

## MEMORANDUM

**TO:** Board of Trustees

**THROUGH:** Indra Winqest  
District General Manager

**FROM:** Paul Navazio  
Director of Finance

**SUBJECT:** Review, Discuss and Provide Feedback on Draft Purchasing Policies for a) Goods and Services, and b) Public Works Contracts

**DATE:** June 29, 2022

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### **I. RECOMMENDATION**

It is recommended that the Board of Trustees:

- 1) Review, discuss and provide feedback on drafts of proposed District Purchasing Policies related to a) goods and services and b) Public Works Contracts, and
- 2) Direct staff to return to the Board with updated policy documents for consideration and approval at the July 27<sup>th</sup> meeting.

### **II. BACKGROUND**

The District currently lacks a formal Board-approved Purchasing Policy. Rather, District procurement of goods and services is effectively governed by provisions of Nevada Revised Statutes Chapter 332, cited as the Local Government Purchasing Act. Similarly, procurement of Public Works contracts (as defined) is governed by Nevada Revised Statutes Chapter 338 – Public Works Projects.

While conformity with applicable provisions of the NRS meets the legal procurement requirements imposed by the State of Nevada, best practices suggest that the local government entities adopt formal agency-specific purchasing policies. The benefits of the District adopting formal purchasing policies include:

- 1) Improved clarity and transparency related to applicable provisions of the Nevada Revised Statutes (currently cited by reference in District's internal Purchasing Procedure documents), and
- 2) The ability of the District to establish procurement policies that are more stringent than certain provisions of the NRS, if doing so advances Board goals and objectives related to procurement of goods, services or Public Works contracts and, by extension, the expenditure of District resources.

As part of the District's overall effort to review, update and enhance its internal controls related to management of fiscal resources and assets, in January of this year Management Partners, Inc., was engaged on a project to assist with updating the District's Finance and Accounting Procedures documents, to include existing purchasing procedures, last updated in January, 2015.

The scope of services for the Management Partners engagement included:

- Review of Purchasing Policies and Procedures
  - Interview District staff and selected Board Trustees to determine major areas of focus for updated policies and procedures.
  - Review existing purchasing policies and procedures to ensure they reflect industry best practices and compliance with Nevada Revised Statutes.
  - Prepare a PowerPoint of observations and preliminary recommendations for policy and procedural updates and review with District staff.
  - Using the existing purchasing and accounts payable procedural documentation, prepare a concise draft purchasing policy document and a purchasing procedures manual.
- Reviewing Other Finance and Accounting Policies and Procedures (Finance and Accounting Manual)
- Present Recommended Purchasing Policies and Procedures to Board of Trustees

This agenda item serves to present to the Board of Trustees recommendations from Management Partners related to establishment of formal District purchasing policies, as incorporated in draft policy documents.

The current draft policies have been reviewed with management and legal counsel. Following review, discussion and feedback from the Board of Trustees revisions to the proposed documents will be incorporated into final drafts to be

presented to the Board of Trustees for consideration and approval at the Board meeting of July 27<sup>th</sup>.

### III. **DISCUSSION**

Management is recommending that the Board consider adopting formal District Purchasing Policies consistent with applicable provisions of the Nevada Revised Statutes and management best practices in this area.

While the District currently lacks a formal Board-approved Purchasing Policy, procurement activity is conducted pursuant to the provisions of NRS 332, the Local Government Procurement Act, and NRS 338, related to Public Works contracts. These statutory provisions are cited, by reference in internal purchasing procedures (most recently updated in January of 2015), and can be accessed via the following links:

<https://www.leg.state.nv.us/nrs/nrs-332.html>

<https://www.leg.state.nv.us/nrs/nrs-338.html>

In addition, there are provisions related to aspects of the procurement process found in selected existing Board Policies (for example Board Policy 3.1.0 – Conduct Meetings of the Board of Trustees, establishing the General Manager’s contract award authority).

As part of the District’s overall effort to review, update and enhance internal controls a review of existing purchasing procedures, in relation to management best practice, was conducted by the consulting firm of Management Partners and has led to the development of proposed District purchasing policies.

Presented herein, for Board review, discussion and feedback are a draft set of companion Purchasing Policies related to the procurement of a) goods and services and b) Public Works contracts.

A representative from Management Partners will assist in the presentation of their review of the District’s internal purchasing procedures, summarize current industry best practices, and highlight specific policy recommendations that have been incorporated in the draft policies presented for Board review.

Among the specific recommendations offered by Management Partners are:

- Adopt formal Board-approved District Purchasing Policies, to include:
  - Purchasing Policy related to procurement of Goods and Services

- Purchasing Policy related to procurement of Public Works Contracts
- Incorporate definitions to provide clarification on interpretation of NRS definitions and requirements and District procedures, where appropriate.
  - Example – defining and explaining the difference between contract amendments, contract change orders, and contract contingencies
- Increase the General Manager’s contract award authority to \$100,000 (*currently set at \$50,000 via Board Policy 3.1.0*).
- Specify roles and responsibilities of the GM and department directors.
- Provide clarity on contract award authority and delegation thereof.
- Limit flexibility provided by NRS 332
  - Example - establishing presumption of competitive solicitation for selected contracts that are exempted from competitive solicitation pursuant to NRS 332.115
- Establish requirements for entering into a District contract via a purchasing consortium or otherwise via a competitive solicitation undertaken by another public agency.
- Include budget appropriation requirements for contract awards.

