

FALLON CROSSING GHAD RESOLUTION NO. 2 – 15

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FALLON CROSSING GEOLOGICAL HAZARD ABATEMENT DISTRICT

APPROVING A POLICY GOVERNING CONTRACTING AND PURCHASING AUTHORITY AND PROCEDURES FOR THE DISTRICT

WHEREAS, the Fallon Crossing Geological Hazard Abatement District (“Fallon Crossing GHAD”) was formed pursuant to California Public Resources Code section 26500 et seq. for the purpose of preventing, mitigating, abating and controlling geologic hazards; and

WHEREAS, pursuant to California Public Resources Code sections 26574 through 26581, the Fallon Crossing GHAD has the authority to adopt a policy regarding contracts and purchasing authority and procedures; and

WHEREAS, pursuant to California Public Resources Code sections 26574(d) and 26586, the Fallon Crossing GHAD has the authority to delegate contracting and and purchasing authority to officers of the District; and

WHEREAS, pursuant to California Public Resources Code sections 26600 and 26574(d), the Board of Directors of the Fallon Crossing GHAD has the authority to establish competitive bidding procedures; and

WHEREAS, the Board of Directors desires to adopt a policy governing contracting and purchasing authority and procedures for the Fallon Crossing GHAD to carry out its purpose; and

WHEREAS, the Board of Directors desires to adopt a nearly identical policy to that which is found in Dublin Municipal Code Chapter 2.36, with necessary amendments thereto.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Fallon Crossing GHAD adopts this Policy on Contracts and Purchasing Procedures, attached hereto as **Exhibit A**.

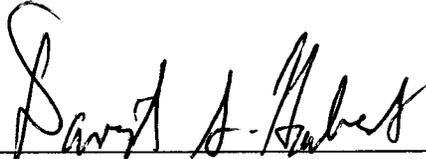
PASSED, APPROVED AND ADOPTED this 2nd day of June, 2015, by the following vote:

AYES: Boardmember Biddle, Gupta, Wehrenberg, and President Haubert

NOES: None

ABSENT: Boardmember Hart

ABSTAIN: None



Board President

ATTEST:



District Clerk

GHAD Policy on Contracts and Purchasing Procedures

Applicable to all GHADs established in and managed by the City of Dublin

Sections:

- 1.010 Adoption of a purchasing system.**
- 1.020 Definitions.**
- 1.030 GHAD Board approval of contracts and purchases.**
- 1.040 Purchasing Agent designated.**
- 1.050 Purchasing Agent authority for contracts and purchases—Less than forty-five thousand dollars (\$45,000).**
- 1.060 Purchasing award—Factors to be considered for responsiveness and responsibility.**
- 1.070 Contracts and purchases of general services, supplies and equipment—Less than five thousand dollars (\$5,000).**
- 1.080 Contracts and purchases of general services, supplies, and equipment—Greater than or equal to five thousand dollars (\$5,000) and less than forty-five thousand dollars (\$45,000).**
- 1.090 GHAD Board authority for contracts and purchases—Greater than or equal to forty-five thousand dollars (\$45,000)—Competitive bidding.**
- 1.100 Exceptions to competitive bidding.**
- 1.110 Splitting orders prohibited.**
- 1.120 Purchase orders.**
- 1.130 Availability of sufficient funds.**
- 1.140 Inspection and review.**
- 1.150 Surplus supplies and equipment.**
- 1.160 Public projects.**

1.010 Adoption of a purchasing system.

A purchasing system is hereby adopted in order to establish efficient procedures for the procurement of services, supplies and equipment at the lowest possible cost commensurate with the level of quality required, to exercise financial control over purchases, and to clearly define authority for the purchasing function.

1.020 Definitions.

For the purposes of this Policy, the words set out in this section shall have the following meanings:

A. "GHAD" means the Fallon Village, Schaefer Ranch and Fallon Crossing Geological Hazard Abatement District.

B. "Board" means the GHAD Board of Directors.

C. "Consultant or professional services" means the services rendered by architects, attorneys, engineers, doctors, financial consultants, planning or environmental consultants, investment advisors, bank or trustee officers, and other professional or specialized consultants.

D. "Contract" means any agreement to do or not do a certain thing. For the purposes of this Policy, "contract" and "agreement" are synonymous. The term "contract" includes, but is not limited to, a purchase order; a contract for services; an addendum or change order, which means a change or addendum to an executed contract; a letter of agreement; and a memorandum of understanding.

E. "Force account" is a term used by the Uniform Construction Cost Accounting Procedures meaning an account which is used to account for work performed on public projects using internal resources, including but not limited to labor, equipment, materials, supplies, and subcontracts of the public agency.

