

April 14, 2011

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APR 18 2011

Don Cody, Chairman  
Grand Jury Review Committee  
Ventura County Grand Jury  
800 S. Victoria Avenue  
Ventura, CA 93009

VENTURA COUNTY  
GRAND JURY

**Subject: Ventura Port District Contracting Procedures**

Dear Chairman Cody,

Prior to the Board's Regular meeting of January 26, 2011, I met independently with all but one Commissioner to report my findings of the major projects that began in 2007 and continued through 2009.

For these independent meetings, staff provided a spread sheet that identified these projects and provided some explanation of each project.

As you are aware, I then provided a verbal report as part of the General Manager's Report at the January 26<sup>th</sup> Regular Meeting. For the benefit of the Board and the public, a list of these projects was projected on a screen to identify those major projects reviewed.

I have included a copy of the spread sheet and the list of projects presented on January 26, 2011 for your information (Attachments #1 & #2). This information may provide some clarification on the overall review process.

The spread sheet specifies each project, the cost of the project, a formal bid process, contractors/vendors utilized and alternatively if informal quick quotes were obtained. Based on my review, only four of the major projects met the requirements of the PCC and the Board's Administrative Policies. These projects included:

- December 2008-Parking lot and Promenade lighting replacement
- January 2009-window/Door replacement at 1691 Spinnaker building



- May 2009 Margarita Villa patio and roof improvements
- June 2009 District headquarters expansion

One project identified was performed on an emergency basis and approved by the Board of Port Commissioners. This project was a dredging project in October 2008. At the January 26<sup>th</sup> Regular Meeting I reported that there were special circumstances associated with two major projects; the elevator rehabilitation at buildings 1567 in January 2008 and building 1591 in February 2008. In these situations there was not a formal bidding process, however, the Board was aware of this expenditure as part of the budget process. Additionally, they were aware of the service contract in place and the impacts of outside service companies implementing repairs and the consequence of losing the warranties if another company performed any work. This is why I discounted these two projects in the overall review process.

There were seven (7) projects that did not comply with the PCC, however, in my investigation of each of these major projects, staff did obtain informal quick quotes on labor and/or the material. Unfortunately, there was not much information in the project files to verify the use of informal quick quotes. Instead we relied on personal interviews with staff.

We have corrected a common misconception in the maintenance department; they had been operating on the premise that the threshold for each contractor/vendor was \$10,000 for new contraction/repairs and \$25,000 for the purchase of materials. On that basis, there were some projects that met that criteria.

We are clearly moving away from that way of doing business in the harbor.

We inadvertently left out of our review a project that occurred in 2007 with the replacement of an aluminum gangway on 'H' dock. This project fell within the parameters of the Board's Administrative policy.

We have not investigated the details of this project; however, we will provide you with information under separate cover. We also left out of our review process the refurbishment at 'C' dock because the refurbishment of docks C, G & H were part of the review conducted by the Grand Jury in June 2008. Additionally, our Board was previously advised that the dock project did not comply with the PCC and Board Policy. In any event, we are happy to provide this information if requested.

We believe the two missing projects in our review versus the ones reported to Henry Kelley in December 2009 were the painting of Village

buildings in May 2009 for \$218,600 and the aluminum gangway mentioned above (see Attachment #3 letter dated December 2, 2009). As it relates to the painting project, we excluded this because it was represented in the June 2008 report of the Grand Jury. I believe our Board is aware of that project and how it was consistent with the PCC and Board policy.

I hope this follow-up information answers most of your questions. I will provide the missing information to you and the Board of Port Commissioners.

Please feel free to contact me with any questions or comments.

Sincerely,



Oscar Peña  
General Manager

- Attachments: #1 - Review of Major Projects Completed as Recommended  
By Grand Jury  
#2 - Review of Major Projects  
#3 - Letter to Henry Kelley

## ATTACHMENT B

Major projects in the Ventura Harbor from calendar year 2007 through September 2009:

District headquarters:		
March 2008	Rehabilitate two Harbor Patrol docks (100 feet each)	\$ 65,400
June 2009	District headquarters office expansion	\$1,020,700

Ventura Harbor Village:		
March 2007	Roof repairs at Ventura Harbor Village	\$ 58,700
June 2007	Restroom rehabilitation at 1559 Spinnaker Drive	\$ 58,600
January 2008	Elevator Rehabilitation at 1567 Spinnaker Drive	\$ 39,700
February 2008	Elevator Rehabilitation at 1591 Spinnaker Drive	\$ 40,000
May 2008	Restroom rehabilitation at 1691 Spinnaker Drive-Isi Packers	\$ 82,400
October 2008	Restroom rehabilitation at 1691 Spinnaker-Boaters showers and restrooms	\$ 94,900
December 2008	Parking lot and Promenade lighting replacement	\$ 600,500
January 2009	Window replacements 1691 Spinnaker Drive building	\$ 80,400
* May 2009	Painting of Village buildings	\$ 271,100
May 2009	Margarita Villa building improvements	\$ 218,600

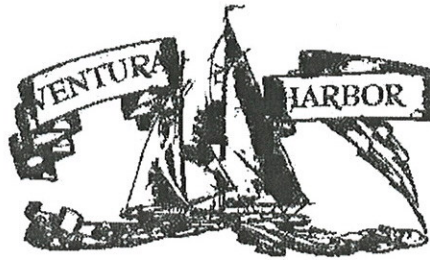
Ventura Harbor Village Marina:		
February 2007	Aluminum Gangway replacement 'H' dock	\$ 20,300
* June 2008	Refurbishment at 'C' docks and portion of 'G' & 'H' docks	\$ 115,600
October 2008	Dredging of Village Marina	\$ 490,600

The detail for the above projects is available for review at the Port District office.

Gloria Adkins  
Accounting Manager

# Review of Major Projects

<u>Date</u>	<u>Project</u>	<u>Total Cost</u>	<u>Consistent with PCC</u>
March 2007	Village roof repairs	\$58,700	No
June 2007	Restroom rehab 1559 Spinnaker	\$58,600	No
January 2008	Elevator repairs 1567 Spinnaker	\$39,700	n/a
February 2008	Elevator repairs 1591 Spinnaker	\$40,000	n/a
March 2008	Rehab two long Patrol docks	\$65,400	No
May 2008	TI - ADA compliant public restroom		
	1691 Spinnaker Island Packers Bldg	\$82,400	No
June 2008	Refurbish portions of docks G & H-Village	\$52,300	No
October 2008	Restroom/Boaters showers rehab 1691 Spinnaker	\$94,900	No
October 2008	Village Marina Dredging	\$490,600	n/a
December 2008	Parking lot & promenade lighting in Village	\$600,500	Yes
January 2009	Window/door replacement 1691 Spinnaker Bldg	\$80,400	Yes
May 2009	Margarita Villa patio and roof improvements	\$242,624	Yes
June 2009	District headquarters expansion & elevator install	\$1,020,700	Yes



December 3, 2009

Henry Kelley, Foreman  
Richard Hus, Chair: Cities and Joint Powers Committee  
County of Ventura Grand Jury  
800 South Victoria Ave.  
Ventura, CA 93009

Dear Misters Kelley and Hus,

Oscar Peña and I thoroughly enjoyed providing members of the Grand Jury with a briefing and tour of the Port District. We are very proud of our facilities and the services the District provides the residents, tenants and visitors in Ventura Harbor.

This letter is prepared to respond to your letter of October 23, 2009. We appreciate the short extension you provided us.

1. **A copy of the District's purchasing/contracting manual and/or procedures:**  
ATTACHMENT A is the current policy as adopted by the Board of Port Commissioners on November 16, 2005
2. **A copy of the applicable policies stating the necessary purchasing/contracting approval levels within the District:**  
Various levels as stated in ATTACHMENT A
3. **A list of the individuals, with dollar amounts, authorized to sign (award) purchases/contracts**  
Oscar Peña, General Manager as stated in ATTACHMENT A  
Department Heads: G. Scott Miller, Robin Baer, Gloria Adkins, Jennifer Talt, Pam Sanderson approximately \$1,000  
Maintenance Supervisor and Mechanic: Approximately \$500.00
4. **Copy of procedures for making contract changes**  
Included in ATTACHMENT A
5. **A list of the District facilities projects that are signed by the by the General Manager or District's Board of Directors for calendar years 2007 and 2009 through September.**  
ATTACHMENT B as compiled by Gloria Adkins, the District's Accounting Manager.

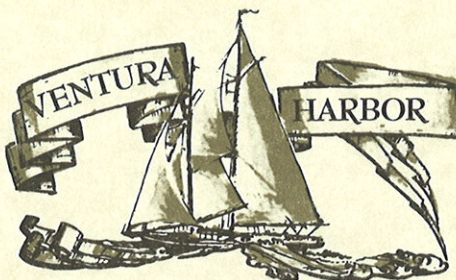
Please feel free to contact me if you have any questions on any of the submitted materials.

Sincerely,

G. Scott Miller  
Harbormaster

**Ventura Port District**  
1603 Anchors Way Drive, Ventura, CA 93001-4229  
805/642-8538 • FAX 805/658-2249  
[www.venturaharbor.com](http://www.venturaharbor.com)





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MAR 12 2011

VENTURA COUNTY  
GRAND JURY

March 9, 2011

Don Cody, Chairman  
Grand Jury Review Committee  
Ventura County Grand Jury  
800 S. Victoria Avenue  
Ventura, CA 93009

Subject: Update re Grand Jury Report *Ventura Port District Contracting Procedures*

Dear Chairman Cody:

Oscar Peña asked me to provide you with a copy of the Ventura Port District's revised contracting policy, which was approved and adopted by resolution of the Board of Port Commissioners at its regular meeting held February 23, 2011.

Please call should you have any questions. Thank you.

Yours truly,

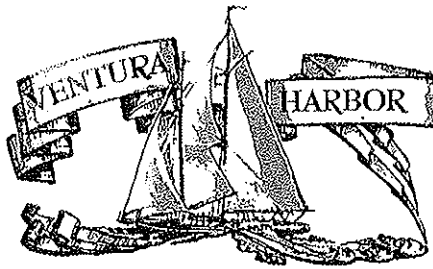
Pamela J. Casey  
Administrative Assistant/Clerk

:pjc

Enclosures: Procurement and Purchasing Policy Effective February 23, 2011  
Resolution No. 3164, adopted February 23, 2011

c: Chair & Members, Board of Port Commissioners  
Timothy J. Gosney, Esq.





**RESOLUTION NO. 3164**

**A RESOLUTION BY THE BOARD OF PORT COMMISSIONERS OF  
VENTURA PORT DISTRICT ADOPTING A  
PROCUREMENT AND PURCHASING POLICY**

WHEREAS, California Public Contract Code Section 20750 et seq. requires certain District contracts in excess of certain prescribed amounts to be let by the Board of Port Commissioners (the "Board") upon competitive bidding; and

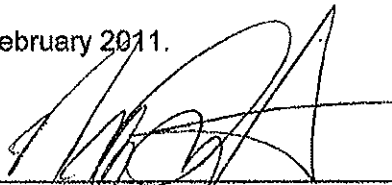
WHEREAS, on November 16, 2005, the Board adopted that certain administrative policy titled "Contract Administration, Competitive Bidding Procedures, Purchasing & Procurement, and Professional Service Agreement" (the "November 2005 Policy") establishing, among other things, the District's competitive bidding procedures as required under the Public Contract Code; and

WHEREAS, the Board finds it desirable and in the best interests of the District to rescind the November 2005 Policy and to adopt a new Procurement and Purchasing Policy which will incorporate a more comprehensive set of procedures concerning the District's procurement and purchasing requirements related to contracts for the doing of new construction work, the purchasing of supplies, and projects involving maintenance of buildings and improvements; and

WHEREAS, the Procurement and Purchasing Policy also incorporates, among other things, the District's Local Business Preference Program adopted by the Board on March 24, 2010, Resolution No. 3146.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of Ventura Port District hereby rescinds the November 2005 Policy and adopts in its place the Procurement and Purchasing Policy attached hereto as Exhibit "A."

PASSED, APPROVED AND ADOPTED this 23<sup>rd</sup> day of February 2011.

  
\_\_\_\_\_  
Nicholas Deitch, Chairman

Attest:

  
\_\_\_\_\_  
Edward E. McCombs, Secretary

Edward E. McCombs, Secretary

(Seal)





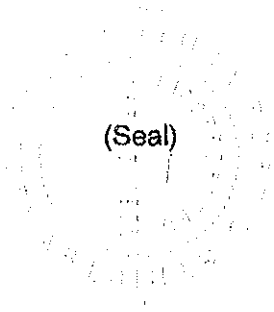
STATE OF CALIFORNIA            )  
COUNTY OF VENTURA         ) ss.  
CITY OF SAN BUENAVENTURA    )

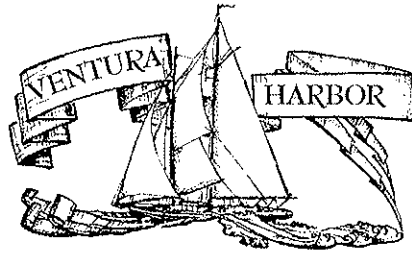
I, Edward E. McCombs, Secretary of the Board of Port Commissioners of Ventura Port District, a public corporation, do hereby certify that the above and foregoing Resolution No. 3164 was duly passed and adopted by the Board of Port Commissioners of said District at a regular meeting thereof held on the 23rd day of February 2011, by the following vote:

AYES: Commissioners McCombs, Turner and Chairman Deitch  
NOES: None  
ABSENT: Commissioners Bravo and Carson

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said District this 23rd day of February 2011.

  
\_\_\_\_\_  
Edward E. McCombs, Secretary





Ventura Port District

# Procurement and Purchasing Policy

Effective February 23, 2011

## TABLE OF CONTENTS

<b>I.</b>	<b>STATEMENT OF GENERAL POLICY</b>	<b>1</b>
<b>II.</b>	<b>ETHICS IN PROCUREMENT AND PURCHASING</b>	<b>1</b>
<b>III.</b>	<b>THE PROCUREMENT AND PURCHASING PROCESS</b>	<b>2</b>
III-A.	CONTRACT ADMINISTRATION	2
III-B.	CONTRACTS FOR THE DOING OF NEW CONSTRUCTION WORK AND PROJECTS INVOLVING MAINTENANCE OF BUILDINGS AND IMPROVEMENTS	3
1.	Contracts less than or equal to \$250.00	3
2.	Contracts totaling \$251.00-\$2,500.00	3
3.	Contracts totaling \$2,501.00-\$5,000.00	3
4.	Contracts totaling \$5,001.00-\$10,000.00	4
5.	Contracts over \$10,000.00	4
III-C.	PURCHASING OF SUPPLIES	4
1.	Purchases less than or equal to \$250.00	4
2.	Purchases totaling \$251.00-\$2,500.00	4
3.	Purchases totaling \$2,501.00-\$5,000.00	5
4.	Purchases totaling \$5,001.00-\$25,000.00	5
5.	Purchases over \$25,000.005	5
III-D.	COMPETITIVE BIDDING PROCEDURES	5
III-E.	CHANGE ORDERS	6
III-F.	PROFESSIONAL SERVICE AGREEMENTS	7
III-G.	PROHIBITION AGAINST SERIAL OR CUMULATIVE EXPENDITURES	8
III-H.	PROCUREMENT AND PURCHASING COMMITTEE	8
<b>IV.</b>	<b>EXCEPTIONS TO COMPETITIVE BIDDING</b>	<b>8</b>
IV-A.	SOLE SOURCE PROCUREMENT	8
IV-B.	PIGGYBACKING	10
IV-C.	EMERGENCIES	11
IV-D.	LOCAL VENDOR PREFERENCE	12
1.	Local Business Preference Program	12
2.	Procedures for the Local Business Preference Program	13
<b>V.</b>	<b>VENDOR AND CONTRACTOR REGISTRATION DIRECTORY</b>	<b>14</b>
<b>VI.</b>	<b>BUDGETING FOR CAPITAL IMPROVEMENT PROJECTS</b>	<b>14</b>
<b>VII.</b>	<b>PROCUREMENT FORMS</b>	<b>15</b>

**VENTURA PORT DISTRICT**  
**PROCUREMENT AND PURCHASING POLICY**

**I. STATEMENT OF GENERAL POLICY**

The goal of this Procurement and Purchasing Policy is to enable the Ventura Port District (the "District") to obtain contracts for the doing of new construction work, the purchasing of supplies, projects involving maintenance of buildings and improvements, and services for the District at the best value and in a timely manner, while maintaining fairness to vendors, suppliers, service providers, and contractors, and abiding by applicable laws. The District's Board of Port Commissioners (the "Board") has adopted this Procurement and Purchasing Policy to establish the authority, limits, and procedures relating to the District's procurement and purchasing activities in connection with such contracts. All such procurement and purchasing activities for the District shall be administered in accordance with the provisions of this policy, and with the express intent to promote open and fair conduct in all aspects of the procurement and purchasing process.