#### IV. **CONCLUSION**

It is recommended that the Board of Trustees:

- 1) Review, discuss and provide feedback on drafts of proposed District Purchasing Policies related to a) goods and services and b) Public Works Contracts, and
- 2) Direct staff to return with updated policy documents for consideration and approval at the July 27<sup>th</sup> Board meeting.

#### **Attachments:**

- 1) Draft Purchasing Policy – Goods and Services
- 2) Draft Purchasing Policy – Public Works Contracts
- 3) Current Purchasing Procedures (2015) – Bid Process (excerpt)
- 4) Management Partners – Scope of Services

# Incline Village General Improvement District **DRAFT** Purchasing Policy

June 2022



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# 1 General Provisions

## 1.1 Title. *Incline Village General Improvement District Purchasing Policy*

This policy is cited as the “Incline Village General Improvement District Purchasing Policy” and is hereafter referred to as the “Purchasing Policy” or “policy.”

## 1.2 Purpose

The purposes of the Purchasing Policy (policy) are to define the purchasing system that is used for the procurement of goods and services as authorized by the Nevada Revised Statutes; to provide for the fair and equitable treatment of all persons involved in the purchasing process; to obtain the highest possible value in exchange for public funds; to exercise positive financial control over purchases; and to safeguard the quality and integrity of the purchasing system.

## 1.3 Enabling Statute(s)

The Purchasing Policy is adopted pursuant to Chapter 332 of the Nevada Revised Statutes (NRS), cited as the Local Government Purchasing Act. Any purchase of goods and/or services as defined herein shall be made in compliance with the Local Government Purchasing Act or more restrictive requirements as may be adopted by the Incline Village General Improvement District Board of Trustees.

For goods and services purchases that utilize federal grant funding, the procurement standards required by Title 2, Subtitle A, Chapter II, Part 200, Subpart D, sections 200.318 to 327 (2 CFR 200.318 to 327) shall apply.

Unless otherwise specifically stated herein, this policy shall not apply to the procurement of public works construction projects, which shall be governed by the Incline Village General Improvement District (IVGID or District) Purchasing Policy for Public Works Construction pursuant to NRS Chapter 338.

## 1.4 Definitions

For the purposes of this policy and implementing administrative procedures, the following definitions shall apply:

- A. Authorized representative. Unless otherwise designated, the authorized representative is the person/position designated by the Board of Trustees (governing body) to be responsible for purchasing functions described or referenced herein. The authorized representative of the District is the General Manager, who may delegate purchasing roles and responsibilities as allowed by and in accordance with this policy.
- B. Awarding body. The awarding body is the Board of Trustees or its authorized representative as defined and prescribed herein.
- C. Competitive solicitation. A written statement that sets forth the requirements and specifications of a required purchase that can include an invitation to bid, request for proposals, request for statement of qualifications, request for quotations, or other acceptable methods in compliance with NRS Chapter 332.



- D. Contract. A mutual, written understanding between two or more competent parties, whereby one party agrees to perform as defined in the contract and the other party agrees to compensation for the performance rendered in accordance with the contract conditions. Contract and agreement may be used synonymously, and a purchase order can be a legally binding contract if issued with the terms and conditions of a purchase transaction.
- E. Contract amendment. An agreed upon modification to an existing and properly awarded contract. Contract amendments shall be approved by the appropriate awarding body based on the aggregate total of the contract, i.e., the initial contract plus each amendment.
- F. Contract change order. A modification to an existing contract to add or deduct work or materials that does not increase the approved contract amount.
- G. Contract contingency. A percentage amount, typically ten percent, that is recommended for approval to the awarding body at the time of contract award that is reserved for unforeseen conditions encountered during project delivery. A contract contingency cannot be used to increase the scope of a project (see contract amendment).
- H. General services. Work performed or services rendered by independent contractors such as custodial services; building, equipment or other maintenance not classified as a public work; and machinery and equipment rental. General services are typically associated with operational work and involved physical skills.
- I. Goods. Equipment, materials and supplies to be furnished or used by any department of the District, including items to be purchased by the District and furnished to contractors for use in public works projects.
- J. Governing body. The governing body shall be the Board of Trustees.
- K. Implementing administrative procedures. Written instructions and procedures approved by the General Manager that implement the prescriptions and requirements of this policy.
- L. Lowest responsive and responsible bidder. A responsible bidder/proposer who submits a bid/proposal that is responsive to the solicitation requirements.
- M. Professional services. Services performed by a person or firm engaged in a profession based on highly specialized and/or technical knowledge or skill such as accountants, attorneys, architects, engineers, and physicians. Professional services are most closely associated with consultants who produce reports, studies and plans/specifications.
- N. Surplus Personal Property. Equipment, materials and supplies that is no longer used or has become obsolete, to be sold, exchanged or donated in accordance with NRS Chapter 332.

## **1.5 Procurement Responsibilities**

This section sets forth procurement responsibilities of Incline Village General Improvement District (IVGID or District) staff members.

### **1.5.1 General Manager**

The General Manager, as the Board of Trustee's authorized representative, is responsible for the following procurement activities and functions:

- A. Adopting and keeping current administrative procedures that implement this purchasing policy and subsequent updates for consistency with NRS Chapter 332, or other changes in the law or revisions desired by the Board of Trustees.
- B. Overseeing and facilitating compliance with this policy, including:
  - a. Exercising positive financial control over purchase transactions.

