

**SANITARY DISTRICT NO. 5 OF MARIN COUNTY**

2001 Paradise Drive  
Tiburon, California 94920

**AGENDA**

**Governance Committee Special Meeting  
Thursday, September 14<sup>th</sup> 2023, 2:00 p.m.**

Teleconference Location:  
Director Richard Snyder  
10 Pomander Way  
Belvedere CA 94920

PURSUANT TO THE RALPH M. BROWN ACT, ALL VOTES SHALL BE  
BY ROLL CALL DUE TO DIRECTOR SNYDER TELECONFERENCE FROM  
10 POMANDER WAY, BELVEDERE CA 94920

**I. Roll Call**

**II. Public Comments**

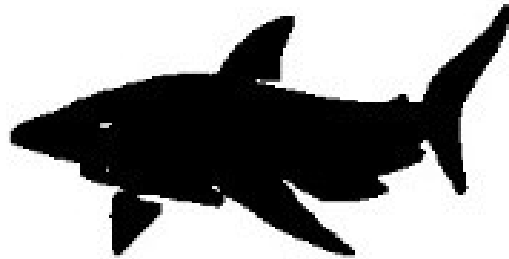
**III. New Business**

1. Review and discuss draft Financial Policy and Procedures manual in track changes.
2. Review and discuss SASM Agreement – Up for Extension/renewal.

**IV. Adjournment**

*This Committee may be attended by Board Members who do not serve on this committee. In the event that a quorum of the entire Board is present, this Committee shall act as a Committee of the Whole. In either case, any item acted upon by the Committee or the Committee of the Whole will require consideration and action by the full Board of Directors as a prerequisite to its legal enactment. **Accessible public meetings**: Any member of the public who needs accommodations should email the Office Manager, at rdohrmann@sani5.org, who will use her best efforts to provide as much accessibility as possible while also maintaining public safety.*

**SANITARY DISTRICT NO.5 OF MARIN COUNTY**  
**FINANCIAL POLICIES AND PROCEDURES MANUAL, 2ND EDITION**



**APPROVED BY THE BOARD OF DIRECTORS**  
**JULY 17, 2023**

5<sup>th</sup> Revision per Code Publishing  
&  
Reviewed by Governance Committee  
March 12, 2019

## **SANITARY DISTRICT NO. 5 OF MARIN COUNTY**

### **OUR MISSION**

Sanitary District No.5 of Marin County is a special District, which while meeting or exceeding all applicable local, state and federal laws and regulations, is dedicated to the protection of public health and the environment through effective and economical collection, conveyance, treatment and disposal of wastewater.

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## **APPENDICES: Guidelines & Forms**

A: Annual Financial Deadlines (2016)

B: Monthly Financial Tasks/Deadlines (2016)

C: Financial Management Guidelines (2004/2011)

D: Financial Policy re: Travel & Meetings (2013)

E: Record Retention Guidelines (2016)

F: Sole Source Justification

G: Sole Source Procurement Request

H: SD5 Claim Form

I: Ordinance No. 2023-0: Sewer Service Charges for the District

K: Ordinance No. 2014-02: SD5 Sewer Regulations

L: Resolution No. 2023-05: Financial Reserve/Fund Policies Establishing Updated Reserve/Fund Policies for Sanitary District No. 5 of Marin County

M: Resolution No. 2000-15<sup>Ⓢ</sup> review)Statement of Investment Policy (County of Marin Statement of Investment Policy is to be updated annually)

N: Ordinance No. 2014-01(b): Connection Fees to the District's Sewer System and Amending Ordinances No. 70-1, 79-1, 06-01, 06-02, and All Other Ordinances as They Pertain to the Setting of Connection Fees

## SANITARY DISTRICT NO. 5 OF MARIN COUNTY ACCOUNTING POLICIES & PROCEDURES

The Board of Directors hold an important public trust for the stewardship of public funds, ensuring that appropriate financial policies are in place. Therefore, accounting for those funds is an important responsibility. Board must require and adopt all legally required and “good practice” fiscal policies including:

1. A Reserve Policy , see Appendix L
2. An Investment Policy (Local Agency Investment Fund Account) (LAIF), see Appendix M
3. A District Fee Policy, including sewer and connection fees, see Appendices N & O
4. A Budget Policy, including a timeline of fiscal due dates and deadlines, see section on Budget
5. Financial Control Policies for Internal and External Audits, see section on Audits
6. Purchasing Policies, including spending limits without Board approval, contracting and bidding, see section District Manager Provision, see section on District Manager Provision
7. A check-signing policy, see section on Monthly Reporting
8. A Staff Travel-related Spending policy for Conventions, Seminars, Continuing Education and Meetings, see Appendix D

The District Manager is responsible for implementing this Policy & Procedure.

### REVENUE

#### **Fees:**

Revenues are primarily from sewer service charges, as well as a small portion (2%) of Tiburon property taxes, and are a function of total funding requirements. Types of property tax income for SD5 can include:

- Secured (tax payer is current property owner)
- Secured Redemption (tax payer is current property owner and taxes are in arrears)
- Unsecured (tax payer no longer own property)
- Unsecured Redemption (tax payer no longer owns property and taxes are in arrears)
- Supplemental (taxes from prior year(s))
- ERAF (Educational Revenue Augmentation Fund)
- Unitary/Unitary Qualified Electric (Qualified Public Utility - Telephone/Cable - Property, assessed by Board of Equalization)
- Teeter (accrual of tax receivables/apportionment), and
- HOPTR (Home Owner’s Property Tax Relief).

Users are billed in proportion to their Equivalent Dwelling Unit (EDU) counts (single/multiple family residence/townhome). The exact dollar amount of an EDU is calculated and budgeted at the beginning of each fiscal year. A household is charged one EDU annually, while a business (commercial account) may be charged multiple EDU’s based upon the type of business, size and amount of water usage and sewer discharge. EDU’s may be charged to customers on their property tax bill, or may be billed directly by the District (e.g., Reed School & AT&T & SF State University Romberg Center). If billed via property tax bill, amounts are collected semiannually, on a secured roll from the County of Marin; the County administers the billing and remits the collection to

Sanitary District No.5 of Marin County (SD5). The commercial rates are calculated according to the specifications spelled out in Ordinance 2023-01 . If and when multiple businesses with different strength factors share the same water meter, the District will use the highest strength factor when calculating the annual commercial sewer fees. Business owners may elect to install separate MMWD meters for each business for calculating commercial sewer fees.

Collection of Undercharges:

In order to collect sewer service fees that were undercharged, SD5 shall adhere the following policy:

1. After verifying the amount of the undercharge, based on credible evidence, the District shall charge the Customer for the undercharged amount up to one year. The customer shall be notified by mail of the District's intent to charge the Customer, the reason for the charge, and the total amount of the charge.
  
2. In collecting the undercharged amount, the District may elect to either collect a direct payment, or include the undercharged amount with the sewer service charges on the tax roll. If the Customer wishes to divide the payment into smaller payments, the District, at its discretion, may enter into an agreement with the customer for two or more regular direct payments for such time period that the District and Customer agree, or divide the required payments of collection on the tax roll for an agreed-upon time period.

It is the responsibility of the District Manager to ensure the compliance with this procedure:

- A) Any request made by the District for collection of underpayment of sewer service charges must be sent to the customer within one year from the date of the original payment.
- B) All written requests made by the District for collection of underpayment of sewer service charges shall be investigated and confirmed by Staff, prior to being delivered to the customer.
- C) The General Manager has the authority to work with the Customer to determine the terms of payment.

Overcharges / Refunds:

SD5 shall adhere to the following parameters regarding overcharges / refunds:

1. Where a dispute is based upon a question as to one of the following: A) number of equivalent dwelling units (EDUs) charged; B) EDU classification (e.g., residential vs. commercial, or level of EDU); or C) number of fixtures charged, the District shall inspect the premises and base its conclusion on the findings of such inspection. The District shall also verify property ownership, proof of payment, and the correct amount of the charge.

In the event of any overcharge, a refund is allowed for a maximum of one year (from the prior fiscal year combined with the current fiscal year), from the date of which the claim is received regarding the overcharge.

It is the responsibility of the District Manager to ensure the compliance with this procedure:

- A) Any claim for correction or refund of sewer service charges must be received by the office Manager and reviewed by the District Manager.
- B) All requests for correction or refund of sewer service charges will be investigated and confirmed by Staff prior to presentation to the Board of Directors, as provided below.
- C) All claims for refund of over-payments shall be determined and approved by the District Manager. The District Manager's written determination will be provided to the property owner who filed the claim.
- D) A property owner may file an appeal of the District Manager's determination to the Board of Directors.

Connection fees are a one-time charge for the initial hookup to the sewer system, of which rates vary between the Tiburon, Belvedere and Paradise Cove zones. Connections fees are reassessed when remodels over \$50k are made? Customers are to provide a fixture count to SD5 and obtain a permit for any changes made to the basic plumbing of the building, commercial or residential.

Other revenues include Local Agency Investment Fund (LAIF) interest, inspection fees, leases, Sewer Agency of Southern Marin (SASM) Contract Services, and miscellaneous items that are small and random in amounts, such as refunds, rebates or private sewer system overflow (SSO) reimbursements, etc.

### **Accounts Receivable:**

Remittances from the County of Marin (CoM) are received via electronic fund transfer (EFT). The money is automatically received into the SD5 Transfer Account. For accurate tracking of CoM income, a deposit is created in Quickbooks, designating what type of County Income has been received, the assigned apportionment, and split via zone, as appropriate (payment method is not designated), so tangible funds match the remittance(s) received.

SASM is billed quarterly. These records can be found in the District Manager's Finance file cabinet, under "SASM Billing." Reed School and AT&T are both charged separately for annual sewer fees. Sewer Service Overflows (SSOs) Reimbursements are billed as necessary. The balance of accounts receivable at year-end represent revenues recognized in the accounting period in which they are earned and become measurable.

### **Cash Receipts:**

Cash is received solely over-the-counter, primarily for Permits and Inspection Fees, and deposited with any checks collected. When cash payments are received, they are to be recorded in Quickbooks with the checks received; the method designated as cash.

### **Mail:**

The mail is opened and date stamped by the Office Manager. Checks received may be either for the collection of billed receivables or other non-billed items. The only significant non-billed items are connection fees and property taxes. All other non-billed items are miscellaneous in nature and small in amount.

All payments received are copied and attached to the associated SD5 invoice, then temporarily stored in the Accounts Receivable file. Upon review and approval of the incoming checks by the District Manager, a deposit is recorded in Quickbooks, into the SD5 Primary Account at JP Morgan Chase, and a deposit slip is prepared for deposit at the Chase Bank branch in Tiburon. The Chase deposit slip is then stapled with the grouping of copied checks and associated invoices, and filed in the Finance File Cabinets under "Deposits." All payments received via drop-off and/or mail are processed and deposited with the Chase Bank local branch 1-2 times per month.



### **Over-the-Counter:**

All payments received (check or cash) are copied, along with the appropriate receipt, and temporarily stored in the Accounts Receivable file. Checks are attached to the accompanying permit, receipt, and/or invoice, which effectively serve as the remittance advice(s). Upon review and approval of the incoming checks by the District Manager, a deposit is recorded in Quickbooks, a deposit slip is prepared for deposit at the Chase Bank branch in Tiburon, and funds are deposited into the SD5 Primary Account at JP Morgan Chase. Upon completion of the transaction, the Chase deposit slip receipt is then stapled with the grouping of copied checks and associated invoices, and filed in the Finance File Cabinets under, "Deposits." Over-the-counter payments are processed and deposited with the Chase Bank local branch in Tiburon 1-2 times per month.

## **TREASURY**

### **Cash:**

There are three cash accounts currently with Chase: the Primary Account (7399), where warrants are written for vendor payments; the Payroll Account (7506), where paychecks, payroll related taxes and fees, and electronic fund transfers for CalPERS 457 Deferred Income remittances are paid from and recorded (SD5 uses Paychex Services for direct deposit of paychecks), and; the Transfer Account (7522), where money is initially received from the County and warehoused until a substantial amount is accrued and transferred to our LAIF account.

All SD5 Chase Bank Statements, Analyses and Reconciliations are scanned and filed in the SD5 Finance Files.

Upon receipt of large County of Marin remittances or if substantial funds have accrued in the Chase Transfer (Cash) Account, a designated signor on the LAIF account (SD5 Board Member/Authorized Officer) must be contacted to withdraw money from the Chase Bank Transfer Account and authorize a deposit into the SD5 LAIF Account. The Authorized Officer is to contact LAIF to advise of the upcoming deposit into the LAIF account. The Authorized Officer must have both account numbers, the LAIF pin number, and the withdrawal/deposit amount. LAIF will provide The Authorized Officer with an authorization/confirmation number, which is to be recorded on a physical log/spreadsheet, specifying the date, total transfer amount, from which account, to which account, "by Authorized Officer," signature and confirmation number. The Authorized Officer is then to accompany the Office Manager to the local JP Morgan Chase branch to withdraw the money from the Transfer Account and deposit the money into the LAIF account in person. A set of instructions, along with said spreadsheet, is kept in an unmarked envelope in the Finance File Cabinets. Upon completion of each page of the LAIF transfer log/spreadsheet, it is to be scanned and emailed to the current SD5 Finance Committee Members for their information only.

A fiduciary overview of responsibility, oversight and accountability of the SD5 Board Member/Authorized Officer is as follows:

The Authorized LAIF Officer(s) oversees and authorizes LAIF Deposits and Withdrawals. The District Manager reviews and authorizes all bank statements, prior to the Office Manager reconciles each account, allowing the Office Manager to create the monthly cash flow chart, all of which are approved by the Finance Committee Members each month.

All County of Marin Trial Balance Sheets received are scanned and filed in the SD5 Finance Files.

Petty cash (\$300) is kept in a lock-box in a locked drawer in the Finance Files. Petty cash is used for small items, including cleaning services and employee reimbursement for small items purchased (under \$50). Petty cash is replenished and reconciled on an as-needed basis.

### **Reserve Policy:**

In accordance with the District's reserve policy, Resolution No. 2023-05, approved on June 12, 2023, the District has adopted the County's investment policy (refer to Resolution No. 2000-15). The County Treasurer advises the District quarterly of interest earning. Please see Appendix L for Financial Reserve/Funds Policies for Sanitary District N. 5 of Marin County. Please see Appendix M for Statement of Investment Policy.

### **Bonds and Loans**

All 2012 Main Plant Rehabilitation (MPR) Bond Financial Statements are scanned and filed in the SD5 Finance Files and kept on record for the life of the bond.

All 2020 Main Plant Rehabilitation Bond Refinancing (Loan) financial statements are scanned and filed in the SD5 finance files and kept on record for the life of loan.

The deadlines for bond reporting to the SEC & EMMA are on the Annual Financial Tasks & Deadlines Schedule at Appendix A.

## **EXPENDITURES**

### **Expenses:**

As a service oriented enterprise, the single most significant expense is employee salaries and benefits. All other expenses are related to the operations and administration of the collection systems and treatment plants. The single most significant non-cash expense is depreciation. Payroll will be discussed in more detail in a separate section following cash disbursements, and depreciation is discussed in the Fixed Assets Section. All other expenses, with the exception of petty cash disbursements, are paid through the accounts payable function. For emergency expenditures, please refer to the Emergency Expenditures, under the Purchasing section.

### **Accounts Payable:**

District Management purchase or authorize purchase of goods and services as needed in accordance with the District's Purchasing Policies and Procedures, is detailed in following sections. For information regarding purchase orders, blanket purchase orders, contracts, receiving, and the handling of invoices, please refer to those Purchasing Policies and Procedures.

### **Cash Disbursements:**

Cash is disbursed primarily by check through the accounts payable function, and through on line bill pays with preferred vendors ? with some small amounts paid out via petty cash.

### **Payables:**

As best as possible, all invoices are paid when due, taking advantage of all discounts offered. The District prepares and distributes all checks. Paid invoices are filed numerically and are kept in the district office in the Finance File Cabinets.

The following expenses are pre-approved for payment by staff (District Manager and one of the following: Wastewater Facilities Manager or Office Manager) at any time:

- Personnel: CalPERS Health, PERS Pension, and CalPERS 457 Deferred Payment Plan (including those expenditures greater than \$15,000.00)
- Paychex payroll, services and taxes
- Utilities, as necessary

### **Petty Cash Disbursements:**

The petty cash box is used to disburse small amounts of cash. An employee may purchase an item and request reimbursement or may request cash in advance, for said agency purchase. Once approved, the petty cash is disbursed, in exchange for an approved Purchase Order and/or receipt. Petty cash is reconciled and replenished, as need, to \$300.00. A reconciliation is prepared, which calculates the replenishment and also serves as the journal entry for recording to the general ledger. When a replenishment check is cut, the reconciliation and all of the receipts are attached and filed. These records are filed in the Finance File Cabinets, with the other bank statements and reconciliations.

### **Payroll:**

Payroll is on a twice-a-month basis. The first period covers the first day of the month through the 15<sup>th</sup>; the second period covers the 16<sup>th</sup> day of the month through the last day of the month. Employees are paid on the 15<sup>th</sup> and the last day of each month. Timesheets are prepared twice a month by employees, reviewed and approved by the respective supervisor or manager, and are electronically submitted to the general manager for approval and payroll processing provided by Paychex Flex Services. The electronic time card logs all regular time (hourly vs. salary), overtime, standby hours, and paid time off (PTO); all information listed is entered into the Paychex software. Once all of the timecards have been submitted for approval the reviews and approves the data for Paychex to compute all employee and employer taxes and PTO, and distributes direct deposits to SD5 Employees and the paystubs to the SD5 office via ? Fed Ex within 24-48 hours. Changes to employees' files are submitted to the Office Manager through a personnel action form. These include changes in pay rates, marital status, changes in number of dependents or preferred withholdings, and medical or mandatory deductions.

Upon receipt of the Paychex Services payroll packet, information from the Payroll Register Report, per employee, is to be recorded at the Payroll Account (7506) in Quickbooks. Paychex Service Fees and Payroll taxes are entered as separate EFT checks; personal savings accounts are also entered separately, allocated via account (e.g., savings 1 vs. checking 2). Each employee paycheck should

allocate regular wages, overtime at 1.5x, overtime at 2.0x, Standby time at 2x, payroll taxes withheld (total/check sans SDI), Medical 125 deductions, Member Contributions, CalPERS 457 Contributions, and deposits made to other personal accounts (i.e., secondary checking or savings accounts).

## **FIXED ASSETS**

District fixed assets by their nature and existence are the primary vehicle through which services are converted into revenues. For budgeting purposes, capital expenditures are initially accounted for in expense accounts, and then they are transferred to the fixed asset accounts. Those items that are purchased or completed within a fiscal year are capitalized and those that are uncompleted at year end are carried as construction-in-progress.

Depreciable fixed assets are classified as: Main Plant: Main Plant General, Collection and Treatment, Mechanical, Chlorination, Electrical, Odor Control, and Miscellaneous; Paradise Cove Plant; Miscellaneous Equipment; Vehicles; Sewer Lines; and Pump Stations. Non-depreciable fixed assets include land, land improvements and construction-in-progress. Depreciation is calculated on the straight-line basis with lives ranging from five to fifty years, depending upon the nature of the fixed asset. Fixed asset detail is maintained in Windows Excel, with both cost as well as accumulated depreciation reconciled to the general ledger annually.

## **REPORTING**

### **Annual Reporting:**

#### **W-2 and 1099 Forms:**

W-2 Forms are provided by Paychex Services in late January. The Office Manager is to compare the records provided by Paychex and match them (or correct them) with SD5's Quickbooks Payroll records. The Semi-Monthly Payroll Report from Quickbooks (to include regular wages, overtime, standby pay, car allowance, vacation buy-out and Deferred Comp 457) should be used to verify correct reconciliation of payroll records. Discrepancies found are to be investigated and rectified with Paychex Services and/or in within SD5's payroll records. Investigation could include researching timesheets, CalPERS contribution records and further examination of Quickbooks records. If true discrepancies are found, Paychex will need to be notified, the erroneous form corrected and redistributed immediately (correction fees may apply). W-2 forms are to be provided to employees no later than February 1.

All W-2s are scanned and stored in the Administrative/Finance Cabinet files in the District Office.

1099 Forms are provided to Board Members, Private Contractors, Attorneys, Sole Proprietors, or other vendors that have been paid by SD5, whom may or may not have Federal ID numbers associated with their name. First, the Office Manager is to download the annual IRS instructions for reporting 1099 information as they can change (even slightly) from year to year. Second, under Reports in Quickbooks, go to Vendors & Payables, and run the 1099 Summary Report for the prior calendar year. A) Review the vendor list for social security numbers used instead of Federal ID numbers. B) Contact all unspecified or unidentified vendors (no Fed ID #, no SS#) to confirm incorporation status. C) Cross-check the vendor's total payment amount for the year. If the amount is above the IRS' required minimum, create a 1099 for this vendor; if the annual compensation amount

does not meet the IRS minimum, there is no need to create a 1099 for that vendor. Next, run the 1099 Detailed Report, customizing the report to reflect only the 1099ers' names for the prior calendar year. Based on the number of 1099 vendors, purchase the appropriate amount of 1099 & 1096 forms from your local office supply store (no CDs or download kits are necessary). Run a customized 1099 Summary report from Quickbooks to confirm names, SSN#s and amounts paid. You are now ready to run the 1099 forms purchased. These preliminary copies are to be distributed to the Vendors as soon as possible, after the New Year (no later than January 10<sup>th</sup>). During the next three weeks, vendors have the opportunity to contact you with corrections, requests or changes. If corrections are required, send the revised 1099 as soon as possible, as the final 1099 forms, as well as the correlating 1096 Form are due to the IRS no later February 28<sup>th</sup>.