The District intends to maintain a cost effective purchasing system conforming to good management practices. The Procurement and Purchasing Policy is intended to accomplish the following objectives:

- A. Provide all vendors, suppliers, service providers, and contractors with full, fair, prompt and courteous consideration;
- B. Keep competition open and fair; and
- C. Observe strict truthfulness and highest ethics in all transactions.

In order to be successful, the system must be supported by the cooperation of all District personnel. Prior planning and the timely submission of requisitions are essential to expedite the District's procurement and purchasing process and to ensure that this process is conducted in an orderly and lawful manner.

**II. ETHICS IN PROCUREMENT AND PURCHASING**

In dealing with the District's procurement and purchasing needs, District personnel shall be mindful of the following:

- A. That public office is a public trust and to give primary consideration to the District's interests as well as the interests of the public.
- B. Procurement and purchasing decisions shall be made without prejudice and to try to maximize the value of each dollar expended.

- C. District personnel must avoid unfair business practices or decisions and to give all qualified vendors, suppliers, service providers, and contractors an equal opportunity to participate in the procurement and purchasing process.
- D. We shall promote positive relationships with the District's vendors, suppliers, service providers, and contractors through courteous and impartial treatment in all phases of the purchasing cycle.
- E. We shall conduct ourselves with fairness and dignity, and demand honesty and truth in the purchasing process.
- F. We must even avoid the appearance of unethical or compromising practice in relationships, actions, and communications in the procurement and purchasing process.
- H. We must refrain from soliciting or accepting money, loans, credits, prejudicial discounts, gifts, favors, or services from past, present or future suppliers, vendors, service providers, or contractors that might influence, or appear to influence, purchasing decisions.
- I. All District personnel shall discharge their duties impartially so as to ensure competitive access to governmental procurement by responsible contractors.
- J. All District personnel shall conduct themselves in such a manner as to foster public confidence in the integrity of District procurement and purchasing.

### **III. THE PROCUREMENT AND PURCHASING PROCESS**

#### **A. Contract Administration**

The District routinely utilizes the services of vendors, suppliers, service providers, and contractors for a variety of operational needs. These include, but are not limited to, the acquisition of equipment, supplies, materials, goods, maintenance services, and construction or renovation of District facilities. All contracts should include, but shall not be limited to, the following provisions:

- (1) The term or length of contract;
- (2) Description of work to be performed or services/products to be provided;
- (3) Schedule for performance;
- (4) Indemnity, insurance and bonding requirements;
- (5) Warranties and/or guarantees if applicable;

- (6) Payment schedule; and
- (7) Conditions for termination of contract.

**B. Contracts for the Doing of New Construction Work and Projects Involving Maintenance of Buildings and Improvements**

**(1) *Contracts less than or equal to \$250.00***

The General Manager and any District employee identified as a “Level 1” employee, “Level 2” employee, or “Level 3” employee on the District Employee Procurement Status Chart attached hereto as **Exhibit “A”** and incorporated herein by reference, shall be authorized to approve and to execute on behalf of the District any contract for the doing of new construction work or projects involving maintenance of buildings and improvements with a contract price less than or equal to \$250.00, without competitive bidding. Level 1 employees shall not be authorized to execute any such contract until such employee has obtained the prior approval of his/her immediate supervisor.

**(2) *Contracts totaling \$251.00 - \$2,500.00***

The General Manager and any Level 2 or Level 3 employee of the District shall be authorized to approve and to execute on behalf of the District any contract for the doing of new construction work or projects involving maintenance of buildings and improvements with a contract price greater than \$250.00 but less than or equal to \$2,500.00, without competitive bidding, so long as such contract has been included in the District’s then-current fiscal budget and a written quote is obtained from the vendor, supplier, service provider, or contractor concerning the price and terms and conditions of the proposed contract. If such contract has not been previously included in the District’s then-current fiscal budget, such contract shall require prior approval from the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board. Level 2 employees shall not be authorized to execute any such contract until such employee’s immediate supervisor has reviewed and approved the written quote and proposed contract.

**(3) *Contracts totaling \$2,501.00 - \$5,000.00***

The General Manager and any Level 3 employee of the District shall be authorized to approve and to execute on behalf of the District any contract for the doing of new construction work or projects involving maintenance of buildings and improvements with a contract price greater than \$2,500.00 but less than or equal to \$5,000.00, without competitive bidding, so long as such contract has been included in the District’s then-current fiscal budget and at least two (2) written quotes are obtained from competing vendors, suppliers, service providers, or contractors concerning the price and terms of the proposed contract. If such contract has not been previously included in the District’s then-current fiscal budget, such contract shall require prior approval from the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board. Level 3

employees shall not be authorized to execute any such contract until the General Manager has reviewed and approved the written quotes and proposed contracts.

**(4) *Contracts totaling \$5,001.00 - \$10,000.00***

The General Manager shall be authorized to approve and to execute on behalf of the District any contract for the doing of new construction work or projects involving maintenance of buildings and improvements with a contract price greater than \$5,000.00 but less than or equal to \$10,000.00, without competitive bidding, so long as such contract has been included in the District's then-current fiscal budget and at least two (2) written quotes are obtained from competing vendors, suppliers, service providers, or contractors concerning the price and terms of the proposed contract. If such contract has not been previously included in the District's then-current fiscal budget, such contract shall require prior approval from the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board.

**(5) *Contracts over \$10,000.00***

Any contract for the doing of new construction work or projects involving maintenance of buildings and improvements with a contract price greater than \$10,000.00 is subject to the competitive bidding procedures set forth in Section III(D), below, unless an exception under Section IV, below, applies.

**C. Purchasing of Supplies**

**(1) *Purchases less than or equal to \$250.00***

The General Manager and any Level 1, Level 2, or Level 3 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies with a contract price or purchase price less than or equal to \$250.00, without competitive bidding. Level 1 employees shall not be authorized to execute any such contract or to make any such purchase until such employee has obtained the prior approval of his/her immediate supervisor.

**(2) *Purchases totaling \$251.00 - \$2,500.00***

The General Manager and any Level 2 or Level 3 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies with a contract price or purchase price greater than \$250.00 but less than or equal to \$2,500.00, without competitive bidding, so long as such contract or purchase has been included in the District's then-current fiscal budget and a written quote is obtained from the vendor, supplier, service provider, or contractor concerning the price and terms and conditions of the proposed contract or purchase. If such contract or purchase has not been previously included in the District's then-current fiscal budget, such contract or purchase shall require prior approval from the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board. Level 2

employees shall not be authorized to execute any such contract or to make any such purchase until such employee's immediate supervisor has reviewed and approved the written quote and proposed contract/order.

**(3) Purchases totaling \$2,501.00 - \$5,000.00**

The General Manager and any Level 3 employee of the District shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies with a contract price or purchase price greater than \$2,500.00 but less than or equal to \$5,000.00, without competitive bidding, so long as such contract or purchase has been included in the District's then-current fiscal budget and at least two (2) written quotes are obtained from competing vendors, suppliers, service providers, or contractors concerning the price and terms and conditions of the proposed contract or purchase. If such contract or purchase has not been previously included in the District's then-current fiscal budget, such contract or purchase shall require prior approval from the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board. Level 3 employees shall not be authorized to execute any such contract or to make any such purchase until the General Manager has reviewed and approved the written quotes and proposed contracts/orders.

**(4) Purchases totaling \$5,001.00 - \$25,000.00**

The General Manager shall be authorized to approve and to execute on behalf of the District any orders or contracts for the purchasing of supplies with a contract price or purchase price greater than \$5,000.00 but less than or equal to \$25,000.00, without competitive bidding, so long as such contract or purchase has been included in the District's then-current fiscal budget and at least three (3) written quotes are obtained from competing vendors, suppliers, service providers, or contractors concerning the price and terms and conditions of the proposed contract or purchase. If such contract or purchase has not been previously included in the District's then-current fiscal budget, such contract or purchase shall require prior approval from the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board.

**(5) Purchases Over \$25,000.00**

Any order or contract for the purchasing of supplies with a contract price or purchase price greater than \$25,000.00 is subject to the competitive bidding procedures set forth in Section III(D), below, unless an applicable exception under Section IV, below, applies.

**D. Competitive Bidding Procedures**

As provided in Public Contract Code section 20751, contracts for the doing of new construction work, or the purchasing of supplies, or projects involving the maintenance of buildings and improvements must be let by competitive bidding where the amount of the contract exceeds the following thresholds:



- a. \$10,000.00 for the doing of new construction work;
- b. \$25,000.00 for the purchasing of supplies; and
- c. \$10,000.00 for projects involving maintenance of buildings and improvements.

Pursuant to Public Contract Code section 20751, when a new construction or maintenance project is contemplated, the General Manager will make a recommendation to the Procurement and Purchasing Committee with a cost estimate and other supporting documentation appropriate for the size and scope of the proposed project.

Upon approval by the Procurement and Purchasing Committee, the General Manager shall cause to be prepared the appropriate plans, specifications and other descriptive information for the publication of a notice inviting sealed bids for performance for the proposed work. The notice shall be published in a newspaper of general circulation in accordance with the Public Contract Code.

The contract documents shall be prepared utilizing the District's standard forms, with such modifications as may be appropriate for the particular work or unit of work, for the acquisition of materials or equipment. In the event of an emergency, applicable Public Contract Code provisions will be followed.

All bids shall be presented under sealed cover on forms furnished by the District, and, in the case of a bid to perform work for the District, it shall be accompanied by one of the following forms of bidder's security: (1) cash; (2) a cashier's check made payable to the District; (3) a certified check made payable to the District; or (4) bidder's bond executed by an acceptable surety insurer made payable to the District.

Sealed bids shall be opened at the time and place stated in the advertisement for bid with no less than two representatives of the District in attendance. When all bids have been evaluated, the General Manager shall make a recommendation to the Procurement and Purchasing Committee regarding award of the contract to the lowest responsible bidder.

If the lowest bidder is disqualified for any reason, or if the bids exceed the cost estimates previously approved, the General Manager shall evaluate the options available and make a recommendation to the Procurement and Purchasing Committee. The Procurement and Purchasing Committee will make the final decision regarding the award of contract, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board. At the direction of the Procurement and Purchasing Committee and after legal counsel review, the General Manager shall execute the contract.

#### **E. Change Orders**

The General Manager shall have the authority to approve and execute on behalf of the District any change order to a contract awarded by District personnel (including the General

Manager), the Procurement and Purchasing Committee, or the Board pursuant to Section III of this Procurement and Purchasing Policy as follows:

- (1) For change orders less than or equal to \$10,000.00 that does not cause the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager may authorize such change order without having to obtain prior approval of the Board or the Procurement and Purchasing Committee.
- (2) For change orders less than or equal to \$10,000.00 that causes the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager shall be prohibited from authorizing such change order until such time as the General Manager has obtained the prior approval of Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board.
- (3) For change orders greater than \$10,000.00 (but within ten percent (10%) of the original contract amount) that does not cause the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager may authorize such change order without having to obtain prior approval of the Board or the Procurement and Purchasing Committee.
- (4) For change orders greater than \$10,000.00 (but within ten percent (10%) of the original contract amount) that causes the total contract amount to exceed the amount budgeted for that particular contract in the District's then-current fiscal budget, the General Manager shall be prohibited from authorizing such change order until such time as the General Manager has obtained the prior approval of the Procurement and Purchasing Committee, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board.
- (5) For change orders greater than \$10,000.00 that are more than ten percent (10%) of the original contract amount, the General Manager shall be prohibited from authorizing such change order until such time as the General Manager has obtained the prior approval of the Board.

**F. Professional Service Agreements**

Architectural, engineering, project management, inspection and other such professional services may be required and shall be awarded using the District's standard Professional Services Agreement. The Board shall approve all Professional Services Agreements over the amount of \$25,000.00. The General Manager is authorized to enter into a Professional Services Agreement in an amount of \$25,000.00 or less without Board approval provided the services have been

included in the District's then-current fiscal budget. Any Professional Services Agreement not included in the District's then-current fiscal year budget requires the approval of the Board.

**G. Prohibition against Serial or Cumulative Expenditures**

The authority for making expenditures or executing contracts as provided in this policy is intended to enable the General Manager and District staff to understand the scope of this authority in procurement activities made on behalf of the District. The structuring of transactions in a serial or cumulative manner so as to avoid the requirement of approval by the Board is strictly prohibited and will not be tolerated.

**H. Procurement and Purchasing Committee**

The Board shall take formal action to create a standing committee, which shall be known as the "Procurement and Purchasing Committee," and the Board shall delegate any duties to such committee the Board deems necessary to assist District staff and the General Manager in carrying out the purpose of this Procurement and Purchasing Policy and to enforce the terms and conditions set forth herein. The Board shall delegate to the Chairman of the Board the authority to appoint and/or remove any member(s) of the Board to the Procurement and Purchasing Committee the Chairman may deem necessary from time to time.

**IV. EXCEPTIONS TO COMPETITIVE BIDDING**

Notwithstanding anything contained in Section III(C) or (D) of this policy to the contrary, the following exceptions shall apply to the competitive bidding procedures:

**A. Sole Source Procurement**

There may be limited situations where the District requires particular contracts for the doing of new construction work, the purchasing of supplies, and projects involving maintenance of buildings and improvements for which there is no substantial equivalent and which are, in fact, available from only one vendor, supplier, service provider, or contractor, and therefore, in such situations, the use of competitive bidding may be impractical.

The Board has determined that it is in the District's best interests to authorize the General Manager to engage in sole source procurement under limited circumstances. The General Manager, on behalf of the District, may execute a contract for the doing of new construction work, the purchasing of supplies, or projects involving maintenance of buildings and improvements, on a sole source basis, and without competitive bidding, on the following conditions:

- (1) The General Manager determines, after conducting a good faith review of available sources, that there is only one source for such new construction work, supplies, or maintenance required by the District.

- (a) Examples of sole source procurements include, but shall not be limited to, the following:
  - (i) ***Licensed or Patented Applications:*** The vendor, supplier, service provider, or contractor is the sole provider of a licensed, patented, or proprietary application or item required by the District that has unique design or performance features providing superior utility not obtainable from similar vendors, suppliers, service providers, or contractors.
  - (ii) ***Authorized Service Provider, Repair and Warranty Services:*** The District requires service or repair support for such new construction work, supplies, or maintenance, and the vendor, supplier, service provider, or contractor is either a factory authorized warranty service provider or such vendor, supplier, service provider, or contractor is required for warranty services pursuant to the terms and conditions of an existing District contract.
  - (iii) ***Unique Design:*** The District has a specialized need and the vendor, supplier, service provider, or contractor is the sole provider of such new construction work, supplies, or maintenance that can meet the District's specialized needs or to perform the intended functions. This includes products with special features essential for the completion of a task or project, or with physical or artistic design characteristics that satisfy aesthetic requirements.
  - (iv) ***Trial and Evaluation Projects:*** A limited duration, limited scope, pilot, trial or evaluation of a product, range of products or services. A trial or evaluation project would typically be part of establishing a standard for a District department, or to pilot a particular product or services for a District need.
- (2) Such sole-source contract has been included in the District's then-current fiscal budget.
- (3) The General Manager provides a written report to the Procurement and Purchasing Committee containing the following information:
  - (a) A brief description of the circumstances surrounding the sole source procurement;

- (b) A statement and/or justification of the General Manager's good faith determination that a sole source opportunity has been presented to the District; and
  - (c) A brief description of the new construction work, supplies, or maintenance to be purchased or contracted for, the cost of such purchase or contract, and the name of the sole-source vendor, supplier, service provider, or contractor.
- (4) The Procurement and Purchasing Committee has approved the sole-source contract, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board.

If such sole source contract has not been previously included in the District's then-current fiscal budget or such contract exceeds the amount budgeted for that particular contract in the District's then-current fiscal budget, such contract shall require prior Board approval.

**B. Piggybacking**

Piggyback contracting occurs when a public agency enters into a contract, without competitive bidding, with a particular supplier, vendor, service provider, or contractor who has already been awarded a contract for same or similar services by another public agency or governmental entity pursuant to such agency's or entity's competitive bidding process. Piggybacking on other public agency or governmental entity contracts can reduce administrative and project costs and achieve greater efficiency and economies of scale.