- b. Conducting competitive bidding and other forms of solicitation in the manner prescribed by [Article 2, Competitive Solicitation Requirements](#) of this policy.
  - c. Awarding, recommending the award, and executing contracts in the manner prescribed by [Section 1.6, Contract Award Authority](#) of this policy.
  - d. Staying informed of public procurement and market trends for effective procurement management.
  - e. Prescribing and maintaining such forms as are necessary to conduct procurement processes compliant with this policy.
  - f. Recommending updates to the purchasing policy for Board approval, as needed.
  - g. Maintaining purchasing records and tracking expenditures associated with centralized goods and services purchases.
  - h. Approve the sale, donation, or trade-in of surplus personal property as prescribed in NRS Chapter 332.
- C. Ensuring compliance with the Purchasing Policy for Public Works Construction.

### 1.5.2 Department Directors

Each department director shall be responsible for ensuring that all departmental purchases, including those associated with public works construction, are made in compliance with District policy and implementing administrative procedures, including:

- A. Preparing competitive solicitations appropriate to the procurement.
- B. Developing a good faith cost estimate of each procurement, planned or otherwise, to determine the appropriate solicitation procedure(s) whether competitively bid or sourced.
- C. Ensuring that the proper solicitation method is followed.
- D. Evaluating bids, proposals or price quotations received in accordance with the selection procedures appropriate to the method of solicitation.
- E. Ensuring that any contract or purchase order resulting from a solicitation process is approved and executed by the appropriate Awarding Body as defined herein.
- F. Ensuring that sufficient funds are appropriated to pay for a purchase.
- G. Ensuring that a contractor, consultant or vendor has met all District requirements pertinent to the purchase before goods are provided or services rendered. Such requirements include, but may not be limited to:
  - a. Payment and/or performance bonds,
  - b. Insurance certificates listing IVGID as an additional insured with incorporated endorsement pages, or
  - c. Appropriate permits and/or licenses.
- H. Inspecting goods received to determine conformance with product specifications.
- I. Monitoring the performance of contractors, consultants and vendors to ensure compliance with contract requirements.
- J. Recommending and preparing contract amendments and change orders as necessary, and ensuring that such instruments are approved by the appropriate Awarding Body and that sufficient funds are appropriated to pay for the contract modification.
- K. Ensuring that due diligence is performed before determining that a purchase can proceed without a competitive solicitation process, provided that:
  - a. The exception to a competitive solicitation is allowable under NRS Chapter 332 and is not otherwise excluded from exception by this policy.
  - b. The exception is properly documented and approved by the authorized representative.

- c. A resultant contract or purchase order is appropriately funded and approved by the appropriate awarding body.
- L. Keeping sufficient records of all departmental procurement process documentation, contracts and expenditures thereof, and ensuring that documentation is properly stored and filed in accordance with required recordkeeping procedures.
- M. Recommend the disposal of surplus personal property in accordance with NRS Chapter 332.

## **1.6 Contract Award Authority**

The authority to approve and execute contracts that legally bind IVGID to the purchase of goods and/or services shall be vested in the Board of Trustees, or its authorized representative, as prescribed in this policy, subject to mandatory requirements of NRS Chapter 332 that may be adopted and which supersede IVGID policy prescription.

### **1.6.1 Board of Trustees**

The Board of Trustees shall be the awarding body for any purchase of goods and/or services. For operational effectiveness and efficiency, business necessity or other purpose, the Board of Trustees, in its capacity as the governing body, may delegate the authority to award and execute contracts of any amount to the authorized representative. Such authority shall only be delegated as prescribed by this policy.

Until such time that economic conditions or other factors require a modification, the Board of Trustees shall approve any purchase for which the single transaction as defined herein exceeds \$100,000.

### **1.6.2 Delegation of Contract Award Authority**

The following subsections establish the dollar threshold amounts and other requirements associated with the delegation of contract award authority.

#### **1.6.2.1 Delegation by the Board of Trustees to the General Manager**

To ensure efficient and effective business operation of the District, the General Manager, as the authorized representative of governing body, may award and execute contracts for the purchase of goods and/or services for which a single transaction does not exceed \$100,000.

Nothing in this section shall preclude the General Manager from requesting Board approval for contracts below this amount if deemed to be in the best interest of the District.

#### **1.6.2.2 Delegation by the General Manager to District Staff Members**

To ensure the efficient and effective business operation of the District, the General Manager may delegate contract award and/or execution authority granted by the Board of Trustees to the authorized representative. Such delegation shall be in writing and shall be reported to the Board of Trustees as an information item at the next regularly scheduled Board meeting.

#### **1.6.2.3 Award Authority Determined by Single Transaction**

For the purpose of determining the appropriate award authority, contract amounts shall be defined by what constitutes a single, or one transaction, as follows:

- A. One-time Purchase. Each discrete, one-time purchase that will not be duplicated in a fiscal year or fiscal years is a single transaction.
- B. As-needed or On-call Contracts. The contract term of an as-needed or on-call contract that may be required for recurring goods or services throughout a fiscal year, coupled with the total estimated value to be spent during the contract term, shall be considered a single transaction.
- C. Contract Amendments. A single transaction associated with a contract amendment shall be the sum total of the original contract amount of the amendment.
- D. Multi-year Contracts. A single transaction associated with a contract awarded for more than one year shall be the estimated sum total of the contract term, subject to the annual budget appropriation required specified in subsection 1.6.2.4.

#### **1.6.2.4 Annual Budget Appropriation Required**

For the purpose of complying with this policy, no contract for goods and/or services needed for operations shall be awarded unless there exists an underlying operating budget appropriation in the fiscal year in which the contract is awarded.