All 1099 and 1096 Forms are scanned and stored in the Administrative/Finance Cabinet files in the District Office.

### **Budgets:**

While the District's Staff members, particularly the District Manager, manage the day-to-day fiscal affairs of the district, it is the Board that must be accountable for the financial health of the District. Because they bear ultimate responsibility for the District's financial solvency, the Board should ensure the District budget aligns with District's mission and goals.

## **OUR MISSION**

Sanitary District No.5 of Marin County is a special District, which while meeting or exceeding all applicable local, state and federal laws and regulations, is dedicated to the protection of public health and the environment through effective and economical collection, conveyance, treatment and disposal of wastewater.

The Budget shall be prepared by the District Manager and adopted by the Board of Directors annually and will identify approved expenditures for the coming Fiscal Year. Subject to the spending authority designated, the District Manager is authorized to order goods and services in accordance with the approved budget without additional authorization from the Board.

Expenditures not shown in the approved budget require the approval of the Board of Directors and an appropriation from reserves by the Board.

There are core principles that underlie a district board's role in the area of finance and fiscal accountability, all of which is based on one critical assumption: boards must have confidence in the District Manager and be convinced that the DM will provide honest financial information reflected in the budget numbers, or the data provided in support of the budget, is accurate and valid. If the Board has any doubt regarding the soundness in either of these areas, they must immediately address these issues. Failure to do so leaves boards unable to fulfill their fiduciary role.

A formal budgetary control system is used. . Beginning in March, the budget process starts by reviewing the financial requirements for salaries and benefits, chemicals, materials and supplies, capital projects, and contingency reserves. At this time, staff can make specific requests. The budget is primarily calculated by the District Manager, with the assistance of the Office Manager Operations and Maintenance Collection system superintendents input, and may go through several

iterations before a draft budget is submitted to the Finance Committee, prior to recommendation to the Board for approval. A Budget Workshop is convened to review the draft, answer any questions from the Board Members or for Board Members to bring any upcoming items to light that may have been overlooked . Suggested revisions are made and the draft Budget is reviewed once more by the Finance Committee, prior to recommendation to the Board for Approval. Once adopted, the budget serves as the District's approved financial plan. The Budget shall be adopted prior to the start of the Fiscal Year (July 1).

Annually, a Capital Improvement Plan is formulated in conjunction with District Manager, Staff and Board, to anticipate infrastructure costs to the District. Each year, the current budget estimates are included in the annual budget for execution and projections for upcoming years, insuring the District has planned and funded for the said projects.

Red Flags to Identify at Budget:

1. Are the reserve funds being depleted? Are the depletions planned?
2. Are reserves being used to fund operations?
3. Has the District borrowed money to meet operating expenses?
4. Is the debt service, as a percentage of operating expenses, too high?
5. Has scheduled maintenance been deferred?
6. Is the District unable to finance projects that are critical to its mission?
7. Did the District receive an unfavorable audit and management letter?
8. Has the District been the subject of regulatory investigations?
9. Has the District received numerous citizen complaints regarding service levels, or expenditures or other financial issues?
10. Does the District have high employee turn-over?
11. Does the District provide the services and programs it set out to provide?
12. Are claims or litigation increasing?

Additional questions for the District Manager to report out:

- Does the budget meet the District's long-term goals?
- Is the estimated income realistic based on the history of the District?
- Is the budget within the appropriate limit of the district?
- Does the budget meet the statutory deadlines?
- Is the Budget clear enough for the Board members to articulate?
- Does the budget tie-in to the District's Mission/Vision Statement?
- Is the Budget on-time, balanced and easy to read?
- Does the Budget tell the story of where we have been, where we are going and how it is going to get there?
- Did we live within our means?
- Is the Budget based on easily explained and understood assumptions?
- Are explanations of variances, along with other financial implications of programs, services and policies (ie, changes made or projected in revenue, payroll or benefits), from previous budgets

explained?

- Are all of the issues that were raised by our auditors resolved in the current budget?

Communicating clear, complete budgetary information to the constituent of the District should be included in the budget, via budget summaries. Sources of communicating could include: website, newsletters, public postings, press releases, or public hearings.

The District Manager is authorized to order goods and services, in accordance with the approved budget without additional authorization from the Board.

Unbudgeted Operating Expenditures: Expenditures not included in the approved budget requires the approval of the Board of Directors and an appropriation from reserves by the Board.

Spending Authority: The District Manager is authorized to expend any and all budgeted funds in the amount of \$15,000 or less. Any expenditure in excess of \$15,000 shall be presented to the Board of Directors for approval prior to ordering goods or services. The District Manager may delegate spending authority to subordinate staff in writing.

A hard copies of the approved Budget, with the associated signed Resolution, are sent to the County of Marin, as well as the Marin Local Agency formation Commission.

### **Budget Transfer Authority:**

From time to time actual costs for material, labor and professional services may vary, due to external factors, from projections used as the basis for the budget. Changed circumstances, sometimes difficult to predict, can change priorities during the course of a Fiscal Year.

In order to maximize operational efficiency in allocating available resources to operating and capital projects, the ability to administratively adjust the budget between line items is granted to the District Manager who is authorized to respond to changed circumstances by transferring expenditure authority within, but not between, each of the following Funds: Operating Fund (Fund 7800), Capital Fund (Fund 7810), and the Capital Reserve Fund (Fund 7830), as long as the total appropriations for each fund does not exceed that which the Board has adopted by resolution or subsequent amendment; and, that following any budget transfer(s), staff shall provide notice to the Board as an informational item at the District's next regularly scheduled Board meeting.

### **Appropriations Limits for County Revenue:**

The Office Manager is to obtain the new population and consumer price index information from the CA DOF (search for: “ca dept. of finance price and population information – appropriations,” find the appropriate year’s “Dear Fiscal Officer – Department of Finance” article. Apply the information to last year’s appropriations limit, create a Resolution for the Determination of the Appropriations Limit for Fiscal Year 20xx and present to the board of Directors with the Final Budget. All Approved Resolutions pertaining to the Appropriations Limit and associated back-up information is scanned and stored in the Administrative/Finance Cabinet files in the District Office. Please see the Annual and Monthly Financial Tasks/Deadlines at Appendix A & B.

### **State Controller’s Office Reporting:**

The SCO request is emailed to The Financial Transaction Report is prepared and provided by the current independent certified public accountant. The Compensation Report is prepared by the Office Manager. This report includes compensation information (annual salary minimum and maximum, total regular pay, overtime, lump sum and other pay; defined benefit pension, deferred compensation, and health, dental and vision information) per employee. The request for information and specific form are emailed on February 10<sup>th</sup> and due on April 30<sup>th</sup>.

All annual SCO reports are scanned and stored in the SD5 Finance Files.

### **Audits:**

The Board retains the Auditor. The Auditor works for the Board to provide it an independent and unbiased assessment of the finances of the District. The Board will want to understand exactly what kind of information the Auditor will review, how many review processes will be conducted and how long the process will take.

The annual independent audit shall be prepared by an independent certified public accountant with the assistance of the Office Manager and District Manager, and presented to the Board of Directors for approval. The independent audit starts at the beginning of the Fiscal Year, reviewing the last Fiscal Year’s financials and shall be completed and presented to the Board of Directors for approval no later than the February Board meeting. -?

### **Sewer Service Charge Annual Report to County of Marin:**

The annual sewer service charges shall be received and calculated by District staff and presented to the Finance Committee for review prior to submission. Once approved by the Finance Committee, a summary of the annual sewer service charges shall be presented to the Board for review. Once Board-approved, the sewer service charges shall be submitted to the County of Marin for addition to the property tax rolls by the County’s ultimate deadline in August.

### **Monthly Reporting:**

A warrant list shall be prepared for review and approval by the Finance Committee at the regularly scheduled monthly Finance Committee Meeting. This list shall be for the prior month, meaning the past approximately 30 days since the last regular board meeting. Information provided on each warrant shall include: warrant date, number, vendor name, description, account number, amount, and a grand total amount of all warrants. All warrants are to be reviewed and signed by two Board Members. The warrant list shall identify expenses already pre-approved and paid, as well as warrants



waiting to be approved by the Finance Committee. Said warrant list shall be prepared for review and approval for distribution by the Board of Directors once a month at the regularly scheduled monthly meeting of the Board. In order to improve efficiencies at the Meetings of the Board, Directors shall attempt to direct questions on the warrant list to staff at the monthly Finance Committee Meetings, prior to the Board Meetings.

### **Financial Statements:**

Financial statements are prepared monthly and are subject to a monthly field audit, as well as an annual audit, by independent certified public accountants.

### **Financial Reports:**

Monthly financial reports (balance sheet (compared with the previous month); combined total budget vs. actual income and expenditures; zone allocation; and overtime) shall be prepared for review by the Finance Committee at the monthly Finance Committee Meeting. These reports shall be for the prior calendar month. Each report shall present a listing of all income and expenditure accounts by fund, the budget for each account, and the amount spent in each account. The reports shall show monthly and year-to-date data (through the end of the prior calendar month). The reports shall show monthly updates of the District's various fund balances. The reports shall also include a summary list of customer payments and other revenues received for deposit. These reports shall be accurate, unofficial, unaudited staff reports but shall give a quick indication of where the District stands each month on expense versus budget. Said financial reports shall be prepared for review by the Board of Directors once a month at the regularly scheduled monthly meeting of the Board.

### **Other financial reports:**

A warrant summary report will be provided, coupled with a detailed warrant list, providing specifics for checks to be signed at the monthly finance meeting. This allows for Committee members to review the checks thoroughly prior to signing.

Two summary payroll reports (from Paychex), providing the total payroll distributed for the prior month, shall be presented at the monthly finance meeting, along with monthly cash flow charts summarizing the prior month's account fluidity, along with the preceding month's cash flow chart, for comparison purposes.

Bank statements and reconciliations shall be prepared for review by the Finance Committee at the monthly Finance Meeting, for all SD5 accounts (LAIF, JP Morgan Chase Checking, Payroll and Transfer). The statements shall present a summary of monthly transactions including bank transfers.

All Electronic Fund Payments to CalPERS (Health & Retirement) shall be made available for review at the monthly Finance Committee Meeting.

### **Payroll Tracking:**

District staff shall prepare a non-confidential monthly overtime payroll summary report for review by the Finance Committee. The summary report shall be derived from the summary salary reports from QuickBooks and cross checked with the compensation reports from Paychex, Inc., and shall include a breakout of the various payroll categories for each employee, including but not limited to:

- Overtime – time and a half

- Double time
- Comp time buy back

Confidential payroll reporting is kept with the semi-monthly payroll reports provided by Paychex Payroll Services and includes a breakout of the various payroll categories for each employee, including but not limited to:

- Regular base pay
- Overtime (1.5x and 2x)
- Standby pay
- Vacation Buy Out
- Comp Buy Out
- Car Allowance
- Health withholding/Medical Stipend
- Pension withholding
- CalPERS 457 Deferred payments

**District Manager’s Payroll Tracking:**

The District Manager’s monthly timesheets, and any associated paperwork, shall be presented to the Finance Committee for review and signature at the monthly Finance Committee meeting.

# **PURCHASING POLICIES & PROCEDURES**

## **POLICY OVERVIEW**

### **PURPOSE:**

The purpose of this Manual is to provide clarification and guidance regarding the policies and practices relating to procurement of goods and professional services for all Sanitary District No.5 of Marin County staff and to assure continuity, uniformity, and fairness in the application of such policies and practices. Because the Manual is designed primarily to assist those Sanitary District employees who have been assigned purchasing duties or delegated purchasing authority, it is important for the Manual to be maintained current and up-to-date. To this end, as revisions or supplements are issued by the District Manager, the holder of each Manual is responsible to see that these items are included in his or her copy.

This Manual covers:

- The purchase of supplies, equipment and administrative or professional services.
- The selection of vendors and service providers.
- The process for removing unused or obsolete items from the Sanitary District inventory.
- Record Retention.

### **FINANCE DEPARTMENT:**

The Finance Department is generally responsible for coordinating and managing the procurement of all Sanitary District goods, services and equipment in accordance with these policies and procedures. The policies and procedures contained in this Manual shall apply to purchases made by all Sanitary District employees.

The Finance Department is authorized to prepare procedural guidelines, forms, and flow charts to clarify and/or amplify the provisions throughout this Manual, and to promulgate and enforce compliance with such. Administrative revisions to correct typographical errors, sequential numbering, or change the formatting of text, consistent with the original intent of the Board, are also authorized.

### **FINANCE DEPARTMENT STAFF:**

The Finance Department is staffed by the District Manager (Purchasing Agent), and the Office Manager.

### **Resources:**

Finance Department staff serve as a resource to Sanitary District employees, by providing information concerning market conditions and appropriate procedures for procuring the goods, supplies and services required by the Sanitary District. Using them as a resource from the outset will often result in faster service, higher quality purchases, and lower costs.

### **Assistance:**

District Employees are encouraged to seek the assistance of Finance Department staff as early in the purchasing process as possible in order to best realize the benefits provided by the Finance Department. For example, the Finance Department can provide the following helpful services:

- Suggest products or services to meet needs.
- Provide information on available funds.
- Investigate alternatives, including the advantages, disadvantages and cost.
- Advise on purchasing procedures and compliance requirements.

Employees are encouraged to contact the Finance Department to obtain assistance; however, employees may contact vendors directly for general information on products and services; and, to obtain informal quotes (See Article II of this chapter. Care must be taken by employees to NOT share information received from one vendor with other vendors. Doing so may compromise competition. Again, if it is necessary to contact a vendor, a Finance Department member can assist. District personnel should always keep the Finance Department informed and involved in any purchasing discussions or activities with a vendor.

### **PURCHASING AGENT:**

The District Manager heads the Finance Department. In normal day-to-day operations, the District Manager shall have responsibility and authority for implementing the policies and procedures in this Manual, and as such shall serve as Purchasing Agent.

### **AUTHORITY AND RESPONSIBILITY:**

The Purchasing Agent is charged with the authority and responsibility for coordinating and managing the procurement of goods, equipment, and services according to applicable law, regulation and policy.

Under the direction and supervision of the Purchasing Agent, the Sanitary District Office Manager is authorized to act as an agent for the Sanitary District in procuring property and services for the Sanitary District.

Only the Board of Directors itself and the District Manager, or his/her designee may commit Sanitary District funds for the purchase of any goods, equipment or services for Sanitary District benefit; and, except in cases of emergency as hereinafter provided, or in cases where the Board or this chapter has made specific provision, no purchase of property by any governing body or person other than the Board of Directors, the Purchasing Agent, or their designee shall be binding on the Sanitary District or constitute a lawful charge against Sanitary District funds.

### **DISTRICT MANAGER PROVISION:**

The District Manager has a purchasing authority for all budgeted funds for goods and equipment ONLY, not to exceed fifteen-thousand dollars (\$15,000) per transaction, subject to those terms and conditions identified in Article II of this chapter.

Any further delegation of authority and responsibility shall be in writing and shall precisely describe the extent thereof.

Purchasing authority for services, at any dollar level, is reserved to the District Manager only.

The District Manager may restrict any aspect of this provision, at his or her discretion, if the determine that it is in the best interest of the District.

### **PURCHASING RESPONSIBILITIES:**

To effectively perform the purchasing function, the Purchasing Agent and through him/her, the Finance Department is charged with the following specific responsibilities:

- Monitor and coordinate Sanitary District purchases or leases of all materials, supplies, services, furnishings, equipment and other property in accordance with rules and regulations prescribed by Sanitary District ordinances, resolutions, these policies and procedures, and those otherwise provided for by law.
- Maintain open, honest, helpful, and cooperative communication with employees, which shall include: leadership in purchasing related activity, developing awareness in and among other employees regarding purchasing policies/procedures and the rationale behind them, information on market conditions and new products or services; and, training on these same purchasing policies/procedures.
- Negotiate, purchase, and contract for required goods and services from responsible vendors in a manner consistent with sound professional purchasing practices, employing formal or informal competitive bidding when required by law or, when discretionary under the applicable laws and regulations, whenever such competitive procedures are determined by the Finance Department to be in the Sanitary District's best interest.
- Follow-up on, expedite and resolve purchasing problems as necessary.
- Consolidate orders for like items, ensuring quantity discount pricing whenever possible.
- Assist employees with research and recommendations in developing specifications, including reviewing the specifications for completeness of information and open and competitive language.
- Identify, evaluate and utilize purchasing arrangements that best meet the needs of the Sanitary District (for example, cooperative purchase, blanket order, contractual agreements, etc.).
- Learn and implement current practice and developments concerning purchasing, prices, market conditions, and new products.
- Obtain the highest quality goods consistent with operational needs at the price and under the conditions most advantageous to the Sanitary District.
- Establish and coordinate vendor relations, catalogs, files and other records required for performance of assigned duties, and evaluate vendor performance.
- Develop and maintain all forms, records and files necessary for legal and efficient operation of the Purchasing function.

**Whenever appropriate, standardized products that are utilized by Sanitary District employees. See MCSDC 2.10.020.**

### **STAFF RESPONSIBILITIES:**

Sanitary District employees are charged with the following responsibilities in the purchasing process:

- Maintain open communications with the Purchasing Agent or his/her staff.
- Anticipate requirements sufficiently in advance to allow the Finance Department adequate time to obtain goods or services in accordance with the best purchasing practices.
- Monitor and inform the Finance Department of any vendor relations problems, shipping problems (e.g. damaged goods, late delivery, wrong items delivered, incorrect quantity, etc.) and any other purchasing problems so that a follow-up can be initiated promptly and the problem resolved.
- Submit written purchase orders for the purchase of goods and services with appropriate Management signature and account codes. Prepare purchase orders carefully and properly in accordance with training and instructions so as to minimize administrative time required to process purchase orders.
- Provide detailed and accurate specifications to ensure that the goods obtained meet expectations and requirements.
- Minimize emergency and sole source purchases, providing written justification for and maintaining written records of such purchases when they are necessary.
- Assist in maintaining up-to-date lists of interested and qualified vendors.
- Communicate and coordinate with the Finance Department prior to requesting demonstrations of goods or equipment from vendors.

### **STANDARDIZATION:**

The Finance Department shall be responsible for standardization. Standardization is the organized process of obtaining solutions to common problems by establishing agreement on specific quality, design, size, etc., thereby minimizing training and repair demands. The established product is called a standard.

The Sanitary District purchases many products that are standardized (i.e. vehicles, service equipment, pipes and fittings, safety equipment, office equipment, stationery, and computers). When standards have been adopted by the Finance Department, only the items meeting those standards are to be purchased. No standard is meant to be unchangeable, however, and each standard is subject to continuous review. Suggestions for changes in existing standards and suggestions for establishment of new standards should be submitted to the Finance Department.

### **ETHICAL STANDARDS:**

In order to promote governmental integrity and to guard against even the appearance of impropriety, all Sanitary District employees engaged in any vendor-related activity shall comply with the following standards of ethical conduct:

- Sanitary District employees shall discharge their duties impartially so as to assure fair access to governmental procurement by responsible vendors and service providers and to foster public confidence in the integrity of the Sanitary District procurement system.

- Sanitary District employees shall not solicit, demand, accept or agree to accept a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement, specification, standard or contract.
- Sanitary District employees shall not participate directly or indirectly in procurement when the employee knows that any of the following exists:
  - The employee or any member of the employee's immediate family has a personal financial interest pertaining to the procurement.
  - A business or organization in which the employee, or any member of the employee's immediate family, has a personal financial interest, is involved in the procurement. .
  - Any other person, business or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

### **VENDOR RELATIONS:**

The Sanitary District's suppliers and their products, personnel, and services are a natural extension of the Sanitary District's own resources. It is the responsibility of all Sanitary District employees to work to maintain the good name of the Sanitary District, and to develop good relations between the Sanitary District and its suppliers. In personal contacts with vendors, each employee represents the Sanitary District and should reflect and present the interests and needs of all Sanitary District personnel.

### **GIFTS AND SPECIAL CONSIDERATION:**

Sanitary District employees, officers, or officials by virtue of their positions, shall not be entitled to any special consideration from vendors or merchants in their personal affairs nor shall they attempt in their official capacities to procure goods, supplies, equipment or services for the private use of any other person, including any employee, officer, or official of the Sanitary District.

Sanitary District employees shall not accept gifts, entertainment, or anything of more than nominal value from vendors or potential vendors. Examples of acceptable gifts might include pencils, scratch pads, calendars, cards. Food, candies, flowers, must be of a nature which can be shared at a public counter.

The acceptance of any gratuity in the form of cash, merchandise, or anything of value by an official or employee of the Sanitary District is prohibited. The offer of any such gratuity to any official or employee of the Sanitary District by any vendor may be cause for declaring such individual or firm to be an irresponsible vendor and debarring such vendor from bidding or otherwise doing business with the Sanitary District, at the discretion of the Purchasing Agent, subject to the opportunity to appeal first to the Board of Directors.

### **CONFLICT OF INTEREST – ACTUAL OR POTENTIAL:**

Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved. Sanitary District Counsel should be consulted for an opinion whenever there is any question or even an appearance of conflict of interest.

