



# Peninsula Metropolitan Park District

## Purchasing Policy

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**Policy: Purchasing**

(Approved by Board of Park Commissioners)

**Purpose:** The Peninsula Metropolitan Park District (the “District”) will adopt standards that promote the proper stewardship of public funds and provide for open, transparent, and fair public contracting processes in an effort to maintain public confidence and trust in the methods it uses to purchase goods, services and public works. The Board of Park Commissioners hereby establishes as policy the following framework that complies with applicable procurement laws, regulations, policies, and procedures.

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## **SECTION I: GENERAL PROVISIONS**

1.1 Purpose: The purpose of this Policy is to provide an institutional framework for the purchase of goods, services and public works. This framework will comply with applicable laws, regulations, policies, and procedures. Specific procedures interpreting and implementing this Policy and relevant laws will be adopted and maintained by the Executive Director in two Purchasing Policy Manuals (the “Procurement Procedures”), one for goods, services and technology and another for public works and architectural, engineering and land surveying services. This Policy and its related Procurement Procedures will:

1.1.1 Require the use of competitive solicitation whenever practicable;

1.1.2 Govern District staff in purchasing, procurement, and related processes;

1.1.3 Provide for a system of internal controls;

1.1.4 Implement purchasing thresholds;

1.1.5 Support fair and ethical business practices; and

1.1.6 Require District staff to exercise reasonable and prudent judgement in all aspects of purchasing and procurement.

This Policy and its associated Procurement Procedures incorporate or, in the case of a conflict, supersede all previously issued purchasing or procurement related policies, memos, directives, rules or procedures. In the event an applicable law, regulation, policy, or resolution is modified, or a new law, regulation, policy, or resolution is adopted, the revised law, regulation, or policy will, to the extent inconsistent with this Policy, supersede this Policy.

1.2 Conflict of Interest: Public employment is a public trust. Public employees must discharge their duties impartially, so as to assure fair competitive access to governmental procurement by responsible vendors, suppliers and contractors. Moreover, District employees should conduct themselves in such a manner as to foster public confidence in the integrity of the District’s procurement function. No District employee, officer or agent may participate in the selection, award, or administration of a contract if the employee has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of the employee’s immediate family, the employee’s partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a conflict. No District employee, officer, or agent shall

solicit or accept gratuities, favors, or anything of monetary value from vendors, suppliers, contractors, potential contractors, or parties to sub-agreements except as permissible by the Ethics in Public Service, chapter 42.52 RCW.

1.3 Unauthorized Purchases: PURCHASES FOR PERSONAL USE ARE NOT ALLOWED. The person ordering the unauthorized and unjustified purchase is personally liable for the costs of the purchase or contract and may be subject to disciplinary action, up to and including termination. If the purchase was made without proper authorization but is in fact a justified purchase, then the Executive Director has the option to approve the purchase after the fact.

1.4 Best Value: District employees are expected to exercise their best professional judgment when making purchases to maximize District dollars for value. It is expected that the best possible value be obtained and that no favoritism be shown in selecting vendors, suppliers or contractors.

1.5 Contract: All purchases for, or procurement of public works, goods and/or services in excess of the thresholds specified herein, shall be by contract.

1.6 Contract Awards:

1.6.1 Contracts will be awarded only to responsible vendors, suppliers and contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to vendor's, supplier's or contractor's integrity, compliance with public policy, record of past performance, and financial and technical resources.

1.6.2 Time and material contracts shall be used only after a determination that no other type of contract is suitable. In the use of time and material contracts, a ceiling price shall be established before the contract is awarded. Once the ceiling price has been reached, the vendor, supplier or contractor shall then proceed at his/her/its own risk.

1.6.3 When contracting for tangible goods, the contract shall limit option quantities for additional equipment and supplies to what is reasonably anticipated to be needed for the life of the contract.

1.7 Payment: Advance funding payments made to a vendor, supplier or contractor, prior to the incurrence of costs by the vendor, supplier or contractor, shall be prohibited. Progress payments made to a vendor, supplier or contractor while work is being performed by the vendor, supplier or contractor shall be allowed, as authorized by the Executive Director.

