



**POLICY AND PROCEDURES GOVERNING BIDDING FOR
FACILITY PROJECTS # P-2019.08.01**

1. PURPOSE

1.1 The purpose of this policy is to clarify the public contracting processes for Facility Projects (as defined in Section 2) of the Sonoma Valley Health Care District (“District”) and to provide guidance regarding these processes to the District’s Board of Directors (“Board”), President and Chief Executive Officer (“CEO”), and employees. The Policy will take effect when the District Board notifies the State Controller of its intention to become subject to The Uniform Public Construction Cost Accounting Act.

1.2 The District’s public contracting areas for Facility Projects include purchasing, professional services, leasing and real estate and facilities construction. This Construction Bidding Policy (“Policy”) contains general bidding policy guidelines and specifically addresses projects relating to the construction or improvement of a hospital or health care facility. This Policy covers the contracting for professional services related to Facility Projects. It does not cover contracting for professional services that are not related. The Policy does not apply to contracts for the procurement of materials and supplies that are not related to Facility Projects. For these contracts the District’s Policy Governing Purchases of Materials, Supplies and Equipment and Procurement of Professional Services shall be used.

1.3 It is the intent of the Board, consistent with the District’s obligations, to obtain the best value for all expenditures, consistent with the responsibility to provide quality health care to its patients.

1.4 It is the intent of the Board to provide an equal opportunity to all qualified and responsible parties wishing to participate in the bidding process with respect to Facility Projects for the District and the Hospital.

1.5 It is the intent of the Board to clarify, with this policy, the Board’s legal authority granted to the President and Chief Operating Officer (“CEO”) by the Board with regard to Facility Projects for the District and Hospital. It is also the intent to clarify the legal authority retained by the Board.

1.6 Any contract awarded by the District shall be subject to all applicable provisions of federal, California and local laws, including without limitation, laws relating to the performance of work for a public agency. In the event of a conflict between any contract documents and any applicable law, the law shall prevail.

1.7 This policy does not address or govern contracting with providers or physicians.

2. DEFINITIONS

2.1 **“Facility”** means any plant, building, structure, ground facility, utility system, real property, streets and highways, or other public work improvement. (PCC § 22002 (e)).

2.2 **“Facility Project”** means work relating to projects involving construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving the hospital and any leased, or operated facility of the hospital. Excluded from this definition is routine, recurring, and usual work for the preservation or protection of the facility and minor repainting (“Facility Maintenance”). (PCC § 22002 (c)).

2.3 **“Responsible Bidder”** means a bidder who has demonstrated the attribute of trustworthiness and quality during prior service, a reputation for reliability and satisfactory service with other clients, sufficient financial capacity and the physical capability and the technical and non-technical expertise in order to perform the contract satisfactorily. (PCC § 1103).

3. ETHICS

3.1 **Conflict of Interest.** No Board member or employee of the District/Hospital may participate in any selection process when such person has a relationship with a person or business entity seeking a contract which would subject that person to the prohibitions in Government Code § 87100.

3.2 **No Kickbacks.** With respect to all contracts covered by this Policy, any practices or procedures which might result in unlawful activity are prohibited, including practices which might result in rebates, kickbacks or other unlawful consideration.

3.3 **No Advantage.** No illegal, unfair, unethical or otherwise improper advantage shall be accorded to any bidder by the District, a Board member or an employee of the District/Hospital.

4. CONTRACTING FOR FACILITIES PROJECTS

4.1 **Election To Become Subject To The Uniform Public Construction Cost Accounting Act.** The Board hereby elects under PCC § 22030 to become subject to the Uniform Public Construction Cost Accounting Act (the “Act”), codified at PCC §§ 22000 to 22050, and the uniform construction cost accounting procedures adopted by the California Uniform Construction Cost Accounting Commission established under the Act (the “Commission”), as they may each from time to time be amended, and directs that the CEO notify the State Controller forthwith of this election. The management of all District Facility Projects shall meet the requirements prescribed in those provisions, and shall be guided by the Commission’s Cost Accounting Policies and Procedures Manual (the “Manual”). By becoming subject to the Act and as set forth in this policy, the Board clarifies the Board’s legal authority granted by the Board to the CEO with regard to the contracting of Facility Projects for the District and Sonoma Valley Hospital (“Hospital”), and the legal authority retained by the Board.

