

## TABLE OF CONTENTS

A-1.01	General	2
A-1.02	Board of Supervisors; Officers; Voting	3
A-1.03	District Manager	6
A-1.04	Public Information and Inspection of Records	7
A-1.05	Meetings and Workshops	8
A-1.06	Rulemaking Proceedings	13
A-1.07	Declaratory Statements	15
A-1.08	Decisions Determining Substantial Interests	16
A-1.09	Procedure Under Consultants' Competitive Negotiations Act	18
A-1.10	Procedure of Purchasing Contractual Services	23
A-1.11	Purchase of Goods, Supplies or Materials	27
A-1.12	Contracts for Construction of Authorized Project	30
A-1.13	Contracts for Maintenance Services	34
A-1.14	Purchase of Insurance	38
A-1.15	Bid Protests under Consultants' Competitive Negotiations Act	40
A-1.16	Bid Protests Relating to Any Other Award	42
A-1.17	Effective Date	44

CHAPTER A-1: BAY CREEK COMMUNITY DEVELOPMENT DISTRICT GENERAL AND PROCEDURAL RULES

A-1.01 General

(1) The Bay Creek Community Development District (the "District") was created pursuant to the provisions of Chapter 190, Florida Statutes (1989) and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules is to describe the general operations of the District.

Specific Authority: 190.011, 120.53(1)(a)

Law Implemented 190.011, 120.53(1)(a)

A.1.02 Board of Supervisors; Officers; Voting.

(1) Board of Supervisors. The Board of Supervisors of the District shall exercise the powers granted to the District. The Board shall consist of five members. Members of the Board must be residents of Florida and citizens of the United States.

(2) Term of Officers. Board members shall hold office pursuant to Section 190.006, Florida Statutes. If, during the term of office of any board member(s), one or more vacancies occur, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the unexpired term.

(3) Vacancies: Quorum. Three or more members of the Board shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. However, if three or more vacancies occur at the same time, a quorum is not necessary to fill the vacancies. Action taken by the Board shall be upon a vote of a majority of the members present, unless otherwise provided in these rules or required by law.

(4) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a chairperson, vice chairperson, secretary and treasurer.

(a) The term of office of the chairperson shall be two years. The chairperson must be a member of the Board. If the chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a chairperson to serve the remaining portion of the term, after filling the board vacancy. The chairperson shall be authorized to sign checks and warrants for the District, countersigned by the treasurer or other persons authorized by the Board. The chairperson shall convene and conduct all meetings of the Board. In the event the chairperson is unable to attend a given meeting, the vice chairperson shall convene and conduct the meeting.

(b) The vice chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The term of office for the vice chairperson shall be two years, coincident to that of the chairperson. If the vice chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a vice chairperson to serve the remainder of the term, after filling the Board vacancy.

(c) The secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. The District Manager may serve as secretary.

(d) The treasurer need not be a member of the Board but must be a resident of Florida. The treasurer shall perform duties described in Section 190.007(2) and (3), Florida Statutes, as well as those assigned by the Board from time to time. The treasurer shall serve at the pleasure of the Board .

(5) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically-designated functions. Such functions may include, but are not limited to, contract negotiations, personnel matters, and budget preparation.

(6) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings of the Bay Creek Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and corporate acts.

(7) Meetings. The Board shall establish a schedule of regular meetings and may also meet upon call of the chairperson or three board members. A regular meeting may be cancelled, provided that notice of cancellation shall be given in the same manner as notice for the meeting. All meetings of the Board shall be open to the public in accordance with the provisions of Chapter 286, Florida Statutes.

(8) Voting Conflict of Interest. The intent of this section is to comply with Section 112.3143, Florida Statutes, and to ensure the proper disclosure of conflicts of interests on matters coming before the Board for a vote. Nothing in this rule shall prohibit the Board member with a voting conflict of interest from voting on a matter. For the purposes of this section, "voting conflict of interest" shall mean any matter coming before the Board of Supervisors for a vote which would inure to a Board member's special private gain, or which a member knows would inure to the special private gain of a relative, a business associate, any principal by whom a member is retained, or the parent organization or subsidiary of a corporate principal by which a member is retained. However, it shall not be a conflict of interest for a board member to be a stockholder, officer or employee of any landowner.

(a) When a board member knows he has a voting conflict of interest on a matter coming before the Board, he should notify the Board's secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes. The member may then vote. The Board's secretary shall prepare a memorandum of voting conflict which shall then be signed by the Board member, filed with the Board's secretary, and attached to the minutes of the meeting within 15 days of the meeting.

(b) If a Board member inadvertently votes on a matter in which the member later learns he has a conflict, the member shall immediately notify the Board's secretary. Within 15 days of the notification, the member shall file the appropriate memorandum of voting conflict which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The memorandum shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the written memorandum. The Board member's vote is unaffected by this filing.

Specific Authority: 190.001, 120.53(1)(d)

Law Implemented: 190.006(1), 190.006(4), 190.006(5), 190.006(6), 190.006(7), 190.006(9), 190.007, 112.3143, 120.53(1)(d), 112.3143(4)(b)(91-85)

A-1.03 District Manager.

(1) Term of Service. The Board shall employ and fix the compensation of a District Manager. The District Manager shall serve at the pleasure of the Board.

(2) Responsibilities. The District Manager shall have charge and supervision of the works of the District and shall be responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to actions by the Board, for maintaining and operating the equipment owned by the District, and for performing such other duties as may be prescribed by the Board. The District Manager may act as secretary of the Board.