1.8 Local Geographical Preference: The District will conduct procurements in a manner that prohibits the use of in-state or local geographical purchase preferences

which serve to restrict full and open competition, except in those cases where applicable federal or state statutes expressly mandate or encourage geographic preference. This does not preempt state licensing laws. When employing the qualifications-based method for contracting for goods or services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the work or project, to compete for the contract. Local suppliers are encouraged to participate in the District's procurement activities. In addition to meeting the required specifications with the lowest cost, the District seeks the supplier that can provide the best delivery of services and timely after-market support.

1.9 Equity in Contracting: The District encourages firms certified through the Washington State Office of Minority and Women's Business Enterprises (OMWBE) to participate in the District's contracting opportunities, subject to the requirements and processes of this Policy, the Procurement Procedures, any applicable Equity in Contracting Program rules or regulations and any other applicable laws, regulations and/or ordinances.

1.10 Public Disclosure: The District's procurement process, and the submittals, materials, information, and decisions regarding procurement are all public records subject to public disclosure under the Washington State Public Records Act chapter 42.56 RCW unless an exemption applies.

1.11 Sustainable Procurement: The District's purchases have inherent social, health, environmental and economic impacts. The District's procurement practices will support the District's commitment to sustainability whenever it is practical and financially appropriate.

## **SECTION II: GENERAL REQUIREMENTS REGARDING ALL PURCHASES**

2.1 Purchasing Authority: The purchasing authority for (A) Goods and Services; (B) Technology; (C) Public Works; and (D) Architectural, Engineering and Land Surveying Services are specified in separate sections below.

2.2 Executive Director. All references to the Executive Director include the Executive Director's designee. The Executive Director is authorized to delegate a portion of the Executive Director's limited purchasing authority or other authority granted under this Policy to increase the effectiveness and efficiency of the purchasing process.

2.3 Thresholds: The dollar thresholds referenced in this Policy exclude sales tax but include freight and shipping.

2.4 Breaking Up Contracts: The entire purchase or contract regardless of what each single item costs, is totaled to arrive at a purchase price. A purchase must not be divided or reduced (split) to avoid exceeding a procurement threshold requiring a competitive

process or for the purpose of avoiding the maximum purchasing authority provided by the Park Board.

2.5 Competitive Solicitation: Competitive solicitation is required unless an exemption applies or a waiver is granted. Exemptions and waivers to competitive solicitation must be applied in accordance with this Policy and applicable Procurement Procedures.

2.6 Maximum Competition: Solicitation documents shall provide for the maximum competition reasonably possible among vendors, suppliers, contractors and products.

2.7 Rejection of Bids: The Executive Director may reject any and all bid submittals for the District.

2.8 Contract Awards: Award will be to the lowest and best responsible bidder in the case of a competitively bid purchase of supplies, services, and public works. These awards will be in accordance with applicable laws, this Policy, and applicable Procurement Procedures.

2.9 Delivery: Supplies and equipment purchased using District funds shall only be shipped to a District facility, jobsite, or contract location.

2.10 Protection from Risk of Loss: Written contracts, insurance, indemnification, bonds and other guarantees apply to all District purchases when required by law, by this Policy and Procurement Procedures, or by the Executive Director to be necessary to protect the District from risk of loss.

2.11 Reporting to Finance Department: All capital asset purchases over \$5,000 must be reported to the Finance Department.

2.12 Failure to Follow Policy or Procurement Procedures: District staff who fail to follow the requirements of applicable laws, this Policy and Procurement Procedures may be subject to disciplinary action, up to and including termination, and at a minimum may be barred from procurement activities until they successfully complete purchasing training and have their roles reinstated by the Executive Director.

**SECTION III: PROCUREMENT METHODS FOR GOODS (MATERIALS, SUPPLIES AND EQUIPMENT) AND SERVICES (PERSONAL AND PROFESSIONAL SERVICES EXCLUDING ARCHITECTURAL, ENGINEERING AND LAND SURVEYING SERVICES):**

3.1 Procurement Type – Goods and Services: This Section 3 applies to the procurement of goods and services. “Goods”, as used in this Section include materials, supplies and equipment but does not include art. “Services”, as used in this Section

includes personal and professional services. Services, as used in this Section, does not apply to architectural, engineering land surveying services, or technology.