Contracts awarded in a fiscal year that are anticipated to extend into a subsequent fiscal year or years may be awarded by the appropriate awarding authority but shall be subject to the appropriation requirement specified herein. The appropriation requirements specified herein shall be incorporated in District contract templates.

For construction projects adopted pursuant to IVGID's five-year capital improvement program (CIP), annual appropriations shall be presumed for the anticipated duration of a project.

## **2 Competitive Solicitation Requirements**

### **2.1 Competitive Solicitation Requirements**

Any competitive solicitation required by this policy shall follow the requirements contained and referenced in this section.

#### **2.1.1 Required Contents**

Each competitive solicitation issued by IVGID shall include the following content:

- A. The minimum requirements that a successful responding offeror must meet for contract award.
- B. The method by which a contract will be awarded, i.e., to the lowest responsive and responsible bidder or based on factors in addition to price.
- C. Notice of the written certification required pursuant to subsection 4 of NRS 332.065 (Boycott of Israel), if applicable (see [Subsection 2.2.6.1, Additional Solicitation Requirements When Using an Invitation to Bid](#)).
- D. The period during which a notice of protest of a contract award may be submitted, if applicable (see [Subsection 2.2.6.1, Additional Solicitation Requirements When Using an Invitation to Bid](#)).

## **2.1.2 Advertisement of Solicitation Opportunity**

When required by this policy, the advertisement of a solicitation opportunity shall be published as follows:

- A. In a newspaper of general circulation in Washoe County at least once and not less than 7 days before the due date and time of the solicitation response.
- B. Posted on a secure website every day for not less than 7 days before the due date and time of the solicitation response, as applicable and required.

The advertisement must state:

- A. The nature of the contract to be awarded.
- B. Where plans and specifications are available, if any.
- C. The date and time which responses must be received by and opened, as applicable.
- D. Whether the written certification required by subsection 4 of NRS 332.065 is applicable.
- E. Other information pertinent to a contract to be awarded.

## **2.2 Competitive Solicitation Methods**

Competitive solicitation authorization and methods required by this policy are established as follows.

### **2.2.1 Authorization to Issue Competitive Solicitations**

The General Manager, as the District's authorized representative, shall be responsible for conducting competitive solicitations and ensuring compliance with the procurement methods required by this policy.

To ensure efficient and effective business operations, the General Manager may assign responsibilities associated with competitive solicitations to subordinate staff members. Depending on the complexity and/or the sensitivity of the procurement, the General Manager may request approval of the solicitation by the Board of Trustees prior to issuance, when in the best interests of the District.

### **2.2.2 Competitive Solicitation Dollar Thresholds**

The Local Government Purchasing Act does not establish competitive solicitation thresholds below \$50,000. As a matter of prudence and best practice, this policy establishes such requirements in subsections 2.2.3 and 2.2.4 below.

### **2.2.3 Purchase of Goods and General Services Up To \$10,000**

A competitive solicitation process is not required for the purchase of goods and/or general services estimated to cost \$10,000 or less in a single transaction. However, nothing shall preclude District staff members from conducting price comparisons to ensure the best overall value is obtained.

## **2.2.4 Purchase of Goods and General Services Between \$10,000.01 and \$50,000.00 (Informal Solicitation Methods)**

The purchase of goods and/or general services estimated to cost between \$10,000.01 and \$50,000.00 in a single transaction may be procured by soliciting a minimum of two price quotations from sources capable of meeting the District's requirements under a resultant contract, unless a more formalized method such as the use of a standard bidding template is prescribed by the General Manager or designated authorized representative.

### **2.2.4.1 Less Than Two Price Quotations Received in Response to Informal Solicitation**

If at least two price quotations are solicited, and only one is received, the authorized representative may recommend approval of the purchase to the awarding body provided that appropriate written documentation is presented with the purchase request that justifies the selection.

### **2.2.4.2 No Preclusion for Advertisement of Solicitation Opportunity**

Nothing in this section shall preclude the authorized representative from advertising a competitive solicitation opportunity for a goods and/or services purchase within the dollar thresholds specified in this section if in the best interest of the District to do so.

## **2.2.5 Purchase of Goods and/or General Services Between \$50,000.01 and \$100,000.00 (Formal Solicitation Methods)**

A competitive solicitation for goods and/or services anticipated to cost between \$50,000.01 and \$100,000.00 shall be solicited as follows:

- A. Responses must be solicited from two or more prospective sources capable of providing the required goods and/or services under a resultant contract.
- B. The solicitation may be advertised in the manner prescribed in [Section 2.1.2, Advertisement of Solicitation Opportunity](#).

## **2.2.6 Purchase of Goods and/or General Services Greater Than \$100,000 (Formal Solicitation Methods)**

A competitive solicitation for goods and/or services anticipated to cost more than \$100,000 shall be solicited as follows:

- A. The solicitation must be advertised in the manner prescribed in [Section 2.1.2, Advertisement of Solicitation Opportunity](#).
- C. Responses may be solicited from two or more prospective sources capable of providing the required goods and/or services under a resultant contract.

### **2.2.6.1 Additional Solicitation Requirements When Using an Invitation to Bid**

If an invitation to bid is the solicitation method used to procure goods and/or services anticipated to cost more than \$100,000, the following requirements shall apply.

- A. The contract must be awarded to the lowest responsive and responsible bidder. Such determination shall be made in accordance with the determining factors specific in NRS 332.065(2).

- B. An awarded contract must include a notice of written certification required pursuant to and in the manner prescribed by subsection 4 of NRS 332.065 (Boycott of Israel).
- C. The District shall give preference to the use of recycled products, as applicable and as specified in NRS 332.066.