(3) Hiring. The District Manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the Board. Compensation and other conditions of employment of officers and employees of the District shall be as provided by the Board.

Specific Authority: 190.011

Law Implemented: 190.007(1)

A-1.04 Public Information and Inspection Records.

(1) Public Records. All District public records within the meaning of Chapter 119, Florida Statutes, and not otherwise restricted by law, including the "Record of Proceedings of the Bay Creek Community Development District," may be copied or inspected at the District headquarters during regular business hours.

(2) Copies. Copies of public records shall be made available to the requesting person at a charge of \$ .15 per page for one-sided copies and \$ .20 per page for two-sided copies if not more than 8-1/2 by 14 inches, and for copies in excess of that size at a charge not to exceed the actual cost of reproduction. Certified copies of public records shall be made available at a charge of \$1.00 per page.

Specific Authority: 190.011, 120.53(1)(a)

Law Implemented: 190.06(7), 119.07(1)(a), 119.07(1)(b), 120.53(1)(a)

A-1.05 Meetings and Workshops.

(1) Notice. Except in emergencies, or as otherwise provided in these rules, at least seven days public notice shall be given of any meeting or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and shall state:

- (a) The date, time, and place of the meeting or workshop;
- (b) A brief description of the nature, subjects and purposes of the meeting or workshop;
- (c) The address where persons may obtain a copy of the agenda.

(d) If final District action will take place at the meeting, the notice shall state that if a person decides to seek review of any official decision made at the Board meeting, a record of the proceedings will be required and the person intending to appeal will need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence necessary for the appeal.

(2) Agenda. The District Manager, under the supervision of the chairperson or those members calling for a Board meeting, shall prepare a notice of the meeting or workshop and an agenda. The notice and agenda shall be available to the public at least seven days before the meeting or workshop except in an emergency. The agenda may be changed before or at the meeting or workshop for good cause stated by the presiding officer and recorded in the minutes of the meeting.

(3) Agenda Format. The District may use the following format in preparing its agenda for its regular meeting:

- 1. Roll Call
- 2. Review of Minutes
- 3. Special Advertised Public Hearings
- 4. Audience Questions and Comments
- 5. Specific Items of Old Business
- 6. Committee Reports
  - a. Finance Committee
  - b. Construction Committee
  - c. Other Committees



7. Attorney's Report
8. Manager's Report
9. Supervisor's Requests and Comments
10. Review of Invoices and Funding Requests
11. Specific Items of New Business
12. Adjournment

(4) Minutes. The secretary shall be responsible for keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting.

(5) Receipt of Notice. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or secretary at the Board's office. Such persons shall furnish a mailing address in writing and may be required to pay the cost of the copying and mailing.

(6) Emergency Meeting. The chairperson or the vice-chairperson if the chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with Subsection (1), (2), (3), and (5), to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the chairperson shall make reasonable efforts to notify all Board members of an emergency meeting 24 hours in advance. Reasonable efforts may include telephone notification. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date, and place of the emergency meeting, the reasons why an emergency meeting was necessary, and a description of the action taken. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one major newspaper of general circulation in the District. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each regular meeting for public comment. Such time for audience comment shall be identified in the agenda. Persons wishing to address the Board are required to notify the secretary of the Board prior to the "audience comment" section on the agenda. In its discretion, the Board may limit the length of any one speaker in the interest of time or fairness to other speakers.

(8) Budget Hearing. Notice of hearing on the annual budget shall be in accordance with Section 190.008, Florida Statutes.

(9) Communications Media Technology. A meeting of the Board may be conducted by or in conjunction with Communications Media Technology (CMT), including teleconferences or video conferences. All evidence, testimony and argument presented shall be afforded equal consideration, regardless of the method of communication.

(10) Continuances. Any meeting of the Board or any item or matter included on the agenda for a meeting may be continued without re-notice or re-advertising provided that the continuance is to a specified date, time and location publicly announced at the Board meeting where the item or matter was included on the agenda.

(a) Definitions.

1. "Access point" means a designated place where a person interested in attending a CMT meeting may go for purposes of attending such meeting.

2. "Attend" means having access to the communications media technology network being used to conduct a meeting, or being used to take evidence, testimony or argument relevant in any issue being considered at a meeting.

3. "CMT meeting" means a meeting that is conducted by means of or in conjunction with communications media technology.

4. "Communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.

5. "In conjunction with communications media technology" means that CMT access is being provided to a meeting otherwise being held with the collective, physical presence of the members of the Board in one place.

6. "By means of communication media technology" means that a meeting is being conducted entirely by means of communications media technology and that the members of the Board conducting such meeting may not be collectively, physically together in one place.

(b) Nothing in this rule shall be construed to permit the District to conduct any meeting otherwise subject to the provisions of Section 286.011, Florida Statutes, by means of communications media technology without making provision for the attendance at that meeting or workshop of any member of the public who desires to attend.

(c) The District may not limit the points of access provided to the public to places not normally open to the public. The District shall provide at least one access point in a location which is ordinarily open to the public. Any official action taken at a CMT meeting to which at least one access point is not provided shall be void and of no effect as being violative of the public's right of access.

(d) No meeting shall be conducted entirely by means of communications media technology if the available technology is insufficient to permit all interested persons to attend. If, during the course of a CMT meeting, technical problems develop with the communications network that prevent interested persons from attending, the District shall terminate the meeting until such problems have been corrected.