## **UNAUTHORIZED PURCHASES:**

Unauthorized purchases are not considered an obligation of the Sanitary District and the individual making such purchases may be held personally liable for the cost of the purchase. An unauthorized purchase may include any of the following:

- Any purchase that does not meet the guidelines outlined in this Manual.
- Any purchase for personal use.
- Any obvious circumvention of delegated purchasing authority or the purchase of items specifically identified as exempt from delegated purchasing (i.e. fixed assets).
- Items purchased not in annual budget are subject to Board Approval

## **COMPETITIVE PROCUREMENT:**

The District is committed to a program of active competition in the purchase of goods and services. No specifications for the purchase of goods or services shall be written in such a manner as to limit bidding directly, or indirectly, to any one specific vendor, or any one specified brand or product, except for those items that are approved as standards, are exempt from competitive bidding requirements by law, or are approved as “sole manufacturer” or “sole source” purchases as provided for in this document.

All purchases for goods and services will be made through open competition to the maximum extent feasible as determined by the Purchasing Agent or his/her designee and by whatever methods and procedures, formal or informal, that are determined by the Purchasing Agent or his/her designee to best meet the goals and objectives detailed in this Manual.

The Finance Department may reject any and all bids received if the Department determines that the price, terms or surrounding circumstances of the bid or proposal are such that an award would not be in the best interests of the Sanitary District.

## **WAIVER OF COMPETITIVE BIDDING:**

In instances where there are limitations on the source of supply, necessary restrictions in specifications, approved standards, quality considerations, or other valid reasons for waiving competitive bidding, purchases may be made without competitive bidding. Approval of waiver of competitive bidding shall be made by the Purchasing Agent or his/her designee, or by the Board of Directors in accordance with all relevant local-state-federal laws, regulations or Sanitary District ordinances.

## **RECORD RETENTION:**

In accordance with California Government Code, Section 25501.5, please see Appendix C for the structured detail of SD5’s records retention policy.

Access to Financial Records and Accounting Systems:



At least two (2) District employees (or one (1) District employee and one (1) Board member) shall have access to the District's financial systems' passwords and be able to access all files, accounting records, and financial models. This is so that in case of an emergency, there is more than one person that can access the District's financial information and systems.

### **VENDOR LISTS:**

Finance may compile and maintain lists of vendors for various classes of commodities commonly used by Sanitary District employees, purchased from repetitively or in large quantities. Finance may also develop specialty vendor lists for unique or non-recurring purchases that may be required. Employees are encouraged to contact Finance for assistance and information concerning vendor selection and overall market conditions for the goods and services they wish to acquire.

All requests from firms and/or individuals expressing an interest in providing goods or services should be forwarded to Finance.

### **APPLICATION FOR PLACEMENT ON VENDOR LIST:**

Any vendor that wishes to sell to the Sanitary District may apply for inclusion on the appropriate vendor list. Finance has an application form that must be completed and signed by the applicant. Such applications shall state the class or classes of commodities that the vendor sells. Not all applications necessarily result in the vendor being added to a bid list. Several reasons for non-inclusion are no or insufficient need for the product or service; lack of local representation; or lack of service support. Product catalogs or other descriptive literature may be furnished to Finance.

### **REMOVAL FROM A VENDOR LIST:**

Vendors may be deleted from a list by action of the Purchasing Agent or his/her designee. Reasons for deletion may include, but are not limited to:

- Out of business.
- Continual poor service.
- Poor quality of product.
- Failure to comply with previous purchase order(s).
- Failure to respond to three consecutive bids or proposals
- Cannot meet Net 45 Payment Terms ( District Approves Checks once a month)

### **CREDIT CARD / PURCHASING CARD USAGE POLICY:**

The terms Credit Card and Purchasing Cards shall be used interchangeably in this subsection.

The Finance Department is designated to be responsible for the district's credit card issuance, accounting, monitoring, retrieval, and for general oversight of compliance with this credit card policy, therefore credit cards are provided to the District Manager, Office Manager Operations Superintendent and Maintenance and Collection System Superintendent only.

District credit cards may be used only by the individual to whom the card was issued and only for the purchase of goods or services for the official business of the Sanitary District

No.5 of Marin County, unless otherwise authorized by the District Manager for a specific purchase.

All authorized users of the District's credit cards shall submit documentation detailing the goods or services purchased, the cost of the goods or services, the date of purchase and the official business for which it was purchased within 30 days of purchase.

Employees issued District credit cards shall return the credit card immediately upon termination of his/her employment or service with the District.

The Finance Department will follow established accounts payable internal control procedures for approval, documentation and payment of credit card charges.

All balances due should be paid for within not more than 30-days of the initial statement date, or as necessary to avoid late fees.

Unauthorized use of District credit card shall result in disciplinary action. Such action may be waived by the Purchasing Agent, if in their belief, upon the presentation of facts, such usage was truly inadvertent. See subsection (7) of this section.

#### **ISSUANCE OF CREDIT CARDS:**

Credit Cards will be issued to the District Manager, Office Manager, Operations Superintendent and Maintenance & Collections System Superintendent. A credit card will be available on a checkout basis from the Finance Department, to be returned within a reasonable period of time, as agreed upon by the user and the Purchasing Agent. Individual credit limits shall not exceed \$1,000 for general use card and \$10,000 for the District Manager.

#### **CARD USE:**

The credit card shall be used for the purchases of goods and services that are listed on the budget and for the official business of the Sanitary District when normal accounts payable procedures cannot be utilized (i.e., petroleum purchases, travel related expenses, conference registration fees, membership renewals, etc.). The Administration credit card may be used for emergency purchases and internet purchases of under \$1,000, or as approved by the Purchasing Agent. Anyone requesting to use the credit card for internet purchases must contact the Finance Department in order to purchase the items via the internet.

Purchases made via the credit card must comply with the District's purchasing and expenditure policies. The card in no way changes such policies.

Individual purchases shall be limited to authorized limits of the credit card holder.

Anyone using a Sanitary District credit card shall sign an agreement to abide by adopted District credit card policy and procedures.

#### **PROHIBITED USE:**

Cash advances. Standard merchant category exclusions (e.g., liquor, tobacco, gambling, pornography). Personal use, except when a single bill is generated for combined District and personal expenses. In such cases, the card holder shall reimburse the District for personal charges within 30-days of transaction date.

**SECURITY:**

The credit card should always be treated with a level of care that will secure the card and account number. Guard the credit card number carefully. Do not post it or write it down.

Authorized employees issued a credit card are responsible for its protection and custody shall immediately notify the Finance Department if the credit card is lost or stolen, who in turn shall notify the credit card company.

**PERSONAL LIABILITY:**

The credit card shall not impact the cardholder's personal credit references. The District-issued credit cards are corporate liability cards, not a personal liability card. Usage inconsistent with District policy will however create a liability on the part of the employee to repay the District for such unauthorized usage.

**PAYMENT:**

The Finance Department shall review and approve all invoices received for payment. The balance, including interest due on an extension of credit, under the credit card arrangement should be paid for within thirty (30) days of the initial statement date; or as best possible to avoid late fees. Payments shall be reported to the Board monthly via warrant lists provided at the monthly Finance Committee Meetings, as well as actual warrants.

**PENALTY FOR WRONGFUL USE:**

Any employee or manager of the Sanitary District No.5 of Marin County who violates the provisions of this policy may be subject to disciplinary action up to and including termination.

**EMPLOYEE AGREEMENT:**

Prior to the issuance of a credit card to an employee, such employee shall sign a Credit Card User Agreement, with at least the following terms:

The credit card is to be used only to make purchases for the legitimate business of the Sanitary District. The credit card must be used in accordance with the provision of the Credit Card Policy established by the Sanitary District No.5 of Marin County. I understand that receipts for credit card purchases are due upon return of the credit card. Violation of these requirements may result in disciplinary and legal action to the fullest extent of the law. I have read and understand the Sanitary District's Credit Card Policies and Procedures and I agree to adhere to them.

## **SOLE SOURCE PROCUREMENT:**

Competition is presumed: This policy covers sole source procurements; however, the fair and open chance to compete is preeminent. Before asserting that a procurement is sole source, all reasonable attempts should be made to identify multiple vendors or multiple brands.

Sole Source Procurement Defined: Sole source procurement is any acquisition which, by virtue of the specifications required by the requestor or by the clear and specific restrictions imposed by a provider, restricts the contract to one vendor or to one brand.

Sole Source Procurement Discussed: Examples of sole procurements are:

1. Equipment for which there is no comparable competitive product, for example, a one-of-a-kind oscilloscope that is available from only one supplier.
2. Public utility services from natural or regulated monopolies.
3. A component or replacement part for which there is no commercially available substitute, and which can be obtained only from the manufacturer.
4. An item where compatibility is the overriding consideration, such as computer operating software enhancements for an existing system.
5. A supply, equipment, part, service or supplier that, due to constraining factors associated with scientific research, are needed to ensure the fairness and validity of the underlying research.
6. A supply, equipment, part, service or supplier that is specifically and clearly required by a grantor, contractor, donor, or other provider of funds where the usage of those funds is specifically, explicitly, and clearly restricted by the funds provider.

*There are two types of sole source assertions:*

1. Supplier – One and only one supplier is capable of delivering the good or service needed.
2. Brand Name – One and only one brand of good or service is capable of addressing the need.

When recommending that a procurement is sole source, objective evidence of a convincing nature must be provided. Personal or professional preference will not be considered.

Because competition is not involved, it must be demonstrated that the price is fair and reasonable.

If sole source procurement falls into the dollar value that must be approved by or reported to the Board, the requestor may be called upon to defend the action before the Board, and may also be required to justify the sole source procurement in cases of audit, protest, public inquiry, litigation, or similar circumstance.

Specific Sole Source Procedures:

1. For procurements that are \$3,000 or less, no sole source justification is required. However, that the source and price are fair and reasonable and represent best value to the

District must be ensured. Splitting the procurements to avoid the \$3,000 dollar limitation is specifically prohibited.

2. For procurements exceeding \$3,000 evidence must be provided that the acquisition qualifies as sole source and that the indicated price is fair and reasonable. A sole source justification form must be completed and submitted. The order shall be placed by the requestor only after review by the Purchasing Agent. The Purchasing Agent, upon examining all documentation provided by the requestor, may take necessary actions and make prudent inquiries before approving the purchase order.

3. The Purchasing Agent shall ensure that sole source procurements otherwise comply with other policies and procedures governing the acquisition of goods and services at the Sanitary District No.5 of Marin County. Further, the Purchasing Agent shall ensure that all reports exclude sole source procurements on the sole basis that they are sole source. Further, the Purchasing Agent shall ensure that all reports requiring the disclosure of sole source procurements appropriately reflect such procurements, and are timely filed.

4. Knowingly executing a sole source procurement when in fact it is not, will subject an employee to disciplinary action up to and including termination.

Procedure: Purchase Orders for items that are to be purchased from a specific vendor, where substitutes to the vendor or brand are unacceptable, must be accompanied by a written justification explaining the circumstances that make substitutes unsuitable. The justification must be signed by the District Manager.

Purchasing Agent determines whether the justification is appropriate. Justifications are to be supported by factual statements that will pass an internal or federal audit. It is the salient features of a product that makes it a sole source.

Justifications may include the following reasons:

- The need to obtain replacement parts for existing equipment.
- The need to obtain auxiliary components that match existing equipment.
- The need to meet unique physical design or quality requirements.
- The need to maintain research continuity or comply with established District standards.
- The need to buy items that have characteristics unique to a single manufacturer, essential to the proposed use.
- Additional internal costs would be incurred by changing brand names in this particular application.
- Equipment repair when initial estimate is less than \$3,000 but after disassembly and inspection, additional costs are more than estimated and it would be less cost effective to go out for quotes.

See attached Justification of Sole Source Purchasing Questionnaire.

Please be sure to address only specification items (do not address price or cost items). It is very important to complete items 2, 3 and 4 of the questionnaire with strong, complete, and well thought out answers as these are the areas that must stand up to audit.

## **LOCAL BUSINESS PARTICIPATION IN DISTRICT PUBLIC CONTRACTS AND ENCOURAGE BUSINESSES TO HIRE LOCALLY IN DISTRICT PUBLIC CONTRACTS**

1. The District shall make every effort to secure and contract with local businesses for labor, supplies and materials on all contracts that are not required by law to be competitively bid as long as all such labor, supplies and materials are offered or available to the district at fair and reasonable prices.
2. On all public contracts that are required by law to be competitively bid, the District shall make every effort to encourage the participation of local businesses by taking the following steps, including, but not limited to:
  - a) Contact local businesses that are listed in the business pages of the phone directory under an area of specialization needed for the proposed project.
  - b) Create a data bank of local businesses that have bid on district projects or have expressed an interest in being contacted about relevant projects by supplying the district with the following information:
    - 1) Name, address, and telephone number and name of contact.
    - 2) Brief description of business or service offered.
    - 3) Name and address of all employees of the local businesses.
    - 4) Documentation of a bona fide pension, health and welfare plan for employees.
    - 5) Documentation, where applicable, of participation in a state certified apprentice program.

The district shall make every effort to contact local businesses whose names are in the data bank whenever this is a project relevant to their business.

- c) All notices inviting bids shall include language stating to the effect that it is the district's policy to encourage bidders to utilize local businesses whenever possible on District projects.
- d) All notices of public contracts shall be published in the media within the local area.

### **NOTICE TO BOARD AND DISTRICT COUNSEL:**

If an employee feels that the District Manager's or the Office Manager's actions or activity fall outside the policies and procedures of this Manual, such employee shall notify the Chair of the Board and District Counsel for subsequent review and resolution.

## **GOODS AND MATERIALS:**

### **PURCHASE LIMITS:**

The purchase limits referred to in this Section are for the purchase of goods or equipment ONLY and do not include purchase limits for construction, technical, maintenance or professional services.

Splitting of purchases to avoid purchase limits or to avoid oversight by the Finance Department is strictly prohibited.

### **PURCHASE OF GOODS UNDER \$3,000:**

Competitive quotes are not required, but prudent buying techniques suggest contacting at least two or more vendors for a comparison of competitive prices.

Employees may make direct purchases as outlined in MCSDC 2.10.130(4)(a), which allows Sanitary District employees to make direct purchases under three-thousand (\$3,000) per transaction after receiving approval from the District Manager. The Finance Department shall be responsible for monitoring and controlling the use of purchases made in this manner.

### **PURCHASE OF GOODS OVER \$3,000:**

The Finance Department shall be responsible for procuring all goods and supplies over three-thousand (\$3,000). Informal or formal bidding procedures may be used depending on the complexity of the items purchased. A minimum of 2 or more competitive prices shall be obtained prior to approval of purchasing goods unless it is sole source item.

### **PURCHASE OF GOODS OVER \$15,000:**

The District Manager is authorized to expend any and all budgeted funds in the amount of \$15,000 or less. Any expenditure in excess of \$15,000 shall be presented to the Board of Directors for approval prior to ordering goods or services.

### **COMPETITIVE BIDDING NOT REQUIRED:**

Competitive bidding is also not required, on a prima facie basis, for the following:

- Election materials
- Legal brief printing, stenographic services, and transcripts
- Books, publications, subscriptions, recordings, motion picture films, and annual book and periodical contracts
- Property or services, the price of which is fixed by law
- Automotive and heavy equipment repairs

- Proprietary drugs and pharmaceuticals, medical supplies and equipment
- Training seminars or other classes for personnel
- Materials, supplies, equipment or services that can only be obtained from one supplier, generally because of its technological, specialized, or unique character. Such purchases require a sole source justification and the approval of the Purchasing Agent.
- Goods or services where the cost is under three thousand dollars (\$3,000)
- When, in the judgment of the Purchasing Agent, it is in the best interest of the Sanitary District to negotiate, without engaging in a competitive bidding process, an extension of an existing contract for goods based upon satisfactory performance, as long as such negotiated price is fair and reasonable. This applies even if the existing contract was obtained through prior recent competitive bidding.
- When competitive quotes for goods are not possible due to an emergency or documented sole source justification. Such purchases shall be made through a negotiated procurement process and coordinated through the Finance Department.
- Purchases made from other public agencies by use of joint powers agreements, cooperative purchasing programs, pooling agreements, and other recognized types of agreements used by government agencies for the purpose of combining purchasing requirements in order to reduce costs, increase efficiency, or reduce administrative expenses. Documentation as to the advantage of the cooperative purchase should be retained where reasonably feasible.
- “Piggy-backing” is allowed, such that the District may purchase, order or otherwise enter into contracts with vendors that have been awarded orders for goods or services by other governmental agencies via a competitive process. Documentation as to the advantage of such shall be maintained in each instance.
- Materials and supplies that are acquired from a vendor based on a contractual arrangement with the vendor that was established pursuant to a competitive bid process.
- Goods or services on, or provided by vendors/contractors on, the California Multiple Award Schedules (CMAS) list, subject to the limits and provisions of the CMAS program.

#### **OFFER AND ACCEPTANCE:**

In general, written solicitation of quotes is preferred. The Uniform Commercial Code has established that a contract exists when there has been offer and acceptance. Thus, the terms of an agreement to buy or sell are not fixed until offer and acceptance have been established.

Written quotes submitted by prospective vendors are recognized as offers and purchase orders or contracts issued by the Sanitary District serve as acceptance. Verbal offers are not recognized as offers. When verbal quotes are accepted, the Sanitary District’s purchase order is considered an offer and acknowledgement or delivery by the vendor is considered acceptance. A facsimile quote is construed to constitute a written offer.

In order to establish firm pricing, delivery, and payment terms, and to reduce risk to the Sanitary District, it is preferred to have written quotes serve as the offer and to have the



Sanitary District's purchase order or contract serve as acceptance. Written quotes should contain the following information:

- A precise description and /or specification of the items to be purchased.
- Quantity and price of the items to be purchased.
- Delivery date and whether freight will be charged.
- Where the ownership and responsibility for the condition of the goods during shipping passes, i.e., at the vendor's dock (F.O.B. Origin/Source) or at the delivery location (F.O.B. Destination).
- The vendor's or his/her sales representative's signature.

### **SOLICITATION OF QUOTES, BIDS, AND PROPOSALS:**

The complexity of the goods or equipment required and an evaluation of the Sanitary District's risk exposure determine whether informal or formal purchasing procedures are used. Informal requests for quotes are typically used for the purchase of off-the-shelf or catalog items, materials, and supplies. Requests for quotes and requests for proposals may be conducted informally per the procedures outlined in MCSDC 2.10.230 and 2.10.240.

Informal solicitations do not require a public bid opening, although the solicitation may require quotes or proposals be submitted by a specific date and time.

Formal, sealed bidding procedures will generally be used for complex purchases, where the purchase of unique or high cost property or services is anticipated, when there is the potential for heightened risk exposure for the Sanitary District, or when formal bidding is required by law.

It is the responsibility of the Finance Department to evaluate each purchase and to initiate the appropriate method of purchase.

### **INFORMAL REQUESTS FOR QUOTES:**

Written, facsimile, or oral Requests for Quotes (RFQ) are typically solicited for the purchase of off-the-shelf or low dollar materials, supplies, and goods. Award is made on the basis of lowest responsive and responsible offer submitted in response to the request for quotes.

**Responsive Bid:** A bid (or quotation) shall be considered responsive when the bidder has complied with the terms, conditions, provisions, specifications, instructions, and all other requirements of the request for quotes. Criteria such as required delivery time, delivery instructions, the timely submission of quotes, and other factors that influence the decision to purchase may be used to determine whether a bid is considered responsive. Such criteria shall be made known to the prospective bidders at the time quotes are solicited.

The determination as to whether a bid is responsive is an administrative decision, which shall be made by the Finance Department after the receipt and evaluation of quotes.

**Responsible Bidder:** A bidder is considered responsible when it has been established that the bidder has the technical capability, financial capacity, facilities, and manpower required to perform as outlined in the requirements of the solicitation. Reference checks concerning reputation, judgment, experience, and efficiency of the bidder, site visits and interviews, and performance history may be used to determine whether a bidder is responsible. The determination as to whether a bidder is non-responsible is an administrative decision, which shall be made by the Finance Department in consultation with Sanitary District Counsel. Any determination that a bidder is non-responsible shall be documented by the Finance Department along with the reasons for making such a determination.

### **INFORMAL REQUESTS FOR PROPOSALS:**

Informal written or facsimile Request for Proposals (RFP) may be used for the purchase of goods and services when “best value” cannot be determined by price alone, when there is uncertainty as to specifications, or when requirements such as vendor reputation, expertise, and performance suggest that the Sanitary District’s interests would be best served by procuring the goods or services on a “best value” basis.

The Purchasing Agent shall determine that the use of an informal RFP is practical and advantageous for the Sanitary District before an informal RFP may be issued.

The RFP shall describe the scope of work to be performed, and shall clearly identify the proposal evaluation criteria, the award process, and any special provisions or conditions.

Informal RFPs do not require public notice or the submission of sealed proposals. Thus, informal RFPs may be solicited and received by facsimile or other written means. After proposals have been submitted, the Finance Department shall evaluate the proposals submitted in response to the RFP within the guidelines developed by the Finance Department. Award shall be made to the offeror whose proposal is determined to provide the “best value” to the Sanitary District on the basis of the evaluation criteria identified in the RFP.

### **ORAL PURCHASE COMMITMENTS:**

No employee shall make an oral commitment to purchase goods or services without obtaining prior approval from the Purchasing Agent or his/her designee.

Notwithstanding the foregoing, the District Manager may authorize an employee to make a tentative oral commitment to purchase subject to a “confirming purchase order”. Such authorization may be granted if the request is urgent and time does not permit the submittal of a prior purchase order to the Finance Department.

The department shall note the authorizing person’s name on the purchase order and submit the purchase order to the Finance Department for final approval and further processing.

