

**FIRST AMENDED AND RESTATED
RESOLUTION
OF THE BOARD OF DIRECTORS OF
SOUTHLANDS METROPOLITAN DISTRICT NO. 2

ADOPTING A PROCUREMENT POLICY**

WHEREAS, Southlands Metropolitan District No. 2 (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 32-1-1001(1)(d), C.R.S., the Board of Directors of the District (the “**Board**”) is authorized to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(h) C.R.S., the Board shall have the management, control and supervision of all the business and affairs of the District; and

WHEREAS, in order to implement the services, programs, and facilities of the District in a timely, efficient, and effective manner, the Board has developed and desires to adopt a procurement policy; and

WHEREAS, on November 11, 2021, the Board adopted a Resolution Adopting a Procurement Policy (the “**Prior Resolution**”), and the Board desires to adopt this Resolution to amend, restate, and supersede the Prior Resolution in its entirety.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Adoption of Procurement Policy. The District hereby adopts the Procurement Policy set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, as may be amended from time to time (the “**Procurement Policy**”).


2. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution or the Procurement Policy is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

3. Term. This Resolution and the Procurement Policy shall become effective immediately, and shall supersede any previously adopted resolution or policy of the District related to the approval of Contracts and payment of Invoices (as those terms are defined in the Procurement Policy). The Procurement Policy shall remain in full force and effect until such time as it is amended, superseded, rescinded or repealed by the Board.

[Signature page follows]


ADOPTED this 14th day of March 2024.

**SOUTHLANDS METROPOLITAN DISTRICT
NO. 2**, a quasi-municipal corporation and political
subdivision of the State of Colorado

DocuSigned by:


Officer of the District

ATTEST:

DocuSigned by:


Secretary or Officer of the District

Signature page to First Amended and Restated Resolution Adopting a Procurement Policy

EXHIBIT A

(See attached 6 pages)

SOUTHLANDS METROPOLITAN DISTRICT NO. 2
2024 PROCUREMENT POLICY
(Adopted March 14, 2024)

1. GENERAL

a. Purpose. Purchasing and contracting is to be accomplished in the best interests of the District, and is to be performed so as to secure for the District the greatest value considering cost, quality, delivery, service, and other considerations which reflect overall value comparisons. Stewardship of public funds is a fundamental responsibility of local government. The public must have confidence that public funds are spent prudently and transparently on its behalf, with proper planning and evaluation, in a manner that is open and fair to all.

b. Applicability. This Policy applies to publicly funded expenditures entered into by and on behalf of the District for the purchase of goods or services. The provisions of this Policy related to Contract approval do not apply to professional service contracts (legal, accounting, auditing, etc.), intergovernmental agreements, memorandum of understanding, the purchase, sale, or lease of real property, or grants awarded.

c. Authority. The authority to procure and pay for goods or services for the District rests with the Board and may be carried out as set forth in this Policy, in accordance with applicable laws, rules, regulations, and procedures relating to the expenditures of public funds. No individual may contract or make purchases on behalf of the District unless duly authorized by the Board.

d. Fiduciary Obligation. Each Director has a general, common-law fiduciary obligation to the District. As a fiduciary, the Director has the duty to exercise the utmost good faith, business sense, and astuteness when approving Contracts or Invoices pursuant to this Policy.

e. Subdivision prohibited. No Contract or purchase may be subdivided to avoid the requirements of this Policy.

f. Payments. Payments to vendors or contractors are to be expedited whenever possible in order to realize discounts and enhance the District's reputation as a responsible customer.

g. Emergency Exception. In an Emergency, the primary concern of the person in charge of the Emergency should be the health and safety of persons and property. The existence of such condition may create an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods. Secondary consideration should be given to the amount of District funds necessary to adequately resolve the Emergency condition. Therefore, bidding requirements and the limits on the delegated authority are suspended in Emergency conditions. Emergency procurement shall be limited to only those supplies, services, or construction items necessary to meet the immediate Emergency.

h. Deviation. The Board may deviate from the procedures set forth in this Policy, in its sole and absolute discretion.

