

DONALA WATER & SANITATION DISTRICT
A RESOLUTION ADOPTING A CONTRACTING AND
PROCUREMENT POLICY
2023-2

WHEREAS, Donala Water & Sanitation District (the “District”) is a political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Colorado Revised Statutes; and

WHEREAS, pursuant to Section 32-1-1001(1)(d), C.R.S., the District Board of Directors (“Board”) has the power to enter into contracts and agreements affecting the business of the District, including contracts for work, materials or services; and

WHEREAS, pursuant to Section 32-1-1001(1)(h) and (i), C.R.S. the Board has ultimate authority and responsibility over all business, affairs, and personnel of the District; and

WHEREAS, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power to adopt, amend, and enforce bylaws and rules and regulations not in conflict with the constitution and laws of the state for carrying out the business, objects and affairs of the Board and of the District; and

WHEREAS, it is in the best interest of the District, its residents and customers, to have a Contracting and Procurement Policy, to ensure compliance with State and Federal law(s); and

WHEREAS, the Board believes that the adoption of a Contracting and Procurement Policy for the District will further the public interest by maximizing the purchasing value of the District’s funds, increasing the efficiency of the District’s procurement procedures, and providing safeguards to maintain a procurement system of quality and integrity; and

WHEREAS, the Board has reviewed the Contracting and Procurement Policy attached hereto and wishes to adopt such guidelines as attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Donala Water & Sanitation District as follows:

1. **Adoption of Contracting and Procurement Policy.** The Contracting and Procurement Policy attached hereto as Exhibit A and incorporated herein is hereby adopted. District staff, officials, contractors or subcontractors, when acting on the District’s behalf in a contracting or procurement role, shall adhere to the Contracting and Procurement Policy.


2. **Expenditures of Federal or State Funds.** When any procurement involves the likely or expected expenditure of Federal or State funds, whether in the form of a grant or potential disaster or other federally funded reimbursement of expenditures, the procurement shall be conducted in accordance with any applicable mandatory Federal or State laws or regulations. As specified in the Contracting and Procurement Policy, particular attention will be given to procurement related to a disaster or emergency condition which may be subject to Federal or State disaster relief funding, and which will require the supplementary conditions to any contract for services entered into by the District.

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

4. **Effective Date.** This Resolution shall take effect and be enforced immediately upon its approval by the District Board.

ADOPTED this 1 day of May, 2023.

Donala Water & Sanitation District

By 
Wayne Vanderschuere, President

Attest:

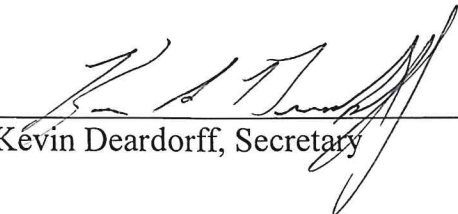

Kevin Deardorff, Secretary

EXHIBIT A

CONTRACTING AND PROCUREMENT POLICY

DONALA WATER & SANITATION DISTRICT
CONTRACTING AND PROCUREMENT POLICY

1. General Procurement/Purchasing Policy. Donala Water & Sanitation District (the “District”) expects that all expenditures of public funds shall be made in compliance with the Colorado Revised Statutes, as amended; shall adhere to all District policies issued regarding the purchase of goods and services; and shall be within approved budgeted amounts. Purchases or contracts made contrary to this policy will not be binding upon the District and the person making the purchase may be held personally liable for any expenditure required to be canceled or forgiven as a result of failing to follow District policy.

2. General Manager Authority. The General Manager or his or her designee has the authority to sign contracts which are within the District’s service area and purposes and do not require any expenditure of public funds (i.e., general multi-jurisdictional emergency aid agreement not requiring expenditure of funding). The General Manager or his or her designee may sign contracts and make purchases for \$50,000 or less without separate Board approval if the purchase of goods or services have been identified in the District’s current budget and the necessary funds have been appropriated.

3. Prior Board Approval. All purchases in excess of \$50,000, or which have not been budgeted or appropriated for the then-current year, require prior approval of the Board.

4. Purchasing Procedures. For all purchases requiring prior Board approval, the District shall obtain more than one price quote, either in person, by telephone or fax to obtain prices for the purchase of the required supplies, materials, equipment or services and shall select the appropriate vendor based on the lowest responsible and responsive person or provider. The District reserves the right to reject any and all quotes, and to select, in its discretion, the supplies, materials, equipment or services determined to be in the District’s best interest. The Board expects the General Manager or his or her designee to consider alternate approaches, such as a formal Request for Proposal or other similar procedure for non-standard or complex purchases which require prior Board approval. Informal purchase procedures, at the General Manager’s discretion, may be used for the procurement of standard, non-complex goods or services not requiring prior Board approval. The District maintains a standard form services agreement which should be used for all purchases; contracts for non-standard or complex purchases should be reviewed and approved by the District’s general counsel prior to approval.

5. Construction Contracts.

(a) Notice by newspaper publication and a competitive bid or proposal shall be required for any construction contract in excess of the limits established by Section 32-1-1001, C.R.S. For contracts procured pursuant to Section 32-1-1001, C.R.S., the award shall be made to the lowest responsive and responsible bidder whose bid or proposal complies with the specifications contained in the Invitation for Bid or Request for Proposals. The District reserves the right to reject any and all bids and to waive all formalities in bids, and to select, in its discretion, the bid determined to be in the District's best interest. For contracts procured pursuant to Part 18 of Article 1, Title 32, C.R.S., for Integrated Project Delivery, proposals shall be evaluated pursuant to criteria established by the District, and the award shall be made to the party submitting a proposal which represents the best value to the District.