The Board has determined that it is in the District's best interests to authorize the General Manager to participate in piggybacking opportunities whenever possible. The District may piggyback on other public agency or governmental entity contracts and the General Manager is authorized to execute on behalf of the District a contract for the doing of new construction work, the purchasing of supplies, or projects involving maintenance of buildings and improvements, without separate competitive bidding by the District, on the following conditions:

- (1) The General Manager has determined that it is in the District's best interest to engage in a piggybacking opportunity for the purchase or contract of such new construction work, supplies, or maintenance with a particular vendor, supplier, service provider, or contractor if such opportunity will result in significantly reduced costs to the District (administrative costs, project costs, or otherwise), or will achieve greater efficiency or economies of scale for District projects.
- (2) Such vendor, supplier, service provider, or contractor has been previously awarded a contract with another local, state, or federal agency or governmental entity pursuant to such agency's or entity's competitive bidding process to provide construction work, supplies, or maintenance

that are same or similar or related to the District's proposed contract or purchase.

- (3) Such piggybacking contract has been included in the District's then-current fiscal budget.
- (4) The General Manager provides a written report to the Procurement and Purchasing Committee containing the following information:
  - (a) A brief description of the circumstances surrounding the piggybacking opportunity;
  - (b) A brief description of the benefits and cost savings the District will receive as a result of the piggybacking opportunity; and
  - (c) A brief description of the new construction work, supplies, or maintenance to be purchased or contracted for, the cost of such purchase or contract, and the name of the vendor, supplier, service provider, or contractor.
- (4) The Procurement and Purchasing Committee has approved the piggybacking contract, which approval shall be reported to the Board at the next scheduled regular or special meeting of the Board.

Notwithstanding anything contained in this Section IV(B) to the contrary, an example of a piggybacking opportunity that would result in significant cost savings to the District concerns the District's dredging projects located within the Ventura Harbor. The U.S. Army Corps of Engineers is required, from time to time, to perform federal dredging projects in the Ventura Harbor area. The U.S. Army Corps of Engineers prepares plans and specifications for such projects, and selects and award contracts to vendors, suppliers, service providers, and contractors only after putting such contracts to competitive bid. The Board acknowledges the significant cost savings (e.g., avoidance of separate mobilization charges) that would result from the District piggybacking onto such federal contracts and encourages the General Manager to take advantage of such piggybacking opportunities by following the procedures set forth in this Section IV(B).

### **C. Emergencies**

Pursuant to Public Contracts Code section 20751.1, in case of an emergency, the Board may, by resolution passed by a four-fifths vote of all of its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend any sum or enter into a contract involving the expenditure of any sum needed in the emergency without observance of the provisions requiring contracts, bids, or notice. If notice for bid to let contracts will not be given, the Board shall also comply with Public Contracts Code section 22050.

An “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.

**D. Local Vendor Preference**

In determining the lowest responsible bid pursuant to the District’s competitive bidding procedures set forth in Section III (D), above, the Board finds it desirable and in the best interests of the District to establish a local business preference program in order to reduce the competitive barriers faced by local businesses (the “Local Business Preference Program”).

This Local Business Preference Program shall be taken into account in determining the lowest responsible bid in awarding a contract subject to the District’s competitive bidding procedures set forth above.

**(1) Local Business Preference Program.**

In determining the lowest responsible bid, the General Manager shall include the following:

- (a) For (i) any District contract for new construction work or for projects involving maintenance of buildings and improvements reasonably estimated by the General Manager to have a contract amount greater than \$10,000.00, but less than or equal to \$150,000.00; or (ii) any District contract for the purchasing of supplies reasonably estimated by the General Manager to have a contract amount greater than \$25,000.00, but less than or equal to \$150,000.00, the District shall assign a five percent (5%) bid price reduction “preference” during the bid evaluation process (the “Local Business Preference”) to any bid from any person or entity that is determined by the General Manger to be a Local Business (as defined in subsection (b) of this Section IV(D)(1)).
- (b) “Local Business” shall mean a person or entity that has for at least twelve (12) months immediately preceding submittal of its bid maintained its principal business office within the geographic boundaries of Ventura County, California.
- (c) Except as otherwise provided in this Section IV(D), the provisions set forth in this Section IV(D) shall not supersede the other provisions set forth in this Procurement and Purchasing Policy. If any inconsistency or conflict exists or arises between the terms of this Section IV(D) and the other provisions set forth in this Procurement and Purchasing Policy, the other provisions shall control.

- (d) This Local Business Preference Program shall not be applied under the following circumstances:
  - (i) National contracts;
  - (ii) Revolving fund (petty cash) purchases;
  - (iii) Credit card purchases;
  - (iv) Contracts not subject to the District's competitive bidding procedures;
  - (v) Any contracts funded by the federal government where there are conflicting requirements for minority or women-owned business participation.
  - (vi) Where such preference is otherwise prohibited by law;
  - (vii) Emergency procurements; or
  - (viii) Piggybacking or sole source procurements that relate to dredging and dock rehabilitation and replacement.

**(2) Procedures for the Local Business Preference Program**

- (a) Once all bids are opened, the bids of those bidders who are Local Businesses shall be reduced by five percent (5%) for purposes of determining the lowest responsible bidder. If the bid of a Local Business, after applying the Local Business Preference, is then the lowest responsible bidder (the "Lowest Local Business Bidder"), that Lowest Local Business Bidder shall have the opportunity to reduce its bid to match the bid of the actual lowest responsible bidder, in writing, within one (1) business day, whereupon the General Manager shall make a recommendation to the Board to award said Lowest Local Business Bidder with the contract if the General Manager determines, in his or her sole discretion, that such bid is responsive to all of the terms and conditions stated in the District's previously published notice inviting bids.



- (b) If the Lowest Local Business Bidder does not elect to reduce its bid to match the bid of the actual lowest responsible bidder, then the next lowest Local Business bidder (the “Second Lowest Local Business Bidder”) shall be given the opportunity to match the bid of the actual lowest responsible bidder in the time and manner set forth in subsection (a) of this Section IV(D)(2), above; provided, however, the bid of such Second Lowest Local Business Bidder must also be within five percent (5%) of the actual lowest responsible bid.
- (c) An award may be made to the lowest aggregate responsible bidder for all items on the invitation to bid, on a group or an individual basis, whichever is found to be in the best interest of the District.
- (d) All bids are subject to rejection by the District, and in those instances where evaluation dictates the rejection of the lowest bid as not meeting the requirements established in the invitation to bid, the vendor shall be notified of the reason for rejection.

## **V. VENDOR AND CONTRACTOR REGISTRATION DIRECTORY**

The District invites vendors to express their interest in doing business with the District. Vendors and contractors may download registration forms from the District’s website located at [www.venturaharbor.com](http://www.venturaharbor.com). To properly register with the District, all vendors and contractors interested in doing business with the District shall be required to complete and fax the registration forms to the District at (805) 658-2249.

## **VI. BUDGETING FOR CAPITAL IMPROVEMENT PROJECTS**

In developing the District’s fiscal budget, District staff shall use the following guidelines in identifying, managing, administering, and budgeting for capital projects for the following fiscal year:

- A. Start early in the fiscal year to clearly define a project; involve a range of staff levels; take into consideration aesthetics, marketing, and maintenance issues in developing projects.
- B. Provide any reports, plans, drawings, specifications, design ideas, cost benefit studies and analysis, and other related materials that may be necessary or useful in assisting the Board in determining whether a particular capital improvement project should be approved in connection with the Board’s approval of the District’s proposed budget for a particular fiscal year;
- C. Work diligently with any ad hoc committees of the Board for purposes of making recommendations of potential capital improvement projects;

- D. After a particular project has been identified and budgeted, District staff should diligently engage in interviewing and selecting qualified design or engineering firms or consultants to assist the District in designing and preparing the plans and specifications of such project;
- E. District staff shall work with the design or engineering firm or consultant in establishing project targets and milestones in order to ensure that the project is proceeding according to schedule and to plan.

## **VII. PROCUREMENT FORMS**

District staff shall use the following forms, where appropriate, in connection with the District's procurement and purchasing activities:

- 1. District Employee Procurement Status Chart (Exhibit "A")
- 2. Project/Goal Implementation Planning Form (Exhibit "B")
- 3. VPD – Request for Approval of New Project (Exhibit "C")
- 4. VPD – Request for Approval of a Contract Change (Exhibit "D")

Adopted and Effective Date: February 23, 2011



# EXHIBIT "B"

## SAMPLE - CHECK OFF CONTROL FORM

### PROJECT / GOAL IMPLEMENTATION PLANNING FORM

Project/Goal Name: \_\_\_\_\_

Due Date: \_\_\_\_\_

General Ledger Acct: \_\_\_\_\_

	NECESSARY TASKS, STEPS AND ACTIONS (First to Final)	Estimated Days	*Assigned to:	Target Date	Complete Date
1					
2					
3					
4					
5					
6					
7					
8					
* Each staff member develops his/her own project implementation plan to break the item down.					

**EXHIBIT "C"**

**VENTURA PORT DISTRICT – REQUEST FOR APPROVAL OF NEW PROJECT**

Date: \_\_\_\_\_ Submitted by: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Title: \_\_\_\_\_

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**Description of work/services/products:** \_\_\_\_\_

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**Estimated Start Date:** \_\_\_\_\_ **Estimated End Date:** \_\_\_\_\_

Note: "FY Budget" refers to Current Year Board approved final budget for July 1 – June 30.

**Type of Procurement:**

- Contracts for the Doing of New Construction Work or Projects Involving Maintenance of Buildings and Improvements**
  - Contracts less than or equal to \$250.00
    - Level 1 employees shall not be authorized to execute any such contract until he/she has obtained the prior approval of his/her immediate supervisor.
  - Contracts totaling \$251.00 - \$2,500.00
    - No competitive bidding required if contract is included in the District's FY Budget and a written quote is obtained.
    - If contract has not been previously included in the District's FY Budget, such contract requires prior approval from the Procurement and Purchasing Committee.
    - Level 2 employees shall not be authorized to execute any such contract until his/her immediate supervisor has reviewed and approved the written quote and proposed contract.
  - Contracts totaling \$2,501.00 - \$5,000.00
    - No competitive bidding required if contract is included in the District's FY Budget and at least two (2) written quotes are obtained.
    - If contract has not been previously included in the District's FY Budget, such contract requires prior approval from the Procurement and Purchasing Committee.
    - Level 3 employees shall not be authorized to execute any such contract until the General Manager has reviewed and approved the written quotes and proposed contract.

- Contracts totaling \$5,001.00 - \$10,000.00
  - No competitive bidding required if contract is included in the District's FY Budget and at least two (2) written quotes are obtained.
  - If contract has not been previously included in the District's FY Budget, such contract requires prior approval from the Procurement and Purchasing Committee.
- Contracts over \$10,000.00
  - Subject to competitive bidding procedures unless applicable exception applies.
- Purchasing of Supplies, Goods, Materials, and Equipment**
  - Purchases less than or equal to \$250.00
    - Level 1 employees shall not be authorized to execute any such contract or to make any such purchase until he/she has obtained the prior approval of his/her immediate supervisor.
  - Purchases totaling \$251.00 - \$2,500.00
    - No competitive bidding required if contract or purchase is included in the District's FY Budget and a written quote is obtained.
    - If contract or purchase has not been previously included in the District's FY Budget, such contract or purchase requires prior approval from the Procurement and Purchasing Committee.
    - Level 2 employees shall not be authorized to execute any such contract until or to make any such purchase until his/her immediate supervisor has reviewed and approved, the written quote and proposed contract/order.
  - Purchases totaling \$2,501.00 - \$5,000.00
    - No competitive bidding required if contract or purchase is included in the District's FY Budget and at least two (2) written quotes are obtained.
    - If contract or purchase has not been previously included in the District's FY Budget, such contract or purchase requires prior approval from the Procurement and Purchasing Committee.
    - Level 3 employees shall not be authorized to execute any such contract until or to make any such purchase until the General Manager has reviewed and approved the written quote and proposed contracts/orders.
  - Purchases totaling \$5,001.00 - \$25,000.00
    - No competitive bidding required if contract or purchase is included in the District's FY Budget and at least three (3) written quotes are obtained.
    - If contract or purchase has not been previously included in the District's FY Budget, such contract or purchase requires prior approval from the Procurement and Purchasing Committee.
  - Purchases over \$25,000.00
    - No competitive bidding required if contract or purchase is included in the District's FY Budget and at least three (3) written quotes are obtained.
    - If contract or purchase has not been previously included in the District's FY Budget, such contract or purchase requires prior approval from the Procurement and Purchasing Committee.

- Subject to competitive bidding procedures unless applicable exception applies.
- Professional Services**
  - Professional Service Agreement in excess of \$25,000.00
    - Requires Board approval
  - Professional Service Agreement less than or equal to \$25,000.00
    - General Manager is authorized to enter into agreement without Board approval provided the services have been included in the District's FY Budget.
    - If not included in District's FY Budget, Board approval required.
- Exceptions to Competitive Bidding Procedures**
  - Sole Source Procurement
  - Piggybacking Opportunity
  - Emergency Situation
  - Local Vendor Preference
- Bid tabulation sheet and all bids received are attached
- Attached for review – Invitation to bid and/or quotes
- Attached for approval – Contract from \_\_\_\_\_

**History of the Project:**

- Goals and Objectives Number/Description \_\_\_\_\_
- Sharing project costs with: \_\_\_\_\_
- Other: \_\_\_\_\_

**Accounting/Finance:**

- FY Budget project budget amount is: \$ \_\_\_\_\_
- General Ledger Account No. \_\_\_\_\_
- Funded by grant; Grant ID No. \_\_\_\_\_

**Supporting Documentation Attached (check and circle all that apply):**

- Conditions for termination of contract
- Drawings, "As-Built"
- Drawings, "Proposed"
- Engineer's estimate for total project cost
- Equipment/furniture purchase or rental
- Insurance and bonding requirements
- Inspection/testing service cost estimate
- Jurisdictions/VPD Departments/Tenants/Visitors involved/ affected (describe)
- Labor Cost Estimate: In-house or Contractor
- Materials cost estimate: In-house OR Contractor
- Plans, specifications, drawings, or photographs

- Schedule for performance of contract
- Schedule for payment of contract (terms, required deposits, etc.)

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Approved    Denied   By: \_\_\_\_\_   Date: \_\_\_\_\_

Comments:

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**EXHIBIT "D"**

**VENTURA PORT DISTRICT – REQUEST FOR APPROVAL OF CHANGE ORDER**

Date: \_\_\_\_\_ Submitted by: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Title: \_\_\_\_\_

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**Name of Project:** \_\_\_\_\_

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**Name of Contractor/Vendor:** \_\_\_\_\_

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Note: "FY Budget" refers to Current Year Board approved final budget for July 1 – June 30.

**Increase in Contract Amount:**

- Change order less than or equal to \$10,000.00 that does not cause the total contract amount to exceed the amount budgeted for that particular contract in the District's FY Budget.
  - General Manager may authorize change order without prior approval of the Board or the Executive Procurement and Purchasing Committee.
  
- Change order less than or equal to \$10,000.00 that causes the total contract amount to exceed the amount budgeted for that particular contract in the District's FY Budget
  - General Manager is prohibited from authorizing the change order until such time as the General Manager has obtained the prior approval of the Executive Procurement and Purchasing Committee.
  
- Change order greater than \$10,000.00 (but within ten percent (10%) of the original contract amount) that does not cause the total contract amount to exceed the amount budgeted for that particular contract in the District's FY Budget.
  - General Manager may authorize change order without prior approval of the Board or the Executive Procurement and Purchasing Committee.
  
- Change order greater than \$10,000.00 (but within ten percent (10%) of the original contract amount) that causes the total contract amount to exceed the amount budgeted for that particular contract in the District's FY Budget.
  - General Manager is prohibited from authorizing the change order until such time as the General Manager has obtained the prior approval of the Executive Procurement and Purchasing Committee.

- Change order greater than \$10,000.00 that is more than ten percent (10%) of the original contract amount.
  - General Manager is prohibited from authorizing such change order until such time as the General Manager has obtained prior Board approval.