(e) Notice of a CMT meeting shall be in the same manner as a meeting without CMT. The notice shall plainly state that such a meeting is to be conducted by means of or in conjunction with CMT and identify the type of CMT to be used. The notice shall also describe how interested persons may attend, and include the address or addresses of all access points.

Specific Authority: 190.011(5), 190.011(15), 120.53(1)(d)

Law Implemented: 190.007(1), 190.008, 120.53(1)(d), 286.0105, 120.54(1)

A-1.06 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to the applicable provisions of Chapter 120, Florida Statutes, and these rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District.

(2) Notice of Proceedings and Proposed Rules. Except in the case of emergency rules, notice of its intention to adopt, amend, or repeal a rule setting rates, fees, rentals, or other charges pursuant to Section 190.035, Florida Statutes, shall be given by the District by publication in a newspaper of general circulation in the District not less than 10 days prior to the intended action. Upon the publication of notice of its intention to adopt, amend, or repeal a rule, a draft of the proposed rules shall be made available to the public.

(3) Petitions to Initiate Rulemaking. All petitions for the initiation of rulemaking proceedings pursuant to Section 120.54(5), Florida Statutes, must contain the name and address of the Petitioner, specific reason for adoption, amendment, or repeal, specific action requested, the date submitted, and shall specify the text of the proposed rule. The Board shall then act on the petition in accordance with Section 120.54(5), Florida Statutes, and Sections 28-3.011 and 3.013, Florida Administrative Code, except that copies of the petition shall not be sent to the Administrative Procedures Committee.

(4) Rulemaking Materials. After the publication of the notice initiating rulemaking, the Board shall make available for public inspection and shall provide, upon request and payment of cost of copies, the following materials:

- (a) The text of the proposed rule, or any amendment or repeal of any existing rules;
- (b) A written statement justifying the proposed rule;
- (c) A copy of the economic impact statement required by Section 120.54; and
- (d) The published notice.

(5) Rulemaking Proceedings - No Hearing. When no hearing is requested and the Board chooses not to initiate a hearing on its own, or if the rule relates exclusively to organization, practice or procedure, the Board may direct the proposed rule be filed with the District Office no less than 28 days following notice. Such direction may be given by the Board either before initiating the rule-adoption process or after the expiration of the 21 days during which affected persons may request a hearing.

(6) Rulemaking Proceedings - Hearing. If the proposed rule does not relate exclusively to organization, practice or procedure, the District shall provide, upon request, a public hearing for the presentation of evidence, argument and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay or disruption of the proceedings. Any affected person may request a hearing within 21 days after the date of publication of the notice. The public hearings shall be conducted according to the procedure in Section 28-3.031, Florida Administrative Code. The Board, any member thereof, or any person designated by the Board, including but not limited to the District Manager or District Counsel, may preside at any hearing.

(7) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as practical in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest and otherwise complies with applicable statutory provisions.

Specific Authority: 190.011(5), 190.011(15), 120.53(1)

Law Implemented: 120.54

A-1.07 Declaratory Statements.

(1) Definition. A declaratory statement is a means of resolving a controversy or answering questions or doubts concerning the applicability of any statutory provision, rule, or order as it does or may apply to a petitioner in that person's particular circumstances only.

(2) Petitioner. Any substantially affected person may petition the Board for a declaratory statement as to the applicability to the petitioner of any District regulation, order, resolution or statutory provision. The potential impact upon petitioner's interests must be alleged in order for petitioner to show the existence of a controversy, question, or doubt. The petition shall conform to the requirements of Section 28-4.001(2), Florida Administrative Code.

(3) Notice. The District shall give notice of each petition, briefly stating the question presented, in the Florida Administrative Weekly. The notice may take the following form:

NOTICE IS HEREBY GIVEN that pursuant to (relevant statute and rule), the Bay Creek Community Development District has received a Petition for Declaratory Statement from (name of Petitioner). Petitioner seeks a Response from the District as to (description of petition). A copy of the Petition may be obtained by (method of contact).

The District shall similarly give notice of the disposition of each petition, briefly explaining the District's response.

(4) Disposition of Petition. The petition may be placed on the agenda of the next Board meeting for which the agenda has not been finalized. The Board, in its discretion, may consider any oral testimony presented at the Board meeting. The Board shall issue an order within 45 days following consideration of the petition. The order shall only be applicable to the petitioner.

Specific Authority: 190.011(5), 190.011(15)

Law Implemented: 120.565

A-1.08 Decisions Determining Substantial Interests.

(1) Conduct of Proceedings. A proceeding may be held by the District upon written request submitted by a substantially affected person within 14 days after written notice of District action or receipt of written notice of intent to render a decision. The notice shall state the time limit for requesting a hearing and shall reference the District's procedural rules. If a hearing is held, the chairperson shall designate him/herself, or any member of the Board, District Manager, District Counsel, or other person to conduct the hearing.

The person conducting the hearing may:

1. Administer oaths and affirmations;
2. Rule upon offers of proof and receive relevant evidence;
3. Regulate the course of the hearing, including any prehearing matters;
4. Enter orders;
5. Make or receive offers of settlement, stipulation, and adjustment.

(c) The person conducting the hearing shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and recommendation for final District action.

