paragraph include, but are not limited to, claims for refunds of rates paid by customers, and all claims by CR&R Incorporated and/or Rainbow Environmental Services Company against District for funds to replace revenue lost as the result of an invalidation of the rate increase, or for breach of contract if any rate increase implemented by CR&R Incorporated and/or Rainbow Environmental Services Company is invalidated, enjoined or prohibited in any manner or to any extent.
- viii. The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation and shall survive the expiration or earlier termination of this Agreement."

11. SECTION 12, INSURANCE AND BONDING PROVISIONS, of the Agreement is hereby amended to add paragraph E to read as follows:

"E. Hazardous Contaminant, Hazardous Substances or Hazardous Waste Indemnification.

- i. Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, CR&R Incorporated and Rainbow Environmental Services Company each specifically agree to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to District) reimburse, indemnify, and hold District and its past and present Directors, officials, officers, employees, contractors and agents (hereinafter "Indemnified Parties") harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all

other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of CR&R Incorporated and/or Rainbow Environmental Services Company that:

- a. results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnified Party is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant, Hazardous Substance or Hazardous Waste; or
 - b. relates to material collected, transported, recycled, processed, treated or disposed of by CR&R Incorporated and/or Rainbow Environmental Services Company.
- ii. CR&R Incorporated and Rainbow Environmental Services Company's obligations pursuant to this Section shall apply, without limitation, to:
- a. any Claims brought pursuant to or based on the provisions of the Environmental Laws as defined in Section 1 above;
 - b. any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by CR&R Incorporated and/or Rainbow Environmental Services Company of any facility;

- c. any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by CR&R Incorporated and/or Rainbow Environmental Services Company;
 - d. any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.
- iii. The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of CR&R Incorporated and/or Rainbow Environmental Services Company or any affiliate of CR&R Incorporated and/or Rainbow Environmental Services Company.
 - iv. The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation and shall survive the expiration or earlier termination of this Agreement."

12. SECTION 13, FACILITIES ACCESS, of the Agreement, is hereby amended to add the following paragraph:

"District may also utilize Contractor's Compressed Natural Gas (CNG) fueling facilities at the Contractor's cost of fuel. District may use Contractor's facilities for vehicle storage when CNG fueling option is being utilized."

13. SECTION 14, CONTRACTOR'S BIN SERVICE EQUIPMENT, of the Agreement is hereby amended to read in its entirety as follows:

"SECTION 14: CONTRACTOR'S BIN SERVICE EQUIPMENT.

Concurrently with provision of notice of each annual CPI Adjustment, on April 10 of each year, Contractor shall provide to District an

inventory of bin equipment and collection vehicles utilized for service within the jurisdiction of the District, including but not limited to (i) vehicles quantity, make, model, year manufactured, year of purchase or acquisition by Contractor, and (ii) for bin equipment, the account name, account number, account service address, service level per billing system (i.e. quantity, size, and frequency), observed containers (i.e. quantity, type, and size), and applicable fee schedule for all bin sizes. Contractor agrees to indemnify, defend, and hold the District and its Directors, officials, officers, agents, employees, and volunteers harmless from any and all claims, suits or other action, both legal and equitable, including court costs and attorneys' fees arising out of any incident involving the listed equipment."

14. Exhibit "A" to the Agreement is hereby replaced in its entirety with Exhibit "A" attached to this Third Amendment.

15. All provisions of the Agreement, First Amendment, and Second Amendment, except as modified by this Third Amendment, shall remain in full force and effect and are reaffirmed. Each party acknowledges that it, as its respective interests appear, is liable for all damages arising from nonperformance under this Third Amendment if all conditions of this Third Amendment are not met. Other than as stated in this Third Amendment, this Third Amendment shall not operate as a waiver of any condition or obligation imposed on the parties under the Agreement, the First Amendment or the Second Amendment.

16. In the event of any conflict, inconsistency, or incongruity between any provision of this Third Amendment and any provision of the Agreement, the First Amendment, or the Second Amendment, including prior amendments thereto, the provisions of this Third Amendment shall govern and control.

17. This Third Amendment, together with the Agreement, the First Amendment, and the Second Amendment, constitutes the entire agreement between the parties to the Agreement pertaining to the subject matter of this Third Amendment, and any and all other written or oral agreements (except the Agreement, the First Amendment, and the Second Amendment) existing between the parties before the date of this Third Amendment with respect to the subject matter of this Third Amendment are expressly canceled.