#### **2.2.6.2 Use of Solicitation Methods Other Than an Invitation to Bid**

A competitive solicitation method other than an invitation may be used so long as the minimum requirements for a responding offeror are met ([Subsection 2.1.1, Required Contents](#)) are met.

#### **2.2.6.3 Protest of Contract Award**

A person or company who has submitted a response to a solicitation may submit a notice of protest regarding the award of contract in accordance with the requirements prescribed in NRS 332.068 or a successor provision or provisions. The General Manager, as the District's authorized representative, shall develop procedures for evaluating and responding to the protest of a contract award.

#### **2.2.6.4 Rejection of Response(s) Received**

A response to a competitive solicitation may be rejected if it is determined that any of the following circumstances apply:

- A. A submittal is non-responsive, or a responding offeror is non-responsive.
- B. The quality of goods or services offered does not conform to District requirements.
- C. The public interest would be served by such rejection.

The General Manager, as the District's authorized representative, shall be responsible for determining whether to reject a response or responses to a competitive solicitation in accordance with NRS 332.075 or successor provision(s). Depending on the nature of the rejection(s), the General Manager, in consultation with District counsel, may request Board authorization to reject a submittal or submittals.

### **2.2.7 Purchase of Professional Services**

Contracts for professional services where highly specialized knowledge or technical know-how is required are not always adapted to award by competitive solicitation.

District staff shall evaluate each purchase of professional services to determine whether a competitive solicitation process would serve the best interests of IVGID or whether such a process would be impractical.

#### **2.2.7.1 Professional Services Procured Through a Competitive Solicitation Process**

Professional services procured through a competitive solicitation process may be conducted by request for proposals, request for statement of qualifications, or other method allowable by NRS Chapter 332, so long as responding offerors are evaluated on their qualifications, experience and demonstrated competence.

Competitive solicitations for professional services shall be conducted in a manner prescribed by the General Manager in the implementing administrative procedures. Such procedures shall be guided by the competitive solicitation and contract award thresholds prescribed in this policy.

### **2.2.7.2 Professional Services Procures Without a Competitive Solicitation Process**

Professional services procured without a competitive solicitation process shall follow the requirements set forth in [Subsection 3.2.1, Documentation and Approval Requirements for Purchases Excepted from Competitive Solicitation](#).

## **2.2.8 No Responses Received to Competitive Solicitation**

If a competitive solicitation process is conducted and no responsible responses are received, the authorized representative may let a contract without a competitive solicitation provided that:

- A. A notice is published for not less than 7 days stating that no responses were received and that the contract may be awarded without further solicitation.
- B. The authorized representative considers any response received during the noticing period.
- C. The contract is awarded by the appropriate awarding authority.

# **3 Exceptions to Competitive Solicitation Requirements**

## **3.1 Exceptions to Competitive Solicitation Requirements**

As defined in NRS Chapter 332, certain contracts by their nature are not adapted to award by a competitive solicitation. Such contracts can only be exempted from a competitive solicitation in accordance with the requirements prescribed in this section.

Contracts that the District may exempt from a competitive solicitation include:

- A. Emergency contracts required to mitigate or prevent the imminent loss of life or property, or the imminent disruption of business operations.
- B. Sole source purchases, as defined.
- C. Contracts not adapted to award by competitive solicitation including:
  - a. Professional services as prescribed herein.
  - b. Repair and maintenance of equipment that may be more efficiently serviced by a certain person.
  - c. Instances where compatibility with existing equipment is an overriding consideration.
  - d. Perishable goods.
  - e. Standardized computer hardware and peripheral devices and software, and the maintenance and support thereof.
  - f. Insurance.
  - g. Computer hardware and associated peripheral equipment and devices; and software.
  - h. Goods or services available pursuant to an agreement between a vendor and the General Services Administration (GSA) or other federal government agency.
  - i. Items for resale through a retail outlet operated in state by a local government or the State of Nevada.



- D. Contracts awarded pursuant to solicitation by other government entities or cooperative purchasing organizations.
- E. Personal safety equipment as determined by the authorized representative.
- F. Contracts with carriers.
- G. Purchase or acquisition at auction, closeout and bankruptcy sales.
- H. Failure to receive responses to a competitive solicitation as prescribed in [Subsection 2.2.8, No Responses Received to Competitive Solicitation](#).
- I. Other exceptions authorized by NRS Chapter 332 with approval of the awarding body.

### ***3.2 Presumption of Competitive Solicitation***

In order to demonstrate the District's commitment to fair and open competition, it shall be presumed that competitive solicitations will be conducted whenever possible for goods or services that are otherwise exempt from bidding under NRS 332.

#### **3.2.1 Documentation and Approval Requirements for Purchases Excepted from Competitive Solicitation**

Pre-approval by the authorized representative is required before any goods or services can be procured without a competitive solicitation process. Such authorization shall be prescribed in the implementing administrative procedures.

## **4 Prohibitions and Associated Penalties**

### ***4.1 Overview***

To assure and maintain public confidence in the integrity of the IVGID purchasing system, the following prohibitions and associated penalties are adopted that apply to any District elected official or employee involved in procurement processes.

#### **4.1.1 Prohibition on Financial Interest in Contracts**

As included in Board of Trustees Policy 3.1.0, the District and its Board shall operate according to NRS 281A, Ethics in Government, except as otherwise provided in NRS 332.800 (Interest of member of governing body or evaluator in contract prohibited) or excepted therefrom.