4.2 **Delegation of Authority.** Except as specified in Section 6 of this policy and elsewhere in this policy where it is explicitly stated, the Board hereby delegates to the CEO the authority to act on behalf of the Board in the implementation of the provisions of this Policy. In all instances where the Board's legal authority is granted to the CEO, it is understood that the CEO may in turn delegate this authority to a member of the CEO's staff. Responsibility for adherence to this policy, when the authority is delegated by the CEO to a staff member, remains with the CEO. The CEO is responsible for developing written procedures to implement and manage this Board Policy.

4.2.1 **Purchasing.** The CEO is authorized by this Policy to make all purchases and to execute all purchase orders or contracts for the District and the Hospital duly authorized by the Board pursuant to this policy. All purchases and contracts shall be upon written order. (H&S § 32132(b); *id.* § 32121(c),

4.3 **Policy Revisions.** If the CEO determines that any portion of this Board Policy is in need of revision, or an exception is needed, the CEO shall bring the issue, in writing, with a recommendation for the change or exception along with the rationale, to the Board's Governance Committee for its review and then to the Board for its action.

4.4 **Exemptions to Bidding and Lowest Bid Acceptance.** The Board shall not be required to apply the lowest bid policy to:

- (i) Emergency contracts and emergency service contracts (PCC 22035)
- (ii) Change orders to existing contracts that are less than 5% of the original contract (H&S Code 32132)
- (iii) Professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms for work on Facility Projects (Government Code 4526, H&S Code 32132.b)
- (iv) Facility Projects where the District has elected to use a design-build method to select the contractor (PCC, 20133)
- (v) Purchasing of medical equipment or surgical equipment or supplies, or electronic data processing and telecommunications goods and services (H&S § 32132(b), (d).)
- (vi) Land and building leases and purchases

4.4.1 **Exception For Emergency Contracts and Emergency Service Contracts.** In cases of emergency when repair or replacements are necessary, the District may proceed at once to replace or repair any facility without adopting plans, specifications, strain sheets, or working details, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. (Public Contract Code ("PCC") § 22035; *id.* 22050(a)(1).) If notice for bids to let contracts will not be given, the District shall comply with the following procedures:

(a) **Finding Of Emergency.** Before emergency procedures may be used, the Board shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency. (PCC § 22050(a)(2).)

(b) **Delegation To CEO.** The Board, by a four-fifths vote in approving this policy, shall delegate, to the CEO the authority to order emergency action. (PCC § 22050(b)(1).)

(c) **Reporting By CEO.** If the CEO orders any emergency action, the CEO shall report to the Board Chair within 24 hours of the action, and report to the Board at its next regularly scheduled meeting or at a special session of the Board within 14 days, the reasons justifying why the emergency did not permit a delay resulting from a competitive solicitation for bids and why the action was necessary to respond to the emergency. The CEO shall also report on the status of the emergency contracts at each following Board meeting until the action is terminated (contracts completed). (PCC § 22050 (c)(1))

4.4.2 **Exception For Change Orders.** The CEO shall not be required to secure bids for change orders that do not materially change the scope of work set forth in a contract previously made pursuant to this policy, provided: (H&S Code 32132 (c))

(a) The contract was made in compliance with bidding thresholds stated in Section 4.

(b) No individual change order amounts to more than five percent (5%) of the contract.

(c) The total project cost for a negotiated contract project would not exceed the dollar amount for negotiated contracts, \$60,000.

(d) The total project cost for a contract awarded by informal bidding procedures would not exceed the dollar amount of \$200,0000.

4.4.3 **Exception For Facility Project Professional Services.** Competitive bidding is not required for contracts for professional services. (H&S § 32132(b).)

(a) Where required by Facility Projects, the CEO shall award contracts for professional services of private architectural, landscape architectural, engineering, environmental, land surveying or construction management firms on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the types of services to be performed and at fair and reasonable prices. (Government Code (“Govt”) § 4526; H&S § 32132(b))

(b) The CEO shall establish procedures for verifying competence and professional qualifications and for determining fair and reasonable benchmark prices for these services (Govt § 4526.).

(c) When bids are solicited for architectural, landscape architectural, engineering, environmental, land surveying or construction management firms, the Notice Inviting Bids for these services shall contain the following statement in boldface type: **“Please be advised that the successful design professional will be required to indemnify, defend and hold harmless the District against liability for claims that arise out of or relate to the negligence, recklessness or willful misconduct of the design professional.”** (Civil Code § 2782.8.)