(b) Construction contracts involving costs less than the threshold amount provided in Section 32-1-1001, C.R.S., for notice and bidding are subject to the other provisions and requirements of this Policy.

(c) The District shall create and maintain a standard form construction agreement which should be used for most construction contracts; contracts for non-standard or complex projects should be reviewed and approved by the District's general counsel prior to approval.

6. Exceptions to Bid/Quote Requirement. For purchases subject to paragraph 4 above, the District shall not be required to obtain bids or price quotes for the following types of purchases:

- (a) Sole Source purchases, subject to paragraph 7 below;
- (b) State or Federal Pricing;
- (c) Contracts with other governmental units;
- (d) Legal, accounting, and auditing services;
- (e) Professional services of less than \$50,000 that are selected from a pre-qualified vendor list;
- (f) Emergency purchases, subject to paragraph 8 below; and

7. Sole Source Purchases. Sole source purchases are appropriate when a product or service is available from only a single supplier. The District shall make a written determination as to why the purchase should be sole source, and shall negotiate the price, terms and delivery of the procurement action. Examples of when sole source procurement may be appropriate are:

- (a) Compatibility of equipment, accessories, replacement parts or other products or services to be purchased are of paramount consideration;
- (b) Required and appropriate specifications can be met by only a single source; or
- (c) A sole supplier's product or services are needed for trial or testing.

8. Emergency Purchases. An emergency condition is a situation that creates a threat to public health, welfare, or safety or a need to protect District assets. Potential causes include, but are not limited to, floods, epidemics, riots, equipment failures, operational work stoppages, or other similar reasons proclaimed by any Board member or the General Manager. The General Manager must attempt to contact Board members before making such a proclamation himself/herself. Upon such proclamation, including a determination that the existence of such condition creates an immediate and serious need for goods or services which could not be met using normal procurement methods in a timely manner, the Board member or the General Manager may temporarily suspend this Policy for thirty (30) days, or until reinstated by proper Board action, whichever comes first. If the General Manager was unable to get in contact with any Board member, he/she must notify the Board of all emergency purchases made within seventy-two (72) hours. The Board may extend any temporary suspension of this Policy for any period of time deemed appropriate. If this Policy is suspended, prior to any emergency purchase, due consideration will be given to the potential for assistance of federal disaster relief funds and the extent to which compliance with federal procurement law(s) pursuant to paragraph 12 of this Policy will be necessary. All emergency purchases shall be reported to and ratified by the Board at the next regular or special meeting of the Board.

9. Prohibition Against Subdivision. No procurement transaction shall be subdivided for the purpose of circumventing the dollar values provided in this policy.

10. Conflict of Interest. Every Board member or District employee is expressly prohibited from knowingly:

- (a) Underestimating or exaggerating requirements to a prospective bidder for the purpose of influencing bids.
- (b) Misrepresenting the quality of a bidder's products or services.
- (c) Engaging in a procurement transaction which would violate that Board member's or employees' duties with respect to conflicts of interest.

11. Compliance with Statutes. In addition to the requirements of this Policy, the procurement of goods and services by the District is subject to, and shall comply with all applicable Colorado statutes, including but not limited to Sections 32-1-1001(1)(d)(I), 24-18-101, *et seq.*, 24-91-103.6, and 29-1-110, C.R.S.

12. Compliance with Federal Law. The District recognizes that it may obtain federal funding or grant monies for certain purchases from time to time. In addition to the requirements of this Policy, the procurement of goods and services by the District which are financed, in whole or in part, by federal dollars shall comply with all applicable federal statutes, rules, and regulations, and/or grant requirements. In addition, federal funding or grant requirements often include pre-contract bidding or procurement obligations; for example, taking affirmative steps to solicit bids from women and minority owned businesses. 44 CFR 13.36(e). For all such purchases, the District will determine the applicable procurement guidelines prior to purchase of any goods or services. This District shall create, maintain and periodically update, with assistance of District's general counsel, a form contract addendum incorporating federal procurement requirements for use on federally funded purchases. Said contract addendum will be reviewed by the General Manager or his or her designee for each purchase subject to this paragraph and revised or adjusted as is appropriate to meet the specific requirements for each individual purchase involving federal funding.

13. Administration. Prior to signing a purchase order or contract for goods or services, the provisions of this Policy shall be complied with. Contract administration begins with the signing of the purchase order or contract and continues throughout the life of the purchase order or contract. The complexity of the purchase order or contract dictates the level of administration required. A one-time delivery of supplies requires less administration than a multi-year requirements contract for complex services. As a minimum, the following shall be documented and/or monitored by the District:

- (a) Inspect and accept goods or services received.
- (b) Assure that the procurement action is completed successfully and in accordance with the terms and conditions of the purchase order or contract.
- (c) Communicate with suppliers/contractors to assure understanding of the requirements within the boundaries of the contract documents.
- (d) Evaluate contractor performance against contract requirements.
- (e) Review reports of completed work and test for actual completion of the work.
- (f) Process payments and contract closeout documents in a timely manner.
- (g) Maintain a complete documented procurement file of all the related purchasing actions.
- (h) All goods purchased shall be appropriately inventoried and tagged before being placed into service.