### ***4.2 Prohibition on Splitting***

Purchases of goods and services cannot, under any circumstances, be split or separated into smaller components to avoid the District's competitive solicitation or contract award requirements.

# Incline Village General Improvement District **DRAFT** Purchasing Policy for Public Works Construction

June 2022



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# 1 Public Works Construction Contracts Summary

## 1.1 Purpose

The purpose of this section is to summarize IVGID policy requirements for competitively bidding and awarding contracts solely for the purpose of constructing public works.

## 1.2 Enabling Statute(s)

This section of the Purchasing Policy is adopted pursuant to Chapter 338 of the Nevada Revised Statutes (NRS 338), cited as Public Works. All contracts awarded for the construction of public works shall be made in compliance with NRS 338 or more restrictive requirements as may be adopted by the Incline Village General Improvement District Board of Trustees.

## 1.3 Public Works Defined

Any project for the new construction, repair, or reconstruction of a project financed with public money in whole or in part for public:

- Buildings,
- Highways, roads, streets and alleys,
- Utilities, water mains and sewers,
- Parks and playgrounds,
- Convention facilities, and

All other publicly owned works and property.

## 1.4 Applicability of Purchasing Policy Provisions

The following sections of the Purchasing Policy shall apply to this Purchasing Policy for Public Works Construction.

- Applicable definitions contained in Section 1.4, Definitions.
- Referenced provisions in Section 1.5, Procurement Responsibilities.
- Section 1.6, Contract Award Authority.

## 1.5 General Provisions

In addition to any other requirements established in NRS 338, the following general provisions apply to procurements related to public works construction.

### 1.5.1 Inapplicability of Policy to Contracts for Maintenance or Emergencies

The requirements of this section and NRS 338 do not apply to the following procurements:

- A. Contracts awarded in compliance with NRS 332 that are directly related to the **normal operation** of the District or the **normal maintenance** of IVGID property.

- B. Contracts awarded to meet an **emergency** which results from a natural or artificially created disaster that threatens the health, safety, or welfare of the public.

If the Board or its authorized representative determines that an emergency exists, a contract or contracts necessary to address the emergency may be let without complying with the competitive bidding requirements of NRS 338 unless otherwise required for federal or state reimbursement funding.

If such emergency action is taken by the authorized representative, the authorized representative shall report the contract or contracts to the Board at its next regularly scheduled meeting.

### **1.5.2 Prevailing Wage Required**

The payment of prevailing wages, in the manner specified in NRS 338, is required for all contracts for public works construction that exceed \$100,000.

### **1.5.3 Use of Recycled Materials**

Public works projects associated with the construction, reconstruction, improvement, maintenance or repair of a public road or public highway must provide for the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires. Such provision shall be included in the project bidding documents.

The District must ensure that such recycled products are specified in the construction contract unless use of such products is scientifically proven to compromise the soundness of the project.

## ***1.6 General Requirements by Dollar Threshold***

The following requirements apply to all public works construction projects and contracts, unless otherwise specified.

### **1.6.1 Construction Projects Greater Than \$100,000**

Construction projects estimated to be greater than \$100,000 shall adhere to all applicable provisions of NRS 338 and as specified below.

- A. Projects shall not be divided into segments to avoid competitive bidding or contract award requirements.
- B. Solicitations must be advertised in a newspaper of general circulation.
- C. Plans and specifications must be on file by the date of advertisement and available to all interested parties.
- D. The advertisement must indicate how to obtain the plans and specifications, and the date, place and time bids will due/opened.
- E. The advertisement must include a provision that sets forth contractor qualification requirements.
- F. Contracts up to \$250,000 must be awarded to the lowest responsive and responsible bidder.
- G. Contracts greater than \$250,000 shall be awarded to the contractor that submits the best bid.

- H. Contractors and subcontractors must be appropriately licensed by the State of Nevada.
- I. Bids shall be submitted with a 10% bid bond.
- J. Contracts shall be awarded by the Board of Trustees.
- K. NRS 338 quarterly reporting requirements must be followed.

### **1.6.2 Construction Projects \$100,000 or Less**

Construction projects estimated to be **\$100,000 or less** shall adhere to all applicable provisions of NRS 338 and as specified below.

- A. Bids may be advertised in accordance with required procedures.
- B. Bids must be solicited from at least three properly licensed contractors for projects estimated to be greater than \$25,000.
- C. If the estimated cost is \$25,000 or less, at least one bid from a properly licensed contractor must be solicited.
- D. Contracts must be awarded to the lowest responsive and responsible bidder.
- E. Contractors and subcontractors must be appropriately licensed by the State of Nevada.
- F. Bids shall be submitted with a 10% bid bond.
- G. Contracts shall be awarded by the General Manager.
- H. NRS 338 quarterly reporting requirements must be followed.

#### **1.6.2.1 Construction Projects Performed by District Forces**

Construction projects estimated to **\$100,000 or less** may be performed by District staff members under the following conditions:

- A. If bids were submitted and then rejected in accordance with Section 1.5.3 below, the District may proceed with constructing a public work itself.
- B. If constructing a public work itself, the District must adhere to the attestation requirements contained in NRS 338.

### **1.6.3 Bid Rejection**

Any bids received in response to an advertisement or direct solicitation may be rejected by the Board of Trustees or its authorized representative if it is determined that:

- A bidder is not qualified pursuant to NRS 338.
- A bid is non-responsive.
- A bidder is not responsible.
- The quality of the services, materials, equipment, or labor offered does not conform to the approved plans or specifications.
- The public interest would be served by such a rejection.