### 3.2 Procurement Authority.

3.2.1 Initial Authority. The Park Board hereby authorizes the Executive Director to approve all contracts for Goods and/or Services with a cost to the District of fifty thousand dollars (\$50,000) or less or that provide a “not to exceed” amount that is \$50,000 or less. All contracts for Goods and/or Services with a cost to the District of more than \$50,000 or that provide a “not to exceed” amount that is more than \$50,000 shall be approved by the Park Board.

### 3.2.2 Contract Amendments.

3.2.2.1 When the Executive Director first approves a Goods and/or Services contract, the Executive Director is authorized to approve contract changes or amendment(s) to that contract so long as the original contract amount plus any amendment(s) does not exceed \$50,000 in total. If the total will exceed \$50,000 then such amendment(s) shall be approved by the Park Board. Once approved by the Park Board, the Executive Director is authorized to approve additional amendments to a Goods and/or Services contract totaling not more than \$50,000.

3.2.2.2 For any Goods and/or Services contract first approved by the Park Board, the Executive Director is authorized to approve contract changes or amendments in an aggregate amount that is less than or equal to \$50,000. The Park Board shall approve contract changes or amendments when the aggregate amount of the contract changes or amendments approved by the Executive Director will exceed \$50,000. Once approved by the Park Board, the Executive Director’s authority for future Goods and/or Services contract changes or amendments is reset to \$50,000 in total.

3.3 Informal Procurements: Any purchase of Goods and/or Services with an estimated cost of less than fifteen thousand dollars (\$15,000) shall be made using the process provided in RCW 39.04.190.

3.4 Formal Procurements: Any purchase of Goods or Services with an estimated cost of fifteen thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under RCW 35.61.135(1).

3.5 Cooperative Purchasing: As an alternative to Sections 3.3 and 3.4, Goods and/or Services may be purchased from contractors or suppliers designated on current state agency, county, city, or town purchasing rosters for the Goods and/or Services when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town without the necessity of the District

performing a competitive process. The price and terms for such purchases shall be as described on the applicable roster.

3.6 Contracting with Other Government Agencies: See Section VII below.

3.7 Contract Terms: The term for contracts under this Section should be generally limited to three years to evaluate market conditions. Exceptions are considered on a case-by-case basis and should be highlighted to the Executive Director for pre-approval.

#### **SECTION IV: PROCUREMENT METHODS FOR TECHNOLOGY:**

4.1 Procurement Type – Technology: This Section 4 applies to the procurement of information technology (including but not limited to computers, computer hardware and software, storage and networking), radio and telecommunications systems, televisions, audio and video hardware and systems (collectively “Technology”). This Section 4 also applies to any services provided related to the installation, implementation or training services related to the Technology (the “Technology Services”).

4.2 Procurement Authority.

4.2.1 Initial Authority. The Park Board hereby authorizes the Executive Director to approve all contracts for Technology and/or Technology Services with a cost to the District of \$50,000 or less or that provide a “not to exceed” amount that is \$50,000 or less. All contracts for Technology and/or Technology Services with a cost to the District of more than \$50,000 or that provide a “not to exceed” amount that is more than \$50,000 shall be approved by the Park Board.

4.2.2 Contract Amendments.

4.2.2.1 When the Executive Director first approves a Technology and/or Technology Services contract, the Executive Director is authorized to approve contract changes or amendment(s) to that contract so long as the original contract amount plus any amendment(s) does not exceed \$50,000 in total. If the total will exceed \$50,000 then such amendment(s) shall be approved by the Park Board. Once approved by the Park Board, the Executive Director is authorized to approve additional amendments to a Technology and/or Technology Services contract totaling not more than \$50,000.

4.2.2.2 For any Technology and/or Technology Services contract first approved by the Park Board, the Executive Director is authorized to approve contract changes or amendments in an aggregate amount that is less than or equal to \$50,000. The Park Board shall approve contract changes or amendments when the aggregate amount of the contract changes or amendments approved by the Executive Director will exceed \$50,000. Once approved by the Park Board, the Executive Director’s authority for future

Technology and/or Technology Services contract changes or amendments is reset to \$50,000 in total.