(d) The District shall issue a final order within 45 days:

1. After the hearing is concluded, if conducted by the Board;
2. After a recommended order is submitted to the Board and mailed to all parties, if the hearing is conducted by persons other than the Board; or
3. After the Board has received the written and oral material it has authorized to be submitted, if there has been no hearing.

(2) Eminent Domain. After determining the need to exercise the power of eminent domain pursuant to Subsection 190.11(11), Florida Statutes, the District shall follow those procedures prescribed in Chapters 73 and 74, Florida Statutes. Prior to exercising the power of eminent domain, the District shall:

- (a) Adopt a resolution identifying the property to be taken;

(b) If the property is beyond the boundaries of the District, obtain approval by resolution of the governing body of the county if taking will occur in an unincorporated area, or of the municipality if the taking will occur within the municipality.

Specific Authority: 190.011(5), 190.011(15)

Law Implemented: 190.011(11)



A-1.09 Procedure Under Consultants' Competitive Negotiations Act.

In order to comply with the requirements of Section 287.055, Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide professional services exceeding the thresholds herein described and in the negotiation of such contracts.

(1) Definitions. For this section:

(a) "Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture or registered land surveying, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect or registered land surveyor, in connection with the firm's or individual's professional employment or practice.

(b) "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for professional services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO.

(c) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this rule between the District and a firm or individual, whereby the firm or individual provides professional services to the District for work of a specified nature as outlined in the contract required by the District, with no time limitation, except that the contract shall provide a termination clause.

(d) "Emergency purchase" is a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents or any circumstances or cause beyond the control of the Board in the normal conduct of its business) where the Board finds that the delay incident to competitive bidding would be detrimental to the interests of the District.

(e) "District Representative" means the person or group designated by the chairperson to administer the bidding process. The District Representative may be the chairperson, the Board, any member or committee of the Board, District Counsel, District Manager, or any other person.

(2) Qualifying Procedures. In order to be eligible to submit a bid proposal, a firm or individual must, at the time of receipt of the bid:

(a) Hold the required applicable state professional license in good standing.

(b) Hold all required applicable federal licenses in good standing, if any.

(c) If the bidder is a corporation, hold a current and active Florida corporate charter or be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.

(d) Meet any prequalification requirements set forth in the project or bid specifications.

Evidence of compliance with this rule may be submitted with the bid, if requested by the District.

(3) Public Announcement. Prior to a public announcement that professional services are required for a project, the Board shall identify the project as meeting the threshold requirement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when professional services are required for a project by publishing a notice providing a general description of the project and the method for interested consultants to apply for consideration. The notice shall appear in at least one newspaper of general circulation in the District and in such other places as the District deems appropriate. The District may maintain lists of persons interested in receiving such notices. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all bids, and such reservation shall be included in the public announcement. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(4) Competitive Selection.

(a) The District Representative shall review and evaluate the data submitted in response to the notice described in A-1.09(3) with respect to qualifications and performance ability, as well as any statements of qualifications on file. The District Representative shall conduct discussions with, and may require public presentation by no less than three firms regarding their qualifications, approach to the project, and ability to furnish the required service.

(b) The District Representative shall, following the review and/or public presentation, select and list not less than three firms, in order of preference, deemed to be the most highly capable and qualified to perform the required professional services, after considering these and other appropriate criteria:

1. The ability and adequacy of the professional personnel.
2. Past performance for the District and in other professional employment settings.
3. Willingness to meet time and budget requirements.

4. Geographic location of the firm's headquarters or office in relation to the project.
5. Recent, current and projected workloads of the bidder.
6. Whether the firm is a certified minority business enterprise.
7. Volume of work previously awarded to the bidder.
8. Whether the cost components of the bid response are appropriately balanced.

Nothing in these rules shall prevent the District from evaluating and eventually selecting a consultant in the event that less than three responses, including responses indicating a desire not to submit a formal bid on a given project, are received.

(c) If the selection process is administered by any person other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(5) Competitive Negotiations.

(a) After the Board has authorized the beginning of competitive negotiations, the District Representative shall begin such negotiations with the firm listed as most qualified to perform the required professional services, in an attempt to arrive at an agreed upon compensation which is deemed to be fair, competitive and reasonable.

(b) In negotiating a lump-sum or cost-plus-fixed-fee professional contract for more than the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiating certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs." All such contract adjustments shall be made within one year following the end of the contract.

(c) Should the District Representative be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive and reasonable, within 21 days unless modified by the Board, negotiations with that firm shall be terminated and the District

representative shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached within 21 days unless modified by the Board, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District Representative be unable to negotiate a satisfactory agreement with any of the selected firms within 21 days unless modified by the Board, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(e) Once an agreement with a firm or individual is reached, notice of the award or intent to award, including the rejection of some or all bids, shall be provided in writing to all bidders by United States Mail or by hand delivery, and by posting same in the District office for 7 days.

(6) Continuing Contract. Nothing in this rule shall prohibit a continuing contract between a firm or an individual and the District.

(7) Emergency Purchase. The District may make an emergency purchase without complying with these rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: 190.011(5), 287.055(3)(d)

Law Implemented: 190.011(3), 287.055, 190.011(2), 190.033

A-1.10 Procedure for Purchasing Contractual Services

(1) Scope. All purchases for contractual services exceeding the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR shall be made by competitive invitation to bid to the maximum extent practicable. If state or federal law prescribes with whom the District must contract, or establishes the rate of payment, then these rules shall not apply. A contract involving both goods, supplies and materials and contractual services may, in the discretion of the Board, be treated as a contract for goods, supplies and materials.