### **FORMAL BID PROCEDURES:**

Formal bids may be obtained either through:

- *Invitation for Bids (IFB)*. This requires a detailed purchase description including acceptance criteria and all contractual terms and conditions applicable to the procurement. See MCSDC 2.10.870, Invitation for Bids.
- *Request for Proposals (RFP)*. This is used to initiate competitive sealed proposal procurements. The significant difference between an RFP and an IFB is that in an RFP the award may be negotiated. See MCSDC 2.10.780, Request for Proposal.

### **COOPERATIVE PURCHASES:**

The Purchasing Agent is authorized to make purchases of property required by the Sanitation District through the use of joint powers agreements, cooperative purchasing programs, pooling agreements, and other recognized types of agreements used by government agencies for the purpose of combining purchasing requirements in order to reduce costs, increase efficiency, or reduce administrative expenses. Documentation as to the advantage of the cooperative purchase should be retained where reasonably feasible.

### **PROCEDURES FOR PURCHASING FIXED ASSETS:**

Fixed Assets are defined as those items of equipment that cost \$5,000.00 or more and have a life of greater than five years. All fixed asset items shall be budgeted prior to purchase.

The threshold for infrastructure is \$25,000.

Purchase Orders must be submitted to the Finance Department for all fixed assets. Employees may not purchase fixed assets independently. Contact the Finance Division regarding infrastructure procurement.

### **RECEIVING AND PAYMENT FOR PURCHASE:**

Departments shall be responsible for the inspection, acceptance or rejection of all deliveries of goods, supplies or equipment. The purpose of establishing this responsibility is to ensure that all goods received are as ordered.

The ordering employee shall follow the steps provided below:

Packing Slip Available –

1. Pull the packing slip upon arrival of the goods.
2. Physically examine the goods for condition, quantity and conformance with any other terms (see MCSDC 2.10.310)
3. Compare the goods to the packing slip.
4. If there are any problems with the shipment, contact Finance, who will assist in resolving the discrepancy with the vendor.
5. After a satisfactory inspection (see MCSDC 2.10.310), and/or resolution of any problems, employee shall sign and date the packing slip and/or other documentation, and note the

following when applicable: Partial shipment, Purchase Order number, budget account number, department number, and/or project number.

6. Forward to Finance.

Packing Slip NOT Available – Use of memo in lieu of:

1. Physically examine the goods for condition, quantity and conformance with any other terms (see MCSDC 2.10.310).
2. If there are any problems with the shipment, contact Finance, who will assist in resolving the discrepancy with the vendor.
3. After a satisfactory inspection (see MCSDC 2.10.310), and/or resolution of any problems – employee shall prepare, sign and date a memo, and note the following when applicable: Date & Location received, By Whom (receiving employee to sign off if not self), partial shipment, other pertinent information you may wish to include, Purchase Order number, budget account number, department number, and/or project number.
4. Forward to Finance.

The receiving employee shall count, weigh, or otherwise determine whether the quantity of the delivery conforms to the specifications referred to or included in the purchase order. The receiving department shall also determine whether the quality of the delivery conforms to the specifications referred to or included in the purchase order.

Each purchase order shall designate the place or places at which the ordering employee intends to receive and inspect the goods delivered.

The Finance Department does not need to be notified when the purchase order states that the quantity is approximate or states that an over-shipment of a certain amount is acceptable and the quantity received falls within this range. In this event, the quantity on the purchase order should be changed by the receiving employee to agree with the quantity actually received.

### **RECEIVING GOODS FROM A COMMON CARRIER:**

When receiving goods from a common carrier, the employee signs only for the number of boxes or parcels which have been received from that carrier and which are listed on the delivery tag which accompanies the delivery and is not signing as to the condition of the merchandise inside the box or parcel.

Receiving personnel should indicate on the delivery tag any external evidence of packaging damage or note unsealed packages. A “good order” receipt is not to be given under these circumstances, without noting the aforementioned.

### **INSPECTION AND TESTING:**

Receiving employee shall inspect the merchandise carefully immediately after receipt. Inspection of items received and determination of compliance with the ordering description or specifications is the responsibility of the receiving department. If there is any damage from

shipping, or if it is otherwise unsatisfactory and not what was ordered, the receiving department shall contact the Finance Department immediately.

The receiving department may apply such tests as are appropriate for verifying deliveries. For example, quality determination may be made by checking the brand delivered against the brand specified, or may be determined by comparing delivery with any sample upon which the purchase was based. The Finance Department may assist the receiving employee in making any test. If disputes arise as to quality of the merchandise delivered, it may be necessary to consult with Sanitary District Counsel depending upon the circumstances.

#### **ACCEPTANCE OF DELIVERY:**

Acceptance occurs when, after a reasonable opportunity to inspect the goods, the receiving department signifies that the goods are conforming, or that they will retain them in spite of their nonconformity or the receiving employee fails to make an effective rejection within a reasonable period of time.

Receiving employees should realize that the vendor relies on timely actions by the ordering/receiving department to constitute either acceptance or rejection, and time may become “of the essence” in the opportunity to reject non-conforming goods.

Employees are obligated to accept merchandise that has been ordered if it is undamaged and complies with the purchase order. If there is a change of need for the items, the Finance Department should be contacted immediately to make other arrangements. It should be realized, however, that there may be a restocking charge if the items must be returned through no fault of the supplier.

## **PAYMENT:**

After determining that the supplies, materials, equipment, or services received meet the test of quantity and quality, a receiving employee shall complete and sign the purchase order copy, packing slip, and/or other documentation - and forward it to the Finance Department.

The following steps are to be followed by the Finance Department:

1. Review the purchase order copy and/or other documentation on file.
2. Obtain the receiving copy, packing slip, and/or other documentation and compare quantities received with the quantities ordered. Resolve any discrepancies. Attach the requisition to the purchase order copy.
3. Receive the vendor's invoice; check price, quantity, and terms against purchase order, packing slip, and/or any other documentation. Resolve any discrepancies. Attach the purchase order copy and receiving copy or packing slip.
4. Check against the available budget to ensure that funds are still available and also check dollar extension and zone splits for accuracy
5. District Manager shall approve and initial invoice, appropriating which account is to be assigned from the Quickbooks chart of account list, as well assign the appropriate zone designation on the invoice.
6. Enter invoice information into the accounts payable computer system (Quickbooks).
7. Warrants shall be prepared in duplicate by the Office Manager or (the designate of the District Manager). Account numbers shall be indicated on the checks top Memo line, with abbreviated memo re: what service was performed and date, month and year service was provided. Invoice number, detailed account of what service was performed and specific dates applicable are to be indicated on the voucher section Memo Line. Each warrant or the detailed warrant listing shall be reviewed and initialed by the District Manager.
8. Signature and Payment

Warrants shall be signed once monthly at the Finance Committee Meeting. Payments shall be distributed upon Board approval. If warrant is not authorized for immediate payment, warrant shall be signed and kept for Board approval at the next regularly scheduled monthly Board meeting, before being issued/mailed out.

### 9. Pre-Approved Expenses prior to Board Final Approval

The following expenses are pre-approved for payment by the Finance Department at any time.

1. Utilities: PG&E, AT&T, Verizon, Comcast, , Waste Management, Lystek MMWD, Alhambra and Mill Valley Refuse Service.
  2. Personnel: CalPERS Health Insurance, PERS retirement, PERS 457 Plan, MidAmerica HRA Benefits and Pay Chex Payroll Services.
- Distribution

The original warrant is issued to the vendor along with the remittance slip and any other supporting information. The Office Manager is to file the duplicate copy, along with any associated paperwork, in numerical order.

## **REJECTION OF DELIVERIES:**

If inspection reveals that the delivery does not conform to the quantity or quality specified, the Finance Department should be notified immediately in order that the vendor may be notified that the delivery has been rejected. The Finance Department may then request the vendor to make a satisfactory replacement or a supplemental delivery or make other arrangements, depending upon the circumstances.

In the case of improper delivery, the terminology of the Uniform Commercial Code of Law (UCC) is explicit as to the buyer's rights and alternatives by stating that: "...unless otherwise agreed..., if the goods or tender of delivery fail, in any respect, to conform to the contract, the buyer may

- (a) Reject the whole; or
- (b) Accept the whole; or
- (c) Accept any commercial unit or units and reject the rest."

If the ordering department elects under the above provisions to reject the goods, such rightful rejection must be made within a reasonable time after delivery and tender. Reasonable time is defined as any time fixed by agreement which is not manifestly unreasonable, based on the nature, purpose and circumstances of the action.

## **DAMAGED MERCHANDISE:**

There are two types of damaged merchandise - visible and concealed.

In case of visible damage, the receiving department shall:

1. Note on both copies of the freight bill "case damaged in shipment" and, if the item is visible and the damage is visible, also include "item visibly damaged".
2. Obtain signature from the deliverer (trucker) on both copies of the freight bill.
3. Return one copy of freight bill to deliverer (trucker).
4. Forward copy of freight bill to the Finance Department together with note identifying damage.

In case of concealed damage, after the merchandise has been accepted from the carrier, the package or parcel should be opened immediately, the merchandise inspected and any discrepancies or damage reported to the Finance Department. If damage has occurred, the department shall keep all packaging. If the materials, supplies or equipment were purchases made F.O.B., Shipping Point or Point of Origin, the Sanitary District must file the claim for damage within the prescribed time frame with the carrier.

*Important Note:* The receiving employee should not destroy the damaged item or any packaging materials, and shall notify the Finance Department immediately if damaged goods are received.

## **SURPLUS PROPERTY – TRANSFER, SALE, AND DISPOSAL:**

The Finance Department is responsible for the preparation and distribution of procedures to ensure the maximum utilization of surplus property. It is incumbent upon each employee to promptly notify the Finance Department when any property in his/her possession is no longer required. The Finance Department will determine whether another department can utilize the item or whether the item should be stored, transferred, or disposed.

Fixed Assets that are the property of the District shall not be sold, turned in for credit, or otherwise disposed of without the approval of the Board of Directors.

## **DEPARTMENT NOTIFICATION OF SURPLUS PROPERTY:**

Sanitary District employees are responsible for notifying the Finance Department of items that are no longer needed. The Finance Department will provide forms that must be completed for this purpose.

The Finance Department may, on occasion, survey employees to determine if surplus property exists within the District.

## **MOVEMENT AND STORAGE OF SURPLUS PROPERTY:**

The Finance Department will arrange for the surplus property item(s) to be removed from the District and either stored or properly relocated. Sanitary District staff may be used for transportation of the property.

The Finance Department shall maintain an inventory of what surplus items are available in storage. Sanitary District employees may contact the Finance Department to determine if a particular item is available as surplus and the Finance Department will compare requisitions received against the list of surplus items to ensure that unnecessary purchases are avoided.

## **DISPOSAL OF SURPLUS PROPERTY:**

No property shall be disposed of, other than small miscellaneous otherwise useless and valueless items, without first being declared surplus by the Board of Directors. The Finance Department shall sell, lease, transfer, dispose of, or exchange surplus property in the manner authorized by the Sanitary District No.5 of Marin County Board, or as outlined below.

The Finance Department may contract with an auctioneer to conduct a Sanitary District public auction or with an auction service to arrange for the disposal of surplus property. For certain low-value items (less than \$1000) which have been declared surplus by the Board of Directors, the Finance Department may with Board approval conduct a publicly-advertised cash-only “garage sale”.

The Finance Department is responsible for ensuring that the sale, lease, transfer, exchange, and disposal of surplus property is conducted in such a manner as to realize the maximum value possible from the sale or disposal of surplus property. Recognizing that the transfer, receipt,



storage, and sale of surplus property may involve labor, transportation, and administrative costs that exceed the value that could be recovered from the sale of damaged items, items that have outlived their intended usefulness, and items that have been determined to have no value, the Purchasing Agent is authorized to discard or otherwise dispose of damaged, useless, or valueless surplus property when costs associated with selling such goods at public auction would exceed the anticipated revenues to be realized from the auction.

**PROHIBITION AGAINST PURCHASE BY EMPLOYEES:**

Individuals assigned the following duties within the Sanitary District organization SHALL NOT, either directly or indirectly, bid for or purchase surplus Sanitary District property:

- Purchasing functions
- Responsible for surplus declarations
- Access to privileged information regarding the item or equipment or the value thereof, which is not available to all prospective bidders, or

Furthermore, the District Manager, shall be prohibited from purchasing any District surplus property.

This provision shall be liberally construed to prohibit any appearance of impropriety and Sanitary District Counsel should be consulted for an opinion whenever there is a question of probable conflict. If a person violates this policy, the purchase shall be voided, if possible, and the person shall be subject to discipline.

**TRADE-IN ALLOWANCE:**

When purchasing property for which it is not required to advertise for bids, the Purchasing Agent is authorized to solicit and accept advantageous trade-in allowances for Sanitary District property which has previously been determined by the Purchasing Agent to be of no further District use.

Competitive bids for the purchase of property by the Sanitary District may also include a request for trade-in of equipment that is no longer useful to the Sanitary District.

The Finance Department shall request (either prior to or at the time of bid award) that the Board declare the Sanitary District property to be traded in as surplus to the needs of the Sanitary District and approve such trade in as a part of the bid award, if the Purchasing Agent determines that doing so would be in the best interest of the Sanitary District.

## **PROCEEDS FROM DISPOSITION OF SURPLUS PROPERTY:**

The Finance Department shall deposit proceeds from the disposition of surplus property into the Sanitary District Operating Fund for use by the Sanitary District or, in the event the property had been “surplused” by a Capital or other Special fund, proceeds shall be deposited to the respective fund(s).

## **CONTACT WITH VENDORS:**

Employee that contact vendors for information to price a purchase requisition or gather operational or budgetary information shall inform the vendor that the information requested is for planning purposes only and is not a Request for Quotes or an Invitation for Bids.

## **USE OF PURCHASE ORDER REQUESTS:**

Purchase order requests (digital or hard copy) shall be used by all employees for requesting the Finance Department to secure goods, supplies and equipment (and services) for operational requirements. Preparation of the purchase order request should be complete and detailed in order to facilitate the purchase, and should contain the following information:

**Purchasing Procedure:** Purchase Orders shall be prepared for all purchases (including Contract acquisitions, for tracking purposes):

Purchase Orders (P.O.s) shall be maintained using an automatic, sequential, numbering system. The following information shall be recorded on each P.O.:

- Vendor name and date of Order Placed
- Description and Estimated Cost of items
- Facility and use identification
- Requesting Employee Name
- Signature of District Manager

Information provided to vendor: For purchases exceeding \$5,000, the written P.O. shall be issued to the vendor and shall include standard contract terms and conditions. Otherwise, the P.O. number and/or copy of the written P.O. shall be issued to each vendor as requested by the vendor.

Record keeping and filing: Electronic PO records will be kept on the Shared Drive and available for reference at any time for printed PO Books the yellow copy of the purchase order will be attached to the associated Invoice and Warrant, stored in the Warrants File Cabinet, filed chronologically, via warrant number.

Purchase Orders are not required for the following expenses:

- Expenses pre-approved for payment by staff (District Manager, Office Manager or any Board member) at any time:

- Personnel-related costs including those expenditures greater than \$15,000 (PERS Health Insurance, PERS Retirement, PERS 457 Plans, Paychex Payroll, Paychex generated payroll taxes and services fees)
- Small, out-of-pocket purchases under \$200
- Any delegation of responsibility and authority shall be in writing and shall precisely describe the extent thereof.

All Purchase Orders over the amount of \$15,000 must be Board-Approved prior to purchase; or \$25,000 in the event of an emergency.

The purchase order should be realistic when specifying a delivery date. Common use items must be clearly described by their popular names, supplemented by number, size, style, or other identifying data.

When requesting the purchase of specialized items, the employee must exercise care to avoid using a description or specification which describes the product by manufacturer only, since this may impair competitive bidding procedures. If an employee is convinced that only a specific manufacturer's brand product can meet its needs, then the purchase requisition must expressly state that along with substantiation of the need for that particular product. (See MCSDC 2.10.470.)

For purchases requiring competitive pricing the employee shall submit a completed purchase order with all attachments or transmittals. This shall include names, address, and telephone numbers of vendors contacted, a recap of competitive prices received by vendor. The Finance Department shall review the documentation and may contact other sources of supply for additional quotes.

### **CONSOLIDATION OF REQUESTS:**

Employees should plan their annual requirements and make every effort to consolidate similar items into a single purchase requisition.

Items shall be ordered in quantities sufficient for a reasonable period and consistent with future needs and available storage space. Department procedures which result in the submission of several purchase orders for the procurement of the same item or for like items for delivery to the same location often require the issuance of otherwise unnecessary purchase orders, incur additional shipping and packaging expense, cause an unfavorable impression of Sanitary District business practices, and eliminate or reduce the volume purchase advantage of centralized purchasing.

### **SPECIFICATIONS:**

Departments shall ensure specifications are non-restrictive and clearly describe the required items or service in terms of functional performance. Drawings or samples should clearly describe the required item. If a brand name or model is specified on the requisition, the Finance Department will assume that "or equal" items are acceptable. What is "equal" will be

determined jointly by the Finance Department and the requesting department. (See MCSDC 2.10.500.)

If a department believes that only a specific make and model will meet its needs, the department shall attach a completed sole source justification form which calls out the unique features of the sole source item or service and states why these features are required. MCSDC 2.10.130 may be used for guidance. If other brands and models have been tested or used previously, the department shall specify the brands and models used, and why they are unacceptable, since prior unsatisfactory performance may be used to determine vendor responsibility during formal or informal bid procedures.

The Finance Department may return the requisition for additional justification for a specific brand which appears to be unreasonably restrictive, luxurious or otherwise inappropriate for the product. The Finance Department will assist, upon request, in the preparation of specifications.

#### **SPECIFICATIONS AND SOLE SOURCE DEFINED:**

**“Brand Name Specification”** means a specification limited to one or more items by manufacturer’s name or catalog number. It is written to have the effect of limiting the product to a single kind. See Sole Source and Sole Manufacturer.

**“Brand Name or Equal Specification”** means a specification which uses one or more manufacturer’s names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet the Sanitary District’s requirements, and which provides for the submission of equivalent products.

**“Design Specifications”** customarily employ dimensional and other physical requirements of the item to be procured. These specifications provide information on how the product is to be fabricated or constructed.

**“Performance Specifications”** specify the functions or level of performance required. Performance specifications are results oriented and allow bidders considerable latitude in achieving the required performance results.

**“Standard Specifications”** are those specifications for items that have been identified as Sanitary District standards and have been approved for repeated use in procurements.

**“Sole Manufacturer Specification”** is a specification for goods meeting specific physical, functional, or performance characteristics that restricts competition to a particular manufacturer’s model or catalog identification, which may be available on a limited competitive basis from more than one vendor.

**“Sole Source Specification”** is a specification for goods that meet specific physical, functional, or performance characteristics that precludes alternate sources of supply or competition. Sole source specifications may include proprietary items, which are defined as items held under exclusive title, trademark, or copyright.

**“Sole Manufacturer Justification”** is a written memorandum justifying a sole manufacturer specification and identifying the physical, functional, and performance characteristics of the goods required and/or the market conditions that require limiting competition to a single manufacturer’s product. The sole manufacturer justification shall be signed by the department head or his/her designee and submitted to the Purchasing Agent for approval.

**“Sole Source Justification”** is a written memorandum justifying a sole source specification and identifying the physical, functional, and performance characteristics of the goods required and/or the market conditions that require limiting competition to a single supplier. The sole source justification shall be signed by the department head or his/her designee and submitted to the Purchasing Agent for approval.

### **REVIEW OF SPECIFICATIONS:**

The Finance Department is responsible for the completion and accuracy of specifications and to that end shall review the specifications for completeness of information, terms and conditions, insurance/risk management mandated requirements, and language consistent with the Sanitary District’s established purchasing procedures.

To assure that the specifications and terms meet Sanitary District needs, the Finance Department may request the specifications be reviewed by pertinent Sanitary District staff (e.g. Sanitary District Counsel, District Manager, Safety Director, Chief Plant Operator, etc.) before incorporation into any bid or quotation process.

### **VENDOR ASSISTANCE IN WRITING SPECIFICATIONS:**

There may be occasions when vendor assistance is required in developing specifications. Such specifications must be written in general terms and be performance based. The vendor shall be clearly informed that the information provided may be used in developing specifications for a competitive procurement process and that the fact of the vendor’s involvement in the specification development process may be disclosed as part of the quotation or bid solicitation process.

### **APPROVED EQUAL:**

When brand names are specified, the words “or approved equal” should be added unless compelling reasons make only the single brand acceptable, in which case a written justification must be signed by the department head, or designee, and submitted with the purchase requisition to the Finance Department. (See MCSDC 2.10.470.)

Use of a brand name as part of “approved equal to” specifications should be for the sole purpose of describing the standard of quality, performance, and functional (including aesthetic) characteristics the Sanitary District desires and not be intended to limit or restrict competition. Use of “approved equal to” specifications should, whenever possible, identify a minimum of two (2) brand names as “approved equal”.

Using specifications provided by a specific manufacturer should be avoided if possible, but if used the name of the manufacturer, model number, etc. should be indicated with a statement that use of the manufacturer's specifications is for the sole purpose of establishing "approved equal" criteria. When the specifications designate "or approved equal", the Finance Department reserves the right to determine and approve any other as being equal or acceptable, subject to concurrence and approval of the requisitioning employee.

### **EMERGENCY EXPENDITURES:**

Emergency expenditures are necessary to:

Protect public and employee health and welfare, prevent damage to the environment, prevent damage to equipment and facilities, and limit liability to the District.