2. INTRODUCTION TO PUBLIC PROCUREMENT

Procurement in the public sector is the process through which a local government acquires goods and services. The terms “Procurement” and “Purchasing” are often used interchangeably. However, strictly speaking, “Purchasing” is only one of three stages of the public procurement cycle.

The three stages of public procurement are:

a. Planning and Scheduling. This stage includes defining the need, developing the means and methods to meet the need, including the method of source selection, assessing risks, and ensuring proper allocation of resources.

b. Purchasing and Source Selection. This stage represents the process through which qualified providers of goods and services are identified, solicited, evaluated, and ultimately selected. The method of source selection, dictated by the amount of the expenditure, is determined in the Planning and Scheduling stage.

c. Contract Formation and Administration. This stage includes confirmation of expected performance measures, finalization of terms and conditions and signature of authorized parties. This stage also includes post-award enforcement of the terms of the resulting contract, including payment of invoices and adherence to insurance, amendment and renewal requirements through contract completion.

The appropriate procurement process to be followed in any given circumstance is dependent upon a variety of factors. A conceptual framework for determining the appropriate process is summarized as follows:

a. The nature of the purchase dictates: (i) whether public competition is required; and (ii) whether additional approvals are required; and

b. The amount to be spent dictates: (i) who has the authority to make the purchase; (ii) what kind of competitive solicitation is required, if any; and (iii) who has the authority to sign the contract; and

c. Every purchase and sale, regardless of type or amount, must be memorialized in a written document that identifies the rights and obligations of both the buyer and the seller.

3. DEFINED TERMS

“*Authorized Directors*” means the president of the District and one additional Director of the District.

“*Authorized Party*” means either the Authorized Directors or the District Manager, as the context requires, or any Director authorized by the vote of the Board to take action or expend funds.

“*Board*” means the Board of Directors of the District.

“*Contract*” means (a) a written agreement between two or more competent parties to perform a specific act or acts; (b) any type of agreement or arrangement regardless of what it is called for the procurement of goods or services or that obligates the District to pay a sum of money; and (c) a purchase order.

“*Director(s)*” means any current member(s) of the Board.

“*District*” means Southlands Metropolitan District No. 2.

“*District Accountant*” means the accountant retained and engaged by the Board to provide accounting services to the District.

“*District Manager*” means the manager retained and engaged by the Board to provide management services to the District.

“*Emergency*” means any situation that constitutes an immediate threat to the health, welfare, or safety of persons or property, which would not allow sufficient time to consult with the Board or allow an Authorized Party or the Board to take action using the normal procurement methods set forth in this Policy.

“*Invoice*” means a bill for goods sold or services provided, containing individual prices, and the total charge.

“*Policy*” means the Southlands Metropolitan District No. 2 Procurement Policy.

4. REQUIREMENTS FOR BIDDING AND OBTAINING PRICE QUOTATIONS

a. Purchases should be comparison shopped in order to achieve the lowest possible purchase price. Prudent management; however, indicates that at certain cost levels, the potential savings by bidding an individual purchase are offset by the increased costs and delays required to obtain multiple bids. This Policy attempts to balance the cost savings potential from receiving bids with the increased costs and delay associated with obtaining those bids. This Policy does not apply to construction contracts for work or materials, or both, involving an expense of \$120,000.00 or more of public moneys, which must be publicly noticed and bid.

b. An Authorized Party may choose to incorporate more rigid bidding requirements to the extent that the more rigid bidding requirements are economically feasible.

c. Some purchases are available only from single or limited sources due to: their nature (i.e., utilities); existing relationships (i.e. bank service charges); long-term contracts (i.e. fire protection); or unique physical requirements of District operations. If an Authorized Party is unable to obtain bids required under this Policy because of the need to use sole source providers, market conditions, etc., these circumstances should be documented unless pre-approved by the Board at a meeting.

d. Occasionally the Authorized Party may receive a low bid that for various reasons the Authorized Party may not want to accept. The Authorized Party is authorized to accept the lowest responsive and responsible bid, in its discretion.

e. The requirements for obtaining bids for the purchase of goods and services are shown in Table 1, below.