## 1.6.4 Bid Protests

A contractor that submits a bid in response to a solicitation may file a notice of protest of contract award in accordance with this section and applicable provisions of NRS 338.

### 1.6.4.1 Protest Submittal Requirements

A contractor that submits a bid in response to a solicitation who wishes to file a notice of protest must do so within five business days after the date of District issuance of the intent to award a contract.

The notice of protest must include a written statement setting forth the specific reasons for the protest, including the relevant provisions of NRS 338 or other provisions in law purported to be violated.

### 1.6.4.2 Authorized Representative to Consider Initial Bid Protest

The General Manager, as the authorized representative of the Board of Trustees, shall receive and evaluate a properly filed protest submitted by a bidding contractor.

To ensure the efficient and effective business operation of the District, the General Manager may delegate the authority to receive and evaluate bid protests to other IVGID staff members in accordance with the delegation procedures specified in Subsection 1.6.2.2 of the Purchasing Policy (Delegation by the General Manager to District Staff Members).

### 1.6.4.3 Final Determination of Bid Protest

The authorized representative shall evaluate the protest and make a recommendation to the awarding body to uphold or deny the protest. A contract cannot be awarded until the awarding body makes its determination.

## 1.7 Contractor Qualification and Preference Requirements

In constructing any public work, the District must comply with all applicable contractor qualification and contractor preference requirements specified in NRS 338.

## 1.8 Alternative Bidding Methods

Pursuant to NRS 338, the District may use bidding methods to award construction contracts to **qualified** contractors based on best value rather than lowest responsive and responsible bid, including **Construction Managers at Risk** and **Design-Build** methods. These bidding methods are used for large construction projects that present unique and complex construction challenges.

### 1.8.1 Construction Managers At Risk

Use of the construction managers at risk method requires entering into separate contracts with the selected contractor for preconstruction services and for constructing the public work.

A construction manager at risk must meet the qualification requirements specified in NRS 338.

### **1.8.1.1 Competitive Solicitation, Selection and Contracting Methods**

Construction managers at risk contracts require the use of a request for proposals (RFP) process in strict accordance with the solicitation, evaluation, selection and contract award provisions specified in NRS 338.

### **1.8.2 Design-Build Teams**

Contracts for construction projects where the estimated cost of design *and* construction exceeds \$5,000,000 may be let using the design-build method. Use of the design-build method requires a two-step RFP process in strict accordance with the solicitation, evaluation, selection and contract award provisions specified in NRS 338.

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## Purchasing Procedures for IVGID

### Bid Processes

There are 2 types of bidding processes to consider for local governments:

1. **Purchasing Bids:** Adhere to the laws detailed in NRS 332 Purchasing: Local Government.
  - A. If bid/contract is over \$25,000 but less than \$50,000 then 1) requests must be submitted to 2 or more persons capable of performing the contract or providing equipment, supplies or goods; and 2) Records of all requests for bids received must be kept for at least 7 years after the date of execution of contract.
  - B. Must advertise all contracts for which the estimated amount required to perform the contract exceeds \$50,000 annually. Publication of notice to bid must be 1) published at least once and not less than 7 days before the opening of bids in a newspaper having general circulation in Washoe County 2) be posted on the IVGID internet site every day for not less than 7 days before the opening of bids.
    - 1) Maintain a record of all requests for bids and all bids received for at least 7 years after the date of execution of the contract.
    - 2) The notice must state the nature, character or object of the contract; if plans and specifications are to constitute part of the contract, where the plans and specifications may be viewed. The time and place where bids will be received and opened must also be included in the notice.
    - 3) On-line bidding is allowable – see Statue on requirements (NRS 332.047).
    - 4) Exceptions to requirements for competitive bidding (NRS 332.115) include: items which may only be contracted from a sole source; professional services such as consulting, legal, etc.; additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person; equipment which by reason of the training of the personnel or of an inventory of replacement parts, maintained by the local government is compatible with existing equipment; perishable goods; insurance; hardware and associated peripheral equipment and devices for computers; software for computers; supplies, materials or equipment that are available from contracts with the General Services Administration or another



## Purchasing Procedures for IVGID

governmental agency in the regular course of its business; items for resale through a retail outlet operated in this state by a local government or the State of Nevada.

- 5) Procedures to follow for failure to receive responsive bids are defined in NRS 332.148.
- 6) Contract requirements for "Performance Contracts for Operating Cost-Savings Measures" are defined in NRS 332.330-332.440.
- 7) May "join" or use the contracts of local governments located within or outside of State with the authorization of the contracting vendor. This option also applies to contracts of the State of Nevada or another state. (NRS 332.195)
- 8) IVGID Board of Trustees must approve contracts awarded under the bid.

### 2. **Public Works Construction (CIP) Contracts:** Adhere to the laws detailed in NRS 338. May not divide a project/CIP into segments to avoid public bidding.

1. For all IVGID CIP project budgets exceeding \$100,000 the Engineering Department should be consulted during the planning, design and construction phases of the project.
2. Progress Checklist sheets must be completed.
3. A quarterly report detailing items in NRS 338.1444, Item 3, must be generated on contracts over \$25,000.
4. Projects funded with Federal dollars might result in additional requirements for contracts as specified in the executed grant agreement.
5. Constructability Review is required on projects over \$10,000,000 for projects with new plans and specs per NRS 338.1435.
6. Contracts involving Construction Managers at Risk or Design Build teams have further requirements as detailed in NRS 338.169 and 338.1711 respectively.
7. Public Works projects which involve "Design, Construction, Renovation and Demolition of Public Works" have further requirements as detailed in NRS 338.177 thru 338.200.
8. Projects for "Energy and Environmental Design Requirements" are detailed in NRS 338.1905 thru 338.1908.