Authorization to expend emergency funds:

The District Manager is authorized to expend up to \$25,000 in unbudgeted funds for emergency purposes. The president of the Board (or the Secretary in the President's absence or any other Director in the absence of the President and Secretary) is authorized to make emergency expenditures up to \$100,000. Any emergency expenditure in excess of \$100,000 requires an emergency meeting of the Board.

Any and all emergency expenditures require ratification by the Board at the next meeting of the Board and require appropriation from reserves by the Board.

### **PURCHASE ORDERS:**

A purchase order authorizes the vendor to ship and invoice for goods, supplies, equipment, and services as specified. The purchase order is a legal contract between the Sanitary District and a vendor for the specific item(s) stated on the face of the purchase order at the price(s) shown. The purchase order form is an integral part of the Sanitary District's financial system.

Blanket Purchase Orders:

Blanket Purchase orders can be used for the procurement of Chemicals in which the District has contracts with Chemical Suppliers- A chemical order log book will be kept on the S drive for confirming chemical orders and deliveries. The chemical order log book will contain information regarding the date ordered, quantities ordered, type of chemical ordered and where it was ordered from. The log book will also contain information regarding quantity received and who received the delivery to finalize the order details.

### **EXCEPTIONS TO USING PURCHASE ORDERS:**

There are certain types of procurement or purchase transactions that require special handling. Some transactions require the creation of formal contract documents while other situations may require that the transaction be processed using the normal Sanitary District request-for-warrant form.

Employees are encouraged to call the Finance Department for assistance if there are any questions regarding exceptions to the normal purchase order process.

### **DISTRIBUTION OF PURCHASE ORDERS:**

The purchase order is a 3 sheet document that is signed by the Purchasing Agent or his/her designee and sent to the vendor. One copy of the purchase order is then forwarded to the requesting and/or receiving employee. One copy is for the Districts files. The receiving copy should be held by the requesting employee until the order is complete, at which time the employee should sign the receiving copy of the purchase order and return it to Finance. The signed purchase order, when returned to Finance, shall serve as notice that the order is complete and as authorization pay for the goods or services itemized on the purchase order.

### **CHANGING PURCHASE ORDERS:**

In certain instances it may be appropriate to change or cancel a purchase order after it has been issued. A department employee desiring a change or cancellation should immediately notify the Finance Department. Upon approval, the Finance Department will send a change order or cancellation order to the vendor. The Finance Department is responsible for processing all alterations once the initial order has been processed. Only the Finance Department may authorize change orders and/or cancel purchase orders.

Any changes to a purchase order will be made by issuing a revised Purchase Order. Employee will receive a copy of any change order issued.

### **PROFESSIONAL SERVICES CONTRACTS**

#### **REFERENCES:**

**California Government Code 31000**

**California Government Code 25502.3**

**California Government Code 4525-4529.5**

### **DEFINITIONS AND AWARD AUTHORITY:**

#### **PROFESSIONAL SERVICES – GENERAL:**

Professional service contracts are used to procure consulting or professional/technical services not provided by Sanitary District employees.

The following is partial list of consultant or professional services: financial, economic, accounting, legal, maintenance, medical, therapeutic, administrative, airport, security, laundry services or linen services.

These and other professional services, with the exception of the services itemized in subsection (2) of this section below, may be obtained through competitive procurement methods or by waiver of competitive bidding and sole source award as outlined in MCSDC 2.10.620(1).

**PROFESSIONAL SERVICES – ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING, OR CONSTRUCTION PROJECT MANAGEMENT SERVICES:**

Per California Government Code, Section 4526, “Selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.” There are special procedures for acquiring these services as outlined in MCSDC 2.10.620(2).

**AWARD AUTHORITY FOR PROFESSIONAL SERVICE CONTRACTS:**

The Purchasing Agent is exclusively authorized to engage independent contractors to perform services for the Sanitary District with or without the furnishing of material. Employees shall work with Finance on all professional service contracts, except in emergencies as per MCSDC 2.10.730.

**CRITERIA FOR CONSULTANT CONTRACTS:**

An employee may request a consultant only if one or more of the following conditions exist:

- Urgent need which cannot be met by Sanitary District employees.
- Temporary, intermittent, or irregular services which cannot be performed effectively by Sanitary District employees.
- Special or highly technical skills which cannot be obtained from Sanitary District employees.
- Need for an independent opinion, appraisal, audit, or similar services.
- Lack of sufficient personnel to accomplish the work in the required time frame.

**CONTRACT TERM, EXTENSION AND AMENDMENT:**

The length of a contract term may be determined using the following criteria:

- Project schedule.
- Contract rate.
- Project need for service

Contracts may contain provisions for one or more additional one-year term renewal options where market conditions or other factors favor using such options.



Departments may make a written request to extend the term or amend the provisions of a professional service contract. Such actions must be processed in the same manner as the original contract.

### **INCREMENTAL CONTRACTING:**

In order to prevent incremental contracting, each consultant contract shall clearly specify the following:

- Work to be performed.
- Product to be provided.
- Cost detail of services/material charges.
- Length of contract.
- Monetary limit of contract.
- Terms and conditions

Consultant contracts shall be consolidated whenever feasible. Contracts shall not be split to bypass bidding requirements.

### **REVIEW BY SANITARY DISTRICT COUNSEL AND SAFETY OFFICER:**

All professional services contracts must conform to the approved Sanitary District Counsel format, the most current version of which is contained on the Sanitary District Intranet or may be obtained from Finance, and each contract that varies from the standard terms and conditions must be reviewed and approved by Sanitary District Counsel.

Contracts that otherwise conform to standard terms and conditions established by Sanitary District Counsel, do not need further review and approval by Sanitary District Counsel, but may still be referred to Sanitary District Counsel for review and approval at the discretion of the Purchasing Agent.

The Sanitary District requires insurance coverage for all professional service contracts. The contracting employee is responsible for acquiring the contractor's certificates of insurance, which must be submitted to the Finance Department for review to ensure that all insurance requirements are satisfied. Employees should make prospective contractors aware of the Sanitary District's insurance requirements at the time quotes, bids, or proposals are solicited. Contractors should not be given notice to proceed until the appropriate insurance certificates have been received and approved.

The Sanitary District Counsel and Safety Officer reviews may be requested simultaneously in order to expedite the review process.

In certain instances, jobs may be too small, circumstances may dictate, or the market may be such that it is impractical to utilize the standard contract form and/or insurance requirements. In such cases Sanitary District Counsel may modify the standard forms; and/or, the Safety

Officer may modify the standard safety and insurance requirements at their discretion. The latter shall require further approval by the District Manager.

### **CONTRACTS OVER \$15,000:**

MCSDC 2.10.600 notwithstanding, all professional services contracts over \$15,000 require “approval as to form” by Sanitary District Counsel and Sanitary District Board of Directors

### **VENDOR SELECTION:**

#### **VENDOR SELECTION – MISCELLANEOUS OR “SPECIAL SERVICES”:**

Vendor selection shall be based on a competitive process whenever reasonably feasible. Professional services may be competitively solicited through informal Requests for Quotes (RFQ) and informal Requests for Proposals (RFP) or through formal sealed competitive bids or formal sealed competitive proposals – Invitations for Bids (IFB) and Requests for Proposals (RFP) respectively. The type of service to be contracted for, the anticipated award amount, and the potential risks involved affect the decision whether to use informal or formal purchasing procedures. Employees should contact the Finance Department for assistance in determining the appropriate method of procuring professional services.

Professional service contracts may be awarded without competitive solicitation when there is only one person or vendor available or capable of providing the required service, when there are limitations in the availability of potential contractors, when the services required are of such a specialized nature that precludes competitive solicitation, or when other conditions exist such that the appropriate awarding authority (see MCSDC: 2.10.560(3)) determines that it is in the Sanitary District’s best interest to waive competitive solicitation for the required professional services. Employees shall retain documentation supporting a sole source selection whenever professional services are procured without the use of a competitive solicitation, and are required to submit such documentation to the appropriate awarding authority when requesting award of a sole source contract.

#### **VENDOR SELECTION – GOVERNMENT CODE 4525-4529.5:**

Vendor selection for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall follow the procedure outlined below:

**Step 1.** Prospective contractors are requested to submit statements of qualifications to the Sanitary District for the required services or proposed project. Statements of qualifications may be solicited through trade publications and by other methods of advertisement.

**Step 2.** The department conducting the procurement “shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in

order of preference, based upon criteria established and published by (the department), no less than three of the firms deemed to be the most highly qualified to provide the services required.” (Government Code, Section 4527)

The evaluation criteria shall be determined by the contracting department in the same manner as described in MCSDC 2.10.770.

**Step 3.** The department shall negotiate a contract with the most highly qualified individual or firm as established by the evaluation procedure in step 2 above, for service at a price the department determines is fair and reasonable. Should the department be unable to successfully negotiate a contract with the most highly qualified individual or firm at a price the department deems fair and reasonable, then negotiations with that individual or firm shall be terminated; and, the department shall negotiate a contract with the second most highly qualified individual or firm.

Failing accord with the second most qualified individual or firm, the department shall terminate the negotiations, and then undertake negotiations with the third most qualified firm. Should the department be unable to negotiate a satisfactory contract with any of the selected firms, the department shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached.

#### **CONFLICT OF INTEREST:**

No contracts shall knowingly be issued to any current Sanitary District employee or his/her immediate family, or to any former Sanitary District employee or his/her immediate family until one year after separation; or as specified by the Fair Political Practices Commission and/or relevant California Government Code or Regulation. This includes individuals acting as agents or representatives. See MCSDC 2.10.030.

#### **PROCEDURES:**

Sanitary District shall develop such internal procedures as may be necessary to ensure that the contracting process proceeds in a structured and timely manner. Such internal procedures shall, at a minimum, include the following:

##### **Contract Monitoring:**

Once a contract has been approved and services commenced, contract monitoring will provide periodic review of the basic units of service, costs and analysis of quality, as well as basic contract compliance.

##### **Contractor Evaluation:**

As a regular part of the contract maintenance and review effort, evaluations should be conducted on all contracts. Such evaluations should consist of the following:

- Routine review at the time claims for payment is submitted to assure compliance with contract.
- Special review caused by changes in program or funding, concerns regarding performance of or requirement for services; or at the discretion of the department, or at the request of the Sanitary District Board of Directors, District Manager.

**DUPLICATE ORIGINALS:**

There shall be two (2) signed duplicate originals of each contract; one for District files, the other for the contractor.

**CHANGE ORDERS**

The District Manager may approve change orders under \$15,000 in connection with any professional services contract awarded – except as may be allowed by the Board for any specific project. Change orders above \$15,000 shall be presented to the Board for authorization.

**FORMAL BIDDING PROCEDURES**

**COMPETITIVE SEALED PROPOSALS – REQUESTS FOR PROPOSALS:**

Solicitation of competitive sealed proposals is an alternative method for procuring goods and services where there is uncertainty as to specifications, unknown risks, or where it is advantageous to the Sanitary District to purchase the best value for goods or services as opposed to low bid. It involves issuing a written Request for Proposals (RFP), public notice of the RFP, evaluation of proposals based on predetermined criteria identified in the RFP, and allows negotiation with the top rated offeror. The solicitation of competitive sealed proposals may be appropriate under the following circumstances:

- When the Sanitary District has identified a problem to be solved or a need to be filled, and requests the offerors to propose the best method for accomplishing it.
- When it is to the Sanitary District’s advantage to make an award based on factors other than low bid.
- When the procurement requires the evaluation of skills, expertise, or technical capability of the offerors.
- When the procurement is extremely complex or entails unknown risks.
- When the procurement involves contracting for services or a combination of goods and services.
- When specifications for the project cannot be clearly defined.

A Request for Proposals differs from an Invitation for Bids (MCSDC 2.10.870) in that the RFP considers cost as just one of several criteria for making award. Using the RFP, the Sanitation

District will select the most advantageous offer by evaluating and comparing predetermined proposal criteria.

Soliciting competitive sealed proposals typically involves the following steps:

1. Solicitation of proposals through a Request for Proposal (RFP);
2. A private opening of proposals without disclosure of offerors or contents to competing offerors before or during the process of negotiation;
3. Submission of cost or pricing data from the offeror as part of the original proposal, or as a second step after the top rated offer has been determined;
4. Rating of proposals by a panel of evaluators using predetermined evaluation criteria identified in the Request for Proposals;
5. Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible of being selected for award;
6. An award made to the offeror whose proposal is determined to be the most advantageous, considering the evaluation factors set forth in the Request for Proposals.

## **CONDITIONS FOR USE**

Purchases shall be awarded by competitive sealed proposals when required by law or when, in the estimation of the Purchasing Agent, the use of competitive sealed proposals is deemed appropriate.

Unless otherwise directed by law, the Board of Directors and/or the District Manager, contracts for professional services may be awarded through the use of either informal RFPs or formal competitive sealed proposals. (MCSDC 2.10.240.)

When seeking to acquire professional services, employee are advised to consult Finance for assistance in determining whether an informal request for proposals or a formal competitive sealed proposal is appropriate. Employees are not authorized to conduct either informal requests for proposals or competitive sealed proposals without seeking the advice of Finance.

For sole source professional service contracts, the requesting employee shall submit a written sole source justification.

## **CONSTRUCTION CONTRACTS**

### **COMPETITIVE BIDS ON CONSTRUCTION:**

Except as in hereinafter otherwise provided, all work shall be constructed and all contracts for the construction of work shall be let pursuant to competitive bids and the work shall be performed by the contractor who shall be found and determined by the Board of Directors to have presented the lowest responsible bid in each instance.

### **QUOTATIONS FOR CONSTRUCTION WORK:**

Whenever a contract is not required to be let by competitive bid and the informal procedures specified in MCSDC 2.10.700 do not apply, the Purchasing Agent may elect to call for informal quotations before letting a contract. No call or advertisement for such quotations shall be deemed to bring the project under standard competitive bidding rules. The Purchasing Agent shall have the authority to award contracts which are not required to be bid.

**INFORMAL BIDDING PROCEDURES APPLICABLE TO CONSTRUCTION CONTRACTS BETWEEN \$30,000 AND \$125,000:**

The following procedure shall govern construction contracts between \$30,000 and \$125,000:

1. The Purchasing Agent shall maintain a list of qualified contractors identified according to categories of work to whom notice shall be mailed inviting informal bids unless the product or service is proprietary. Said notice shall be mailed not less than ten calendar days before bids are due and shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for submission of bids. "Notice of call for bids" requirements shall not apply to construction contracts of less than \$125,000.
2. The Board of Directors shall award the contract for the project to the lowest responsible bidder. If all bids are in excess of \$125,000, the Board may by passage of a resolution by a four-fifths vote, award the contract at \$137,500 or less to the lowest responsible bidder, if it determines the cost estimate of the District was reasonable.

**COMPETITIVE BIDS NOT REQUIRED WHEN:**

Work and improvements of less than thirty thousand dollars (\$30,000) may be performed by the District itself by "force account" without obtaining competitive bids.

## **FORCE ACCOUNT:**

The expression “force account” as used in this Ordinance is intended to and shall refer to and include all work in which the district determines or directs the method and the timing of performances, as distinguished from specifying and requiring results with inspection. This will ordinarily encompass work done by the regular employees of the district, but it will also include work done by contractors and other new employees who may be employed for specific jobs, if and so long as their performance is under the full control of the district and if the district reserves the right to stop the work or to increase or decrease it without the consent of such contractor or other employees.

## **EMERGENCIES PERMITTING CONSTRUCTION CONTRACTS TO BE AWARDED WITHOUT ADVERTISING:**

Construction contracts may be awarded without submitting them to bid in significant emergencies, including but not limited to states of emergency defined in Government Code Section 8558, when repair or replacements are necessary to permit the continued conduct of operations or the district or to avoid danger to life or property. The Board of Directors by a majority vote may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details. The work may be done by force account, by contract or by a combination of the two.

## **REDUCED REQUIREMENTS FOR MAINTENANCE WORK OF \$25,000 OR LESS:**

Competitive bids shall not be required on maintenance work performed by contractors on jobs less than \$25,000, and a reduction in insurance requirements may be allowed.

Such contractors should have satisfactorily completed similar work for the District in the prior two years, and ideally have a current agreement with the District in place.

Under this sub-Section, the District’s Engineering Department or, at the discretion of the District, a qualified engineering consultant, shall prepare a cost estimate for the proposed work. The bid received from the sole source contractor shall not be above the District’s/consultant’s estimate by more than 10-percent in order to proceed with the work. If the bid exceeds the 10-percent maximum limit, the Notice to Proceed shall not be issued until the difference is evaluated and if deemed appropriate, approved by the Purchasing Agent.

The District may accept whatever insurance limits the Contractor carries for General Liability and automobile Liability policies, subject to a determination by the Purchasing Agent that the risk or exposure to liability involved does not require higher insurance limits. Workers’ Compensation limits remain at the minimum statutory limit (\$1,000,000) or as required by the State of California.

## **EVALUATION PHILOSOPHY:**

When using Requests for Proposals it is important to be as objective as possible, to clearly describe the procurement process, and to identify the evaluation criteria so that the procurement process and the evaluation criteria can be easily understood by the prospective offerors, the evaluation panel, and the awarding officials. Sufficient records should be generated and retained to allow a post award review by an impartial party.

The objective of the process is to screen proposals to determine the proposal that provides the best value to the Sanitary District, and to then enter into final negotiations with the offeror who submitted that proposal. Usually, award will be made to the offeror of the highest rated proposal unless the parties are unable to conclude a mutually agreeable contract, in which case negotiation with that offeror shall be terminated and negotiations entered into with the second ranked offeror. Should the Sanitary District be unable to conclude a mutually agreeable contract with the second ranked offeror, then negotiations with that offeror shall be terminated and negotiations entered into with the third ranked offeror, and so forth, until an agreement is reached. At no time shall the Sanitary District's negotiators conduct concurrent negotiations with two or more offerors.

## **EVALUATION PANEL:**

An evaluation panel shall be formed to review all proposals and document all findings and recommendations. The panel should have at least three members, and may consist of a representative of Finance Committee and others appointed by the initiating department head or the District Manager. The evaluation committee may include persons who are not Sanitary District employees but have experience or expertise to contribute. Such non-Sanitary District employees shall abide by the ethical standards set forth in MCSDC 2.10.030.

Because evaluation of competitive sealed proposals typically requires one or more meetings of the evaluation panel, and may include demonstrations, site visits, requests for best-and-final offers, and other activities, the evaluation panel should be selected and a procurement schedule should be drafted prior to soliciting proposals.

## **EVALUATION CRITERIA:**

The careful selection of evaluation criteria is an important element in preparing an RFP because the evaluation criteria determine how the Sanitary District will rate and ultimately select the proposal that offers the best value to the Sanitary District. Evaluation criteria should be as objective as possible.

Typically, each Request for Proposals will have its own unique requirements. Thus, an RFP's evaluation criteria will be determined by the scope of work to be performed, the services to be provided, and any other relevant factors that may influence the decision to award a contract. The following nonexclusive list of possible evaluation criteria has been presented below to provide examples of criteria that may be useful for evaluating proposals:



- The quality, viability, and suitability of the solution offered, or of the goods or services offered, when compared with the requirements and specifications of the RFP.
- Overall responsiveness of the proposal and whether the proposal adequately addressed the scope of work, specifications, and other requirements of the RFP.
- The offeror's technical capability, expertise, or skill to provide the required goods or services, including the offeror's past experience providing similar goods or services.
- The offeror's ability to perform the contract or provide the required services promptly, or within the specified time without delay or interference.
- The offeror's reputation as determined by references and documented past performance history.
- The sufficiency of the offeror's financial resources.
- Price.

## **REQUEST FOR PROPOSALS – PROCEDURAL CHECKLIST:**

### **Frequency of Issuing RFPs.**

To the extent possible, in order to assure potential contractors access to Sanitary District business and to insure that the Sanitary District continues to receive competitive prices and the best available resources, RFPs for ongoing services should be, under most circumstances, issued at least once every three years.

### **Procedures.**

These procedures are generally applicable to all procurements that require competitive sealed proposals. Otherwise, it may still be desirable to develop an RFP if there is a competitive market for the required goods or services, or if conducting an RFP may result in better pricing or improved service. Departments are encouraged to contact purchasing for assistance in determining when the use of a Request for Proposals is appropriate.

- **Budget Considerations** - Prior to an RFP or informal interview procedure being initiated, sufficient funds must be approved by the Board of Directors, or specifically authorized.
- **Initial Request** - Upon approval of funding, and if applicable, a written request should be submitted to Finance identifying the project in general terms, identifying the funding, and the projected time frame for the project.
- **Coordination and Planning** - The RFP process normally involves the solution to a problem. The better the Sanitary District clarifies its own thinking beforehand and communicates it to the prospective firms, the more complete and acceptable the proposals received will be. The requesting department is responsible for scheduling an initial planning session with Finance to consider the following:
  - **Definition of the problem to be solved.** The problem must be clearly stated so that it can be understood and successfully addressed by potential offerors.

- Identification of what the successful offeror is to accomplish. This would include the desired approach to the problem; practical, policy, technological, and legal limitations; specific questions to be answered; description of the items to be delivered; format and number of copies of the completed reports; and the extent and nature of the assistance to be made available by the Sanitary District to the successful offeror.
- Budgetary requirements and limitations.
- Estimated time frame including projected dates for award of contract, commencement of performance, progress reporting, completion, and payment.
- Preliminary listing of potential contractors, using the master vendor file maintained in the Finance Division and those provided by requesting department.