(2) Definitions. For this section:

(a) "Contractual services" means the rendering by a consultant of planning and professional services performed by persons required by the state to hold a professional license. Contractual services do not include legal (including attorneys, paralegals, court reporters and expert witnesses including appraisers), artistic, auditing, health, or academic program services, or professional services defined in Section A-1.09(1)(a). Contractual services do not include the extension of an existing contract for services if such extension is provided for in the contract terms.

(b) "Invitation to Bid" is a solicitation for sealed bids with the title, date and hour of the public bid opening designated specifically. It includes a description of the services sought, applicable terms and conditions, evaluation criteria, including but not limited to price, and provides for a manual signature of an authorized representative.

(c) "Request for Proposal" is a solicitation for sealed proposals with the title, date and hour of the public opening designated and requiring the manual signature of an authorized representative. It provides a statement for services sought, applicable terms and conditions, and evaluation criteria, including but not limited to price.

(d) "Responsive bid/proposal" means a bid or proposal which conforms in all material respects to bid or request for proposal and these rules, and whose cost components are appropriately balanced. A bid/proposal is not responsive if the person or firm submitting the bid fails to meet any requirement relating to the qualifications, financial stability, or licensing of the bidder.

(e) "Lowest and best bid" means, in the sole discretion of the Board, the bid (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity

and reliability to assure good faith performance, (ii) is responsive to the invitation to bid as determined by the Board, and (iii) is the lowest cost to the District. Minor variations in the bid may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids may not be modified after opening.

(f) "Proposal most advantageous to the District" means, in the sole discretion of the Board, the proposal (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity and reliability to assure good faith performance, (ii) that is the most responsive to the request for proposal as determined by the Board, and (iii) is for a cost to the District deemed reasonable by the Board. Minor variations in the proposal may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Proposals may not be modified after opening. To assure full understanding of the responsiveness to the solicitation requirements, discussions may be conducted with qualified offerers. The offerers shall be accorded fair and equal treatment prior to the submittal date with respect to any opportunity for discussion and revision of proposals.

(g) "Emergency purchase" means a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive bidding would be detrimental to the interests of the District.

(h) "A continuing contract" is a contract for contractual services entered into in accordance with all the procedures of this rule between the District and a firm or individual, whereby the firm or individual provides contractual services to the District for work of a specified nature as outlined in the contract required by the District, with no time limitation, except that the contract shall provide a termination clause.

(3) Procedure. When a purchase of contractual services is within the scope of this rule, the following procedure shall be followed:

(a) The Board shall cause to be prepared a notice of invitation to bid or request for proposal, as appropriate.

(b) Notice of invitation to bid or request for proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids or proposals unless the Board, for good cause, determines a shorter period of time is appropriate.

(c) The District may maintain a list of persons interested in receiving notices of invitations to bid or requests for proposals. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted on the invitation to bid and request for proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these rules.

(e) If only one response to an invitation to bid or request for proposal is received, the District may proceed with the procurement for contractual services. If no response to an invitation to bid or request for proposal is received, the District may take whatever steps are reasonably necessary in order to proceed with the procurement of contractual services.

(f) The Board has the right to reject any or all bids or proposals and such reservation shall be included in all solicitations and advertisements. In the event the bids exceed the amount of funds available to or allocated by the District for this purchase, the bids may be rejected. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(g) The lowest and best bid or the proposal most advantageous to the District, as appropriate, shall be accepted. The Board may require bidders to furnish performance and/or other bonds with a responsible surety to be approved by the Board.

(4) Notice. Notice of award or intent to award a contract, including the rejection of some or all bids, shall be provided in writing to all bidders by United States Mail or by hand delivery, and by posting same in the District office for 7 days.

(5) Contract Renewal. Renewal of a contract for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. The costs of any contemplated renewals shall be included in the invitation to bid or request for contracts shall not be renewed for more than two years unless competitively procured. Renewal shall be contingent upon satisfactory performance evaluations by the District.

(6) Contract Manager and Contract Administrator. The Board may designate a representative to function as contract manager, who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. The Board may also designate a representative to function as

contract administrator, who shall be responsible for maintaining all contract files and financial information. One person may serve as both contract manager and administrator.

(7) Emergency Purchase. The District may make an emergency purchase of contractual services without complying with these rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

(8) Continuing Contract. Nothing in this rule shall prohibit a continuing contract between a firm or an individual and the District.

Specific Authority: 190.011(5)

Law Implemented: 190.011(3), 190.033



A-1.11 Purchase of Goods, Supplies or Materials.

(1) Scope. All purchase of goods, supplies or materials exceeding \$10,000 shall be purchased under the terms of these rules. Contracts for purchases of goods, supplies, or materials shall not be divided solely in order to avoid the requirements of these rules.

(2) Definitions.

(a) "Invitation to Bid" is a solicitation for sealed bids with the title, date and hour of the public bid opening designated specifically and defining the commodity involved. It includes printed instructions prescribing conditions for bidding, evaluation criteria, and provides for a manual signature of an authorized representative.

(b) "Request for Proposal" is a solicitation for sealed proposals with the title, date and hour of the public opening designated and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, proposal instructions, work detail analysis and evaluation criteria as necessary.