18. The persons executing this Third Amendment on behalf of the parties warrant that they are duly authorized to execute this Third Amendment and that by executing this Third Amendment, the parties are formally bound.

IN WITNESS WHEREOF, the parties execute this Third Amendment as of the date first above-written.

MIDWAY CITY SANITARY DISTRICT

Dated: 11-21-2011

By: Margie L. Rice
MARGIE L. RICE
President

ATTEST:

Joy L. Neugebauer
JOY L. NEUGEBAUER
Secretary

Approved as to Form

Thomas F. Nixon
THOMAS F. NIXON
General Counsel

CR&R INCORPORATED

Dated: 11/21/2011

By: [Signature]
Title: Div. President

By: [Signature]
Title: Sr. v.p.

**RAINBOW DISPOSAL COMPANY, INC., dba
RAINBOW ENVIRONMENTAL SERVICES
COMPANY**

Dated: 11/21/2011

By: [Signature]
Title: CEO

By: [Signature]
Title: Chairman

EXHIBIT "A"
MAXIMUM COMMERCIAL BIN COLLECTION RATES

Effective the First day of the First Month following the Approval of the 3rd Amendment

Weekly - 3 Cubic Yard Bin Collection Rates

Weekly Collection	Service Component	Landfill Component	Total Rate
1x a week	\$82.05	\$15.63	\$97.68
2x a week	\$164.10	\$31.26	\$195.36
3x a week	\$246.16	\$46.89	\$293.05
4x a week	\$328.21	\$62.52	\$390.73
5x a week	\$410.26	\$78.15	\$488.41
6x a week	\$492.32	\$93.77	\$586.09

Drop-off Bin Rates

Container Size	Service Component	Landfill Component	Total Rate
40 cubic yard	\$380.83	\$72.54	\$453.37
10 cubic yard	\$411.43	\$78.37	\$489.80

Rent-a-Bin Rates

Service Level	Service Component	Landfill Component	Total Rate
Weekday	\$48.45	\$9.23	\$57.68
Weekend	\$59.51	\$11.33	\$70.84

EXHIBIT "A"

MAXIMUM COMMERCIAL BIN COLLECTION RATES

EFFECTIVE July 1, 2012

Weekly - 3 Cubic Yard Bin Collection Rates

Weekly Collection	Service Component	Landfill Component	Total Rate
1x a week	\$84.10	\$16.02	\$100.12
2x a week	\$168.20	\$32.04	\$200.24
3x a week	\$252.32	\$48.06	\$300.38
4x a week	\$336.42	\$64.08	\$400.50
5x a week	\$420.52	\$80.10	\$500.62
6x a week	\$504.62	\$96.12	\$600.74

Drop-off Bin Rates

Container Size	Service Component	Landfill Component	Total Rate
40 cubic yard	\$390.35	\$74.35	\$464.70
10 cubic yard	\$421.72	\$80.33	\$502.05

Rent-a-Bin Rates

Service Level	Service Component	Landfill Component	Total Rate
Weekday	\$49.66	\$9.46	\$59.12
Weekend	\$60.99	\$11.62	\$72.61

EXHIBIT "A"

MAXIMUM COMMERCIAL BIN COLLECTION RATES

EFFECTIVE July 1, 2013

Weekly - 3 Cubic Yard Bin Collection Rates

Weekly Collection	Service Component	Landfill Component	Total Rate
1x a week	\$88.81	\$16.92	\$105.72
2x a week	\$177.61	\$33.83	\$211.44
3x a week	\$266.43	\$50.75	\$317.18
4x a week	\$355.23	\$67.66	\$422.90
5x a week	\$444.04	\$84.58	\$528.62
6x a week	\$532.85	\$101.49	\$634.34

Drop-off Bin Rates

Container Size	Service Component	Landfill Component	Total Rate
40 cubic yard	\$412.18	\$78.51	\$490.69
10 cubic yard	\$445.30	\$84.82	\$530.12

Rent-a-Bin Rates

Service Level	Service Component	Landfill Component	Total Rate
Weekday	\$52.44	\$9.99	\$62.43
Weekend	\$64.40	\$12.27	\$76.67