F. "Emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements and hazards, as well as such occurrences as riot, accident, or sabotage.

G. "General services" means and includes any work performed or services rendered by an independent contractor, with or without the furnishing of materials, including, but not limited to, the following:

1. Maintenance or nonstructural repair of GHAD buildings, structures or improvements which does not require engineering plans, specifications or design, including, but not limited to, unscheduled replacement of broken window panes, fire extinguisher maintenance, minor roof repairs, plumbing, elevator maintenance, custodial services and pest control, etc.;

2. Repair, modification and maintenance of GHAD equipment and software;

3. Cleaning, analysis, testing, moving, removal or disposal (other than by sale) of GHAD supplies and equipment;

4. Replanting, care or maintenance of public grounds, including, but not limited to, maintenance of trees, shrubbery, flowers, and lawns;
5. Providing temporary personnel services;
6. Providing other miscellaneous services to facilitate GHAD operations;
7. Licensing software services;
8. Leasing or rental of equipment (personal property) for use by the GHAD;
9. Maintenance of equipment owned or leased by the GHAD.

“General services” does not include consultant or professional services, or work associated with a public project.

H. “Goods of a technical nature” means hardware, software, or communications equipment, or any item that is substantially similar to the foregoing as determined by the Purchasing Agent.

I. “Public project” shall have the meaning given that term by California Public Contract Code Section 20161 and the Uniform Construction Cost Accounting Procedures (“UCCAP”) set forth in the Uniform Public Construction Cost Account Act (“The Act”) and referenced in Section 1.160 of this Policy.

J. “Supplies and equipment” means and includes tangible goods, supplies, equipment, vehicles, printing, materials, and furniture and furnishings purchased on behalf of the GHAD.

1.030 GHAD Board approval of contracts and purchases.

GHAD Board approval is required for all contracts and purchases unless otherwise specified by this Policy or by another provision of federal or state law.

1.040 Purchasing Agent designated.

The GHAD Manager is designated as Purchasing Agent. The Purchasing Agent may delegate all or a portion of the contracting or purchasing duties to any GHAD staff member. The Purchasing Agent shall have the authority to:

A. Contract for or procure consultant or professional services, general services, supplies and equipment required by the GHAD, in accordance with purchasing procedures outlined in this Policy;

B. Negotiate and recommend execution of contracts for the purchase of consultant or professional services, general services, supplies and equipment;

C. Act to procure for the GHAD the necessary quality in consultant or professional services, general services, supplies and equipment at the lowest cost to the GHAD;

D. Prepare and recommend to the GHAD Board revisions and amendments to the purchasing rules;

E. Establish and maintain such forms as are reasonably necessary to the operation of this Policy;

F. Supervise the inspection of all consultant or professional services, general services, supplies and equipment purchased to ensure conformance with specifications;

G. Pursuant to Section 1.150 of this Policy, arrange the sale or disposal of all supplies and equipment which cannot be used by the GHAD, or which have become unsuitable for GHAD use;

H. Maintain a bidder's list and other records necessary for the efficient acquisition of consultant or professional services, general services, and supplies and equipment;

I. Join with other governmental agencies in joint purchasing endeavors where the purchasing procedures conform to the provisions of this Policy and state law.

1.050 Purchasing Agent authority for contracts and purchases—Less than forty-five thousand dollars (\$45,000).

A. With the exception of public projects as defined in Section 1.020 of this Policy, the Purchasing Agent is authorized to enter into a contract on behalf of the GHAD and approve a purchase by the GHAD without the prior approval of the GHAD Board, so long as the contract or purchase satisfies the following conditions:

1. The total cost is less than forty-five thousand dollars (\$45,000);
2. The monies have been appropriated; and
3. The contract or purchase is for consultant or professional services, general services, or supplies and equipment.

B. In an emergency the Purchasing Agent may authorize the expenditure of any unencumbered monies in the emergency reserve fund, notwithstanding the fact that such monies may not have been appropriated for such purpose, to the extent that said emergency funds have not been appropriated or are otherwise unavailable therefor.