(c) "Responsive bid/proposal" means a bid or proposal which conforms in all material respects to the specifications and conditions in the invitation to bid or request for proposal and these rules, and the cost components of which are appropriately balanced. A bid/proposal is not responsive if the person or firm submitting the bid fails to meet any requirement relating to the qualifications, financial stability, or licensing of the bidder.

(d) "Lowest responsible bid/proposal" means, in the sole discretion of the Board, the bid or proposal (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity and reliability to assure good faith performance, (ii) is responsive to the invitation to bid or request for proposal as determined by the Board, and (iii) is the lowest cost to the District. Minor variations in the bid may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids may not be modified after opening.

(e) "Goods, supplies and materials" do not include printing, insurance, advertising or legal notices.

(f) "Purchase" means acquisition by sale, rent, lease, lease/purchase or installment sale. It does not include transfer, sale or exchange of goods, supplies or materials between the District and any federal, state regional or local governmental entity or political subdivision of the state.

(g) "Emergency purchase" means a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the informal conduct of its business), where the Board finds that the delay incident to competitive bidding would be detrimental to the interests of the District.

(3) Procedure. When a purchase of goods, supplies or materials is within the scope of this rule, the following is appropriate:

(a) The Board shall cause to be prepared a notice of invitation to bid or request for proposal, as appropriate.

(b) Notice of invitation to bid or request for proposal shall be advertised at least once in a newspaper of general circulation in the County and in the District. The notice shall allow at least seven days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(c) The District may maintain lists of persons interested in receiving notices of invitations to bid or requests for proposals. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail.

(d) Bids or proposals shall be opened at the time and place noted on the invitation to bid or request for proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these rules.

(e) The lowest responsive and responsible bid or proposal shall be accepted; however, the Board shall have the right to reject all bids, either because they are too high or because the Board determines it is in the best interests of the District. In the event the bids exceed the amount of funds available to or allocated by the District for this purchase, the bids may be rejected. The Board may require bidders to furnish performance and/or other bonds with a responsible surety to be approved by the Board. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(f) Notice of award or intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail or by hand delivery, and by posting same in the District office for 7 days.

(g) If only one response to an invitation to bid or request for proposal is received, the District may proceed with the procurement for goods, supplies or materials. If no response to an invitation to bid or request for proposal is received, the District may take whatever steps are reasonably necessary in order to proceed with the procurement of goods, supplies or materials.

(h) The District may make an emergency purchase without complying with these rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

(4) Nothing in this section shall preclude the purchase of goods, supplies or materials pursuant to state contract.

Specific Authority: 190.011(5)

Law Implemented: 190.033

A-1.12 Contracts for Construction of Authorized Project

(1) Scope. All contracts for the construction of any project authorized by Chapter 190, Florida Statutes, the cost of which is estimated by the District to be in excess of \$10,000 shall be let under the terms of these rules. The construction of these projects may involve the purchase of contractual services and/or goods, supplies or materials as defined in Sections A-1.10 and A-1.11. Where a contract for construction of such a project includes goods, supplies or materials and/or contractual services, the District may, in its sole discretion, award the contract according to the rules in this subsection in lieu of separately bidding for construction, goods, supplies or materials, and contractual services. However, a project shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Definitions.

(a) "Invitation to Bid" is a solicitation for sealed bids with the title, date and hour of the public bid opening designated specifically and defining the work involved. It includes printed instructions prescribing all conditions for bidding, evaluation criteria, and provides for a manual signature of an authorized representative.

(b) "Request for Proposal" is a solicitation for sealed proposals with the title, date and hour of the public opening designated and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, proposal instructions, work detail analysis and evaluation criteria, as necessary.

(c) "Responsive bid/proposal" means a bid or proposal which conforms in all material respects to the specifications and conditions in the invitation to bid or request for proposal and these rules, and the cost components of which are appropriately balanced. A bid/proposal is not responsive if the person or firm submitting the bid fails to meet any requirements relating to the qualifications, financial stability, or licensing of the bidder.

(d) "Lowest responsible bid/proposal" means, in the sole discretion of the Board, the bid (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity and reliability to assure good faith performance, (ii) is responsive to the invitation to bid or request for proposal as determined by the Board, and (iii) is the lowest cost to the District. Minor variations in the bid may

be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids may not be modified after opening.

(e) "Emergency purchase" means a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive bidding would be detrimental to the interests of the District.

(f) "District Representative" means the person or group designated by the chairperson to administer the bidding process. The District Representative may be the chairperson, the Board, any member or committee of the Board, District Counsel, District Manager, or any other person.

(3) Procedure.

(a) Notice of invitation to bid or request for proposal shall be advertised at least once in a newspaper of general circulation in the County and in the District. The notice shall allow at least seven days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(b) The District may maintain lists of persons interested in receiving notices of invitations to bid or requests for proposals. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of receipt of the bids or proposals:

- (1) Hold the required applicable state professional license in good standing.
- (2) Hold all required applicable federal licenses in good standing, if any.
- (3) Hold a current and active Florida corporate charter or be authorized to do

business in Florida in accordance with Chapter 607, Florida Statutes, if the bidder is a corporation.

(4) Meet any special prequalification requirements set forth in the bid proposal specifications.

Evidence of compliance with this rule may be submitted with the bid, if required by the District.

(d) Bids or proposals shall be opened at the time, date and place noted on the invitation to bid or request for proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these rules. The District Representative shall evaluate the bids.