4.3 Informal Procurements: Any purchase of Technology and/or Technology Services with an estimated cost of less than fifteen thousand dollars (\$15,000) shall be made using the process provided in RCW 39.04.190. Alternatively, the District may use the competitive negotiation process provided in RCW 39.04.270.

4.4 Formal Procurements: Any purchase of Technology and/or Technology Services with an estimated cost of fifteen thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under RCW 35.61.135(1). Alternatively, the District may use the competitive negotiation process provided in RCW 39.04.270.

4.5 Cooperative Purchasing: As an alternative to Sections 4.3 and 4.4, Technology may be purchased from contractors or suppliers designated on current state agency, county, city, or town purchasing rosters for Technology when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town without the necessity of the District performing a competitive process. The price and terms for such purchases shall be as described on the applicable roster.

4.6 Contracting with Other Government Agencies: See Section VII below.

4.7 Software Contract Renewals: Once software purchases have been initially approved by the Park Board, the Executive Director is hereby authorized to approve the extension of the software license, maintenance and/or subscription. Further Competitive solicitation is not required when the purchase and implementation of software generates recurring license, maintenance, or subscription costs. Purchases of new software, hardware, or significant upgrades to operating systems are conducted as new purchases in accordance with the above sections of this Policy.

4.8 Contract Terms: The term for software contracts under this Section should be generally limited to three years to evaluate market conditions. Exceptions are considered on a case-by-case basis and should be highlighted to the Executive Director for pre-approval.

## **SECTION V: PROCUREMENT METHODS FOR PUBLIC WORKS:**

5.1 Procurement Type – Public Works: This Section 5 applies to the procurement of Public Works. "Public Work", as used in this Section, means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the District or which is by law a lien or charge on any District property.

5.2 Procurement Authority. The Park Board hereby authorizes the Executive Director to approve all contracts for Public Works with a cost to the District of \$100,000 or less or that provide a “not to exceed” amount that is \$100,000 or less. All contracts for Public Works with a cost to the District of more than \$100,000 or that provide a “not to exceed” amount that is more than \$100,000 shall be approved by the Park Board.

5.3 Contract Amendment / Change Orders.

5.3.1 The Executive Director is authorized to approve amendments of change orders to a public works contract based on the greater of the base minimum authority or a percentage of the original contract amount as follows:

Contract Amount	Base Minimum Authority	Percentage of Contract Amount
\$0 to \$350,000	\$50,000	10%
\$350,000 or greater	\$52,500	15%

5.3.2 The amount the Executive Director is authorized to approve in Section 5.3.1 is the maximum threshold for all amendments / change orders combined. If the total will exceed the maximum amount authorized, then such amendment(s) / change order(s) shall be approved by the Park Board. Once approved by the Park Board, the Executive Director is authorized to approve additional amendments / change orders up to the maximum amount allowed in Section 5.3.1.

5.4 Procurement Methods. All Public Works procurement shall comply with chapter 35.61 RCW and chapter 39.04 RCW. For Public Works that are partially or wholly funded with federal grants, additional requirements regarding the Davis-Bacon Act and other federal requirements shall be followed. Public Works shall be procured using one of the following methods as applicable:

5.4.1 Small Works Roster Contracts. The District may use the small works roster process pursuant to RCW 35.61.135(2) and RCW 39.04.151 through 39.04.154 if the estimated cost of performing a Public Work, excluding state sales tax, is below the statutorily specified threshold or the direct contract provisions authorized thereunder. Provided, the District may use formal bidding pursuant to Section 4.4.2 for Public Works within the Small Works Roster thresholds if doing so would be beneficial to the District.

5.4.2 Small Works Roster Selection / Implementation. The Executive Director shall determine which small works roster the District will utilize, which may be the statewide MRSC roster, the roster of another agency, contracting for the use of a roster through an interlocal agreement or an independent District roster. Whichever roster that is selected shall be consistent with and comply with the applicable sections of RCW 35.61.135 and RCW 39.04.151 through 39.04.154. The procedures for the development, implementation and utilization of the small works roster will be specified in the

Procurement Procedures for Public Works and Architectural, Engineering and Land Surveying Services.

5.4.3 Formal Bidding Contracts. If the estimated cost of performing a public work exceeds the small works roster contracting threshold, then the District shall conduct formal bidding as provided in RCW 35.61.135(1).