### **DRAFTING THE RFP:**

The requesting department and Finance will jointly develop a draft RFP that includes all of the legal, boilerplate, minimum requirements, and evaluation criteria necessary to the process. The draft may include some or all of the following as tailored to the specific project:

- Background discussion of Sanitary District No.5 of Marin County - population demographics, local economy, etc.
- General discussion of the scope of the services to be provided and minimum qualifications for participation.
- Discussion of current work method or services being provided.
- Description of the RFP procurement and award process.
- Identification of the proposal evaluation criteria and a clear statement that low bid will not be the sole basis of award.
- General Information: This will include the format to be followed in submitting proposals; a statement of the minimum qualifications required to participate in the RFP process; the name, address, and telephone number of the Sanitary District's official contact for the RFP; the location, date and time proposals are due; and, instructions to submit one original signed proposal and at least three copies of the proposal prior to the final closing date and time.
- Special provisions, including any bid bond and performance bond requirements that may be required at the discretion of the Purchasing Agent.
- Standard Sanitary District insurance requirements with minimum limits as determined by the District.
- A draft copy of the Sanitary District's professional services contract for review by prospective offerors.

## **PUBLIC NOTICE**

### **CONSTRUCTION APPROVAL BY BOARD PRIOR TO NOTICE:**

Plans and specifications shall first be prepared and filed with and approved by the Board of Directors.

*EXCEPTION:* Board approval is not required to advertise plans and specifications for construction when the project has been previously approved and budgeted, or when there is an emergency. In case of emergency, and subject to ratification by the Board prior to the bid award, the District Manager may approve the plans and specifications, order them files and, if time is available, direct publication of the notice inviting bids once in a newspaper of general circulation published and printed in Marin County at least five days prior to the date fixed for receiving and opening bids.

### **GENERAL NOTICE OF CALL FOR PROPOSALS:**

Unless the Board shall specifically direct otherwise, each notice inviting bids shall be signed by the secretary of the District and shall be published twice not less than five days apart in a newspaper of general circulation printed and published in Marin County at least fourteen days prior to the date fixed for receiving and opening bids. The notice shall also be mailed to all construction trade journals designated by the California uniform Construction Cost Accounting Commission to receive mailed notice of all informal and formal construction contracts being bid for work within Marin County at least 30 calendar days prior to the date designated for opening bids.

### **RECEIPT, OPENING, AND RECORDING OF PROPOSALS:**

Proposals shall be submitted in a sealed envelope identified by proposal number and title. Upon receipt, proposals shall be marked with the date and time of receipt and shall be stored in secure place until the date and time set for the opening of proposals. Telephonic, telegraphic, and faxed proposals will not be accepted. Proposals received after the advertised closing date and time will be considered non-responsive and will be rejected.

On the date established in the RFP, the proposals shall be opened either in the Finance Division or at the location specified in the RFP. Because RFPs are negotiable, they will not be opened in public, and proposal content and evaluation information will only be made available after an award recommendation has been made.

Each proposal must contain an original signature of a party authorized to act as an agent of the offeror. In general, an original signature contained anywhere in the proposal shall be sufficient to show intent to sign the proposal.

Proposal information, including the company name of the offeror, the presence of addenda and exceptions, pricing information, and any other pertinent information will be recorded on abstract of proposals, which shall be signed by the opener.

## **EVALUATION OF PROPOSALS:**

The proposals are reviewed by Finance and/or the issuing department to make sure the entire minimum, mandatory, and administrative requirements for the RFP are met. Those proposals not meeting the minimum, mandatory, and administrative requirements may be determined to be non-responsive and given no further consideration.

Those proposals remaining after the initial review will then be forwarded to the evaluation panel for in-depth evaluation as set forth in the Request for Proposal, however they will not be reviewed by District Counsel. Evaluation of proposals will be made by the panel, which will note any exceptions and record each proposal's scores based on the established criteria. Scores shall be summarized and recorded when the evaluations have been completed.

Departments should work with Finance to establish criteria and relative weight prior to any review.

## **DISCUSSIONS WITH OFFERORS AND REVISIONS TO PROPOSALS:**

Discussions may be conducted with offerors who have submitted proposals determined to be reasonably susceptible of being selected for award. Typically, the evaluation panel will conduct discussions and/or site visits with no more than the three highest ranked offerors for the purpose of clarification of proposals and to assure full understanding of the scope of work and the requirements of the Request for Proposals. In conducting discussions, there shall be no disclosure of information derived from proposals submitted by competing offerors.

The offerors selected for further discussions shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. The evaluation panel may re-evaluate the proposals and revise proposal scores after discussions with the offerors, after receiving revised proposals, or after receiving best and final offers.

## **CONTRACT NEGOTIATION:**

Once discussions with the offerors have been completed, the panel shall make a quantified evaluation of the proposals under consideration and shall rank the proposals accordingly. The evaluation panel shall then make a written award recommendation, which documents the reasons the top rated proposal has been selected. After the panel has made an award recommendation, the specific terms and conditions of the contract shall be negotiated with the offeror's representatives by the Purchasing Agent or his/her designee, or by the Department of Primary Interest.

There are specific items that must be included in the contract language and others which may be added in the negotiation process. It should be noted that contract language may not be added which in any way changes the requirements of the request for proposal or the successful responding proposal.

Typically, the original RFP and the offeror's proposal will be made part of the contract. The Sanitary District's general insurance requirement and the final proposal are always included as

an integral part of the contract. If not clearly defined in the proposal, the contract must include a cost and payment schedule as well as a specific implementation schedule for completion of services. Depending upon the final negotiated total contract amount, the contract may require action by the Board of Directors.

## **INTENT TO AWARD**

When negotiations have been completed, District Manager, notifies in writing all offerors that submitted proposals of the award recommendation and the proposed award date.

## **COMPETITIVE SEALED BIDDING – INVITATION FOR BIDS:**

An Invitation for Bids (IFB) is normally used to solicit competitive sealed bids for the purchase of property where exact specifications and risks are known. The primary purpose of an IFB is to solicit firm offers from bidders under circumstances where potential risks are controlled by the terms of the IFB.

Invitation for Bids is a method of procurement that includes the following elements:

- Public notice and issuance of an IFB with a purchase description that includes acceptance criteria and all contractual terms and conditions applicable to the procurement.
- Public opening and reading of bids at a pre-designated time and place.
- Evaluation of bids based upon the requirement set forth in the invitation, which may include special qualifications of potential bidders, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.
- Acceptance of the lowest responsive and responsible bid as submitted, and award to the lowest responsive and responsible bidder.

## **CONDITIONS FOR USE:**

Purchases shall be awarded through competitive sealed bidding when required by law or when, in the estimation of the Purchasing Agent, the use of an IFB is deemed appropriate and suitable.

## **PUBLIC NOTICE:**

Adequate public notice of the IFB shall be given prior to the date set for the opening of bids by conspicuously posting a notice advertising the IFB in the area of the Sanitary District Administration Building which is available to the public during Sanitary District business hours. Public notice may also include publication in a newspaper of general circulation, published in Marin County, and/or notification of prospective offerors by mail, fax, or other means. Public notice shall be made a reasonable time, in conformance with applicable law, ordinance, or regulation, prior to bid opening. The notice must specify the place where the copies of the Invitation for Bids are on file, the place for receipt of bids, and the location, date, and time of the bid opening.

## **PREPARATION OF BID SPECIFICATIONS:**

Preparation of Bid Specifications should:

- Be clear, definitive and concise to enable prospective bidders a basis on which to submit bids.
- Be written to allow for competitive purchase of goods, supplies and equipment and not to exclude all but one type or kind.
- Not call for features or a level of quality not required for the intended use, except in cases where such features or the level of quality are essential for some future consideration or result in overall economic advantage to the Sanitary District.
- Describe the performance requirements rather than its formulation, description or design.
- Be prepared to permit free and full competition (“or equal”) as is reasonably possible under the attendant circumstances.

### **Vendor Involvement:**

Direct vendor involvement in the development of specifications at the employee level without the prior authorization of Finance is prohibited. Employees shall use Finance for assistance in the development of specifications.

### **Restrictive Specifications:**

Some latitude is permissible in specifying features of certain items. While it is not necessary to prepare specifications in a manner that every conceivable manufacturer could competitively bid, the Sanitary District must be able to demonstrate a clear reason for any restrictive specifications.

### **Other Considerations:**

Specifications must state whether criteria other than cost will be considered in awarding the purchase order or contract, e.g., results of product testing, length and terms of warranty provisions, reliability and maintenance costs, repurchase value, or residual value of the goods or equipment after a specified number of years where the residual value can be objectively ascertained.

Note: For additional information, see MCSDC 2.10.460.

## **BID DOCUMENTS:**

### **Copies of Documents:**

Bidders may obtain complete sets of bidding documents from the Purchasing Agent in the numbers, and for the deposit sum, if any, as set forth in the IFB.

Bidders shall use complete sets of bidding documents in preparing bids. The Sanitary District will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.

**Interpretation of Documents:**

All bidders shall promptly notify Finance of any ambiguity, inconsistency or error that they may discover upon examination of the bidding documents.

Bidders requiring clarification or interpretation of the bid documents shall make a written request (facsimile acceptable) which shall reach Finance at least five (5) working days prior to the date for receipt of bids, or as otherwise specified in the bid document.

Any interpretation, correction or change of the bidding documents will be made by addendum issued by Finance. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding, and bidders shall not rely upon such interpretations, corrections and changes.

Requisitioning departments must notify Finance prior to bid opening if it becomes aware of a need for correction or clarification of a bid specification.

**SUBSTITUTIONS:**

Materials, products and equipment described in the bidding documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. The burden of proof of merit of proposed alternate or substitute is on the bidder.

Non-solicited alternates may be considered for award if submitted by the bidder who would otherwise be the low bid.

Each substitution proposed shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute. Drawings, cuts, performance specifications, test data and other information necessary for an evaluation shall be submitted by the bidder with the bid offered. A statement setting forth any changes in other materials or equipment resulting from incorporation of the substitution shall be included.

The Sanitation District's decision of acceptance of a substitute shall be with requisitioning department concurrence and approval. The Sanitary District's decision of approval or disapproval of a proposed substitution shall be final.

No substitutions will be considered after the purchase order has been issued.

**BID ADDENDA:**

Addenda will be mailed or delivered to all that are known by Finance to have received a complete set of bidding documents. Copies of addenda will be made available for inspection wherever bid documents are on file for that purpose.

No addenda will be issued later than four working days prior to the date for receipt of bids, except for an addendum withdrawing the request for bids or one that includes postponement of the date for receipt of bids.

Each bidder shall be responsible for ascertaining prior to submitting a bid that he has received all addenda issued. Bidders shall sign and submit all required addenda in order to receive award consideration unless otherwise indicated in the bid document.

### **BIDDERS' CONFERENCE:**

Pre-bid conferences may be conducted to explain the procurement requirements and specifications. Pre-bid conferences may also be conducted to review work sites with prospective bidders. Any pre-bid conferences shall be announced in the Invitation for Bids and noted in the Special Provisions Section of the IFB.

### **PROCUREMENT SCHEDULE AND BID OPENING DATE:**

Each Invitation for Bids shall be assigned a bid opening date and time by which bids must be received to be considered. This date should provide sufficient time to allow prospective bidders ample opportunity to prepare bid documents. "Sufficient time" varies by commodity and market, and the procurement schedule should be based on a realistic evaluation of market conditions and potential bidders' ability to respond to the Invitation for Bids. Under no circumstances shall the bid opening date be less than ten (10) working days after the notice inviting bids has been made public.

### **FORM OF BID:**

To receive consideration, bids shall be made on the forms and in the manner set forth in the Invitation for Bids. Further:

- Bids received after the date and time advertised for opening will be considered non-responsive and will be rejected.
  
- Each bid must be completed in ink, typewritten or computer generated, and all changes and/or erasures must be initialed in ink. Each bid must be signed in ink by an authorized representative of the vendor and include the legal name of the bidder and a statement of non-collusion signed by the bidder.
  
- Bidders shall not change the bid form nor make additional stipulations on the bid form which are not consistent with the provisions of the specifications.

### **BID SECURITY:**

At the discretion of the Purchasing Agent, a bid bond or bid deposit (certified or cashier's check) made payable to the District may be required to protect the Sanitary District in the event the bidder awarded the contract does not execute the contract, furnish any required performance bond, and proceed with performance. A required bid bond or bid deposit must be submitted with the bid, and be in the amount as specified in the Invitation for Bid.



In the event an otherwise low bidder is allowed to withdraw a bid due to claim of error, the Sanitary District may retain the bid guarantee to offset its costs of administrative handling of the bid.

Bid bonds or bid deposits, except those of the lowest bidder, should be returned as soon as practical following the bid opening and checking of bids. The guarantee of the lowest bidder should be retained until the contract or purchase order has been executed and approved and any performance bond and certificate of insurance provided, at which time the bid bond will be released except where forfeited. However, the bidder's bonds or bid security of the second and third lowest responsible bidders may be retained until the contract has been fully executed and insurance certificates are obtained. The cash, cashier's checks, and certified checks submitted by all other unsuccessful bidders shall be returned to them within ten calendar days after the receipt of bids, and their bid bonds shall be of no further effect.

### **RECEIPT OF BIDS:**

All bids must be received sealed in an envelope prior to the time specified in the IFB. Bids must be promptly date/time stamped and deposited unopened in the respective bid folder; they should not be left unattended.

Late bids will not be opened and will not be considered under any circumstances. A late bid will be date-stamped and promptly returned unopened to the bidder accompanied by a letter from Finance notifying the bidder that the bid was received late and was not considered. A copy of the rejected bid envelope and the letter will be retained in the bid file. Late bids received without a return address on the envelope will be date/time stamped upon receipt and retained in the bid file unopened.

## **BID OPENING:**

All bid openings shall be opened publicly by the Purchasing Agent or designee in the presence of one or more witnesses at the time and place designated in the IFB, or as soon thereafter as is possible. The only information that will be read aloud is the information that will be recorded in the bid abstract. Details of any bid's exceptions or nonconformance will be not be read in public, but the fact of their existence will be publicly noted. Actual bid documents will not be examined by bidders or the public at the bid opening. The Sanitary District assumes no responsibility for the confidentiality of bid information unless specifically stated otherwise in the IFB.

The following information shall be recorded in the bid abstract, which shall be signed by the opener and witness (typically Finance personnel):

The bidders' company name and location, bid prices, the presence of addenda and exceptions, other pertinent information such as delivery terms, promised delivery date, and payment terms.

## **CORRECTION AND WITHDRAWAL OF BIDS:**

**General Rule.** The essential rule in evaluating actions to mistakes in bids is that no change or correction may be permitted that would prejudice the interest of the public or be unfair to other bidders.

**Waiving Informalities.** The IFB may contain provisions allowing the Sanitary District to waive informalities and accept the bid that appears to be in the best interest of the Sanitary District. Such informalities may consist of the correction of minor errors, but only if the bid is substantially in compliance with the terms and conditions of the IFB. Errors that are not material and do not invalidate the legitimacy of a bid may be waived.

**Bid Withdrawal Prior to the Bid Opening.** Prior to bid opening, mistakes in bids detected by a bidder may be corrected or a bid withdrawn upon authorized written request signed by an authorized representative of the bidder and received by Finance. A facsimile copy will suffice. Oral or telegraphic, or electronic transmission shall not be permitted. Oral corrections or withdrawals by bidder shall not be permitted. The original withdrawn bid(s) shall not be returned until after the bid opening; at which time they shall be returned unopened.

**Judgmental Errors.** A bid may not be withdrawn as the result of a mistake attributable to the bidder's error in judgment. For example, a bidder judges he can provide a bid item at a significantly lower price than his/her competitors and submits his/her bid based on that judgment, but later wishes to withdraw his/her bid because he has determined that he cannot provide the item at the price offered. This is an error in judgment, and the bid may not be withdrawn.

Bid withdrawal by reason of non-judgmental error may be allowed, but only to the extent and pursuant to the criteria set forth in, state law.

**Correcting Mistakes in Bids.** During or after bid opening, mistakes detected in bids may not be corrected by the bidder except:

(a) A bidder may be permitted to correct a material mistake that would cause such bidder to have the low bid if the mistake is clearly evident from examining the bid document; for example, arithmetical errors. **However, a bidder shall not be permitted to correct a bid for errors of judgment.**

(b) An otherwise low bidder may be permitted the opportunity to furnish other information called for by the IFB and not supplied due to oversight, so long as it does not affect responsiveness.

**Confirmation of Bid.** When Finance knows or has reason to believe that a mistake has been made in a bid, the bidder should be requested to confirm the bid. Situations where confirmation should be requested include obvious or apparent errors in the bid documents or a bid unreasonably lower than other bids. Such confirmation shall be requested and received in writing, and facsimile copies will suffice for request and receipt of confirmation.

Finance shall maintain complete and sufficient records of evidence used to establish an error and intended price. Records of bid withdrawals shall also be maintained to ensure there is no abuse of the competitive bidding process. All decisions to permit the waiver of bid mistakes and the withdrawal of bids shall be made in writing, approved by Finance, and retained in the bid file.

## **BID EVALUATION:**

Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The criteria affect price shall be objectively measurable, such as discounts, transportation costs and life cycle or total ownership costs. The IFB shall set forth the evaluation criteria to be used.

Examples of evaluation criteria that may be used include:

- Adherence to all conditions and requirements of the bid specifications.
- Total price (including any discounts), unit price, or extended price.
- General reputation and experience of bidders based on references or prior performance.
- Hourly rates for specified personnel.
- Ability to meet delivery and stocking requirements.
- Financial responsibility of the bidder.
- Needs and requirements of the Sanitary District.
- Experience with the products involved.
- Nature and extent of product data furnished, upon request of the Sanitary District, for review and evaluation.
- Quality of merchandise offered, including product appearance, workmanship, finish, taste, feel and results of product testing.

- Overall completeness of product line offered.
- Availability of product or service required.
- Safety performance.
- Maintenance costs and warranty provisions.
- Repurchase value or residual value of equipment after specified number of years where the residual value can be objectively ascertained.
- Compatibility with Sanitary District's current equipment/products.

Finance shall maintain complete and sufficient records of bid evaluations to ensure that there is no abuse of the competitive bidding process. The justification for an award recommendation shall be made in writing by the Purchasing Agent or his/her designee and retained in the bid file.

**RESERVATION OF RIGHT TO REJECT BIDS AND/OR REQUIRE REBID:**

Every bid must be carefully examined to determine whether it contains a material variance. Any bid that contains a material variance must be rejected. A test of material variance is a variance that gives the bidder a substantial benefit or advantage not enjoyed by the other bidders. Prior to any rejection for a material variance, Sanitary District Counsel shall be consulted.

The Sanitary District reserves the right to reject any or all bids in whole or in part and may waive any irregularities or informalities in any bid when, after consideration of all relevant circumstances, such action is considered in the best interest of the Sanitary District.

The Sanitation District may:

- Reject a bid not accompanied by any required bid security or by other data required by the bidding documents.
- Reject a bid that is in any way incomplete, irregular, amplified, unqualified or otherwise not in compliance with the bid documents in all material respect.
- Waive any informality, irregularity, immaterial defects or technicalities, in any bids received.
- Cancel an Invitation for Bids, delay the opening of bids, delay the awarding of a contract, or reject all bids for any of the following reasons:
  - Inadequate or ambiguous specifications.
  - Specifications have been revised.
  - Supplies or services are no longer needed; change in Sanitary District requirements.
  - All bids deemed unreasonable.
  - Bids were not independently arrived at or were submitted in bad faith.

- A determination is made that all the necessary requirements of the bid process have not been met.
- Insufficient competition.
- For other reasons which indicate the cancellation or rejection of all bids is clearly and demonstrably in the best interest of the Sanitary District.
- Insufficient funds have been budgeted for the purchase.

Finance shall maintain complete and sufficient written records of bid rejections and cancellations to ensure that there is no abuse of the bidding process. All reasons for rejecting a bid shall be retained in the bid file.

**BID AWARD:**

Bid award shall be made to the lowest responsive and responsible bidder. All awards shall be made by written notice to the successful bidder and shall be promptly made public information.

**Responsive bid.** A bid shall be considered responsive when the bidder has complied with the terms, conditions, provisions, specifications, instructions, and all other requirements of the Invitation for Bids. The determination whether or not a bid is considered responsive is an administrative decision, and shall be made by the Purchasing Agent or his/her designee.

**Responsible Bidder.** A bidder shall be considered responsible when it has been established that he has the technical capability, financial capacity, facilities, and work force required to perform as outlined in the provisions and conditions of the bid. Safety performance may be used as a consideration. Reference checks and documented past performance history may be considered when determining whether a bidder has the capability to fulfill the requirements of the IFB.

The determination whether a bidder is non-responsible is an administrative decision, which shall be made by the Finance Division in consultation with Sanitary District Counsel. Any determination that a bidder is non-responsible shall be documented by the Finance Division along with the reasons for making such a determination.

**CANCELLATION OF BID AWARD:**

Failure on the part of the successful bidder within the time allowed to execute the contract or comply with any other requirement imposed precedent to execution of the contract shall be considered just cause for cancellation of the award and forfeiture of the bid security, not as a penalty, but in liquidation of certain damages sustained. Contract award may then be made to the next lowest responsible and responsive bidder, the call for bids re-advertised, or such other action taken as deemed appropriate by the Purchasing Agent.