(e) To assist in the determination of the lowest responsive and responsible bidder, the District Representative may invite public presentation by firms regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(f) In determining the lowest responsive and responsible bidder, the District Representative may consider, in addition to factors described in the invitation to bid or request for proposal, the following:

1. The ability and adequacy of the professional personnel.
2. Past performance for the District and in other professional employment settings.
3. Willingness to meet time and budget requirements.
4. Geographic location of the firm headquarters or office in relation to the project.
5. Recent, current and projected workloads of the bidder.
6. Whether the firm is a certified minority business enterprise.
7. Volume of work previously awarded to the bidder.
8. Whether the cost components of the bid response are appropriately balanced.

(g) The lowest responsive and responsible bid/proposal shall be accepted; however, the Board shall have the right to reject all bids, either because they are too high or because the Board determines it is in the best interests of the District. The Board may require bidders to furnish performance and/or other bonds with a responsible surety to be approved by the Board. If the Board receives fewer than three responses to an invitation to bid or request for proposal, the Board, may, in its discretion, readvertise for additional bids without rejecting any submitted bid. In the event the bids exceed the amount of funds available to or allocated by the District for this purchase, the bids may be rejected. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(h) Notice of the award or intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail or by hand delivery, and by posting the same in the District office for 7 days.

Specific Authority: 190.011(5)

Law Implemented: 190.033

#### A-1.13 Contracts for Maintenance Services

(1) Scope. All contracts for maintenance of any District facility or project shall be let under the terms of these rules if the cost exceeds the amount provided in Sections 287.017(1) and (2), Florida Statutes, for CATEGORY TWO. The maintenance of these facilities or projects may involve the purchase of contractual services and/or goods, supplies or materials as defined in Sections A-1.10 and A-1.11. Where a contract for maintenance of such a facility or project includes goods, supplies or materials and/or contractual services, the District may, in its sole discretion, award the contract according to the rules in this subsection in lieu of separately bidding for maintenance, goods, supplies or materials, and contractual services. However, a project shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Definitions.

(a) "Invitation to Bid" is a solicitation for sealed bids with the title, date and hour of the public bid opening designated specifically and defining the work involved. It includes printed instructions prescribing conditions for bidding, evaluation criteria, and provides for a manual signature of an authorized representative.

(b) "Request for Proposal" is a solicitation for sealed proposals with the title, date and hour of the public opening designated and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, proposal instructions, work detail analysis and evaluation criteria, as necessary.

(c) "Responsive bid/proposal" means a bid or proposal which conforms in all material respects to the specifications and conditions in the invitation to bid or request for proposal and these rules, and the cost components of which are appropriately balanced. A bid/proposal is not responsive if the person or firm submitting the bid fails to meet any requirements relating to the qualifications, financial stability, or licensing of the bidder.

(d) "Lowest responsible bid/proposal" means, in the sole discretion of the Board, the bid or proposal (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements and with the integrity and reliability to assure good faith performance, (ii) is responsive to the invitation to bid or request for proposal as determined by the Board, and (iii) is the lowest cost to the District. Minor



variations in the bid or proposal may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified after opening.

(e) "Emergency purchase" means a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive bidding would be detrimental to the interests of the District.

(f) "District Representative" means the person or group designated by the chairperson to administer the bidding process. The District Representative may be the chairperson, the Board, any member or committee of the Board, District Counsel, District Manager, or any other person.

(3) Procedure.

(a) Notice of invitation to bid or request for proposal shall be advertised at least once in a newspaper of general circulation in the County and in the District. The notice shall allow at least seven days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(b) The District may maintain lists of persons interested in receiving notices of invitations to bid or requests for proposals. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of receipt of the bids or proposals:

(1) Hold the required applicable state professional license in good standing.

(2) Hold all required applicable federal licenses in good standing, if any.

(3) Hold a current and active Florida corporate charter or be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes if the bidder is a corporation.

(4) Meet any special prequalification requirements set forth in the bid proposal specifications.

Evidence of compliance with this rule may be submitted with the bid, if required by the District.

(d) Bids or proposals shall be opened at the time, date and place noted on the invitation to bid or request for proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these rules. The District Representative shall evaluate the bids.

(e) To assist in the determination of the lowest responsive and responsible bidder, the District Representative may invite public presentation by firms regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(f) In determining the lowest responsive and responsible bidder, the District Representative may consider, in addition to factors described in the invitation to bid or request for proposal, the following:

1. The ability and adequacy of the professional personnel.
2. Past performance for the District and in other professional employment settings.
3. Willingness to meet time and budget requirements.
4. Geographic location of the firm headquarters or office in relation to the project.
5. Recent, current and projected workloads of the bidder.
6. Whether the firm is a certified minority business enterprise.
7. Volume of work previously awarded to the bidder.
8. Whether the cost components of the bid response are appropriately balanced.

(g) The lowest responsive and responsible bid/proposal shall be accepted; however, the Board shall have the right to reject all bids, either because they are too high or because the Board determines it is in the best interests of the District. The Board may require bidders to furnish performance and/or other bonds with a responsible surety to be approved by the Board. If the Board receives fewer than three responses to an invitation to bid or request for proposal, the Board may, in its discretion, readvertise for additional bids without rejecting any submitted bid. In the event the bids exceed the amount of funds available to or allocated by the District for this purchase, the bids may be rejected. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(h) Notice of the award or intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail or by hand delivery, and by posting the same in the District office for 7 days.