TABLE 1

| Estimated Cost of Item (Goods or Services) | Purchasing Method to Use | Position with Approval Authority |
|---|---|---|
| Less than \$25,000 | Written price quote from at least one vendor and the completion of an award form. Price quote must be a written proposal from a representative of an established, viable vendor who is properly licensed to complete the work. | Authorized Directors |
| \$25,000 or more | Written price quotes from at least three vendors . Price quotes must be written proposals from a representative of an established, viable vendor who is properly licensed to complete the work. | Board of Directors Approved at a Board meeting |

*NOTE: Colorado State Statutes require specific formal bid advertisements for “construction contracts for work or materials, or both” for \$120,000 or more.

5. AUTHORITY FOR CONTRACT APPROVAL

a. Authority. The Board is authorized to make all contracts necessary to exercise the District’s corporate and administrative powers and to establish policies and procedures regarding entering into such contracts. Through its policies and procedures, the Board may, as it does here, set forth standards by which to delegate its power to bind the District. Specifically, the Board authorizes the following:

i. The Board retains sole authority to enter into contracts on behalf of the District when the contract requirement is \$25,000 or more.

ii. The Authorized Directors are authorized to procure (that is, solicit, review, approve, execute and enter contracts for) goods or services with a contract requirement of less than \$25,000 when the expenditure is authorized in an approved budget.

iii. The District Manager or any Director is authorized to procure (that is, solicit, review, approve, execute and enter contracts for) goods or services in any amount during Emergency conditions.

b. Prior to awarding or entering into a Contract pursuant to this Policy, the person authorized to award and approve such Contract shall confirm and verify:

i. The Contract has been reviewed and approved by general counsel to the District, the District Accountant, District Manager and/or engineer, as appropriate;

ii. Any payment required to be made under such Contract does not exceed the amounts appropriated under the line item for the category of expense set forth in the District's approved budgets (e.g., landscaping), to which the Contract reasonably relates. If the line item in the District's budget would be exceeded, the Contract must be approved by the Board at a meeting. *Every purchase order or contract is subject to the appropriation of necessary funds by the District Board on an annual basis, notwithstanding automatic renewal clauses or any other provisions extending the purchase or contract beyond the calendar year in which it is executed*; and

iii. The amount of the Contract does not exceed the amounts authorized to be approved as set forth in Table 1 and Section 5.a.

c. If the Authorized Directors disagree on whether a Contract should be approved, the Contract shall be presented to the full Board for discussion and action.

6. AUTHORITY FOR INVOICE APPROVAL

a. The Board authorizes payment of Invoices so long as: (i) the Contract or expenditure has been approved in accordance with this Policy, or by the Board at a meeting; (ii) such payment does not result in exceeding the Contract amount, inclusive of any validly approved changes to the Contract; and (iii) any payment made does not exceed the amounts appropriated under the line item for the category of expense set forth in the District's approved budgets.

b. The Board hereby delegates and authorizes any two (2) Directors to approve the payment of Invoices.

c. The District's Accountant is authorized and directed, without further approval by the Board, to pay Invoices for the following categories of expenditures:

i. Utilities (e.g. water, gas, and electricity);

ii. Payments required pursuant to intergovernmental agreements and bonds; and

7. APPROPRIATION

a. Prior to executing any Contract or making payment of any Invoice, the person authorized to award and approve such Contract or Invoice shall verify with the District's accountant that sufficient funds are available within the District's accounts and are budgeted appropriately to pay such sums. All Contracts approved pursuant to this Policy are subject to appropriation and budget requirements in accordance with Colorado law.

8. PROHIBITIONS

Notwithstanding any authorization in this Policy to the contrary, Directors of the District shall not:

a. Engage in a substantial financial transaction for their private business purposes with a person or company whom they oversee or supervise in the course of their official duties;

b. Perform an official act that is directly and substantially to the economic benefit of a business or other undertaking in which they either have a substantial financial interest or are engaged as counsel, consultant, representative, or agent;

c. Accept goods or services for their own personal benefit from a person who is at the same time receiving compensation for providing goods or services to the District, unless the totality of the circumstances related to the acceptance of the goods or services indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the Director or employee does not receive any substantial benefit resulting from their official or governmental status that is unavailable to members of the public generally; or

d. Have a financial interest in any contract made by them in their official capacity, as set forth in Section 24-18-201, C.R.S, as may be amended from time to time.