**RECORDS:**

Finance shall create and retain a summary record for each IFB, and shall make it available for public inspection. The summary shall identify the successful bidder and include the date of the award, the purchase order or contract number, the company names of the participating bidders and the amounts of their bids, and a brief description of the commodity or services being purchased.

**TIE BIDS:**

If the bid evaluation results in a determination that there has been a tie for lowest responsive and responsible bid between two or more bids received, which are for the same total amount or unit price and in all other respects equal, and if there is no evidence of collusion between the tie bidders, then Finance may award the bid based on local preference; but if equal on that point, then on safety performance; but if equal on that point, then on credit history; but if equal on that point, then on completion history; but if equal on that point, then Finance shall have the tie bidders draw lots for the bid award.

The local preference criteria shall apply only to the procurement of materials, supplies, equipment, or services, and will not apply to procurements conducted cooperatively with other public agencies or when prohibited by the terms of federal or state law or the terms of a third party grant of funds.

## JOINT SERVICES AGREEMENT

This agreement ("Agreement") is made by and between the SEWERAGE AGENCY OF SOUTHERN MARIN, a Joint Powers Authority, ("SASM") and SANITARY DISTRICT NO. 5 OF MARIN COUNTY ("SD5"). SASM and SD5 may collectively be referred to as the "Parties."

This Agreement shall become effective on the date it is fully executed by both Parties.

### RECITALS

- A. WHEREAS**, SASM is a Joint Powers Authority comprised of the following political entities: City of Mill Valley, Richardson Bay Sanitary District, Almonte Sanitary District, Alto Sanitary District, Homestead Valley Sanitary District, and Tamalpais Community Services District;
- B. WHEREAS**, SD5 is a sanitary district that provides wastewater collection, treatment, and discharge services for a portion of the Town of Tiburon, City of Belvedere, and a portion of unincorporated Marin County;
- C. WHEREAS**, in approximately 1983, the Parties entered into an agreement ("1983 Agreement") regarding the construction and joint use of SASM's deep-water interceptor-outfall system, as well as SASM's use of the SD5 Main Treatment Plant ("SD5 Plant") for dechlorination, sampling, and flow metering of SASM's waste discharge. The 1983 Agreement is attached for reference only as Exhibit A.
- D. WHEREAS**, the 1983 Agreement granted perpetual capacity and discharge rights to SD5 for use of the SASM deep-water interceptor-outfall pipe in exchange for SD5's payment of certain construction costs associated with the building of the deep-water interceptor-outfall pipe and providing SASM with the sole use and joint use facilities and equipment at the SD5 plant;

- E. WHEREAS**, SD5 paid its share of the costs associated with the building of the deep-water interceptor-outfall system and SD5's perpetual capacity and discharge rights to the pipe continue today in the amount of 0.98 million gallons per day (MGD) average dry weather flow and 6.7 million gallons per day (MGD) peak three hours wet weather flow, 20 year recurrence frequency (and is further set forth in the 1983 Agreement;
- F. WHEREAS**, the 1983 Agreement provided that an existing SD 5 outfall pipe to Racoon Strait constructed prior to 1983 (the "pre-existing outfall pipe") would be maintained with maintenance costs shared equally between SD5 and SASM, and that pre-existing outfall pipe has not been utilized in more than 15 years and subsequent federal, state and local regulatory requirements may make it infeasible to use the pre-existing outfall pipe as a backup discharge pipe;
- G. WHEREAS**, SASM and SD5 have jointly undertaken a study to determine the condition of SASM's outfall system as well as the cost, legality and efficacy of repairing, and potentially using as an emergency discharge point, SD5's pre-existing outfall pipe. SD5 and SASM intend to address the issues of SASM's outfall system and SD5's pre-existing outfall pipe after receiving the results of the study that is being conducted by RMC Water and Environment ("RMC Study"). SD5 and SASM will,if necessary, address these and related issues in an amendment to this Agreement;
- H. WHEREAS**, SD5 is currently in the process of rehabilitating its main plant ("MPR Project");
- I. WHEREAS**, SASM is currently developing its long-term WWTP Master Plan;
- J. WHEREAS**, THE 1983 Agreement contained a term of 30 years for other obligations between SD5 and SASM, such as maintenance and testing agreements, and it expired in February 2013;
- K. WHEREAS**, the Parties seek to continue certain of the resource-sharing contractual obligations contained in the 1983 Agreement and are therefore entering into this Agreement.

**NOW, THEREFORE**, the Parties agree as follows:



## 1. PERPETUAL CAPACITY AND DISCHARGE RIGHTS

SD5 has perpetual capacity and discharge rights to the deep-water interceptor-outfall pipe in the amount of 0.98 million gallons per day (MGD) average dry weather flow and 6.7 million gallons per day (MGD) peak three hours wet weather flow, 20 year recurrence frequency.

2. **BAY OUTFALL.** SD5's main plant is connected to SASM's interceptor-outfall system ("System") at Point A near Paradise Drive as shown in Exhibit B attached hereto.

A. **Operation and Maintenance Costs.** SASM and SD5 shall continue to share operation and maintenance costs of the System, bayward of Point A as shown on Exhibit B, including receiving mutually required water monitoring costs, on the basis of respective allocated flows: 75% SASM and 25% SD5. Operation and maintenance costs of the System landward of Point A, as shown on Exhibit B, shall continue to be the sole responsibility of SASM.

1. SD5 shall be responsible for all commercially reasonable costs of maintenance and repair associated with the tie-in valve at Point A (shown on Exhibit B).

B. **Ownership of Wastewater.** SD5 wastewater shall be owned by SD5 until said wastewater is discharged into the System at Point A, after which SASM shall own said wastewater. Nothing in this Agreement shall prevent SD5 from undertaking a reclamation project(s) for usage of treated wastewater in SD5's jurisdiction and not utilizing all of the capacity belonging to SD5 in the System.

C. **Wastewater Discharge Requirements.** SD5 and SASM shall discharge wastewater from their respective facilities into the System such that one party does not cause the other party to violate any discharge requirements. Each party shall provide sufficient sampling and analysis of their respective wastewater streams to verify compliance.

D. **Hold Harmless from Damage.** Each party shall operate and maintain its respective facilities so as not to damage the other party's facilities. Each party shall indemnify, defend, and hold the other free and harmless from all liability or damages incurred by the other as a direct and

proximate result of any failure by such party to properly operate and maintain its facilities.

- E. Failure to Meet Discharge Requirements. SD5 shall hold harmless, indemnify, and defend, SASM from all liability and/or damages incurred by SASM as a direct and proximate result of any failure by SD5 to meet discharge requirements into the System, including, but not limited to, legal, engineering, and administrative expenses, fines and damages incurred by SASM as a result of a cease and desist order or injunction restricting SASM. Upon notification of any violation, SD5 shall take prompt corrective action as necessary to meet said discharge requirements.

SASM shall hold harmless, indemnify, and defend SD5 from all liability and/or damages incurred by SD5 as a direct and proximate result of any failure by SASM to meet discharge requirements into the System, including, but not limited to, legal, engineering, and administrative expenses, fines and damages incurred by SD5 as a result of a cease and desist order or injunction restricting SD5. Upon notification of any violation, SASM shall take prompt corrective action as necessary to meet said discharge requirements.

3. **DECHLORINATION, MONITORING, AND SAMPLING EQUIPMENT.** SD5 shall continue to furnish SASM with services in SD5's main plant for dechlorination, monitoring, and sampling effluent pursuant to the National Pollution Discharge Elimination System (NPDES) permit requirements as follows:

- A. Equipment. Equipment and facilities that have been, or will be, installed in SD5's main plant for SASM's sole or partial benefit after the completion of the MPR Project shall include the following:

(1) Equipment for SASM's sole benefit ("Sole Benefit Equipment"):

- a. Three dechlorination chemical feeders
- b. Two chlorine residual analyzers
- c. One sulfide residual analyzer
- d. One recording pH meter
- e. Two sample pumps
- f. One refrigerated composite sampler
- g. One effluent flow meter

- h. One conduit for flow meter recorder transmitter
- i. One flow meter recorder transmitter
- j. Associated instrumentation, telemetry, and electrical equipment for the items above
- k. One telephone line
- l. Radio telemetry equipment including antennae, cables, and related equipment.

(2) Equipment for the joint benefit of SASM and SD5 ("Joint Benefit Equipment"):

- a. One chemical tank
- b. Associated piping, valves, chemical storage facilities, sample lines and related equipment.

B. Ownership. SD5 shall be sole owner of SD5's treatment plant and all appurtenances, with the exception of the Sole Benefit Equipment, which shall be wholly owned by SASM.

C. Access: SD5 agrees to provide SASM personnel access to SD5's treatment plant during normal business hours for the purpose of inspecting SASM's Sole Benefit Equipment and inspecting the Joint Benefit Equipment.

D. Operation: SD5 staff shall provide operation of both the Sole and Joint Benefit Equipment. SASM shall have the right to operate said equipment in an emergency, subject to notice to and consent by SD5. SASM shall indemnify and hold SD5 harmless during the time period it operates the Sole and Joint Benefit Equipment pursuant to this paragraph. SASM's operation of said equipment shall be appropriately logged by SASM personnel as required by SD5. SD5 shall develop standard operating procedures for operation of the Sole and Joint Benefit Equipment and share them with SASM.

E. Maintenance: SD5 shall provide maintenance, replacement, and/or repair of all of the Sole Benefit Equipment. SD5 shall be responsible for the maintenance of the Joint Benefit Equipment.

F. Maintenance and Repair Costs. SASM shall be responsible for all costs for maintenance, repair, and replacement of the Sole Benefit Equipment. SASM and SD5 shall be equally responsible for all maintenance, repair, and replacement costs of the Joint Benefit Equipment. SD5 shall invoice SASM every 3 months, for

the maintenance, repair, and replacement costs incurred during that period and said costs shall become payable within thirty (30) days of receipt of invoice date.

Quarterly billing will be based on a fiscal year (1<sup>st</sup> quarter: July 1, to September 30<sup>th</sup>; 2<sup>nd</sup> quarter: Oct 1<sup>st</sup> to December 31<sup>st</sup>; 3<sup>rd</sup> quarter: January 1<sup>st</sup> to March 31<sup>st</sup>; and 4<sup>th</sup> quarter: April 1<sup>st</sup> to June 30<sup>th</sup>) and SD5 will submit invoices to SASM within 15 days of the last day of each quarter.

- G. Operation Costs. SASM shall be responsible for all operation costs, inclusive of SD5 staff time, chemical usage, and parts, of the Sole Benefit Equipment. SASM and SD5 shall be equally responsible for operation costs, inclusive of SD5 staff time, chemical usage, and parts, of the Joint Benefit Equipment. SD5 shall invoice SASM every 3 months for the actual operation and staff costs incurred during that period, and said costs shall become payable within thirty (30) days of the invoice date. The billing rate for SD5 staff shall be at their respective fully-burdened hourly rate in effect at the time of any services provided in connection with Sole Benefit Equipment and Joint Benefit Equipment.

Quarterly billing will be based on a fiscal year (1<sup>st</sup> quarter: July 1, to September 30<sup>th</sup>; 2<sup>nd</sup> quarter: Oct 1<sup>st</sup> to December 31<sup>st</sup>; 3<sup>rd</sup> quarter: January 1<sup>st</sup> to March 31<sup>st</sup>; and 4<sup>th</sup> quarter: April 1<sup>st</sup> to June 30<sup>th</sup>) and SD5 will submit invoices to SASM within 15 days of the last day of each quarter.

- H. Sampling, Treatment and Equipment Indemnification. SD5 shall indemnify, release, defend, and hold harmless SASM, its officers, agents, employees, and designated volunteers, from and against any claim, demand, suit, judgment, loss, liability or expense of any kind (collectively "Claims"), including reasonable attorney's fees and administrative costs, to the extent said Claims arise out of SD5's active negligence related to:
1. Ownership, operation, maintenance, repair, or replacement of the Joint or Sole Benefit Equipment.
  2. Dechlorination, or failed dechlorination, of any SASM effluent.

SASM shall indemnify, release, defend, and hold harmless SD5, its officers, agents, employees, and designated volunteers, from and against any claim, demand, suit, judgment, loss, liability or expense of any kind (collectively "Claims"), including reasonable attorney's fees and administrative costs, to the extent said Claims arise out of:

1. Testing, or failed testing, of any SASM effluent.
  2. Treatment, or failed treatment, of any SASM effluent.
  3. Allowing access to any SD5 property or facility by any SASM employee, agent, or officer.
  4. Storing, using, or disposing of any materials, including chemicals, used for the sole or joint benefit of SASM.
4. **PLANT OPERATIONS.** It is anticipated that either SASM or SD5 may have to discontinue service from time to time for inspection, maintenance, or repair of its respective facilities, in which event each shall give the other adequate advance notice to make provisions for alternate disposal in order to isolate the respective facilities and to protect the other's facilities from damage. In the event that either party makes or causes any significant change in the operation of its facilities that might affect the other, it shall advise the other as soon as such change is known. In the event of an emergency requiring an immediate shutdown or isolation of either SASM's or SD5's facilities, both Parties shall cooperate with each other and coordinate their operations so as to jointly take the affected facility out of service to avoid or minimize damage to either party's facility.
5. **DISPUTE RESOLUTION.** All claims and disputes relating to this Agreement, or the requirements contained herein, shall first be attempted to be resolved by communication between the Parties. If informal resolution is not successful, the Parties agree to mediate any dispute as a condition precedent to any formal legal action.
6. **TERM OF THIS AGREEMENT.** The term of the Agreement shall be ten (10) years from the date it is fully executed; the Agreement shall be automatically renewed at the end of its term for consecutive five (5)-year periods, unless one party gives the other party six (6)-months notice of intent to not renew.
7. **MODIFICATION OF THIS AGREEMENT.** Either party may request modification or amendment of this Agreement at any time upon notification to the other party. This Agreement

may be amended only by a written agreement approved and executed by both Parties.

8. **DISSOLUTION OR MODIFICATION OF EITHER SASM OR SD5.**

A. **Dissolution or Modification of SASM.** In the event that SASM is modified or terminated by virtue of actions taken pursuant to its Joint Powers Agreement, the rights of SD5 to the System shall continue and any assignee(s) or transferee or transferees of ownership of SASM's facilities shall be subject to this Agreement.

B. **Dissolution or Modification of SD5.** Should SD5 terminate or be modified, any assignee(s) or transferee or transferees shall be entitled to assignment of all of SD5's right, title and interest in the System as set forth in this Agreement, provided said transferee or assignee assumes the terms thereof. Additionally, any assignee or transferee to SD5 shall be subject to SASM's rights under this Agreement.

9. **ASSIGNMENT.** This Agreement shall inure to the benefit of the Parties, their successors in interest, transferees or assignees.

10. **SEVERABILITY.** Should any portion, term, condition or provision of the Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portion, terms, conditions or provisions shall not be affected thereby, provided, however, that the intention of the Parties is not materially distorted by failure of said portion, term, condition or provision of this Agreement.

11. **ACCESS TO RECORDS.** Each party shall have the right to inspect the records of the other party that relate to 1) the Sole Benefit Equipment, 2) the Joint Benefit Equipment, and/or 3) the System.

12. **DRAFTING PRESUMPTION.** This Agreement shall be construed to have been drafted by all Parties so that the rule of construing ambiguities against the drafter shall have no force or effect. The Parties hereby waive California Civil Code section 1654, which reads: IN CASES OF UNCERTAINTY NOT REMOVED BY THE PRECEDING RULES, THE LANGUAGE OF A CONTRACT SHOULD BE

INTERPRETED MOST STRONGLY AGAINST THE PARTY WHO CAUSED THE UNCERTAINTY TO EXIST.

13. **FUTURE AMENDMENT.** SD5 and SASM hereby agree that upon receipt of the RMC Study of the outfall systems, they will discuss and may negotiate, if determined to be necessary after the review and analysis of the RMC Study, an amendment to this Agreement, which may address issues including, but not limited to:

1. Sharing of costs of operation and maintenance of the joint outfall pipe;
2. Establishment of a reserve fund for repair and/or replacement of the pipe; and
3. Discussion of the ramifications of SD5's pre-existing outfall pipe and alternatives to that pipe.
4. Allocation of operation and maintenance costs for SASM's interceptor-outfall system bayward of Point A near Paradise Drive as shown on Exhibit B.

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SD5:

By:

C. Benediktsson

C. Benediktsson

Name: ~~Samantha Miller~~

Beard President.

Title: ~~District Manager~~

Date: 5/13/14

SASM:

By:

Lew Kiou

Name:

Lew Kiou

Title: SASM Board President

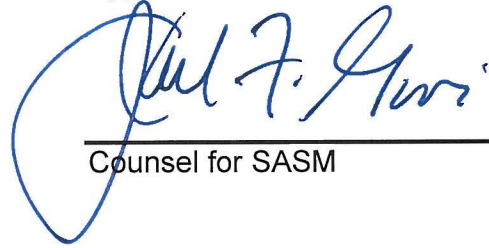
Date: 4/24/14

Approved as to Form:

A handwritten signature in blue ink, consisting of stylized initials and a surname, positioned above a horizontal line.

Counsel for SD5

Approved as to Form:

A handwritten signature in blue ink, appearing to read 'Paul F. Rossi', positioned above a horizontal line.

Counsel for SASM



# EXHIBIT A

421

Revised July 8, 1981 W.E.N.

SAN.  
DIST.  
NO. 5

## A G R E E M E N T

This Agreement made this 7th day of March, 1983, by and between the SEWERAGE AGENCY OF SOUTHERN MARIN, a Joint Powers Agency, hereinafter referred to as the "AGENCY", and SANITARY DISTRICT NO. 5, hereinafter referred to as the "DISTRICT":

## R E C I T A L S

WHEREAS, AGENCY is a Joint Powers Agency comprising the following political entities: City of Mill Valley, Richardson Bay Sanitary District, Almonte Sanitary District, Alto Sanitary District, Homestead Valley Sanitary District and Tamalpais Community Services District;

WHEREAS, DISTRICT provides wastewater treatment and discharge service within its own service area in Tiburon and, in addition, for the City of Belvedere by contract;

WHEREAS, AGENCY has commenced a project which consists in part of construction of an interceptor-outfall system extending approximately six miles from Mill Valley to a deep-water discharge in San Francisco Bay at Raccoon Strait, which interceptor-outfall system will receive and discharge treated wastewaters from the six political entities comprising AGENCY;

WHEREAS, DISTRICT has commenced a project to independently upgrade its treatment plant to provide a secondary level of treatment;

WHEREAS, DISTRICT has determined that the most cost-effective means by which DISTRICT could dispose of its wastewater is by connection to said interceptor-outfall system being constructed by AGENCY;

WHEREAS, due to grant conditions imposed by the State Water Resources Control Board, AGENCY and DISTRICT are required to cooperate in the construction and use of the interceptor-outfall system;

WHEREAS, DISTRICT desires to discharge wastewater in and through AGENCY's interceptor-outfall system;

WHEREAS, DISTRICT must pay AGENCY for that portion of the costs of the interceptor-outfall system attributable to DISTRICT's requirements;

WHEREAS, both AGENCY and DISTRICT are required to dechlorinate wastewater prior to discharge to the Bay;

WHEREAS, the most economical location for dechlorination of AGENCY wastewater is in the vicinity of DISTRICT's treatment plant;

WHEREAS, AGENCY desires to situate dechlorination, sampling, flow metering, recording and telemetering terminal and other appurtenant facilities at DISTRICT's treatment plant;

WHEREAS, DISTRICT has caused design plans to be prepared for such facilities to meet AGENCY's requirements;

WHEREAS, AGENCY must pay DISTRICT for that portion of the costs of the dechlorination and sampling equipment attributable to AGENCY's requirements;

WHEREAS, it is desirable that both AGENCY and DISTRICT have a means of discharging wastewater to the Bay in the event of a shutdown of the System;

WHEREAS, DISTRICT owns an existing outfall line to the Bay which is suitable for use in the event of a shutdown of the System;

WHEREAS, AGENCY desires to use DISTRICT's outfall for emergency shutdown of the System;

WHEREAS, AGENCY must pay DISTRICT for that portion of DISTRICT's outfall attributable to AGENCY's requirements; and

WHEREAS, AGENCY and DISTRICT desire to establish a reasonable method for the participation by each other in the joint use of AGENCY's interceptor-outfall system, dechlorination, pH and sampling facilities and DISTRICT's outfall;

NOW, THEREFORE, the parties hereto agree as follows:

I. PARTICIPATION IN JOINT-USE FACILITIES. AGENCY and DISTRICT agree to participate in the following joint-use facilities:

- A. AGENCY's deep water Bay outfall
- B. Dechlorination, pH, and sampling facilities located at DISTRICT's treatment plant
- C. Emergency use of DISTRICT's existing Bay outfall
- D. Receiving water monitoring
- E. Other facilities to be installed by either AGENCY or DISTRICT for the other's use.

II. BAY OUTFALL. When completed by contractor, AGENCY will authorize DISTRICT to connect to AGENCY's interceptor-outfall system at Point A near Paradise Drive as shown in Exhibit A attached hereto and incorporated by reference herein and to discharge its treated wastewater in and through the System, and, further, AGENCY grants to DISTRICT perpetual capacity rights in System subject to the following terms and conditions:

- A. Present Capacity Rights. DISTRICT shall own discharge rights in the System bayward of Point A as shown in Exhibit A in the amount of 0.98 million gallons per day (MGD) average dry weather flow and 6.7 million gallons per day (MGD) peak three hours wet weather flow, 20 year recurrence frequency.