4.4.4 **Exception For Design-Build Projects.** Notwithstanding anything to the contrary, the Board may elect to use the Design – Build method for bidding on Facility Projects if the project amount will be greater than \$1.0 million. The design-build procedure is described

in Chapter 4 (commencing with Section 22160) of Part 3 of Division 2 of the Public Contract Code. (H&S § 32132.5)

(a) In estimating the cost of a Design – Build Facility Project, the costs for OSHPD and City of Sonoma Permits and the costs for design professionals shall be included. The overhead allocation required for uniform construction cost accounting procedures shall not be added to the cost of subcontractors and the cost for material purchases.

(b) If the Board elects to use the Design – Build method, the Board shall follow the contracting provisions of Public Contract Code § 20133 and shall award the contract based on “best value” as defined in section 20133. Because of their complexity, the Design – Build contracting provisions are not included in this policy.¹

4.4.5 Exception for Purchases of Medical and IT Equipment. Competitive bidding is not required for purchases of medical or surgical equipment or supplies, or for electronic data processing and telecommunications goods and services. The phrase “medical or surgical equipment or supplies” includes only equipment or supplies commonly, necessarily, and directly used by, or under the direction of, a physician and surgeon in caring for or treating a patient in a hospital. (H&S § 32132(b), (d).)

4.4.6 Exception For Leasing And Real Estate. Contracts regarding land purchases and leases which bind the District to the terms of a contractual agreement shall be approved by the Board and shall be signed by the Chair of the Board unless the Board designates an alternate signer when the contract is approved.

4.5 Project Specifications. The CEO shall prepare bid packages for any Facility Project contract. The bid packages shall include specifications as follows:

4.5.1 Project Description. The CEO shall prepare plans, specifications or a description of general conditions (“Specifications”) for the project. The Specifications shall be in such detail and written with such specificity as may be required to allow all potential bidders to understand the project and give a level playing field to all bidders. (PCC § 22039, as amended 1/1/16 by Omnibus Bill SB 184)

4.5.2 Bidder’s Security. The specifications shall include the requirement for bidder’s security, performance bonds and payment bonds.

4.5.3 Facility Contract Construction Subcontractors. The CEO shall include in the Specifications a provision that any prime contractor shall include in his/her bid:

(a) The name and address of each subcontractor who will perform labor or render service or fabricate and install a portion of the Facility Project in excess of 5% of the total amount of the contract.

(b) A description of portion of the Facility Project to be performed by each subcontractor listed.

¹ In 2009 the Board developed and adopted procedures and contract language, etc. for the use of the Design – Build method on the 2008 General Obligation Bond Project and these procedures and contract language are available for use again.

(c) The bidder shall list only one subcontractor for each portion of the Facility Project as is defined by the bidder in the bid. (PCC § 4104.)

(d) A prime contractor whose bid is accepted may not substitute a new subcontractor in place of the subcontractor listed in the original bid except as allowed under Public Contract Code 4107. Any work not listed for a specific subcontractor must be done by the prime contractor and shall not be substituted

4.5.4 Completion Date. The CEO shall include in the Specifications a time within which the whole or any specified portion of the Facility Project shall be completed. (Govt § 53069.85.)

(a) The CEO may include in the Specifications a provision that the contractor shall forfeit a specified sum of money for each day completion is delayed beyond the date stated in the Specifications.

(b) The Board may include in the Specifications a provision for the payment of a bonus to the contractor for completion of the project prior to the specified date stated in the Specifications when such timely completion would be beneficial to the District. (Govt § 53069.85.)

4.6 Facility Project Cost Estimate. A project cost estimate shall be prepared by the CEO for each Facility Project. The Cost Estimate, at a minimum, shall contain: (The Manual, Chapter 3)

(a) A description of the project with sufficient detail to allow reasonable accuracy of cost estimates.

(b) A description of the method used to estimate each cost segment.

(c) An estimate of all direct and indirect costs for the project.

(d) A calculated administrative overhead percentage (maximum 30%) shall be added to all estimates for sub-contractor costs and direct material purchases.

Prevailing wage rates shall be used in all estimates.

The estimate shall be used to determine the appropriate process for the selection of contractors or sub-contractors.

The estimate shall be prepared in sufficient specificity to enable comparisons to actual cost when the project is completed.