## Purchasing Procedures for IVGID

### A. Construction Projects over \$100,000:

1. Must advertise in a newspaper of general circulation no less than 21 days before bids are to be submitted in Washoe County. (North Lake Tahoe Bonanza is fine).
2. Must have plans and specifications on file by the date of advertisement.
3. Plans and specifications must be available to all interested parties.
4. Place, date, and time of where plans and specifications are available must be advertised.
5. Date, place, and time of when and where the bids will be opened must be advertised.
6. Contract will be subject to Nevada Prevailing Wage requirements through the Labor Commissioner's office.
7. Contract must be awarded to contractor who submits the best responsible and responsive bid.
8. Best bid is not necessarily the lowest; but IVGID must have compelling reasons to award to a higher bidder. As a reference, refer to Case No CV01-05346, Second Judicial Court, and Washoe County (American General Development vs. Washoe Co School District).
9. Contractor must be licensed in Nevada with the appropriate classification and monetary limit.
10. Contractor must be in good standing with Nevada Labor Commissioner's office.
11. 10% bid bond or cashier check in 10% of bid amount is required.
12. Nevada Preference applies on projects exceeding \$250,000 as detailed in NRS 338.
13. IVGID Board of Trustees must award contract for the work.

### B. Construction Projects between \$25,000 and \$100,000:

1. Advertising is not required.
2. Must maintain a list of qualified contractors.
3. Solicit bids from at least three properly licensed contractors.
4. May request bids by direct mail, fax or e-mail from the qualified contractors.
5. Contractor must be licensed in Nevada with the appropriate classification and monetary limit.



### Purchasing Procedures for IVGID

6. IVGID Board of Trustees must award work.

#### C. Construction Projects under \$25,000:

1. Advertising is not required.
2. Solicit quotes from at least three properly licensed Contractors.
3. May request quotes by direct mail, fax or e-mail from the qualified Contractors.
4. At least two quotes need to be received in order to evaluate the contract pricing received, but contract should be assigned to the most responsive and responsible Contractor, which may not be based solely on pricing.
5. Contractor must be licensed in Nevada with the appropriate classification and monetary limit.

**3. Emergency Bidding not required:** If an emergency exists that may lead to impairment of the health, safety or welfare of the public if not immediately attended to, then the bidding process is not required. Emergency will be validated by General Manager, Public Works Director or the Director of Finance. Contracts awarded under emergency conditions must be reported to the Board of Trustees at their next scheduled meeting.

## EXHIBIT A

### SCOPE OF SERVICES

Based on our experience with financial organization reviews and our understanding of District's needs, Management Partners has prepared a plan of work to achieve the District's goals, which include an in-depth review of the District's purchasing policies and procedures. We understand that a review of the District's purchasing policies and procedures is a priority for the department as well as executive staff and policymakers.

#### **Activity 1 – Start Project**

Management Partners will begin this project with a careful learning phase, starting with a planning meeting with the project team. The purpose of the meeting is to ensure the plan of work and schedule are precisely tailored to the needs of the District. Throughout the project we will keep you informed of our progress, observations, and initial recommendations.

The project start-up activity forms the foundation of the relationship between Management Partners' team and District leaders. We know that the work associated with this review is in addition to the normal work of the organization. Our goal is to integrate our activities in a manner that is thoughtful and minimizes disruption to operations. However, the cooperation of staff in providing requested data and giving meaningful feedback is crucial to a successful project.

We will provide a document request prior to the kickoff meeting and will review the material collected by staff to identify any other informational needs.

#### **Activity 2 – Review Finance and Accounting Policies and Procedures**

During this activity Management Partners will perform the following tasks to familiarize ourselves with the District's current finance and accounting and purchasing documentation. They include:

- **Reviewing Purchasing Policies and Procedures**
  - Interview District staff and selected Board Trustees to determine major areas of focus for updated policies and procedures.
  - Review existing purchasing policies and procedures to ensure they reflect industry best practices and compliance with Nevada Revised Statutes.
  - Prepare a PowerPoint of observations and preliminary recommendations for policy and procedural updates and review with District staff.
  - Using the existing purchasing and accounts payable procedural documentation, prepare a concise draft purchasing policy document and a purchasing procedures manual.
- **Reviewing Other Finance and Accounting Policies and Procedures (Finance and Accounting Manual)**
  - Using the documentation provided by the District, organize the existing finance and accounting documentation into an electronic format for ease of revising and updating.
  - Interview District staff to review the document and obtain direction regarding priority areas to be addressed.

- Based on these priorities, review existing documentation for finance and accounting policies and procedures compared with industry best practices to determine those that should be revised and updated by District staff.
- Meet with staff to clarify policy and procedural requirements.
- Identify documentation gaps and process clarifications that may be needed based on best practices, and/or opportunities to optimize efficiency. This will necessarily also be influenced by implementation of the new financial software system.
- Provide comments in a structured format to District staff for areas that should be updated, revised or clarified.

### **Activity 3 – Present Recommended Purchasing Policies and Procedures to Board of Trustees**

Following completion of revisions to the District’s purchasing policies and procedures, we will prepare a presentation to the Board of Trustee’s regarding proposed changes and updates.