B. Reserve Capacity. AGENCY and DISTRICT shall jointly own any remaining excess capacity bayward of Point A in proportion to their respective initial cost sharing as set forth in Exhibit C. AGENCY may assign to DISTRICT any of its unused capacity and reserve which AGENCY may determine is unnecessary for its future usage and similarly DISTRICT may assign to AGENCY capacity and reserve which DISTRICT may determine is unnecessary.

C. Ownership of Facilities. AGENCY shall retain complete ownership over the pipeline bayward of Point A including the tee and valve.

D. Outfall Design and Operation for Joint-Use. AGENCY will design, operate and maintain its own interceptor-outfall facilities bayward of Point A such that, except for occasional surges, the maximum pressure on a closed valve at the point of connection at Point A to the system will not exceed an equivalent water surface elevation of 28 feet above U.S.C. & G.S. mean sea level. If said surges do become a nuisance, as determined by DISTRICT, AGENCY shall install a suitable check valve, sufficient surge suppression equipment and/or discharge overflow to DISTRICT's existing outfall to mitigate said surges.

E. Operation of Valve at DISTRICT'S Connection to AGENCY'S Outfall. AGENCY's valve at the point of connection shall be operated only by AGENCY after providing notice to DISTRICT and receiving DISTRICT's approval.

F. Initial Project Costs. To accommodate the addition of DISTRICT's treated wastewater flow to the System, AGENCY (with the assurance of available local, state and federal funds for payment of DISTRICT's share of project costs) has incurred and will incur, certain engineering, construction, legal, administration and miscellaneous costs in

oversizing the System bayward of said Point A. A fair and equitable share of such project costs shall be paid by DISTRICT to AGENCY on the basis of estimated peak wet weather flow as set forth in Exhibit B, and in the proportions set forth in Exhibit C, each attached hereto and incorporated by reference herein. The amount of said project share will be determined on the basis of final engineering and construction costs. AGENCY shall invoice DISTRICT for the estimated project costs and 50% of said costs shall become payable within thirty (30) days of receipt of the invoice by DISTRICT. AGENCY shall invoice DISTRICT for the remaining cost upon completion of the project when all costs are known and said remaining costs shall become payable within thirty (30) days of receipt of the invoice by DISTRICT.

G. Operation and Maintenance Costs. AGENCY and DISTRICT will share operation and maintenance costs of the interceptor-outfall system bayward of Point A, including receiving water monitoring costs, on the basis of the respective annual metered flow from each Agency. AGENCY shall invoice DISTRICT at intervals not more frequently than quarterly for the actual Operation and Maintenance cost incurred during that period and said costs shall become payable within thirty (30) days of receipt of invoice by DISTRICT.

III. DECHLORINATION, MONITORING AND SAMPLING EQUIPMENT. DISTRICT shall furnish and install within DISTRICT's treatment plant equipment and facilities for dechlorinating, monitoring and sampling wastewater pursuant to the National Pollution Discharge Elimination System (NPDES) permit requirements.

A. Equipment and Facilities to Be Installed by DISTRICT in DISTRICT's Plant. Equipment and facilities to be installed in DISTRICT's treatment plant for AGENCY's sole or partial use shall include the following:

1. Equipment and facilities for AGENCY's sole use:
  - a. One dechlorination chemical feeder
  - b. Two chlorine residual analyzers
  - c. Recording pH meter
  - d. Two sample pumps and one refrigerated sampler
  - e. Conduit for flow meter recorder transmitter
  - f. Compressed air line to meter pit-sump pump
  - g. Association instrumentation and electrical equipment.
2. Equipment and facilities for joint use by AGENCY and DISTRICT
  - a. One standby dechlorination feeder
  - b. Air compressors
  - c. Telephone line connection
  - d. Associated piping, valves, chemical storage facilities, sample lines and related equipment.

B. Equipment and Facilities to Be Installed by AGENCY in DISTRICT's Plant. The following equipment and facilities will be installed by AGENCY in DISTRICT's treatment plant as AGENCY's sole-use facilities at a location to be specified by DISTRICT:

1. Recorder-transmitter from AGENCY's flow meter
2. Telemetry equipment for the purpose of transmitting various signals from both AGENCY and DISTRICT instrumentation to AGENCY's treatment plant at Mill Valley.

C. Ownership. DISTRICT shall be sole owner of DISTRICT's treatment plant and all appurtenances with the exception that AGENCY will own all sole-use equipment and facilities as listed in Provision III A-1 above and all equipment installed by AGENCY as listed in Section III B above. AGENCY reserves the right to remove and/or replace said sole-use facilities.

D. Access. DISTRICT agrees to provide AGENCY personnel access to DISTRICT's treatment plant for the purpose of inspecting and/or operating AGENCY's sole-use facilities and inspecting the joint-use facilities as described below.

E. Operation. DISTRICT staff shall provide operation of AGENCY's sole-use and joint-use facilities as described in Sections III A-1 and III A-2 above. Said operation shall include, but shall not be limited to, changing charts, putting ink in pens, changing sample containers, and assuring operation of sample pumps, sulfonators, and chlorine residual analyzers. AGENCY shall have the right to operate said facilities in an emergency. AGENCY will operate AGENCY's sole-use facilities as described in Section III B above.

F. Maintenance. DISTRICT shall provide maintenance for AGENCY's sole-use and joint-use facilities as described in Sections III A-1 and III A-2 above. AGENCY shall provide maintenance of all of AGENCY's sole-use facilities as described in Section III B above at AGENCY's cost.

G. Initial Project Costs. DISTRICT (with the assurance of available local, state and federal funds for payment of DISTRICT's share of project costs) has incurred and will incur, certain engineering, construction, legal, administrative, and miscellaneous costs in providing the sole-use and joint-use equipment and facilities. AGENCY will reimburse DISTRICT for the total cost of all sole-use facilities which are to become the property of AGENCY. AGENCY will reimburse DISTRICT for its share of all joint-use facilities computed on the basis of use. DISTRICT shall invoice AGENCY for the estimated project costs and 50% of said costs shall become payable within thirty (30) days of receipt of the invoice by AGENCY. DISTRICT shall invoice AGENCY for the

remaining cost upon completion of the project when all costs are known and said remaining costs shall become payable within thirty (30) days of receipt of the invoice by AGENCY.

H. Operation and Maintenance Costs. AGENCY and DISTRICT will share operation and maintenance costs of the dechlorination, sampling and metering facilities at DISTRICT's treatment plant on the basis of the metered chemical use or actual facility use by each Agency. DISTRICT shall invoice AGENCY at intervals not more frequently than quarterly for the actual Operation and Maintenance cost incurred during that period and said costs shall become payable within thirty (30) days of receipt of invoice by AGENCY.

IV. USE OF DISTRICT'S EXISTING OUTFALL. DISTRICT will maintain its existing outfall to Raccoon Strait as an emergency discharge point. In the event of an emergency or if required for maintenance of AGENCY's outfall, DISTRICT will divert its discharge or will divert both DISTRICT's and AGENCY's discharge through DISTRICT's existing outfall. AGENCY will provide DISTRICT with as much advance notice as possible before discharge through DISTRICT's existing outfall is required. In the event of an emergency, AGENCY shall be permitted to operate valve and divert its discharge through DISTRICT's outfall without prior notification to DISTRICT. AGENCY and DISTRICT will share maintenance costs of DISTRICT's existing outfall so it will be available for emergency use on a 50-50 basis.

V. OTHER FACILITIES. AGENCY and DISTRICT will share costs on other facilities constructed or installed for sole-use or mutual benefit described as follows:

1. A steel encasement around the relocated water main on Mar West in front of the Sanitary District No. 5 plant in order to meet State Health Department requirements for DISTRICT's sole benefit.



2. Relocation of the joint pole and overhead utility lines on Mar West Boulevard for mutual benefit.

The fair and equitable share of the costs of such sole-use or mutually beneficial facilities shall be invoiced by the party incurring the costs and said costs shall become payable by the other party within thirty (30) days of receipt of the invoice.

Cost of other work which may be required for benefit of one or both parties to this Agreement shall be distributed between DISTRICT and AGENCY in a fair and equitable manner.

VI. MAINTENANCE, REPAIR AND EMERGENCY OPERATION. It is anticipated that either AGENCY or DISTRICT may have to discontinue service from time to time for inspection, maintenance or repair of its respective facilities, in which event each shall give the other adequate advance notice to make provisions for alternate disposal such as through DISTRICT's existing outfall (See Provision IV) in order to isolate the respective facilities and to protect the other's facilities from damage. In the event that either party makes or causes any significant change in the operation of its facilities that might affect the other, it shall advise the other as soon as such change is known.

In the event of an emergency requiring an immediate shutdown or isolation of either AGENCY's or DISTRICT's facilities, both parties shall cooperate with each other and coordinate their operations so as to jointly take the affected facility out of service to avoid or minimize damage to either party's facilities.

VII. OWNERSHIP OF WASTEWATER. DISTRICT's wastewater shall be owned by DISTRICT until said wastewater is discharged into the System at Point A after which the AGENCY shall own said wastewater. Nothing in this

agreement shall prevent DISTRICT from undertaking a reclamation project(s) for usage of treated wastewater in DISTRICT's jurisdiction and not utilizing all of the capacity belonging to DISTRICT in the System.

VIII. WASTEWATER DISCHARGE REQUIREMENTS. DISTRICT and AGENCY shall discharge their respective wastewaters into the System such that one party does not cause the other party to violate any discharge requirements. Each party shall provide sufficient sampling and analysis of their respective wastewater streams to verify compliance.

IX. HOLD HARMLESS FROM DAMAGE. Both parties shall operate and maintain their respective facilities so as not to damage the other party's facilities. Each party shall hold the other free and harmless from all liability or damages incurred by the other as a direct and proximate result of any failure by such party to properly operate and maintain its facilities.

X. FAILURE TO MEET DISCHARGE REQUIREMENTS. DISTRICT shall hold AGENCY harmless from all liability and/or damages incurred by AGENCY as a direct and proximate result of any failure by DISTRICT to meet the discharge requirements or due to negligence by DISTRICT in properly operating and maintaining AGENCY's facilities located at DISTRICT's plant as provided in Section III above, including, but not limited to, legal, engineering, and administrative expenses, fines and damages incurred by AGENCY as a result of a cease and desist order or injunction restricting AGENCY. Upon notification of each violation, DISTRICT shall take prompt corrective action as necessary to meet said discharge requirements.

In the event that DISTRICT is made responsible for any fines or sanctions imposed due to the failure of AGENCY to meet required discharge requirements, AGENCY shall hold DISTRICT free and harmless from liabilities and/or damages incurred by it, which damages are the direct and proximate result of a violation by AGENCY and said damages shall include, but not

be limited to, legal, engineering and administrative expenses, fines and damages incurred by DISTRICT as a result of any cease and desist order or court injunction restricting DISTRICT. Upon notification of each violation, AGENCY shall take prompt and corrective action as necessary to meet said discharge requirements.

XI. ARBITRATION OF DISPUTES. All claims and disputes relating to this Agreement shall be subject to arbitration, at the option of the parties, in accordance with the arbitration rules of the American Arbitration Association, except as modified herein. In the case of dispute, the parties shall attempt to resolve their dispute by good faith negotiations. If an impasse in negotiations should occur, either party may request arbitration by filing such request in writing with the other party. Should the other party fail to consent to arbitration within thirty (30) days of receipt of a request for arbitration, either party may proceed with legal action. If the parties agree to arbitration, an arbitration panel of three arbitrators shall be selected; one appointed in writing by each party and a third chosen by the two who are appointed. No one shall act as an arbitrator who is in any way financially interested in the work or in the business affairs of either party.

The arbitration panel shall obtain such information and evidence as deemed necessary and proceed to render a prompt decision. Should either party refuse or neglect to furnish the arbitrators with any necessary papers or information, they shall render a decision based on the information available to them ex parte.

The arbitrators, if they so deem, are authorized to award to the party whose contention is upheld such sums as they deem proper for the expenses incident to the arbitration. Otherwise, costs of arbitration shall be borne equally by both parties. The arbitrators shall be entitled to a reasonable compensation taxable against the parties, or party, as a cost of arbitration.

Construction, use or operation of either party's facilities shall not be interrupted or delayed due to any arbitration proceedings except by written agreement of both parties.

A decision by the arbitration panel shall be a condition precedent to the filing of any legal action relating to this Agreement, except as otherwise provided herein. If legal action is initiated, the party prevailing in arbitration shall have the right to introduce the record of the arbitration as evidence to the trial court. The trial shall be a trial de novo with no limitation on the introduction of evidence not contained in the arbitration record. The decision of the arbitration panel shall be given no special weight or presumption.

XII. TERM OF THIS AGREEMENT. The term of the Agreement shall be thirty (30) years from the date hereof; provided, however, that if DISTRICT determines that the use of AGENCY's project is no longer required and availability of DISTRICT's capacity is no longer necessary, and DISTRICT's capacity rights have been acquired, then in such case, the Agreement shall be automatically terminated. The Agreement is renewable at the end of said term subject to renegotiation of its terms and conditions, excepting then existing capacity rights. DISTRICT shall notify AGENCY of its desire to renew the Agreement by giving six (6) months' written notice prior to the expiration date of this Agreement.

XIII. MODIFICATION OF THIS AGREEMENT. Either party may request modification or amendment of this Agreement at any time upon notification to the other party. This Agreement may be amended only by an agreement approved and executed by both parties.

XIV. ACCESS TO RECORDS. Each party shall have the right to inspect the records of the other party relating to any sole-use or joint-use facilities referred to in this Agreement.

XV. DISSOLUTION OR MODIFICATION OF EITHER DISTRICT OR AGENCY.

A. Dissolution or Modification of AGENCY. In the event that AGENCY is modified or terminated by virtue of actions taken pursuant to its Joint Powers Agreement, the rights of DISTRICT to the System shall continue and any assignee(s) or transferee or transferees of ownership of AGENCY's facilities shall be subject to this Agreement.

B. Dissolution or Modification of DISTRICT. Should DISTRICT terminate or be modified, any assignee(s) or transferee or transferees shall be entitled to assignment of all of DISTRICT's right, title and interest in the System as set forth in this Agreement, provided said transferee or assignee assumes the terms hereof.

XVI. ADDITIONAL FACILITIES: This Agreement is intended to encompass the obligations of the parties regarding the facilities referred to in this Agreement and Exhibits thereto. Any additions, modifications or improvements to the project herein and the apportionment of costs associated therewith shall be subject to future negotiations between the parties, or should the parties not agree, be subject to arbitration as provided herein.

XVII. ASSIGNMENT. This Agreement shall inure to the benefit of the parties, their successors in interest, transferees or assignees.

XVIII. SEVERABILITY. Should any portion, term, condition or provision of the Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portion, terms, conditions or provisions shall not be affected thereby, provided, however, that the intention of the parties is not materially distorted by failure of said portion, term, condition or provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto consent to the above terms and conditions.

APPROVED AS TO FORM:

SEWERAGE AGENCY OF SOUTHERN MARIN

Sherrill A. Davis

By: Bertram G. Davies  
President

Counsel for AGENCY

Sherrill A. Davis  
Secretary

Date: FEBRUARY 17, 1983

APPROVED AS TO FORM:

SANITARY DISTRICT NO. 5

Sherrill A. Davis

By: B. J. Talbot  
President

Counsel for DISTRICT

Erw Hapkins  
Secretary Pro Tem

Date: MARCH 7, 1983

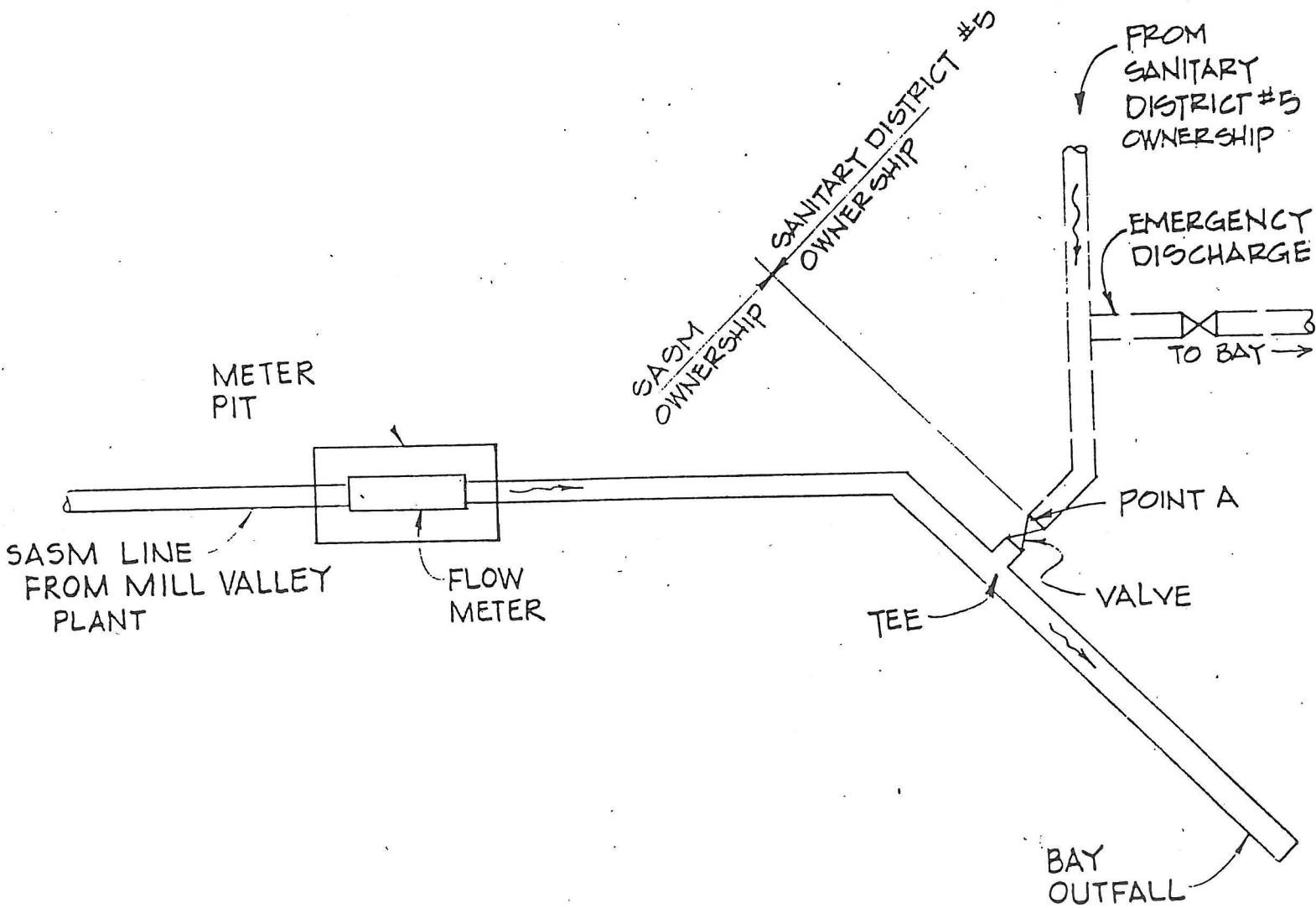


EXHIBIT B

CONNECTION POINT FOR SANITARY DISTRICT NO. 5 TO THE SEWERAGE AGENCY OF SOUTHERN MARIN BAY OUTFALL.

SANITARY DISTRICT NO. 5 OF MARIN COUNTY  
2001 PARADISE DRIVE  
P.O. BOX 227  
TIBURON, CALIFORNIA 94920  
TELEPHONE (415) 435-1501  
FAX (415) 435-0221

May 29, 2014

Ms. Jill Barnes, P.E.  
Director of Public Works  
For Sewerage Agency of Southern Marin  
26 Corte Madera Avenue  
Mill Valley, CA 94941

Dear Ms. Barnes,

For your records, enclosed please find two fully executed Agreements for the SASM and SD5 Joint Services.

Thank you for collaborating with SD5 to come to an acceptable Joint Services Agreement. We look forward to working together with SASM in the future.

Sincerely,

Tony Rubio  
Interim District Manager / Wastewater Facilities Manager  
Sanitary District No. 5 of Marin County

cc: Jim McCann, City Manager of Mill Valley



**S A S M**  
SEWERAGE AGENCY OF  
SOUTHERN MARIN

**A Joint Powers Agency**

- Almonte S.D.
- Alto S.D.
- City of Mill Valley
- Homestead Valley S.D.
- Richardson Bay S.D.
- Tamalpais C.S.D.

May 13, 2014

Cathy Benediktsson  
President of the Board of Directors  
Sanitary District No.5  
1120 Mar West St., Suite E  
Tiburon, CA 94920

Re: SASM and SD5 Joint Services Agreement

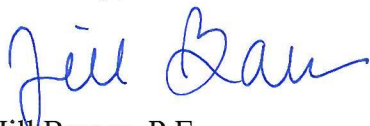
Dear President Benediktsson:

Thank you and the Sanitary District No. 5 Commissioners for your effort and cooperation to develop a successful Joint Services Agreement (Agreement). The SASM Board of Commissioners and staff appreciate the professional and productive relationship the District has fostered with the Agency and looks forward to continuing this beneficial partnership in future.

In order to accomplish the final step, I have enclosed four original Agreements signed by the Agency President and kindly request that you sign and return two documents to SASM for our records.

It was a pleasure working with you I look forward to future opportunities for the district and agency to work together in future.

Sincerely,



Jill Barnes, P.E.  
Director of Public Works  
jbarnes@cityofmillvalley.org  
415.384.4801

Enclosures: Original Agreement (4)

Cc: Jim McCann