4.6.1 Costs To Be Excluded From Estimate. The following costs may be excluded from the cost estimate:

(a) OSHPD and City of Sonoma permits; (ii)

(b) Facility Project engineering, architectural and construction management services

(c) Medical equipment. Section 4.4.5 of this Policy covers the selection process for these services

4.7 Submission of Bids. With respect to all bids submitted for Facility Projects covered by this Policy:

4.7.1 All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security: (PCC § 10167.)

(a) An electronic bidder's bond by an admitted surety insurer submitted using an electronic registry service approved by the department advertising the contract.

(b) A signed bidder's bond by an admitted surety insurer received by the department advertising the contract.

(c) Cash, a cashier's check, or certified check received by, and made payable to, the director of the department advertising the contract.

(d) The required bidder's security shall be in an amount equal to at least 10 percent of the amount bid. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it.

(e) All bids submitted pursuant to this section shall also comply with the provisions of Section 1601 of the Public Contract Code.

The CEO shall return to all unsuccessful bidders their respective bidder's security within five (5) working days after the contracts for the project have been awarded. :

4.8 Categories Of Contracts By Dollar Thresholds. For purposes of bidding procedures, Facility Projects are divided into three different categories by dollar thresholds, as follows:

4.8.1 Under to \$60,000. The CEO shall award contracts for District Facility Projects of sixty thousand dollars (\$60,000) or less by negotiated contract, or by purchase order. The CEO is not bound to accept the bid of the lowest responsible bidder (PCC § 22032(a), 22034 (e)).

4.8.2 Between \$60,000 and \$200,000. The CEO shall award contracts for District Facility Projects more than sixty thousand dollars (\$60,000) but less than two hundred thousand dollars (\$200,000) or less by informal procedures as set forth in this Policy. (PCC § 22032(b), 22034 (e))

4.8.3 Over \$200,000. The Board shall award contracts for District Facility Projects of more than two hundred thousand dollars (\$200,000), except as otherwise provided in this Policy, by formal bidding procedure as set forth in this policy. (PCC § 22032(c))

4.8.4 Separation of Work Orders of Facility Projects. Splitting or separating Facility Projects into smaller work orders or projects after competitive bidding for the purpose of evading the provisions of this policy is prohibited. (PCC § 22033)

4.9 Procedures For Projects More than \$60,000 but less than \$200,000 – Informal Bidding Procedure. Facility Projects of more than sixty thousand dollars (\$60,000) but less than two hundred thousand dollars (\$200,000), the District shall use informal bidding procedures, as follows:

4.9.1 List of Trade Journals. The CEO shall use the list of trade journals provided in the Cost Accounting Policies and Procedures Manual ("The Manual"), Chapter 1.05 for all mailings to trade journals required by this section.

4.9.2 List of Registered Contractors. The CEO shall develop an objective pre-qualification criteria and process for use in the formation and maintenance of the District's contractor's lists. (The Manual, Chapter 1.04)

(a) Annually, the CEO shall establish a new or update its existing list of registered contractors by mailing, faxing, or emailing a written notice to all construction trade journals designated in Section 4.9.1, inviting all licensed contractors to submit the name of their firm to the District for inclusion on the District's list of qualified bidders for the following calendar year.

(b) The notice shall require that the contractor provide the name and address, fax number, and email address to which a Notice to Contractors or Proposal should be mailed, faxed, or emailed, a phone number at which the contractor may be reached, the type of work in which the contractor is interested and currently licensed to do (earthwork, pipelines, electrical, painting, general building, etc.) together with the class of contractor's license(s) held and contractor license numbers(s).

(c) The CEO may include any contractor names it desires on the list, but the list must include, at a minimum, all contractors who meet the objective pre-qualification criteria and who have properly provided the District with the information required under (b) above, either during the calendar year in which the list is valid or during November or December of the previous year.

(d) A contractor who supplies the required information and meets the objective pre-qualification criteria may have their firm added to the District's contractors list at any time during the year.

(e) The CEO shall maintain the list of qualified contractors, identified according to categories of work

4.9.3 Mailing of Notices Inviting Informal Bids. The CEO shall provide notice to contractors inviting informal bids. (PCC § 22034).