1.060 Purchasing award—Factors to be considered for responsiveness and responsibility.

The following factors shall be considered in determining the responsiveness of potential contracts and purchases and the responsibility of vendors and bidders in accordance with applicable law:

- A. The amount of the contract or the purchase price;
- B. The ability, capacity and skill of the bidder or vendor to perform the contract or provide the service required;
- C. The ability of the bidder or vendor to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- D. The reputation and experience of the bidder or vendor;
- E. The previous experience of the GHAD with the bidder or vendor;
- F. The previous and existing compliance by the bidder or vendor with the laws and ordinances;
- G. The sufficiency of the bidder's or vendor's financial resources and ability to perform the contract or provide the service;
- H. The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
- I. The ability of the bidder or vendor to provide future maintenance and service for the subject of the contract or purchase;
- J. The purchase of supplies, whenever feasible, containing the highest amount of postconsumer and recovered materials practicable. In all cases, these products must meet reasonable performance standards, and be readily available at a competitive price. In addition, all equipment bought, leased or rented shall, wherever feasible, be compatible with the use of other recycled products purchased by the GHAD;

K. Compliance with any administrative policies referencing "green fleet" purchasing procedures;

L. In the event that two (2) or more potential contracts or bids are received from responsible bidders or vendors for the same total amount or unit price, quality and service being equal, preference shall be given to the local vendor, or the GHAD Board may accept the lowest bid made by negotiation with the tie bidders and the Purchasing Agent.

1.070 Contracts and purchases of general services, supplies and equipment—Less than five thousand dollars (\$5,000).

For purchases of general services or supplies and equipment of less than five thousand dollars (\$5,000), informal quotations should be obtained, but are not required. Comparative pricing is expected to secure the lowest price. Negotiated pricing is allowed and GHAD staff are strongly encouraged to solicit quotations from Dublin-based businesses.

1.080 Contracts and purchases of general services, supplies, and equipment—Greater than or equal to five thousand dollars (\$5,000) and less than forty-five thousand dollars (\$45,000).

A. Purchases of general services, supplies and equipment greater than or equal to five thousand dollars (\$5,000) and less than forty-five thousand dollars (\$45,000) shall, whenever possible, be based on at least three (3) quotations. For purchases greater than or equal to five thousand dollars (\$5,000) and less than ten thousand dollars (\$10,000), the quotations may be verbal or written. For purchases greater than or equal to ten thousand dollars (\$10,000) and less than forty-five thousand dollars (\$45,000), the quotations shall be in writing, which writings may include facsimile and electronic mail transmissions. Quotations with the required documentation shall be submitted to the GHAD Treasurer for approval by the Purchasing Agent. Negotiated pricing is allowed and departments are strongly encouraged to solicit quotations from city of Dublin-based businesses. The purchase of any general services, supplies and equipment greater than or equal to five thousand dollars (\$5,000) and less than forty-five thousand dollars (\$45,000) shall be consistent with the factors stated in Section 1.060 of this Policy and shall be made from the vendor that submits the lowest total cost.

B. At the discretion of the Purchasing Agent, the competitive bidding procedure set forth in Section 1.090 of this Policy may be used for any acquisition of general services, supplies and equipment, regardless of the value.

1.090 GHAD Board authority for contracts and purchases greater than or equal to forty-five thousand dollars (\$45,000) competitive bidding.

GHAD Board approval shall be required to authorize the contract for or purchase of any consultant or professional services, general services or supplies and equipment with a cost greater than or equal to forty-five thousand dollars (\$45,000).

GHAD Board authorization for purchases of general services and supplies and equipment with a cost greater than or equal to forty-five thousand dollars (\$45,000) shall comply with the competitive bidding procedure set forth in this section, except as provided in Section 1.100 of this Policy. Bids should be obtained from one (1) or more vendors located within Dublin whenever possible.

A. Notices inviting bids shall include a general description of the services and/or articles to be purchased or sold, where bid blanks and specifications may be obtained, the time and place for bid openings, and whether a bid deposit or bond and a faithful performance bond will be required.

B. Notices inviting bids shall be posted in at least three (3) public places in the GHAD that have been designated by ordinance as the place for posting public notices, at least fourteen (14) calendar days before the date of opening the bids.

C. The Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidder's list and may advertise the notice inviting bids in applicable publications and websites readily accessible to the public.

D. When deemed necessary by the Purchasing Agent or GHAD Board, any bidder may be required to submit a bid deposit or bond in an amount determined by the Purchasing Agent or GHAD Board. A successful bidder (and his surety, if a bond is furnished) shall be liable for any damages upon the bidder's failure to enter into a contract with the GHAD or upon the bidder's failure to perform in accordance with the tenor of his or her bid.

E. When deemed necessary by the Purchasing Agent or GHAD Board, any person or entity entering into a contract with the GHAD may be required to furnish a faithful performance deposit or bond in an amount determined by the Purchasing Agent or GHAD Board.

F. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

G. At its discretion, the GHAD Board may reject all bids presented and re-advertise for bids.

H. Contracts shall be awarded by the GHAD Board to the lowest responsive, responsible bidder, except as otherwise provided herein.