Specific Authority: 190.011(5)

Law Implemented: 190.033

A-1.14 Purchase of Insurance

(1) Scope. The purchase of life, health, accident, hospitalization, legal expense or annuity insurance, or all or any kind of such insurance for the officers and employees of the District, and for health, accident, hospitalization and legal expense insurance for the dependents of such officers and employees upon a group insurance plan by the District, shall be governed by these rules. Nothing in this rule shall require the District to purchase insurance.

(2) Definitions.

(a) "Invitation to Bid" is a solicitation for sealed bids with the title, date and hour of the public bid opening designated specifically and defining the type of insurance requested. It includes printed instructions prescribing conditions for bidding, evaluation criteria, and provides for a manual signature of an authorized representative. An invitation to bid may contain ranges of coverage desired and deductible amounts.

(3) Procedure. For a purchase of insurance within the scope of this rule, the following procedure shall be followed:

(a) The Board shall cause to be prepared a notice of invitation to bid.

(b) Notice of invitation to bid shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate.

(c) The District may maintain a list of persons interested in receiving notices of invitations to bid. Persons who provide their name and address to the District office for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted on the invitation to bid.

(e) If only one response to an invitation to bid is received, the District may proceed with the purchase. If no response to an invitation to bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of submitted bids, the District may undertake negotiations with those companies which have submitted reasonable and timely bids and, in the opinion of the Board, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the invitation to bid; in addition, the total cost to the District, the cost, if any, to District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, past performance for the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the invitation to bid best meets the overall need of the District, its officers, employees and/or dependents.

(h) Notice of the award or intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail or by hand delivery, and by posting the same in the District office for 7 days.

Specific Authority: 190.011(5)

Law Implemented: 112.08

#### A-1.15 Bid Protests Under Consultants' Competitive Negotiations Act

Notwithstanding any other provision in these rules, the resolution of any protests regarding the decision to solicit or award a contract for a bid or proposal under Section A-1.09 shall be in accordance with this section.

(1) Notice. The District shall give all bidders written notice of its decision to award or intent to award a contract --including rejection of some or all bids-- by United States Mail or by hand delivery, and by posting same in the District office for 7 days. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Section 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

(2) Filing. Any person who is affected adversely by the District's decision or intended decision shall file with the District a notice of protest in writing within 72 hours after the posting of the final bid tabulation or after receipt of the notice of the District decision or intended decision, and shall file a formal written protest within 10 days after the date of filing of the notice of protest. With respect to a protest of the specifications contained in an invitation to bid or in a request for proposals, the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid or request for proposals, and the formal written protest shall be filed within 10 days after the date the of notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of all further proceedings. The formal written protest shall state with particularity the facts and law upon which the protest is based and shall conform with the requirements of Section 28-5.201 of the Florida Administrative Code.

(3) Award Process. Upon receipt of a notice of protest which has been timely filed, the District shall stop the bid solicitation process or the contract and award process until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances which require the continuance of the process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare, the award process may continue.

(4) Mutual Agreement. The District, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the parties within (7) days --excluding Saturdays, Sundays and legal holidays-- of receipt of a formal written request.

(5) Informal Proceeding. If the subject of a protest is not resolved by mutual agreement, and if there is no disputed issue of material fact, an informal proceeding shall be conducted in accordance with the procedural guidelines set forth in Section A-1.08.

(6) Formal Proceeding. If the protest is not resolved by mutual agreement, and if there is a disputed issue of material fact, then the District shall refer the protest to the Division of Administrative Hearings (DOAH) for proceedings under Section 120.57(1), Florida Statutes.

Specific Authority: 120.53(5), 190.011(5)

Law Implemented: 120.53(5), 190.033

#### A-1.16 Bid Protests Relating To Any Other Award

Notwithstanding any other provision in these rules, the resolution of any protests regarding the decision to solicit or award a contract for a bid or proposal under Sections A-1.10, A-1.11, A-1.12, A-1.13 or A-1.14 shall be in accordance with this section.

(1) Notice. The District shall give all bidders written notice of its decision to award or intent to award a contract --including rejection of some or all bids-- by United States Mail or by hand delivery, and by posting same in the District office for seven (7) days.

(2) Filing. Any person who is affected adversely by the District's decision or intended decision shall file with the District a notice of protest in writing within 72 hours after the posting of the final bid tabulation or after receipt of the notice of the District decision or intended decision, and shall file a formal written protest within seven (7) days after the date of filing of the notice of protest. The formal written protest shall state with particularity facts and law upon which the protest is based. Failure to timely file a notice of protest or failure to timely file a formal written protest shall constitute a waiver of all further proceedings.

(3) Award Process. Upon receipt of a notice of protest which has been timely filed, the District shall stop the bid solicitation process or the contract and award process until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances which require the continuance of the process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare, the award process may continue.

(4) Mutual Agreement. The District, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the parties within five (5) days --excluding Saturdays, Sundays and legal holidays-- of receipt of a formal written protest.

(5) Hearing. If the subject of a protest is not resolved by mutual agreement, the District shall hold a proceeding in accordance with the procedural guidelines set forth in Section A-1.08.

Specific Authority: 190.011(5)

Law Implemented: 190.033





A-1.17 Effective Date

These rules shall be effective \_\_\_\_\_, 1993 except that no election of officers required by these rules shall be required until after the next regular election for the Board of Supervisors.

ProcRules in JCG