(a) The CEO shall mail, fax, or email the notice inviting informal bids to all contractors on the list for the category of work being bid unless the product or service is proprietary. (PCC § 22034(b))

(b) The CEO may mail, fax, or email a notice inviting informal bids to all trade journals listed in Section 4.9.1 unless the product or service is proprietary. (PCC § 22034 (b))

(c) The mailing, faxing, or emailing of notices to contractors and construction trade journals pursuant to subdivisions (a) and (b) shall be completed not less than 10 calendar days before bids are due. (PCC § 22034 (c))

(d) The notice inviting informal bids shall describe the project in general terms, state how more detailed information about the project may be obtained, state the time and place for the submission of bids and the time and place for opening the bids. (PCC § 22034(d))

4.9.4 Award of Bids, Delegation to CEO. The Board delegates the authority to award informal contracts to the CEO and the CEO shall award the contracts for each type of

work for Informally Bid Facility Projects (\$60,000 to \$200,000) to the lowest responsible bidder who shall give the security the District requires. (PCC § 22032; PCC § 22020)

4.9.5 Minimum Number of Informal Bids. The CEO shall consider a minimum of three (3) informal bids whenever possible; however, where the CEO cannot obtain three informal bids or when the CEO decides that time will not permit obtaining three informal bids, the CEO may consider a minimum of two (2) informal bids. All bids shall be in writing, sealed, and subject to the following general conditions.

4.9.6 Multiple Informal Bids. When informal bids for multiple items are solicited at the same time, the CEO may accept parts of one or more bids (provided the Notice Inviting Bids so indicates) unless the bidder has specified to the contrary, in which event the District reserves the right to disregard the bid in its entirety.

4.9.7 Total Project Cost in Excess of \$200,000. If the project cost for all bids received is in excess of \$200,000, the Board may, by adoption of a resolution by a four-fifths vote, award the contract, at \$212,500 or less, to the lowest responsible bidder, if it determines the cost estimate of the District was reasonable. (PCC § 22034(f))

If the total Project Cost is greater than \$212,500 the Board shall reject all bids and may direct the CEO to rebid the project.

4.9.8 Minor Deviations. The CEO reserves the right to waive inconsequential deviations from the specifications in the substance or form of informal bids received.

4.10 Procedures For Projects Over \$200,000 – Formal Bidding Procedure. District Facility Projects of more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in this Policy, be let to contract by formal bidding procedure as follows.

4.10.1 Plans and Specifications. When the CEO determines that the estimated cost for a Facility Project is more than \$200,000, the CEO shall prepare plans, specifications or a description of general conditions (“Specifications”) for the project. The Specifications shall be in such detail and written with such specificity as may be required to allow all potential bidders to understand the project and give a level playing field to all bidders. (PCC § 22039, as amended 1/1/16 by Omnibus Bill SB 184)

The specifications shall include the requirement for bidder’s security, performance bonds and payment bonds. The specifications shall also include the time within which the whole or any specified portion of the Facility Project shall be completed. (Govt § 53069.85.)

4.10.2 Requirements of Notice Inviting Formal Bids. The notice inviting formal bids shall at a minimum include all of the following in the notice inviting formal bids (PCC § 22037):

- (a) Description of the contemplated Facility Project.
- (b) The procedure by which potential bidders may obtain electronic copies of the Plans and Specifications (or printed copies if not available electronically)
- (c) The final time, date and address (or e-mail address) for receiving and opening of bids (including designation of the appropriate District person or office) (Govt § 53068; PCC § 4104.5; *id.* § 22037)

(d) The date, time and place, and the name and address of the person responsible for receiving bids;

(e) The payment and performance bond amounts required by the Specifications (Civil Code § 9550)

(f) The time within which the whole or any specified portion of the Facility Project shall be completed (Govt § 53069.85)

(g) The penalty amount, if required by the Specifications, for each day completion is delayed beyond the specified time. (Govt 53069.85)

(h) The Board approved bonus amount payable to the contractor for completion of the work prior to the specified completion day, if a bonus payment is included in the Specifications. (Govt § 53069.85)

4.10.3 Publication Of Notice Inviting Formal Bids. The notice shall be published at least 14 calendar days before the date of opening the bids in The Sonoma Index Tribune. The notice inviting formal bids shall also be mailed, faxed or emailed to trade journals listed in the Cost Accounting Policies and Procedures Manual (“The Manual”), Chapter 1.05. The notice shall be mailed, faxed or emailed at least 15 calendar days before the date of opening the bids. In addition to notice required by this section, the CEO may give such other notice as she/he deems proper. (PCC § 22037)

4.10.4 Prequalification. The CEO shall prepare a uniform prequalification system using a standard questionnaire to evaluate the ability, competency and integrity of bidders as outlined in the Local Agency Public Construction Act, PCC § 20101 *et seq.* and it shall be used for all projects estimated to cost over \$500,000. In such event, the CEO shall require each prospective bidder to complete and submit a standardized questionnaire and financial statement. The standardized questionnaires and financial statements received from interested contractors are not public documents and shall not be made public. The CEO may use the prequalification procedure for any Facility Project that requires formal bidding.