EXHIBIT "A"
MAXIMUM COMMERCIAL BIN COLLECTION RATES

EFFECTIVE July 1, 2014

Weekly - 3 Cubic Yard Bin Collection Rates

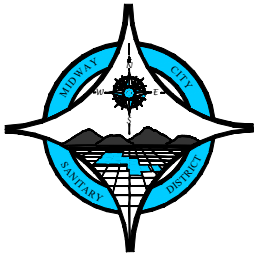
Weekly Collection	Service Component	Landfill Component	Total Rate
1x a week	\$91.03	\$17.34	\$108.36
2x a week	\$182.05	\$34.68	\$216.73
3x a week	\$273.09	\$52.02	\$325.11
4x a week	\$364.11	\$69.36	\$433.47
5x a week	\$455.14	\$86.69	\$541.83
6x a week	\$546.17	\$104.03	\$650.20

Drop-off Bin Rates

Container Size	Service Component	Landfill Component	Total Rate
40 cubic yard	\$422.49	\$80.47	\$502.96
10 cubic yard	\$456.44	\$86.94	\$543.38

Rent-a-Bin Rates

Service Level	Service Component	Landfill Component	Total Rate
Weekday	\$53.75	\$10.24	\$63.99
Weekend	\$66.01	\$12.57	\$78.59



Board of Directors

Tyler Diep
Andrew Nguyen
Chi Charlie Nguyen
Sergio Contreras
Mark Nguyen

General Manager
Robert Housley

April 04, 2023

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

CR&R Incorporated
11292 Western Avenue
P.O. Box 125
Stanton, CA 90680
Attn: David Ronnenberg, President

RE: Exclusive Franchise Agreement Between Midway City Sanitary District and CR&R Incorporated; Notice of Termination / Non-Renewal of Automatic Renewal and Extension Provision

Mr. Ronnenberg:

Section 2 of the Exclusive Franchise Agreement between the Midway City Sanitary District (“District”) and CR&R Incorporated (“CR&R”) provides for a ten (10) year term that is automatically extended on November 21st of each year by one (1) additional year, so that the remaining term shall continue to be ten (10) years. Section 2 further provides that should either party desire that said automatic renewal and extension provision be terminated, such party shall give the other written notice of non-renewal not less than two (2) years prior to July 1st of any year of the Agreement, and that any such notice shall serve to terminate the automatic renewal and extension provision.

Pursuant to Section 2 of the Agreement, the District hereby provides notice of its desire to terminate and not renew the automatic renewal and extension provision, effective November 21, 2025. Accordingly, unless the parties mutually agree to reinstate the automatic renewal and extension provision, the Agreement will expire at 11:59 p.m. on November 20, 2035.

The District looks forward to continuing its strong and effective working relationship with CR&R for the remaining term of the Agreement. Should you have any question regarding this letter, please feel free to contact me.

Cordially,

Robert Housley, General Manager
Midway City Sanitary District

cc: James H. Eggart, District General Counsel
Board of Directors



March 29, 2023

RE: Request for Support to Utilize Landfills Outside of Orange County

We are writing to you today to express our utmost concern regarding the current landfill system situation within Orange County. The attached letter explains a problem that arose over a month ago regarding landfill operations. Residential, commercial and transfer vehicle drivers report delays of 3-4 hours daily, waiting in line at the landfill to empty their trucks.

After numerous telephone calls and emails, it is still unresolved, and in fact, continues to worsen. This is not a problem of our making, but we feel it is our obligation to alert you of this circumstance, as the situation is becoming extremely critical. Due to the delays at the landfill, it is beginning to impact our daily operations, and in some cases, routes are not completed as scheduled.

The attached Solid Waste Association of Orange County (SWAOC) letter states, every facet of the waste system is reliant on the efficient flow of materials, culminating in access to landfill disposal. We must have someplace to deliver this material. We cannot temporarily store the waste at our MRF's or in our collection vehicles. Doing so is unsafe, and it would violate our operating permits. Every waste hauler in the County is experiencing the same issue, and all have reached the point where they must explore disposal options outside of the Orange County landfill system, despite the waste delivery agreements.

We request your support in a variance to dispose of solid waste at other landfills outside of Orange County until such time the system is once again fully operational. Please respond by letter or email with your support at your earliest convenience.

If you have any additional questions, please do not hesitate to contact me at 714.349.2864.