**Project Manager's Recommendation:**  (Check this box if the recommendation is attached)

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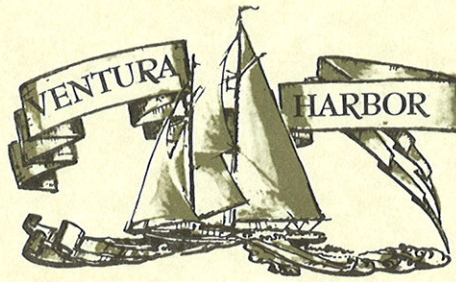
**General Manager's Response:**

Approved  Denied    By: \_\_\_\_\_    Date: \_\_\_\_\_

Comments:

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RECEIVED  
FEB 15 2011

VENTURA COUNTY  
GRAND JURY

February 14, 2011

Don Cody, Chairman  
Grand Jury Review Committee  
Ventura County Grand Jury  
800 S. Victoria Avenue  
Ventura, CA 93009

Subject: Update re Grand Jury Report *Ventura Port District Contracting Procedures*

Dear Chairman Cody:

Oscar Peña asked me to provide you with the enclosed verbatim minutes of his report to the Members of the Board of Port Commissioners at their last meeting on January 26, 2011. His comments begin on page 3. Also included herewith is a copy of the Agenda for that meeting.

Please call should you have any questions. Thank you.

Yours truly,

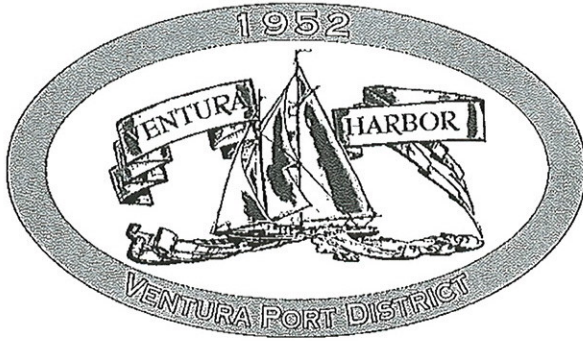
A handwritten signature in blue ink that reads 'P. J. Casey'. The signature is fluid and cursive, written over the printed name.

Pamela J. Casey  
Administrative Assistant/Clerk

:pjc

Enclosures





## **VENTURA PORT DISTRICT BOARD OF PORT COMMISSIONERS**

Keith Turner, Chairman  
Nicholas Deitch, Vice Chairman  
Gregory Carson, Secretary  
Robert J. Bravo, Commissioner  
Edward E. McCombs, Commissioner  
Oscar Peña, General Manager  
Timothy J. Gosney, Legal Counsel

### **PORT COMMISSION AGENDA REGULAR MEETING**

**WEDNESDAY, JANUARY 26, 2011 AT 7:00 P.M.**  
**1603 ANCHORS WAY DRIVE, VENTURA, CA**

RECEIVED  
FEB 15 2011

VENTURA COUNTY  
GRAND JURY

*A Closed Session of the Board will be held at 5:45 p.m. at the Four Points by Sheraton Hotel – Captains Room adjacent to Alexander's Restaurant, 1050 Schooner Drive, Ventura, CA, to discuss the items on the Attachment to Agenda-Closed Session Conference with Legal Counsel.*

*The Board will reconvene in Open Session at 7:00 p.m. at the Port District office located at 1603 Anchors Way Drive, Ventura.*

#### **CALL TO ORDER and PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

**ELECTION OF OFFICERS:** Pursuant to Harbors and Navigation Code §6241.1 and 6248, the Board shall select a Chairman, Vice Chairman and Secretary

#### **ADOPTION OF AGENDA**

The public has the opportunity to address the Board on any item appearing on the agenda. Administrative Reports relating to this agenda and materials related to an item on this agenda submitted after distribution of the agenda packet are available for public review at the Port District's office located at 1603 Anchors Way Drive, Ventura, CA during business hours as well as on the District's website - [www.venturaharbor.com](http://www.venturaharbor.com) (Public Notices).

#### **CLOSED SESSION REPORT**

#### **PUBLIC COMMUNICATIONS**

Public Communications is the time set-aside during the meeting for members of the public to address the Board on items of District business other than scheduled agenda items.

#### **BOARD COMMUNICATIONS**

Board Communications is the time set-aside to provide Board Members the opportunity to present verbal reports and suggest future agenda items.

## **GENERAL MANAGER and STAFF REPORTS**

This is the time set-aside to provide Staff the opportunity to present reports to the Board.

## **LEGAL COUNSEL REPORT**

### **CONSENT ITEMS: ROLL CALL VOTE**

Matters appearing on the Consent Calendar are expected to be non-controversial and will be acted upon by the Board at one time, without discussion, unless a member of the Board or the public requests an opportunity to address any given item. Approval by the Board of Consent Items means that the recommendation is approved along with the terms and conditions described in the Administrative Report.

#### **1) - Consideration of Approval of Minutes**

Recommended Action: Motion

Approve the Minutes of the Board of Port Commissioners Regular Meeting held December 7, 2010.

#### **2) - Consideration of Financial Statements and Approval of Payroll and Regular Checks for the months of November and December 2010**

Recommended Action: Resolution No. 3161

Approve the Financial Statement and the Payroll and Regular Checks for expenses in November and December 2010.

#### **3) - Consideration of Out of Town Travel Requests**

Recommended Action: Motion

Approve the Out of Town Travel Requests of Harbormaster Scott Miller, Marketing Manager Jennifer Talt-Lundin, and Part-time Harbor Patrol Officers Adam Yox, Brad Chisholm and Jesse Golden.

#### **4) – Consideration of Sublease between by Ventura Group, LLC and Chris Miehle and Linda Miehle**

Recommended Action: Motion

Approve a sublease between Ventura Group, LLC and Chris Miehle and Linda Miehle for the premises located at 1510 Anchors Way Drive, previously known as the Scotch and Sirloin Restaurant.

#### **5) – Consideration of Sublease by Ventura Group, LLC and Aloha Sportfishing, LLC**

Recommended Action: Motion

Approve a sublease between Ventura Group, LLC and aloha Sportfishing, LLC for the premises located at 1500 Anchors Way Drive, adjacent to the building previously known as the Scotch and Sirloin Restaurant.

#### **6) – Consideration of a New Lease for Harbor Village Gallery**

Recommended Action: Motion

Approve a new lease between the Ventura Port District dba Ventura Harbor Village and Buenaventura Art Association dba Harbor Village Gallery for the premises located at 1591 Spinnaker Drive #117C, consisting of 1,200 square feet.

**INFORMATION ITEMS:**

**7) – Presentation by Coastal Marine Biolabs**

Recommended Action: Receive and Comment

Ralph Imondi, Ph.D., Scientific Director and Linda Santschi, Ph.D., Scientific Director of Coastal Marine Biolabs will update the Board on the grant award being considered by the National Science Foundation.

**8) – Presentation by Legal Counsel on Public Contract Code Requirements**

Recommended Action: Receive and Comment

Andrew D. Turner of Lagerlof, Senecal, Gosney & Kruse, LLP, will give a presentation on the requirements of the Public Contract Code.

**9) – Report on Draft Revised Procurement and Purchasing Policy**

Recommended Action: Receive and Comment

District staff will present to the Board its draft revised procurement and purchasing policy for additional input from the Board of Port Commissioners.

**10) - Report on 2010 Southwest Harbor Parking Plan**

Recommended Action: Receive and Comment

Harbormaster Scott Miller will present a report on the Port District's 2010 multi-faceted pilot managed parking program, including goals, successes, obstacles, financial outcome; followed by discussion and comment looking toward parking solutions in year 2011.

**FORMAL ITEMS:**

**11) – Consideration of a Maintenance Dredging Contract with Manson Construction Company**

Recommended Action: Motion

Authorize the General Manager to enter into a contract with Manson Construction Company to conduct maintenance dredging within Ventura Harbor.

**12 – Consideration of Ventura Port District Transient Berthing Policy**

Recommended Action: Motion

Approve a policy for overnight transient berthing in Ventura Harbor and utilization of the District's "long dock" for such berthing.

**13) – Consideration of Ventura Port District Mid-Year Budget Adjustments**

Recommended Action: Resolution No. 3162

Approve Mid-year Budget Adjustments for Fiscal Year 2010-11 including a historical sales report.

***At this time the Port Commission will adjourn and convene as the Board of Directors of the Ventura Port District Public Facilities Corporation.***

## AGENDA

- I. *Call to Order the Annual Meeting of the Ventura Port District Public Facilities Corporation*
    - A) *Election of Officers: President  
Vice President  
Secretary*
    - B) *Ratify the Minutes of the Meeting held February 24, 2010*
  
  - II. *Adjourn the Annual Meeting of the Public Facilities Corporation*
- 

**Reconvene the Regular Meeting of the Ventura Port District Board of Port Commissioners.**

### REQUEST FOR FUTURE AGENDA ITEMS

### ADJOURNMENT

*This agenda was posted on Friday, January 21, 2011 at 5:00 p.m., at the Port District Office and on the Internet - [www.venturaharbor.com](http://www.venturaharbor.com) (Public Notices).*



*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Ventura Port District at (805) 642-8538. Notification 48 hours before the meeting will enable the District to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)*

---

### ATTACHMENT TO AGENDA - CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL

1. **Per Government Code § 54956.9(b), Potential Litigation:**  
Significant Exposure to Litigation – Two (2) Cases

RECEIVED

MINUTES OF THE VENTURA PORT DISTRICT  
BOARD OF PORT COMMISSIONERS  
REGULAR MEETING HELD  
JANUARY 26, 2011

FEB 15 2011  
VENTURA COUNTY  
GRAND JURY

CALL TO ORDER and PLEDGE OF ALLEGIANCE

Chairman Turner called the meeting to order at 7:09 p.m. at the Ventura Port District Offices located at 1603 Anchors Way Drive, Ventura, California.

ROLL CALL

Keith Turner, Chairman  
Nicholas Deitch, Vice Chairman  
Gregory Carson, Secretary  
Edward McCombs, Commissioner  
Absent: Robert Bravo, Commissioner  
Also Present: Oscar Peña, General Manager  
Andrew D. Turner, Legal Counsel

ELECTION OF OFFICERS

Chairman Turner stated that pursuant to the State of California Harbors and Navigation Code §6241.1 and §6248, the Board shall select a Chairman, Vice Chairman and Secretary to serve two-year terms. He then requested nominations for the election of officers.

Commissioner Carson nominated Nicholas Deitch to serve as Chairman; Commissioner McCombs made a second and upon call of the roll the vote was as follows:

Ayes: Commissioners Carson, McCombs, Turner and Chairman Deitch  
Noes: None  
Absent: Commissioner Bravo  
Abstain: None

Chairman Turner relinquished the gavel to Nicholas Deitch. Commissioner Turner stated that it has been his honor and privilege to serve as the Chairman for the last several years, and it has been wonderful working with a very talented group of staff and Board Members and he thought all had advanced our agenda very well over the last couple of years and with Staff's continued support, he was sure that would continue for Chairman Deitch. Chairman Deitch stated Commissioner Turner had been great. Commissioner McCombs said that the District has been very well served by Keith Turner's service the last three and one-half years; he's been very generous with his time and has a great



background that is very useful to the District in a whole variety of ways has helped us immensely and a job well done.

Chairman Deitch stated his service has been an amazing experience and that it is really is like being part of a small town with people living and making their livelihoods here and none of us take for granted the fact that this is a privilege that we are sitting here. We are trying to serve you guys and trying to help this place be the best that it can be for all of us, and we/I take it very seriously and are very delighted to be a part of it. Thanked everyone for all the support and faith in me for the next few years. Chairman Deitch called for the continuation of the elections.

Commissioner McCombs nominated Gregory Carson to serve as Vice Chairman. Commissioner Turner made a second and upon call of the roll the vote was as follows:

Ayes: Commissioners Carson, McCombs, Turner and Chairman Deitch  
Noes: None  
Absent: Commissioner Bravo  
Abstain: None

Commissioner Carson nominated Edward McCombs to serve as Secretary. Commissioner Turner made a second and upon call of the roll the vote was as follows:

Ayes: Commissioners Carson, McCombs, Turner and Chairman Deitch  
Noes: None  
Absent: Commissioner Bravo  
Abstain: None

#### ADOPTION OF AGENDA

Commissioner Turner moved the Board adopt the Agenda; Commissioner Carson seconded the motion and hearing no objection, the motion passed 4-0, with Commissioner Bravo absent.

#### CLOSED SESSION REPORT

Andrew Turner stated that the Board met in Closed Session with Legal Counsel in accordance with Government Code § 54956.9(b), Potential Litigation: Significant Exposure to Litigation – 2 Cases. The Board received a status report and gave direction to Staff and Counsel. No action reportable under The Brown Act was taken.

#### PUBLIC COMMUNICATIONS

None

## BOARD COMMUNICATIONS

None

## GENERAL MANAGER and STAFF REPORTS

Mr. Peña provided the following updates:

### Evaluation of Major Projects from 2007-2009:

Mr. Peña stated for the record: In June 2010, the Grand Jury recommended that the Board should review all major projects completed over the last several years. Staff prepared an analysis of projects that began in 2007 and continued through 2009. I have met with each Board Member to explain any apparent contracting irregularities with the Board's Administrative Policies or the California Public Contract Code. You will recall that the Grand Jury had reviewed three different projects and found that there were irregularities in that Staff did not comply with the Public Contract Code or Board's Administrative Policy regarding public contracts and/or acquisition of supplies or materials. One of their recommendations was that the General Manager report to the Board. I am also taking this opportunity to give the public a very brief summary of that report.

In total we evaluated 13 projects. Two projects involved elevators at Harbor Village where there was a service contract in place. Because of that service agreement with the contractor I have discounted those in our review because some of the items repaired were under contract and it would have been foolish to go out to bid on that since we are paying for a service contract.

Excluding those from our review, there were a total of eleven projects that we reviewed for compliance with the Board's Administrative Policy and the Public Contract Code.

There were seven projects that fell in the range of \$40,000 to \$100,000; of those seven projects six were not in compliance with District's policy or the Public

Contract Code and one was formally bid and therefore consistent with the Public Contract Code.

There were four projects in the range of \$100,000 to \$1million, and all four of those projects were consistent with both the Board's Administrative policy and the Public Contract Code.

One of the things we noticed in our review of these projects is that sometime in the fourth quarter of 2008 we started to see a change in how we operated and managed our larger projects. In the fourth quarter of 2008 and all of 2009 all of the major projects that we had [list projected on a screen] that were \$500,000 or more were consistent with the Public Contract Code and the Board's policies.

As you may recall, we made some organizational changes in the first quarter of 2009. That is why I said you can see a trend toward the end of that list [projected on the screen] you see more "yes" than "no". I think because of our organizational changes, in the future we will reduce the kind of mistakes that were made in early 2007 through a part of 2008.

I think the next step for us is to advise the Grand Jury of this report because they have been asking for follow-up. We have had several meetings and, in fact, one of the agenda items this evening is to propose to change our Administrative Policies and there are a lot of new ideas; it is an expanded version of what we have. I really feel confident that with those changes some of the mistakes that were made in the past will not be made in the future.

One of the things that I have reported to you before is that the figures for the Public Contract Code have not been adjusted since 1984. The District is meeting with Assemblymember Das Williams to potentially amend and increase the threshold in the California Public Contract Code for this Port District. We are hoping that through this effort we can increase the threshold for all three of those

categories. I believe that if we are able to do that we will be able to provide the public service needed to continue to make improvements to our aging infrastructure and public facilities.

Chairman Deitch asked Mr. Peña what thresholds are we thinking would be appropriate.

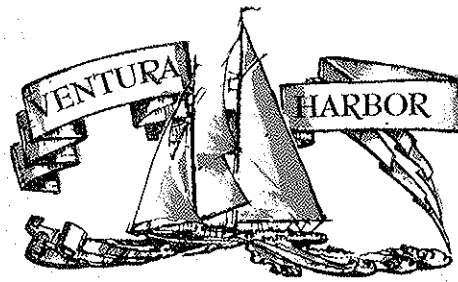
Mr. Peña responded that the thresholds should potentially be \$30,000 for both acquisition of materials and supplies, new construction, and repairs. If we apply the CPI to the \$10,000 figure you get just under \$25,000; if you apply the same figure to the \$25,000 figure, maybe a little over \$50,000. We certainly want to be reasonable in approaching a figure as we proceed with an amendment to the law, so, I am hopeful that \$30,000 will work; if not, we just fall back on perhaps the CPI adjustment.

Chairman Deitch asked, we have a threshold requiring Board approval and then below that things that can be done; are we making adjustments to our Administrative Policy?

Mr. Peña responded that in the staff report this evening regarding updating our Board's policy, we have created variable levels in terms of authority of spending limits and oversight. It is all tied together and I think that will be a very good thing.

Mr. Peña stated if there are no other questions on this item, I also wanted to let you know that we have been in discussions with the Fuel Dock operator at the Launch Ramp for a new lease. [7:26:47 p.m.]