4.10.5 Submission of Formal Bids. The Board shall accept only written sealed bids from the prospective bidders. Upon receipt, the bid shall be stamped with the date and time the bid was received. All bids shall remain sealed until the date and time set forth for opening the bids in the Notice Inviting Bids. Any bid received by the District/Hospital after the time specified in the Notice Inviting Bids shall be returned unopened. (Govt § 53068). The CEO may elect to receive bids and supporting materials electronically using procedures in compliance with PCC § 1601.

4.10.6 Examination and Evaluation of Formal Bids. On the date provided in the Notice Inviting Bids, a person designated by the CEO shall attend and officiate over the opening of bids (“Opening”). The bids shall be made public for bidders and members of the public who may be present at the Opening. The District reserves the right not to determine the low bidder at the Opening, to obtain the opinion of counsel on the legality and sufficiency of all bids, and to determine at a later date which bid to accept. Such determination shall be made within sixty (60) calendar days of the Opening or unless a different period of time is specified in the Notice Inviting Bids.

4.10.7 **Award of Contract.** The Board shall award the contract to the lowest Responsible Bidder, as defined in Section 2.3, provided the bid is reasonable and meets the requirements and criteria set forth in the notice inviting bids. (PCC § 22038(b))

(a) If two or more bids are the same and the lowest, the Board may accept the one it chooses. (PCC § 22038(b))

(b) If the Board determines that the lowest bidder is not responsible, the Board may award the contract to the next lowest responsible bidder.

(c) If the CEO anticipates that the Board may decide to award the contract to a bidder other than the lowest bidder pursuant to subparagraph (b), the CEO shall, with the assistance of District Counsel, first notify the low bidder of any evidence, either obtained from third parties or concluded as a result of the District's investigation, which reflects on such bidder's responsibility. The CEO shall afford the low bidder an opportunity to rebut such adverse evidence and shall permit such bidder to present evidence that it is qualified. The opportunity to rebut adverse evidence and to present evidence of qualification may be submitted in writing or at an informal hearing of the Board, individual and/or committee as determined by the Board.

4.10.8 **Minor Deviations.** The Board reserves the right to waive inconsequential deviations from the specifications in the substance or form of formal bids received.

4.10.9 **Rejection Of Bids.** Notwithstanding anything to the contrary, the Board is under no obligation to accept the lowest responsible bidder and reserves the right to reject all bids. (PCC § 22038(a); H&S Code § 32132. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the Board shall abandon the project or re-advertise for bids in the manner described in this policy.

4.10.10 **If No Bids Received.** If no bids are received through the formal or informal procedure, the project may be performed by negotiated contract without further complying with this article. PCC § 22038 (c))

5. BOND REQUIREMENTS

5.1 **Performance Bond.** For any contract in excess of \$25,000, the successful bidder shall furnish a performance bond in the amount of one hundred percent (100%) of the contract sum at the time of entering into the contract. The performance bond shall be filed with the CEO to insure the District against faulty, improper or incomplete materials or workmanship, and to insure the District of complete and proper performance of the contract.

5.2 **Payment Bond.** For any contract in excess of \$25,000, the successful bidder to whom a contract is awarded shall furnish a payment bond acceptable to the District. (Civil Code § 9550). This labor and material bond shall be filed with the CEO pursuant to applicable laws of the State of California.

5.3 **Professional Services.** The CEO shall not require a payment bond for architectural, landscape architectural, engineering, land surveying or construction management services.

6. LIMITS OF AUTHORITY DELEGATED TO THE CEO, CAPITAL PROJECT CONTRACTS

Facility Project contracts for capital projects that will financially obligate the District to more than \$100,000 shall be reviewed by the Finance Committee.

Facility Project contracts for capital projects that are included in the capital budget and will obligate the District to more than \$200,000 shall be approved by the Board.

Facility Project contracts for capital projects that are not included in the capital budget and will obligate the District to more than \$100,000 shall be approved by the Board.

Facility Project change orders that in aggregate increase the scope of the Facility Project by more than 20% shall be approved by the Board.