I. If two (2) or more bids received from responsible bidders are for the same total amount or unit price, quality and service being equal, preference shall be given to the local vendor, or the GHAD Board may accept the lowest bid made by negotiation with the tie bidders and the Purchasing Agent at the time of the bid opening.

1.100 Exceptions to competitive bidding.

A. Contracts or purchases involving the acquisition of consultant or professional services are exempt from competitive bidding; however, the procurement of such services shall be subject to the following:

1. Contracts or purchases involving the acquisition of consultant or professional services greater than or equal to forty-five thousand dollars (\$45,000) will require GHAD Board approval.

2. With respect to contracts for or procurement of professional services from private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms, the Purchasing Agent shall establish administrative procedures to assure that such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices in compliance with Government Code Section 4526 or its successor.

3. The Purchasing Agent may utilize a request for quotation or request for proposal, to ensure the services are matched with the needs of the GHAD.

B. Any request for an exception under this subsection shall identify the nature of the contract or purchase, amount of the contract or purchase, and the reasons why competitive bidding is not feasible and shall be subject to GHAD Board approval. The provisions of Section 2.36.090 of this Policy subject to GHAD Board approval shall not apply to the following:

1. Where the GHAD's requirements can be met solely by a single patented article or process;

2. Situations where no bids have been received following bid announcements conducted pursuant to the provisions of this Policy;

3. When an emergency requires that an order be placed with the nearest source of supply;

4. When a contract or purchase involves goods of a technical nature, where it would be difficult for a vendor to bid on a standard set of specifications, and the Purchasing Agent undertakes a thorough review of known products and a comparison of features which would most closely meet the GHAD's needs at the lowest cost;

5. Public projects, pursuant to Section 1.160;

1.110 Splitting orders prohibited.

The purchasing dollar limits set forth in this Policy are determined on a per order basis. It is unlawful to split or separate into smaller orders the contract or purchase of general services, supplies and equipment for the purpose of evading the competitive bidding provisions of this Policy.

1.120 Purchase orders.

Purchases greater than or equal to five thousand dollars (\$5,000) shall be documented by purchase orders prepared by the Purchasing Agent in accordance with adopted administrative policies.

1.130 Availability of sufficient funds.

No purchase shall be transacted until it has been ascertained that the GHAD has a sufficient appropriated balance in excess of all unpaid obligations to defray the amount of such purchase.

1.140 Inspection and review.

The Purchasing Agent shall require the inspection of supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications and requirements set forth in the purchase order or contract.

1.150 Surplus supplies and equipment.

The Purchasing Agent shall establish administrative procedures for GHAD staff to report all supplies and equipment which are no longer used or which have become obsolete or worn out. The Purchasing Agent shall have the authority to sell, trade, exchange, dispose of, discard or destroy all said supplies and equipment. Such sales may be made by auction, negotiated sale, or otherwise, after receiving

bids or proposals that provide the maximum return to the GHAD, as determined by the Purchasing Agent.

The Purchasing Agent shall have the authority to recommend to the GHAD Board surplus supplies and equipment for donation, which donation shall be subject to GHAD Board approval upon making the appropriate findings, including the requisite public purpose for such donation.

At such times as determined by the Purchasing Agent, but at least annually, reports shall be prepared and submitted to the GHAD Manager showing the disposition of surplus supplies and equipment. The report shall contain itemized information on the disposition of any item that had a purchase cost in excess of the capitalization threshold established by the GHAD Manager or his or her designee for inclusion as an asset in the GHAD financial records.

1.160 Public projects.

Public projects as defined by the Uniform Public Construction Cost Accounting Act (Section 22000 et seq. of the California Public Contract Code) shall follow the purchasing procedures as set forth in Section 22032 et seq. of the Public Contract Code.

A. The purchase or contract for public projects less than forty-five thousand dollars (\$45,000) may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order (Public Contract Code Section 22032).

B. The purchase or contract for public projects less than one hundred thousand dollars (\$100,000) may be let to contract by informal procedures as set forth in Section 22032 et seq. of the Public Contract Code.

1. A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

2. Where a public project is to be performed, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with this section, and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified; provided, however:

a. If there is no list of qualified contractors maintained by the GHAD for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission.

b. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

3. All mailing of notices to contractors and construction journals pursuant to this section shall be completed not less than fourteen (14) calendar days before bids are due.

4. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and shall state the time and place for the submission of bids.

5. The Purchasing Agent is authorized to award informal contracts pursuant to this section.

C. The purchase or contract for public projects greater than or equal to one hundred thousand dollars (\$100,000) shall be authorized by GHAD Board and shall comply with the competitive bidding procedures set forth in Section 1.090 of this Policy.