END OF THIS SUBJECT



December 17, 2010

Don Cody, Chairman  
Grand Jury Review Committee  
800 South Victoria Avenue  
Ventura, CA 93009

RECEIVED  
DEC 22 2010  
VENTURA COUNTY  
GRAND JURY

Dear Chairman Cody,

The Port District has been making progress on the Grand Jury's recommendations since our response in early August. The Board did not meet in August as this month is typically dark to allow for vacation schedules. The General Manager did provide an update to the Board at the September 15, 2010 Regular Meeting (See Attachment #1).

Commissioner McCombs who has extensive experience in both planning and implementation of large projects with different public agencies has been working with staff to improve the District's Administrative procedures for contracting and purchasing. Commissioner McCombs met with staff on October 29, 2010 to suggest changes on procurement procedures and potential changes to the District's budgeting process. Commissioner McCombs has suggested the use of an Ad Hoc Capital Project Review Committee and improved planning procedures when developing a project.

Your letter of November 16, 2010 requesting an update is timely since the Board of Port Commissioners met on December 7, 2010 for its Regular Meeting; at this meeting District Staff presented an update on Project Management and Contract Administration. The November meeting was cancelled due to the Thanksgiving holiday.

Attached are copies of the Agenda for the December 7, 2010 Regular Meeting, Agenda Item 5 and the Minutes of the meeting during which Item 5 was presented to the Board. These documents illustrate the Board's efforts to carry out the Grand Jury's recommendations. Below is our response to your letter dated November 16, 2010:

#### Recommendation 1

At the District's Regular Meeting of December 7, 2010, the Board met with staff to discuss potential revisions to its administrative procedures for contracting and purchasing. Staff presented recommendations for the Board's consideration on the following topics:

- Defining Procurement Limits for District Personnel



- Implementing Procedural requirements for approval of purchases of services, supplies material or equipment
- Implementing emergency purchase procedures
- Developing a sole source policy
- Creating a Vendor and Contractor Registration Directory system
- Adopting a Contracts and Purchasing Code of Ethics
- Improving the budget process related to the project management and contract administration of capital projects.
- Check points with larger projects to be set up at key points as design and plan preparation evolves with key staff input.

The Board suggested establishing an ad-hoc committee to work with staff in making recommendations for capital projects. Additionally, that on an as needed basis, the Chair and Vice-Chair could provide staff with preliminary approval of essential change orders to avoid costly delays. Any change orders would then be provided to the Board at its next Regular Meeting for formal approval. There was a great deal of input from the Board on staff's recommendations for potential changes to the District's Administrative procedures for contracting and purchasing.

Staff continues to evaluate the use of the standard forms to utilize as part of the administration of contracts, agreements and purchasing. Staff was directed to work with the District's legal counsel and incorporate the Board's comments into a revised Administrative Policy for contract administration, bidding procedures and purchasing policies. It is expected that this will be included in the Board's Regular Meeting on January 26, 2010.

#### Recommendation 2

As part of the meeting in January, the District's legal counsel will present staff and the Board with an overview of the public contracting process for public improvements and a review of the basic requirements of the Public Contracting Code (PCC). At that time the Board will also review its revised Administrative Policy.

There will be on-going training of staff through professional and trade associations as part of the District's training process. It will be incumbent upon each Department Manager to inform and advise subordinates of the PCC and the Board's Administrative Policy.

#### Recommendation 3

The Board has directed the General Manager to review major project expenditures on an on-going basis to ensure compliance with Board Policy and PCC requirements. As of the date of this correspondence there has not been a report issued to the Board by the General Manager.

The next six (6) months may be more critical to evaluate the projects for this fiscal year since many of the projects are still in the planning phase or early stages of the competitive bidding process.

Recommendation 4

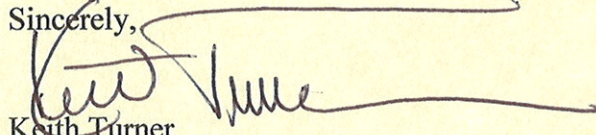
In our response to the Grand Jury dated August 2, 2010, we stipulated that the General Manager would review all major projects from 2008 through the 2009/10 fiscal year to ensure compliance with Board policy and PCC requirements.

This task is still in process; however, staff will be redirected on this matter to complete this task within the next 30 to 45 days.

The recommendations made by the Grand Jury are very important to us and we are confident staff will complete their assignments and continue to monitor major expenditures to ensure compliance with Board Policy and the PCC.

We will keep you informed of our progress and hope you will contact me with any questions or comments.

Sincerely,



Keith Turner  
Chairman, Board of Port Commissioners  
Ventura Port District

Attachments:

- 1) General Manager's Report September 15, 2010
- 2) Agenda of the Regular Meeting of December 7, 2010
- 3) Board Communication on Item 5 - Update on Project Management and Contract Administration
- 4) Partial Minutes of Item 5 - Regular Meeting held December 7, 2010

# Attachment #1

## VENTURA PORT DISTRICT General Manager's Report

Meeting Date: September 15, 2010

TO: Board of Port Commissioners  
FROM: Oscar Peña, General Manager  
SUBJECT: Parking in the Southwest Harbor

RECEIVED  
DEC 22 2010

VENTURA COUNTY  
GRAND JURY

### UPDATE ON PROCUREMENT PROCEDURES

Staff has included "Updating Internal Procedures for Purchasing and Public Contracting" to this year's objectives. Several Staff Members have been working together to address the shortcomings identified by the Grand Jury. Commissioner Ed McCombs has expressed his desire to assist in this process based on procedures he helped implement at different cities to ensure that all Departments participate in both the planning and implementation of large projects so the project is viewed from many different perspectives throughout the project. As staff progresses, Commissioner McCombs' input will be invaluable. Staff will present the updated procedures to the entire Board for its approval when it is time to implement them.

### PARKING PROGRAM

District Staff was satisfied with the managed parking program implemented this summer. The 160 additional on-street parking spaces created many opportunities for visitors and beach goers. Mandatory off-site parking for employees provided 85 additional spaces for visitors and customers at Harbor Village. These 85 spaces turned over two or three times daily instead being occupied by employees' vehicles the entire day. The Water Taxi was also an attraction for families moving back and forth from Marina Park and Harbor Village. Although we are still accumulating data, we hope the water taxi returns next summer.

The District terminated the paid parking component of the plan three weeks earlier than anticipated. Fortunately, baseline information collected will allow staff to make recommendations in the future on how to effectively manage parking in the southwest harbor area. Unfortunately, this component was falling short of our income estimates. This shortfall and the absence of warm weather were the factors in deciding to end the program three weeks early. We also promised our tenants we had the flexibility to make changes to the plan if necessary.

Although we did not have all the tenant sales data available when the decision was made to end the program, we have now evaluated the reports for June and July in comparison to last year for the same period. The sales figures were surprisingly mixed in all categories; some tenants were up and others down from last year. In June, total sales were down less than 1% from 2009 and July was down 3.28% from last year. The year-to-date calculation for the period ending in July 2010, reflects a 2% decrease from the same period last year for the Village (*see attached Tenant Sales Summary for June and July*).

We are grateful to our tenants for their cooperation and comments related to the plan. Their input in the future will be valuable as we consider how to better manage parking within the Harbor. I also appreciate the hard work by Harbormaster Miller, who successfully managed the program for the District, plus other District Managers and staff who also played important roles in implementing the plan. We will bring information to the Board before the end of 2010 on the data collected. At that time, the Board can set a timeline on the next planning process and possible alternatives.

Attachment: Ventura Harbor Village Tenant Sales Summary



**VENTURA PORT DISTRICT  
BOARD OF PORT COMMISSIONERS**

Keith Turner, Chairman  
Nicholas Deitch, Vice Chairman  
Gregory Carson, Secretary  
Robert J. Bravo, Commissioner  
Edward E. McCombs, Commissioner  
Oscar Peña, General Manager  
Timothy J. Gosney, Legal Counsel

**Attachment #2**

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**PORT COMMISSION AGENDA  
REGULAR MEETING  
TUESDAY, DECEMBER 7, 2010 AT 7:00 P.M.  
1603 ANCHORS WAY DRIVE, VENTURA, CA**

*A Closed Session of the Board will be held at 6:00 p.m. at the Four Points by Sheraton Hotel – Captains Room adjacent to Alexander's Restaurant, 1050 Schooner Drive, Ventura, CA, to discuss items on the Attachment to Agenda-Closed Session Conference with Legal Counsel.*

*The Board will reconvene in Open Session at 7:00 p.m. at the Port District office located at 1603 Anchors Way Drive, Ventura.*

**CALL TO ORDER and PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**ADOPTION OF AGENDA**

The public has the opportunity to address the Board on any item appearing on the agenda. Administrative Reports relating to this agenda and materials related to an item on this agenda submitted after distribution of the agenda packet are available for public review at the Port District's office located at 1603 Anchors Way Drive, Ventura, CA during business hours as well as on the District's website - [www.venturaharbor.com](http://www.venturaharbor.com) (Public Notices).

**CLOSED SESSION REPORT**

**PUBLIC COMMUNICATIONS**

Public Communications is the time set-aside during the meeting for members of the public to address the Board on items of District business other than scheduled agenda items.

**BOARD COMMUNICATIONS**

Board Communications is the time set-aside to provide Board Members the opportunity to present verbal reports and suggest future agenda items.

**GENERAL MANAGER and STAFF REPORTS**

This is the time set-aside to provide Staff the opportunity to present reports to the Board.

## LEGAL COUNSEL REPORT

### CONSENT ITEMS: ROLL CALL VOTE

Matters appearing on the Consent Calendar are expected to be non-controversial and will be acted upon by the Board at one time, without discussion, unless a member of the Board or the public requests an opportunity to address any given item. Approval by the Board of Consent Items means that the recommendation is approved along with the terms and conditions described in the Administrative Report.

#### 1) - Consideration of Approval of Minutes

Recommended Action: Motion

Approve by motion the Minutes of the Board of Port Commissioners Regular Meeting held October 27, 2010.

#### 2) - Consideration of Financial Statements for the months of October 2010 and review of Payroll and Regular Checks for the month of October 2010

Recommended Action: Resolution No. 3159

Approve by Resolution the Financial Statements for the months of October 2010 and review the Payroll and Regular Checks for expenses in October 2010.

#### 3) - Consideration of Rejection of Claim by James Echevarria

Recommended Action: Motion

Approve by motion the rejection of a claim submitted by James Echevarria on November 8, 2010 and authorize the General Manager to execute and mail a Notice of Rejection of Claim to Mr. Echevarria.

#### 4) - Consideration of New Lease for Beach Break Surf Shop for the premises located at 1575 Spinnaker Drive #108, Ventura Harbor Village

Recommended Action: Motion

Approve by motion a new lease for the premises located at 1575 Spinnaker Drive #108 consisting of approximately 990 square feet.

### INFORMATION ITEMS:

#### 5) – Update Report on Project Management and Contract Administration

Recommended Action: Receive and Comment

Review and comment on a report describing Staff's recommendations for updating the District's Administrative policies, procedures and strategies for managing capital improvement projects.

#### 6) - Update on TBBW/Ventura West Marina Interim Modernization Plan

Recommended Action: Receive and Comment

Receive and comment on a report by the Harbormaster regarding the progress TBBW has made on the Ventura West Marina Modernization Plan.

**FORMAL ITEMS:**

**7) – Consideration of Independent Auditor’s Reports of the Ventura Port District for Years Ended June 30, 2010 and 2009**

Recommended Action: Motion

Approve by motion accepting the Basic Financial Statements and Supplementary Information with Independent Auditor’s Reports for the Years Ended June 30, 2010 and 2009, prepared by Macias Gini & O’Connell LLP, Certified Public Accountants.

**8) – Consider acceptance of an \$80,000 Miscellaneous Equipment Grant Contract with the California Department of Boating and Waterways**

Recommended Action: Resolution No.3160

Approve by resolution authorization to execute a Miscellaneous Equipment Grant contract with the California Department of Boating and Waterways and authorize Harbormaster G. Scott Miller to be the authorized signatory of the contract.

**REQUEST FOR FUTURE AGENDA ITEMS**

**ADJOURNMENT**

*This agenda was posted on Thursday, December 2, at 5:00 p.m., at the Port District Office and on the Internet - [www.venturaharbor.com](http://www.venturaharbor.com) (Public Notices).*



*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Ventura Port District at (805) 642-8538. Notification 48 hours before the meeting will enable the District to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)*

DEC 22 2010

VENTURA COUNTY  
GRAND JURY**Attachment #3****VENTURA PORT DISTRICT**

BOARD COMMUNICATION

**Item 5**Meeting Date: December 7, 2010

---

TO: Chair and Members, Board of Port Commissioners  
FROM: Oscar Peña, General Manager  
SUBJECT: Update on Project Management and Contract Administration

---

Recommended Action

It is recommended the Board of Port Commissioners review and comment on Staff's recommendations for updating the District's Administrative policies, procedures and strategies for managing capital improvement projects.

Summary

In June 2010, the Ventura County Grand Jury issued a report which included some recommendations to improve the District's Contract Administration, Competitive Bidding and Procurement procedures; in summary, they included:

- Revise the District's administrative procedures for contracting and purchasing.
- Provide ongoing training of staff regarding the California Public Contracting Code (PCC) and Administrative policies.
- Provide annual assessment of major project expenditures to ensure compliance with the PCC and Board requirements. Additionally, a review of major projects completed over the last few years should also be reviewed for compliance.

In consideration of these recommendations, staff is proposing amendments to the District's Purchasing policy and the use of procurement control forms that will assist in the solicitation of bids and project management. Additionally, Commissioner McCombs met with staff and has suggested potential changes to the District's budget process related to capital improvement projects.

Background**Proposed Administrative Policy Amendments:**

Following the Grand Jury Report an Ad Hoc Subcommittee directed the General Manager to consider monetary limits for staff and identify which employees should have authority to sign contracts. We have included some ideas for the Board's consideration on monetary limits/contracts as well as other additions to the District's Administrative Policies. Below is an outline of the proposed changes.

## Purchasing Policy Amendments:

1. Include Procurement Limits on District Staff (See Figure #1)
2. Establish new criteria for purchasing policy (See Figure #2)

**Figure #2  
Purchase of Services, Supplies, Material or Equipment**

For purchases up to:	Process required:
Up to \$250	Approval from immediate Supervisor
Up to \$2,500	Approval from immediate Supervisor and Quick Quote Request via Email or Fax
Up to \$10,000	Approval of General Manager – Minimum two written estimates required.
Up to \$25,000	Only the General Manager is authorized to approve expenditures up to this limit provided the purchases are included in the budget and three written estimates are obtained.
More than \$25,000	Competitive bidding process is required

3. Establish Emergency Purchase Procedures. For example, what qualifies as an emergency and who is authorized to purchase? Determine that items must be purchased immediately to forestall future losses to the District. After the emergency, report purchases above \$10,000 to the Board and include a description of the circumstances.
4. Develop a sole source policy when there is only a single source, a patented or proprietary item. This policy would allow the District to contract with a vendor who is the only manufacturer or supplier compatible with existing equipment, inventory, systems, data, programs or services. This policy would include an authorized service provider, repair and warranty services. Other examples include:
  - Vendors with unique designs specialized to meet the District's needs
  - Special Bargains includes surplus items, an auction sale, used equipment or returned "open box" purchase or similar one time bargains.
  - Delivery date – only one vendor can meet the necessary delivery requirements when delivery by a specific date is essential and any delay would cause an extreme cost to the District.
  - Trial and Evaluation projects – a limited duration, limited scope pilot, trial or evaluation of a project, range of projects or services.
5. Create a Vendor and Contractor Registration Directory system. This would allow vendors and contractors interested in doing business with the District to register annually to maintain current contract information. The District could also partner with the City and County to utilize their vendor and contractor registration systems.
6. Adopt a Contracts and Purchasing Code of Ethics (see Attachment #6):

**Potential changes to the Budget process and Capital Improvement Projects:**

Commissioner McCombs met with staff to express his ideas to improve the budget process related to the project management and contract administration of capital projects. Key points of his presentation included:

1. Start very early in the fiscal year and clearly define a project, involve a range of staff levels, considering aesthetics, marketing, and maintenance considerations.

2. Clearly demonstrate that staff thought the proposed capital improvements through by the time the budget comes to the Board.
3. The Board needs more information in the annual budget including, for example, a cost and benefit analysis for each project.
4. The Board should consider establishing an ad hoc committee to work with staff in making recommendations for capital projects.
5. Once a project is identified and budgeted; critical is the selection of the design or engineering firm based on results of a Request for Proposal or Request for Qualifications that sets forth what the District is looking for.
6. The RFP/RFQ interview process is critical to getting a consultant who will work with staff in the careful preparation of plans.
7. Check points should be set up at key points as design and plan preparation evolves with careful key staff input.
8. The result of these changes is an on-time and on-budget project minimizing change orders.