Sincerely,



Julie Barreda
Regional Vice President

11292 Western Ave.
P. O. Box 125
Stanton, CA 90680

t: 800.826.9677
t: 714.826.9049
f: 714.890.6347

SOLID WASTE ASSOCIATION OF ORANGE COUNTY

85 Enterprise, Suite 310
Aliso Viejo, CA 92656

March 23, 2023

Via email: Tom.Koutroulis@ocwr.ocgov.com

Tom Koutroulis, Director
OC Waste & Recycling
610 North Ross Street, 5th Floor
Santa Ana, CA 92701

Re: OC Landfill Access Issue
EXTREMELY TIME SENSITIVE

Dear Mr. Koutroulis:

I write on behalf of the members of the SWAOC to respectfully urge your immediate assistance in addressing an operating issue with the OC landfill system that is dramatically affecting collection systems throughout the County and which, if not very soon resolved, will lead to a host of other problems potentially implicating public health and safety.

Each of the 3 landfills in the system are currently unable to accept waste in the amounts that it has historically been delivered to them. Both collection vehicle and transfer vehicle drivers report experiencing significant delays, often upwards of 3 hours or more, waiting in line at the landfill to empty their trucks. This is far more than a mere inconvenience. The delay has a domino effect that disrupts upstream collection and transfer activities to a profound and unacceptable degree.

Transfer rigs that once made 3 or 4 round trips are now reduced to 2 or 3. Even direct hauls to the landfill by front-line collection vehicles have been impacted. They are unable to return to the collection route to complete their scheduled work within the normal timeframe. As a result, operating costs have skyrocketed. Material that cannot be timely disposed is also choking operations at the MRFs, to the extent that many MRF operators are now forced to turn away collection vehicles.

These delays at the landfill may be unavoidable, due to extreme weather or other factors. We don't question that the decline in landfill operating efficiency may have been necessitated by circumstances beyond the control of your Department. We fully acknowledge your need to determine and tailor landfill operations to ensure the safety of patrons and employees alike.

Our purpose here is to simply point out that the consequences of those delays are far-reaching, and they must be addressed *post-haste*. The rates approved by our municipal partners all presume a

level of operating efficiency that is no longer available through the OC landfill system. This situation cannot persist indefinitely.

Compounding the problem is the fact that the Waste Delivery Agreements (WDAs) which the area cities have entered into with the County of Orange require that this material is delivered to your system, rendering unavailable the option of locating alternative disposal sites. It bears repeating here that the haulers are supportive of the WDAs, but that support is predicated on there being at all times adequate disposal capacity to enable them to properly perform under their franchise agreements and within the rate structures authorized by those agreements.

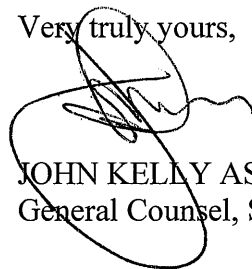
In short, the present situation is unsustainable. Based on the foregoing, the SWAOC respectfully requests that your office select from one or more of the following options to provide an immediate and temporary pathway that will enable our members to better fulfill their collection contract commitments and protect public health:

- Limit acceptance by the OC landfill system of waste imports from other communities
- Approve a limited waiver of the WDA prohibition against delivering OC generated waste to disposal sites located out-of-county
- Open the landfills on Sunday, and/or expand your facility operating hours

The SWAOC is sincerely grateful for your consideration of this letter and our recommendations. Our members are open to any other solutions you may have for addressing this issue. Anything is preferable to the status quo. With the County and State each having declared a state of emergency due to the winter storms, we would hope you are able to expedite implementing the necessary steps to resolve this problem.

Finally, my email address is kelly@jkastorlaw.com and office telephone is (949) 421-3030 if you wish to discuss any aspect of this matter. I also encourage your or any member of your team to reach out directly to any OC hauler, as they are hoping for a reply ASAP.

Very truly yours,



JOHN KELLY ASTOR
General Counsel, SWAOC

cc: Members, Solid Waste Association of OC
Lisa Smith Lisa.Smith@ocwr.ocgov.com
Isaac Novella Isaac.Novella@ocwr.ocgov.com
Jo Anne Taylor joanne.taylor@ocwr.ocgov.com
David Tieu David.Tieu@ocwr.ocgov.com