5.4.4 Alternative Public Works Contracting: As an alternative, the District may utilize alternative public works contracting methods to include, but not limited to, Design-Build, General Contractor/Construction Manager and Job Order Contracting in accordance with chapter 39.10 RCW.

5.4.5 Contracting with Other Government Agencies: See Section VII below.

5.4.6 Bonds and Retainage. Prior to beginning work on a Public Works project, the District shall require the person or persons with whom such contract is made to make, execute, and deliver to the District the bonds required under chapter 39.08 RCW or by law, unless an alternative is provided by applicable law.

## **SECTION VI: ARCHITECTURAL, ENGINEERING AND SURVEYING SERVICES:**

6.1 Procurement Type – Architectural, Engineering and Surveying Services: This Section 6 applies to the procurement of Architectural, Engineering and Surveying Services (collectively “A&E Services”). “A&E Services”, as used in this Section, means professional services rendered by any person, other than as a District employee, contracting to perform activities within the scope of the general definition of professional practice in chapters 18.08 (architects), 18.43 (engineers and land surveyors), or 18.96 RCW (landscape architects).

6.2 Procurement Authority.

6.2.1 Initial Authority. The Park Board hereby authorizes the Executive Director to approve all contracts for A&E Services with a cost to the District of \$50,000 or less or that provide a “not to exceed” amount that is \$50,000 or less. All contracts for A&E Services with a cost to the District of more than \$50,000 or that provide a “not to exceed” amount that is more than \$50,000 shall be approved by the Park Board.

6.2.2 Contract Amendments.

6.2.2.1 When the Executive Director first approves an A&E Services contract, the Executive Director is authorized to approve contract changes or amendment(s) to that contract so long as the original contract amount plus any amendment(s) does not exceed 15% of the original contract amount or \$50,000, whichever is greater. If the total will exceed 15% of the original contract amount or \$50,000, whichever is greater, then such

amendment(s) shall be approved by the Park Board. Once approved by the Park Board, the Executive Director is authorized to approve additional amendments to an A&E Services contract totaling not more than 15% of the original contract amount or \$50,000, whichever is greater.

6.2.2.2 The amount the Executive Director is authorized to approve in Section 6.2.2.1 is the maximum threshold for all amendments combined. If the total will exceed the maximum amount authorized, then such amendment(s) shall be approved by the Park Board. Once approved by the Park Board, the Executive Director is authorized to approve additional amendments up to the maximum amount allowed in Section 6.2.2.1.

6.3 Procurement Method: The District shall procure A&E Services using qualifications-based procurement procedures pursuant to chapter 39.80 RCW or using an A&E Services roster.

6.4 Contracting with Other Government Agencies: See Section VII below.

**SECTION VII: CONTRACTING WITH OTHER GOVERNMENT AGENCIES / INTERLOCAL AGREEMENTS:** The District may contract with another federal, state, or local public agency through an interagency agreement pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW, to make the most efficient use of its powers on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of the community. The Interlocal Cooperation Act does not require competitive solicitation. All interlocal agreements shall be approved exclusively by the Park Board.

**SECTION VIII: EXCEPTIONS TO THE COMPETITIVE PROCESS:**

8.1 Exemptions: Pursuant to RCW 35.61.135(5), the District may waive the competitive bidding requirements of this policy pursuant to RCW 39.04.280 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

8.2 Exemption Authority. The Park Board hereby authorizes the Executive Director to approve all exemptions. In approving an exemption, the Executive Director shall specify the factual basis for the exception in writing which shall be recorded and open to public inspection.

8.3 Emergencies. An "emergency" means unforeseen circumstances beyond the District's control that either: (a) Present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. The Executive Director may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the District to address the

emergency situation. If the Executive Director awards a contract without competitive bidding due to an emergency, the Executive Director shall make a written finding of the existence of an emergency and seek Park Board confirmation of the contract award no later than two weeks after the award is made.

**SECTION IX: PROCUREMENT RECORDS:** The District shall maintain records sufficient to detail the significant history of procurement.

**SECTION X: ADOPTION OF PROCUREMENT PROCEDURES:** The Executive Director, in coordination with the District's General Counsel, is hereby authorized to create, approve and maintain procedures designed to carry out the intent of this policy.