We are grateful to Commissioner McCombs for his insight into improving the budgeting process, project management and contract administration of capital improvements in the harbor. His ideas can certainly be incorporated into a budget policy for staff.

#### **Procurement Control Forms:**

Staff has created some standard forms that it is proposing to utilize as part of the administration of contracts, agreements and the purchasing of supplies, materials and equipment. These forms will assist staff in project planning and provide a checklist to ensure projects adhere to the Boards Administrative Policies. The list of forms includes:

- Project/Goal Implementation Planning Form
- VPD – Request for Approval of New Project
- VPD – Request for Approval of a Contract Change
- Draft Letter – Change order
- Quick Quote Request
- Proposed Contracts and Purchasing Code of Ethics

Each of these is identified as Attachments 1-6 attached herewith.

#### Conclusion

I appreciate the effort made by staff to enhance and revise the District's Administrative procedures for contracting and purchasing. The proposed modifications provide more detail on the various types of procurement actions, limitations improved on the authority being used in procurement actions, checks and balances of procurement functions and more oversight of staff.

We look forward to the Board's comments and suggestions.

Special thanks to Pam Casey, my Administrative Assistant, for taking the lead on this project.

Attachments: Control Forms #1 - #6  
Administrative Policy dated 11/16/2005

**SAMPLE -- CHECK OFF CONTROL FORM**

**PROJECT / GOAL IMPLEMENTATION PLANNING FORM**

**Project/Goal Name:** \_\_\_\_\_

**Due Date:** \_\_\_\_\_

**General Ledger Acct:** \_\_\_\_\_

NECESSARY TASKS, STEPS AND ACTIONS <i>(First to Final)</i>	Estimated Days	*Assigned to:	Target Date	Complete Date
1				
2				
3				
4				
5				
6				
7				
8				

*\* Each staff member develops his/her own project implementation plan to break the item down.*

**VENTURA PORT DISTRICT – REQUEST FOR APPROVAL OF NEW PROJECT**

Date: \_\_\_\_\_ Submitted by: \_\_\_\_\_ Title \_\_\_\_\_

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Title Admin Asst/Clerk

**Description of work/services/products:** \_\_\_\_\_

**Estimated Start Date:** \_\_\_\_\_ **Estimated End Date:** \_\_\_\_\_

Note: "FY budget" refers to Current Year Board approved final budget for July 1 – June 30.

**Type of Procurement:**

- Included in FY budget; requires Board approval to solicit bids via newspaper legal ad: place on Board Agenda for \_\_\_\_\_ meeting (Board Communication is attached for review)
- Not included in FY budget; requires Board approval ("draft" Board Communication is attached)
- Item is included in FY budget; contract less than \$10,000 (GM may approve, min. 2 proposals required)
- Professional Services Agreement: \$25,000 or less, included in FY budget (GM may approve)
- Professional Services Agreement *not* included in FY budget or one included in FY budget but the contract amount is over \$25,000 (Board Communication is attached for review)
- Quick Quote request for quote
- Competitive Bidding is required; amount of contract will be more than:  
\$10,000 for new construction work;  
\$25,000 for acquisition of supplies and equipment;  
\$10,000 for maintenance of building structures and property improvements
- Bid tabulation sheet and all bids received are attached
- Attached for review: Invitation to Bid, Quick Quote Request
- Attached for approval: Proposal/contract from \_\_\_\_\_

**History of the Project:**

- Goals and Objectives Number/Description: \_\_\_\_\_
- Sharing project costs with: \_\_\_\_\_ (attach agreement)
- Other: \_\_\_\_\_

**Accounting/Finance:**

- FY budget Project Budget amount is: \$ \_\_\_\_\_ (budget page # \_\_\_\_\_)
- General Ledger Account No. \_\_\_\_\_
- Funded by Grant; Grant ID No. \_\_\_\_\_

**Supporting Documentation Attached** (check and circle all that apply):

- Conditions for termination of contract
- Drawings, "As-Built"
- Drawings, "Proposed"
- Engineer's estimate for total project cost
- Equipment/furniture purchase OR rental
- Insurance and bonding requirements
- Inspection/testing services cost estimate
- Jurisdictions/VPD Departments/Tenants/Visitors involved/affected (describe)
- Labor Cost Estimate: In-house OR Contractor
- Materials cost estimate: In-house OR Contractor
- Plans, specifications, drawings, photographs
- Schedule for performance of contract
- Schedule for payment of contract (terms, required deposits, etc.)

Approved     Denied    By: \_\_\_\_\_ Date: \_\_\_\_\_

Oscar Pena, General Manager

Comments: \_\_\_\_\_





**Proposed Form Letter**

Whenever a Contractor requests a change to their contract, the VPD Project Manager would provide this sample letter to the Contractor for their use as a writing guide—to help ensure that Contractor supplies pertinent information for the General Manager's consideration.

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***CONTRACTOR'S LETTERHEAD STATIONERY***

[Date]

Oscar Peña, General Manager  
Ventura Port District  
1603 Anchors Way Drive  
Ventura, CA 93001

Subject: Change Order No. [1,2, 3, etc.] to Contract for \_\_\_\_\_ [project name]

I/we hereby request an additive change order to the amount defined in the contract due to the conditions described below:

- a) [describe what/why]
- b)

**OTHER:**

Subject: Extension of Time for Contract for \_\_\_\_\_ [project name]

I/we hereby request a penalty-free extension of \_\_\_\_\_ days to complete the work defined in the contract, due to conditions described below:

- c) Parts/material delivery delays encountered at the beginning of the project which were out of my control. [describe what/why]
- d) Rain/wind conditions prevented us from working on \_\_\_\_\_ [list all dates]
- e) \_\_\_\_\_ [other – describe the condition]

\_\_\_\_\_ [Correspondence/weather reports, etc.] are attached for reference.

Materials costs and labor cost estimates are attached for your consideration. Should you have any questions, please contact me at (\_\_\_\_\_) - \_\_\_\_\_.

If this request is acceptable, please sign and date below and return a copy to me.  
Thank you.

Sincerely,

\_\_\_\_\_  
[Contractor's signature]

\_\_\_\_\_  
Printed Name  
Title

**Ventura Port District Approval:**

By \_\_\_\_\_  
Oscar Peña, General Manager

Date Approved: \_\_\_\_\_



**VENTURA PORT DISTRICT**  
1603 Anchors Way Drive, Ventura, CA 93001  
Telephone: (805) 642-8538  
FAX: (805) 658-2249

**QUICK QUOTE REQUEST**  
(THIS IS NOT AN ORDER)

To: \* DUE DATE AND TIME: [set a date and time]  
Attn.: \* Ventura Port District Contact: [type in name, phone ext.]  
Phone: \*  
FAX: \*  
Date: \*

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**The Ventura Port District is accepting quotes for:**  
[describe improvement project, work site address, project manager's name and contact info, expected start date and completion dates, etc.]

Please call \_\_\_\_\_ at (805) 642-8538, ext. \_\_\_\_\_, with any questions and to schedule site visits.

All quotes must be based on the attached plans and/or specifications.  
All quotes must be returned to the Ventura Port District before the due date and time at the top of this page.

**LIST YOUR TOTAL PRICE HERE: \$ \_\_\_\_\_**

Bonding requirements listed in the General Conditions and Special Conditions are not applicable for contracts under \$25,000.00. The Ventura Port District has the right to accept or reject any or all bids.

**"I/WE OFFER TO PROVIDE THE ARTICLES, GOODS, AND/OR SERVICES AS INDICATED ABOVE ACCORDING TO ALL TERMS SO STATED BY THIS DOCUMENT AND ANY OTHER(S) ATTACHED. THE PRICE STATED IN THIS QUOTATION IS GOOD FOR A PERIOD OF NOT LESS THAN SIXTY (60) DAYS."**

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

## **Proposed Contracts and Purchasing Code of Ethics**

The Ventura Port District subscribes to and accepts as its own the Standards of Purchasing Practice adopted by the California Association of Public Purchasing Officers.

- To regard public service as a sacred trust, giving primary consideration to the interests of the public agency that employs us.
- To purchase without prejudice, seeking to obtain the maximum value for each dollar expended.
- To avoid unfair practices, giving all qualified vendors equal opportunity.
- To honor our obligations and require that obligations to our public agency be honored.
- To accord vendor representatives courteous treatment, remembering that these representatives are important sources of information and assistance in solving our purchasing needs.
- To refuse to accept any form of commercial bribery, and prevent any appearance of so doing.
- To be receptive to counsel from our colleagues, and to cooperate with them to promote a spirit of teamwork and unity.
- To conduct ourselves with fairness and dignity, and to demand honesty and truth in the purchasing process.
- To strive for greater knowledge of purchasing methods and of the materials we purchase.
- To cooperate with all organizations and individuals involved in activities designed to enhance the development of the purchasing profession, remembering that our actions reflect on the entire purchasing profession.

***VENTURA PORT DISTRICT  
ADMINISTRATIVE POLICY***

**Policy Title: *Contract Administration, Competitive Bidding Procedures, Purchasing & Procurement, and Professional Service Agreement***

**Contract Administration**

The Ventura Port District routinely utilizes the services of outside contractors for a variety of operational needs. These include acquisition of equipment and supplies, materials, maintenance services, and construction or renovation of District facilities. All contracts should include the following provisions:

- (a) The term or length of contract
- (b) Description of work to be performed or services/products to be provided.
- (c) Schedule for performance.
- (d) Indemnity, insurance and bonding requirements.
- (e) Payment schedule.
- (f) Conditions for termination of contract.

The General Manager shall have the authority to approve and execute on behalf of the District any contract with a value of less than \$10,000 without competitive bidding, provided at least two proposals are obtained. The General Manager is authorized to approve those contracts that are included in the District's current budget.

Unless subject to competitive bidding requirements, all contracts are to be negotiated by the General Manager or his/her designee. All contracts should be negotiated within established budget parameters and shall comply with applicable legal requirements. Contracts not encompassed by the current fiscal year's budget, will require the approval of the Board of Port Commissioners.

**Competitive Bidding Procedure**

As provided in the Public Contract Code, contracts for construction work or acquisition of services or supplies, must be let by competitive bidding where the amount of the contract exceeds the following thresholds:

- (a) \$10,000 for new construction work;
- (b) \$25,000 for acquisition of supplies and equipment; and
- (c) \$10,000 for maintenance of buildings and improvements.

Pursuant to the Public Contract Code Section 20751, when a construction or repair project is contemplated, the General Manager will make a recommendation to the Board of Port Commissioners with a cost estimate and other supporting documentation appropriate for the size and scope of the proposed project.

Upon approval by the Board of Port Commissioners, the General Manager shall cause to be prepared the appropriate plans, specifications and other descriptive information for the publication of a notice inviting sealed bids for performance for the proposed work. The notice shall be published in a newspaper of general circulation in accordance with the Public Contracts Code.

The contract documents shall be prepared utilizing the District's standard forms, with such modifications as may be appropriate for the particular work or unit of work, for the acquisition of materials or equipment. In the event of an emergency, applicable Public Contract Code provisions will be followed.

All bids shall be presented under sealed cover on forms furnished by the District, and, in the case of a bid to perform work for the District, it shall be accompanied by one of the following forms of bidder's security: (1) cash, (2) a cashier's check made payable to the District, (3) a certified check made payable to the District, or (4) bidder's bond executed by an acceptable surety insurer made payable to the District.

Sealed bids shall be opened at the time and place stated in the advertisement for bid with no less than two representatives of the District in attendance. When all bids have been evaluated, the General Manager shall make a recommendation to the Board of Port Commissioners regarding award of the contract.

If the lowest bidder is disqualified for any reason, or if the bids exceed the cost estimates previously approved, the General Manager shall evaluate the options available and make a recommendation to the Board of Port Commissioners. The Board of Port Commissioners will make the final decision regarding the award of contract. At the direction of the Board of Port Commissioners and after legal counsel review, the General Manager shall execute the contract.

The General Manager shall have the authority to approve and execute on behalf of the District any change order to a contract previously approved by the Board of Port Commissioners with a value of \$10,000 or less.

For change orders in excess of \$10,000, the General Manager shall obtain authorization from the Board of Port Commissioners before executing the change order.

### Purchasing Policy

The General Manager is responsible for determining the amount and timing of the District's purchases, based on Department requests, and consistent with the District's fiscal year budget. The General Manager shall have authority to make purchases in the normal course of business in amounts not exceeding \$5,000.

The General Manager is authorized to approve proposed purchases of services, supplies, materials or equipment in the amount of (\$25,000), or less, provided the purchases are included in the District's budget. The General Manager shall obtain at least three written

proposals from different vendors whenever possible. Prospective purchases over \$5,000 not encompassed by the current fiscal year's budget require the prior approval of the Board of Port Commissioners.

#### **Professional Service Agreements**

Architectural, engineering, project management, inspection and other such professional services may be required and shall be awarded using the District's standard Professional Services Agreement.

The Board of Port Commissioners shall approve all Professional Services Agreements over the amount of \$25,000. The General Manager is authorized to enter into a Professional Services Agreement in an amount of \$25,000 or less, provided the services have been included in the fiscal budget.

Any Professional Services Agreement not included in the District's current fiscal year's budget, requires the approval of the Board of Port Commissioners.

#### **Emergencies**

The General Manager may approve non-budgeted expenditures when the safety of the public or property reasonably requires such action or in other emergency situations as allowed by law. The General Manager shall provide a written report to the Board of Port Commissioners describing the nature of any such expenditure and its justification.

#### **Prohibition Against Serial or Cumulative Expenditures**

The authority for making expenditures or executing contracts as provided in this policy is intended to enable the General Manager and District Staff to understand the scope of this authority when contracting on behalf of the District. The structuring of transactions in a serial or cumulative manner so as to avoid the requirement of approval by the Board of Port Commissioners is strictly prohibited and will not be tolerated.

Adopted and Effective Date: Nov. 16, 2005



**PARTIAL MINUTES  
OF THE VENTURA PORT DISTRICT  
BOARD OF PORT COMMISSIONERS  
REGULAR MEETING HELD  
DECEMBER 7, 2010**

RECEIVED

DEC 22 2010

VENTURA COUNTY  
GRAND JURY

Chairman Turner called the meeting to order at p.m. at the Ventura Port District Office at 1603 Anchors Way Drive, Ventura, California.

7:16:40 PM

**ROLL CALL**

Keith Turner, Chairman  
Nicholas Deitch, Vice Chairman  
Gregory Carson, Secretary  
Edward McCombs, Commissioner  
Robert Bravo, Commissioner

Absent: None

Also Present: Oscar Peña, General Manager  
Timothy J. Gosney, Legal Counsel  
Richard Parsons, Dredging Consultant

Staff present: Scott Miller, Robin Baer, Jennifer Tait-Lundin,  
Stacey Reed, Gloria Adkins

**ADOPTION OF AGENDA**

Commissioner Carson moved the Board adopt the Agenda; Commissioner McCombs seconded the motion. Hearing no objection, the motion passed 5-0.

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**INFORMATION ITEM: 8:17:12 PM**

**5) – Update Report on Project Management and Contract Administration**

Recommended Action: Receive and Comment

Mr. Peña presented his board communication and asked the Board to review and comment on Staff’s recommendations for updating the District’s Administrative policies, procedures, and strategies for managing capital improvement projects.

In June 2010, the Ventura County Grand Jury issued a report, which included some recommendations to improve the District’s Contract Administration and competitive bidding and procurement procedures, and in summary they included:

- 1) the District should consider revising its administrative procedures for contracting and purchasing;
- 2) the District should provide ongoing training of staff regarding the Public Contracting Code requirements and District administrative policies, and

3) the District should provide an annual assessment of both major projects and expenditures to ensure compliance with the Public Contracting Code and the Board's requirements.

4) the District should review major projects that were completed over the last few years.

Tonight, in consideration of their recommendations, we are proposing to make amendments to the District's purchasing policy and to require use of some procurement control forms that would assist District staff in solicitation of the bids and project management. Additionally, Commissioner McCombs met with staff and has suggested some potential changes to the District's budget process related to capital improvement projects.

What we are proposing to do this evening is explain the proposed changes to the District's administrative policies which staff believes will show the Grand Jury that we are making an effort to improve that system. What you have this evening are suggestions that would limit the monetary amounts for various staff members that would have authority to sign contracts. As you can see on the attachments, we have included some ideas for the Board on these limits at various levels.

I think there are some recommendations that staff has made, but aside from the limits on staff, we think we should establish an emergency purchase procedure. This policy would allow District staff to act immediately in the event of an emergency, and then, after the fact, come back to the Board and report details about the emergency. In this particular case, staff recommends that after the emergency we report purchases above \$10,000 to the Board. Certainly, that threshold could be lower if the Board wishes.

Staff has discussed the idea of developing a sole source policy with legal counsel where there is a single source patent restriction or some proprietary item with a contractor as vendor that we are dealing with. This would allow the District to contract with a vendor who is the only manufacturer or supplier that has compatible or existing equipment in its inventory that we need. A good example of this type of sole source situation is that our property manager is now working on a project to make improvements to an elevator in the village. It is specific to a certain manufacturing brand; if this policy were in place it would be much easier to go back to that vendor who supplies that equipment or material. Instead, she is going ahead with the procurement process including preparation of specifications for everybody to bid upon. I commend her on that effort, but in the future this kind of policy might make it a little easier because it would include vendors with a unique design that is specialized to meet the District's specific needs.

And, there is something called "delivery date" where only one vendor can meet that delivery date. We really have never utilized this type of policy but when I was looking at other agencies who have this type of policy, it seems like it might be beneficial because sometimes time is of the essence and any delay could cost the District monetarily.

And there is something that I also found that could work for us—trial and evaluation projects—and I think we have utilized this strategy when we were doing a special dredging project in the inner harbor, using different style of dredging; so, it is something we have used before, but we have not memorialized the policy; we could have a pilot program or evaluation of a project.

I also recommend that the District consider a vendor and contract registration directory system. The City has it; the County has it; and, most local governments have it. I believe there is software that we could purchase; if that is too costly, I think the alternative would be to work with the City's purchasing department and get their list. I think Robin is doing that now. It would be good for us to have it because the Grand Jury report indicated they wanted us to be fair to local contractors, to give them the opportunity to bid. This puts the onus on contractors to play a role in that effort. There is some management of that system, but if we can make it as automated as possible, it might be easier to manage.

The last thing that I have is to adopt a contracts and purchasing code of ethics which we attached as an example. We have also attached some examples of the forms that we would use in this procurement.

But probably the other big change would be how we potentially change our budget process with capital improvement projects and when Commissioner McCombs met with staff, he suggested that:

- 1) we start very early in the fiscal year trying to clearly define a project involving a variety/range of staff from the subcontractor to the project managers;
- 2) we should get professional estimators to provide us with a cost factor—all this to demonstrate that the proposed capital improvement has been well thought out in the budget process and provide the Board with more information about these capital improvement projects as part of the budget process;
- 3) the Board should consider establishing an ad hoc committee to work with staff in making recommendations for capital projects; and
- 4) once a project is identified and budgeted, it is critical in the selection of the designer or engineering firm that the request for proposal or request for qualifications set forth exactly what the district is looking for. The RFQ/RFP interview process is critical to getting the right consultant and we felt that was key to also having staff provide input to that level of professional.

These results would change how we do business and the hope and expectation would be that projects would be on-time and on-budget with minimal change orders. Did I characterize that well enough, Commissioner McCombs?

8:25:15 PM

Commissioner McCombs responded, "Yes."

Mr. Peña stated, we really appreciate the input that we got from Commissioner McCombs and I would like the Board to let us know what you think of the recommendations that we are making and see if you agree that changing the budgeting process would be beneficial. We certainly think that Commissioner McCombs is right. I think there is more planning that could be beneficial.

8:25:50 PM Finally on these procurement forms, I have to thank Pam Casey our administrative assistant who has some experience working for the housing authority, where the use of these forms was useful. Some of them are new; for the most part all of these are samples of what we could use. This is the first time that we are bringing them to the Board for an opportunity to look at them, and actually it is the first time for our Legal Counsel. So, on some of these amendments that we might consider for procurement policy, Tim Gosney and I still have to work out the details. Certainly I think what we are recommending makes good sense. With that, we will take any comments or questions. Staff may also have some comments as well.

Chairman Turner asked if there were any questions before we get to the comment part of it.

Commissioner Carson asked if the dollar amount is staying the same?

Mr. Peña stated the dollar amounts stay the same and what we've done [and again PJ was working with staff on this particular sheet of what we've identified in our organization.] My limits are still what they are in the existing policy. But what we have not identified in the past were: other employees at different levels making purchases. Probably the easiest example is, we may have a Home Depot credit card and one of our employees may order something from Home Depot, take the Home Depot credit card and make that purchase. What we are saying is at that level of Maintenance that employee would have to get his immediate supervisor's approval (Joe Gonzalez). If Joe were to go to Home Depot to acquire something for the Department he would have to go to Robin for approval.

The other thing we are proposing is that for Level 3, which has authorization to spend less than \$10,000, Robin or Scott or Gloria or Pam Sanderson, or Jennifer Talt-Lundin could come to me and say, I am working on a project and I reached that level and I want your approval. I am not trying to create a bottleneck but the reality is we meet every Wednesday and to some extent at that Wednesday meeting they could make me aware of it and I can give them my approval.

There are some difficulties when you have an existing contract, like this past year when we contracted the repainting of the Village. To get something outside of the contract from the painter was going to require a change order. I am authorized to not spend more than \$10,000 on the change order, but I have to come back to the Board and report that. We are actually creating a mechanism so we can document that change order. I think the difficulty in getting pre-approval from the Board in large projects like the renovation of our headquarters is that you run into something that you did not anticipate and there is not time to take it to the Board. This does happen very often so perhaps we need some direction from the Board as to how to treat that. Sometimes you have an opportunity to do the work immediately and, if you don't, you come back later and it will cost you more. Mr. Peña asked Richard Parsons if he had a clearer example.

8:30:48 PM

Mr. Parsons stated that the paving contract was similar. If we have to wait for Board approval the contractor's equipment is going to set there and you are going to pay for every day that his equipment is setting there idle because he could be using it for something else—there is a rental rate on his equipment and if it is something we want now and we think we are going to do it, you have to tell him now, you cannot wait twenty days—it will cost you more if you want to wait. Staff has to have some flexibility; he could check with members of the Board informally, but to say we have to stop while the contract is in place, that is too inflexible in my judgment. It is going to end up costing considerably more, or you just will not do it.

The paving contract was a good example; sometimes you are into these items on a quantity basis, like we were with seal-coating the entire parking lot; but we were also patching areas where we had bad pavement, which is done on a yardage basis, so many square feet. As you are taking out the damaged asphalt you can see that we should expand this a little bit. He's going to be compensated on a square footage basis; you could consider it a change order, but it is really a quantity adjustment because that is how the contract is bid.

Dredging is the same thing; we are paying on a cubic yard basis quite often and it is pretty unlikely that the yardage that is estimated is going to be exactly where you end up—it might be a little higher or a little lower but you are going to pay the contractor on the yardage basis. That sort of thing needs to be acknowledged I think, Mr. Parsons said.

Commissioner Bravo asked Mr. Parsons to refresh his memory on these contracts; do we normally have a contingency?

Mr. Parsons replied that it would depend on what the budget number was versus what the initial contract was for; sometimes we may have awarded a contract that is pretty close to the budgeted amount and it could be that this might push it over the budgeted amount. We would ultimately have to come back to the Board and get that change order ratified and, if necessary, get the Board's concurrence for that.

Commissioner Bravo asked, when the Board approves a contract, if it could be awarded with a certain amount of contingency.

Mr. Parsons stated, you are normally awarding just for whatever the contractor's bid amount was. If the Board wanted to say at the time that staff is granted a five or ten percent contingency, you could do that; we have not done that before.

Commissioner Bravo stated that is what they do at the City of Port Hueneme and I'm not saying it is good or bad, but it does help in those occasions.

Commissioner Carson stated that the Boards upon which he has served there has been an executive committee the Board has entrusted [Chairman and Vice Chairman] that can authorize those kinds of things and then come back and be ratified by the full Board.

Mr. Parsons stated there should be some mechanism so we do not stop and hold the contract up.

Mr. Gosney asked Commissioner Bravo, regarding the built-in ten percent contingency, I'm familiar with that when you are budgeting for it and the architect or engineer estimates what it is going to be and they build in that ten percent contingency to set your budget. But I'm not familiar with it being where you build a ten percent contingency in the award of the bid.

Commissioner Bravo stated that it is not necessarily in the award of the bid; it is just so that it does not have to come back to council.

Mr. Gosney asked, because it's within the budget.

Commissioner Bravo replied, "Right."

Mr. Gosney: OK, we are saying the same thing. That's what I wanted to clarify.

Commissioner Deitch stated that he actually liked both of those ideas. That there would be a contingency figured into most projects that don't have an absolute set "this is what we know it's going to cost." Most things that you don't order out of a catalog are going to fall into that category; and then also the idea of an executive subcommittee of some kind that could help.

Mr. Peña said that in the future if we were to follow the recommendations of Commissioner McCombs, you start to reduce that likelihood. I think in the paving project we went in with the idea that we had a budgeted amount, didn't want to exceed it, ended up getting a great bid, a very competitive bid, and so then the strategy began to change. We said, if we got that good of a bid on a dollar per square foot basis and it worked out that the Board's meeting [date] was timely and we weren't really delaying the project, we could come back to the Board and said we may have exceeded what we had budgeted but this really a good price. In this example a change order seems appropriate.

Mr. Parsons stated that an example of that was when we re-did the docks at the Village. We got a really great bid and we did expand the project because of that.

Mr. Peña stated that sometimes we have to be a little bit more cautious to look at the full scope of a project—sometimes the objective is to save money. Occasionally with a very good bid, the temptation is to do more work. So the times where we have been trying to save money to reduce our expenses, we probably should have looked at the full scope.

Mr. Peña said, I like the idea of going back to the Executive Committee, whether the executive committee is the Chair and Vice Chair as Commissioner Carson said, that at least gives us an avenue. That is just one of the concerns Mr. Parsons had. Right now that \$10,000 limit on change orders is all I am authorized to approve and if it is not budgeted I do have to come back to the Board and say it was not budgeted and then we have to add it to our mid-year budget. We want to keep you advised but, at the same time, if there is some flexibility that we can build into the system, that would be good.

Mr. Gosney asked Chairman Turner, on that executive committee idea, which is a great idea, but it does seem that if it's going to involve exceeding the budget, you probably should bring it back to the Board. Bringing it back to the Board for ratification after the fact is perfectly within the Board's authority or to delegate to a designated group or committee to make those decisions up to the budget amount.

Mr. Gosney stated it occurred to him that the staff's procurement/purchasing ideas do not address dredging at all and he thinks there are some good, legitimate bases to say that dredging, provided the equipment is there and immediately available after completion of the federal project, that we should look at that as being a sole source exception. Let's be honest, we are pushing the envelope in our current practice out of economic necessity, because we are saving hundreds of thousands of dollars in mobilization costs.

Mr. Parsons stated that to mobilize the dredge this year, the Corps of Engineers is paying \$770,000.

Mr. Gosney stated that we may be able to piggyback on the Corps competitive bidding procedure to comply with California's competitive bidding requirements.

Commissioner Deitch asked, is this just by policy change that we can do this?

Mr. Gosney responded, I think we can put in the policy the basis on which dredging can be treated as a sole source item.

Commissioner Carson stated but those decisions on whether to utilize that further would still go to the executive committee.

Mr. Gosney stated, "Absolutely".

Commissioner Bravo stated the issue of it being a sole source--it's not necessarily a sole source because there are other sources, but they are a lot more expensive.

Mr. Gosney said when certain conditions are in place, meaning the contractor and

equipment are here and it's immediately available for dredging, that we should be able to move on it as a sole source project, especially with the idea that we have limitations on the conditions under which our rights under the permit can be exercised.

Commissioner Bravo said, I'm not disagreeing that we should do it; I'm just saying that it would be just as easy if you come up with another quote.

Mr. Gosney stated the problem is that you've got to give them something to quote on; that necessitates having to prepare plans, specifications, etc., for what you want to do; and then you have the time factor. I realize we probably do know in advance when the federal project is going to end.

Mr. Parsons stated that often it doesn't have to end; if bad weather sets in and the contractor can't work out in the federal area, well then he says he can come in and work on the Port District and keep his crew going. It can be during the period when the federal work is underway.

Mr. Gosney said he thought it was after [the federal work].

Mr. Parsons said that sometimes we put it in the middle because they knocked out of the federal area due to weather/sea conditions. Additionally, it would be real hard to put together specs.

Commissioner McCombs asked if it can be tied to the Corps' contracting process.

Mr. Gosney stated that pricing is based on that process.

8:43:19 PM

Commissioner McCombs said, I know, but I mean in terms of giving us a way to deal with not having to go separately to bid. Is there some way we can...we are piggybacking on the Corps contracting process.

Mr. Peña, Mr. Parsons, and Mr. Gosney simultaneously commented/agreed that the Corps has competitively bid it to start the project.

Commissioner Bravo said that's a good point, because we City of Port Hueneme does that a lot with the state contracts; any public agency could just piggyback on those and you get there. You don't have to do all the RFPs, etc., it's already been done for you.

Mr. Gosney said, I think justifying it as it's already having been competitively bid following federal procedures should be part of what we would consider to call a sole source exception, or whether you just want to create a whole different ball game for how you deal with dredging. Either way it would seem to me to make some sense.

Mr. Parsons stated there have been dredging contracts where we've gone to bid when it's a small dredge inside the harbor; we've put together plans and specs, but when we're doing the main channels and we can capitalize on the Corps' dredge, it's just the economics. That dredge is so efficient compared to anything we can hire under a normal bid process.



Mr. Peña stated, I think Tim Gosney can create language to put this type of project in either the sole source policy or dovetailing with other vendors or contractors that have been approved by the Corps.

Commissioner McCombs stated, definitely that's a good point; it has to be carved out in some fashion.

Chairman Turner stated, this can't be a totally new issue to everybody—maybe to us—but I assume that there's some sort of guideline or at least people who have pioneered different approaches that worked in the past in terms of the sole source

Mr. Parsons interjected: I think our situation is unique though in this dredging area; Channel Islands doesn't have this kind of problem, and neither does Port Hueneme. When they need to dredge inside it happens once every 20 years.

Chairman Turner stated, I know you are talking about the specific project, I'm just saying, everybody's got some specific type of a project that might be unique to them and this issue has had to have come up before in terms of what is a legitimate sole source matter. And, once again, I think we've got to balance between doing what's efficient and what's in our best interests.

Mr. Parsons stated, when you get into the Bay Area, sure there is a lot of competition because you don't have the kind of exposure we have here or the kind of volume. But for the dredges that can do Channel Islands Harbor, this harbor, Oceanside where there's equipment exposed to some extreme weather conditions, there aren't very many contractors capable of doing it. And a good illustration of that was several years ago when the Corps contracted with Nova Dredging...when Nova started there was let's say 400,000 yards or 500,000 yards to be dredged.

Mr. Parsons said he wanted to make another comment if we are finished with that issue. Attachment 4 is a form for a contractor to submit a request for a change order. This sort of ignores that the District has a set of General Conditions that are already part of the contract and the role of the engineer in that contract. Many times a change order is not at the request of the contractor.....etc.,

Commissioner McCombs asked, so are you saying that general contract provisions already deal with this subject?

Mr. Parsons: There's a role the engineer has, etc...

Commissioner Carson: So what are you saying? The form needs to be more fluid? More flexible?

Mr. Parsons: Yes, more flexible and we need to look at the General Conditions to see how this dovetails with it.

Commissioner McCombs: So that's something for the staff to work out.

Chairman Turner: I think so.

Commissioner McCombs: How far do we want to go with this tonight? What's the intent?

Mr. Peña: I think the intent was to get Board comments. I think what staff hopes to do is work with legal counsel on the proposed policy changes. We'll take another look at the sample letter Mr. Parsons talked about. Robin works with smaller contractors and this could be a good form for them to use. We probably didn't take into consideration where and when District's engineers make recommendations. On the large projects you don't have to tell them to use this form, they have their own form. We'll take a closer look on how and when this particular form gets used, but again I think our effort was to find a certain level of control.

Chairman Turner: Unless people have other comments I don't hear any real significant negative reaction in terms of what you're proposing. But one thing that seemed to strike a cord was the executive committee approach to providing that additional flexibility and maybe that can be written in. And then what I assume you're talking about doing is taking what you've drafted and the comments we've made and creating a policy akin to the existing one that's attached in the back, updated and then returning to Board for adoption?

Mr. Peña: Yes, we would just give you an amended administrative policy next month and we would put the changes in a different color so you'd see exactly how they dovetail. By the next meeting we can iron out some of the issues Richard has brought up, and certainly work closer with legal counsel to make sure that it does allow some flexibility.

Chairman Turner said we also had an issue a couple months ago relative to providing points in the bidding process for local contractors; would this be the spot that would reside in?

Mr. Peña stated that is part of the new procedures; we just need to bring it all together so it's under one document.

Commissioner Bravo asked, on the sole source section, in my opinion I would just keep it to a contract with the vendor who is only manufacturer supplier compatible with existing equipment inventory systems and so forth. These last three bullets, in my opinion that would tend to open it up to quite a bit of different things.

Mr. Peña said, I will tell you that the last bullet, the trial and evaluation project, we actually did use for a dredging program where the dredging equipment was uniquely different, used more in mining or something like that, and it was in a small area and we thought it would work. On that basis, the Board approved the contract since it was a unique situation and something that we were actually testing to see if it could work. So, I would recommend, maybe the bullets about the special bargains and delivery date could definitely be taken out. But the trial and evaluation project we would like to leave it in there just to have that level of flexibility. We may never use it again, but it's there.

Commissioner Bravo: And then when we do this in practice, the explanation should be very clear as to why it is a sole source. And on the last item re the purchasing code of ethics, I would add something there as to those that are involved in the process should either refuse all gifts from vendors or be limited to \$50; that way it's...(interrupted).

Commissioner McCombs: The part about those involved in the process should just refuse all gifts period.

Mr. Parsons: Let me just ask a question. Frequently, you might go to lunch with the contractor to discuss the contract and the contractor picks it up; does that bother you?

Commissioner Bravo: Well no, but it may bother you.

Mr. Parsons: Well, actually I have myself sometimes bought them lunch just to avoid that problem.

Commissioner Bravo: All I'm saying is that there is no such thing as a free lunch. If what you get from them has a value of over \$50 in a year then you need to report that on your 710.

Commissioner Carson: But if contractors want to bring in like donuts or boxes of candy for all the employees...do we have to say no we can't take that? I mean I'm just asking.

Commissioner Bravo: I would report it.

Mr. Peña: I agree with you Robert. If you do receive that kind of gift you should report it.

Chairman Turner: It's like anything, perception is sometimes worse than the actual.

Mr. Peña: I think you say that those involved in the process should not accept gifts; we can do that if that's what the Board wants. It's just a little harder to manage; as Richard said, if someone takes you to lunch, I guess you just keep adding it up and report it at the end of the year.

Commissioner Bravo: Yes, that would be fine. As long as it doesn't exceed \$450 per year, but if it exceeds that \$450 then you can't have anything to do with it.

Mr. Peña: We will bring something back on the Code of Ethics that takes into consideration the Boards concerns. When I was doing research I noticed that a lot of local governments and counties adopted this from the California Association of Public Purchasing. When I talked to Robin about it, I thought this was something that was really good to post in the shop, that way they know they are subject to the same conditions managers have.

Chairman Turner: OK. Any final comments? Then, do you have pretty clear direction

in terms of returning next month?

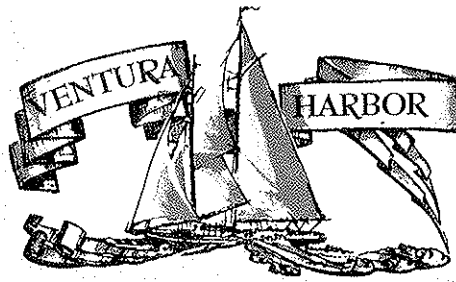
Mr. Peña: Yes, thank you very much.

Chairman Turner: That was sort of a receive and comment, so, no action necessary beyond that.

9:00:46 PM **End of Item 5**

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*NOTE: These partial minutes were prepared to include in the December 17, 2010 letter to Grand Jury Review Committee*



August 2, 2010

RECEIVED

AUG 05 2010

VENTURA COUNTY  
GRAND JURY

Ventura County Grand Jury  
800 S. Victoria Avenue L#3751  
Ventura, CA 93009

**Subject: Grand Jury Report *Ventura Port District Contracting Procedures***

The Ventura Port District Board of Port Commissioners ("the Board") in collaboration with Port District staff ("staff") has reviewed the June 8, 2010 Grand Jury Report entitled, *Ventura Port District Contracting Procedures*. An Ad Hoc Subcommittee of two commissioners, Chairman Keith Turner and Vice-Chair Nicholas Deitch, met with the General Manager and key staff members on July 13, 2010, to discuss the findings, conclusions, and recommendations of the Grand Jury's investigation of alleged improper contracting procedures in the District.

The Grand Jury's report was very thorough in its review of the project files and procurement documents evaluated. Many of the findings and recommendations will be helpful in considering changes to the District's administrative policy entitled, *Contract Administration, Competitive Bidding Procedures, Purchasing and Procurement and Professional Service Agreement*. This administrative policy reflects the same requirements in which contracts must be let by competitive bidding where the amounts of the contract exceed the following thresholds:

- 1) \$10,000 for new construction work;
- 2) \$25,000 for acquisition of supplies and equipment; and
- 3) \$10,000 for maintenance of buildings and improvements.

These thresholds are always a factor when the Board considers available resources, planning objectives and implementation strategies. As a small public agency, the Board must use its financial resources wisely and ensure that District staff adheres to the California Public Contracting Code ("PCC") and allow contractors through the public bidding process an opportunity to offer services at a competitive rate.

**Ventura Port District**

1603 Anchors Way Drive, Ventura, CA 93001-4229

805/642-8538 • FAX 805/658-2249

[www.venturaharbor.com](http://www.venturaharbor.com)



In some situations, the District utilizes its own work force to perform certain functions that may include, for example, electrical and plumbing services within the Harbor. Provided staff stays within the parameters of the Board's Administrative Policies (as outlined above) and the PCC, the Board supports utilizing the skill set of its employees. This can be a challenge as the Grand Jury's report disclosed; the projects which they reviewed may not have met the requirements.

The current thresholds established by the PCC have not been increased since 1984 and are unrealistically low. Any change in the Public Contracts Code Section 20751 requires legislative action. In June 2004, the Board directed the General Manager to communicate this issue to Assemblyman Nava and Senator McClintock (see Attachment #1). Staff also collaborated with Santa Cruz Harbor and the Port of Stockton to gain their support in securing an amendment to Section 20751 of the PCC. These other Ports and Harbors expressed an interest to advocate for this kind of change. Unfortunately, economic pressures changed the focus of our representatives in Sacramento and we were not successful in implementing any changes.

We are committed to pursue an amendment to Section 20751 when economic factors improve and state government can focus on other important issues.

The Ad Hoc Subcommittee Members agreed with many of the findings in the Report. There are some findings on which the Board did not agree with the Grand Jury. Additionally, there is one conclusion reached by the Grand Jury that deserves explanation. The Report indicated that District staff failed to consistently follow the PCC and District policy. District staff reported to the Ad Hoc Subcommittee that mistakes were made with the improvement projects reviewed by the Grand Jury. Further, collectively those errors may give the appearance of being performed in a planned manner to avoid the District's policy and PCC requirements; however, the General Manager believes staff acted honestly and in good faith in the implementation of those improvement projects believing that the phasing or segmenting of the projects was proper.

The General Manager reminded the Ad Hoc Subcommittee that the District has made some organizational changes with its management team which should improve the District's contracting procedures in the future.

On February 25, 2009, the Board accepted the recommendations of a Human Resource Consultant to restructure a portion of the District's management team. This organizational change has minimized overlaps in responsibilities, consolidated efforts and clarified who is in charge of projects and providing direction to the maintenance staff. There were multiple recommendations on the proposed restructuring of the organization; however, the main element was combining the essential duties of the property manager and the facilities

manager into one position. This decision allowed the District to recruit and find an individual who has the experience and skill set to perform those duties (see Attachment # 2).

### **Port District Response**

The Grand Jury's Report has allowed the Board to re-examine the following projects:

- A) Refurbish Restrooms at 1559 Spinnaker Drive;
- B) Village Dock Improvements, "C" dock and portions of "G" and "H" docks;
- C) Ventura Harbor Village Exterior Repainting.

Below is the District's response to the findings described in the Grand Jury's Report.

The Board agrees with the Grand Jury's findings F-01 through F-15, which generally describe the Board's administrative policy that relates to contracting procedures and the PCC.

#### **Project: Refurbish Restrooms at 1559 Spinnaker Drive**

The Board approved \$40,000 in the 2006-07 Fiscal Year budget to refurbish the public restrooms located at 1559 Spinnaker Drive. The District staff attempted to refurbish this restroom facility (Men's/Women's Restrooms) within the parameters of the Board's policy but was not successful. The Grand Jury made six (6) findings related to this category; the Board concurs with Findings F-16 through through F-21. The Ad Hoc Subcommittee Members counseled the District staff on alternatives to in-house projects and reminded them of the PCC requirements and the need for strict adherence to the Board's policy.

#### **Project:**

#### **Village Dock Improvements - "C" Dock and portions of "G" and "H" Docks**

The Grand Jury made six (6) findings related to this project. The Board concurs with Findings F-22 through F-27. As concluded by the Grand Jury on this project, no single procurement action for the Dock Improvement Project exceeded the General Manager's authority to approve a contract or purchase; however, District staff did not obtain two proposals for contracts under \$10,000 or three proposals (where feasible) for purchases under \$25,000 as required by Board policy.

In the meeting with the Ad Hoc Subcommittee, staff explained that the work performed on "C", "G" and "H" Docks was divided into parts to accommodate the tenants leasing slips in the marina. Work was done in phases and performed over a seven (7) month period to enable the Marina Manager to temporarily relocate tenants from one dock to another. The primary objective with the project was to replace 25 year-old deck boards.

The Ad Hoc Subcommittee advised staff to improve its performance in obtaining the required proposals as outlined in the District's administrative policy.

**Project: Ventura Harbor Village Exterior Repainting**

The Grand Jury made eight (8) findings related to this project. The Board concurs with findings F-29, F-31, F-33 and F-35.

The Board disagrees with findings F-28, F-30, F-32 and F-34.

**Explanations**

**F-28:** For clarification purposes, staff indicated to the Ad Hoc Subcommittee that a proposal was obtained in May 2007 from a local architectural firm to provide professional services in conjunction with Harbor Village renovations. At that time staff could not narrow the scope of services to a particular project. As a result, the architectural firm supplied a rate sheet outlining its hourly rates for various professional services. Staff never submitted the architectural firm's May 2007 "time and material" proposal to the Board, and that is why the Grand Jury could not find a professional service agreement approved by the Board for this improvement project.

**F-30:** The scope of the Village Repainting contract did not include replacement of signs, awnings and lighting. Unfortunately, there were one or two billings associated with signs or awnings in the file reviewed by the Grand Jury; however, those were not part of the repainting project with Astro Painting Company. For this reason, the Board does not concur with this finding.

**F-32:** The Board concurs in part with this finding. The payment of \$178,760 is correct. The General Manager has the authority to approve and execute on behalf of the District any change order to a contract approved by the Board with a value of \$10,000 or less. In this situation, the General Manager approved an expenditure of \$2,200.

The General Manager believed he was operating within the parameters of the Board's policy. In the future, the administrative policy will be expanded to describe the procedure required in these situations.

**F-34:** Although the contract with Astro Painting did include the cost of material and labor, during the course of the repainting contract, District staff, in collaboration with Perennial Designs, considered other paint color combinations for the complex and tested various colors for consideration by the Board's Harbor Village Ad Hoc Subcommittee. Consequently, District staff purchased additional paint in the total amount of \$2,500 for testing various colors for consideration by Perennial Designs. The paint was applied by District staff; Astro Painting was not involved in the testing.



### **Other Findings**

In this category, the Grand Jury made seven (7) findings. The Board concurs with F-36, and F-38 through F-42.

The Board concurs in part with F-37.

### **Explanation**

**F-37:** Notwithstanding the requirements of the PCC and the Board's policy, the Grand Jury may not have found evidence or analysis provided by the District to show that the District was saving substantial sums of money by performing various tasks with its own work force; however, the Board is confident with the experience of its management team and field supervisors. In many cases these seasoned employees have been performing maintenance functions for 15 to 20 years. The Board concurs that it is prudent to provide analysis to support staff's assumption that the District is saving money by utilizing its own work force and will implement this process immediately.

### **Board Conclusions**

The Board was disappointed to learn of the findings that were contrary to the District's policy and the PCC. In the meeting with the Board's Ad Hoc Subcommittee and District staff, staff also expressed disappointment in the planning and management of the Restroom Refurbishment and Dock Improvements projects. The General Manager believes that it was clearly the intention of the Facilities Manager to stay below the financial thresholds required by the Board's policy and the PCC. Regretfully, this was not accomplished with those projects.

As previously stated, there have been some organizational changes that the Board feels confident will improve the Port District's contracting procedures. The Ad Hoc Subcommittee suggested that the Property Manager work closely with the General Manager and that project expenditures be reviewed more carefully during the planning and implementation of each project. Another suggestion was to consider a policy that would allow the prequalification of contractors. This could offer staff more options to satisfy the competitive bidding requirements. The Ad Hoc Subcommittee advised staff to follow the Board's policy to obtain two proposals for contracts under \$10,000 and three proposals whenever possible for purchases between \$10,000 and \$25,000, provided the purchases are included in the District's budget. Additionally, the Ad Hoc Subcommittee asked the General Manager to work with the Property Manager to evaluate the need for monetary limits and identify which supervisors should have authority to sign contracts.

## **Grand Jury Recommendations**

**R-01:** The District should significantly revise its administrative procedures for contracting and purchasing to provide adequate detail on the various types of procurement actions and limitations, clear documentation on the authority being used in procurement actions, checks and balances of procurement functions and adequate oversight of staff.

**Response:** The Board will review its administrative procedures as recommended by the Grand Jury and implement any necessary changes. Following Board review of any modifications, such changes can be incorporated into the Board's policy before the end of the calendar year.

**R-2:** The District should require ongoing training of staff regarding the basic requirements of the PCC, as well as on the recommended revised District administrative policies.

**Response:** The Board agrees with the Grand Jury's recommendation and will develop a training plan and implement it immediately.

**R-3:** The Board should require an annual audit of major project expenditures to ensure compliance with the Board and PCC requirements.

**Response:** The Board does not agree with the requirement of an annual audit of major expenditures. Instead, major projects should be carefully reviewed by the General Manager on an on-going basis and a report should be issued to the Board to ensure that major expenditures are in compliance with Board policy and PCC requirements. This will be implemented immediately.

**R-4:** The Board should cause a review of all major projects completed over the last several years to evaluate the scope of apparent contracting irregularities noted in this review of three projects.

**Response:** The Board will review with the General Manager all major projects from 2008 to the present to ensure compliance with Board policy and PCC requirements. The General Manager and the Ad Hoc Subcommittee will report any irregularities to the Board on or before October 27, 2010.

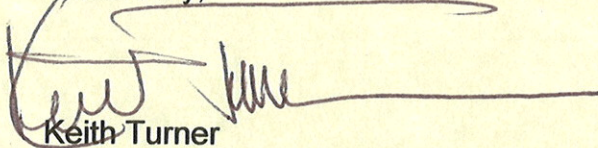
**R-5:** The District Board should review the provisions of the Agreement regarding the District's Project Manager to ensure it meets the requirements of an independent contractor and the criteria specified by IRS Publication 15-A of January 2006.

**Response:** The Board does not agree with conclusion #17 of the Grand Jury which states the agreement with the District's Dredging Program Manager

appears to be defective. The General Manager did instruct the District's Legal Counsel to review the Dredging Program Manager's contract to ensure its compliance with legal requirements for independent contractor status. It was determined that no modifications are necessary.

If the Grand Jury has any questions or comments regarding the Port District's response, please contact the Clerk of the Board, Pamela "P.J." Casey at (805) 642-8538, extension 310.

Yours truly,

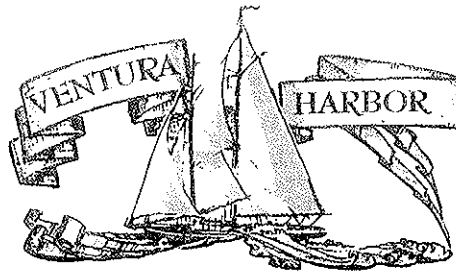
A handwritten signature in dark ink, appearing to read "Keith Turner", is written over a horizontal line. The signature is stylized and somewhat cursive.

Keith Turner  
Chairman, Board of Port Commissioners  
Ventura Port District

KT:pjc

Attachments: #1 Letter to Pedro Nava and Tom McClintock dated 6/13/2008  
#2 Agenda Item 6, 2/25/2009 Board Meeting

c: Honorable Kevin J. McGee, Presiding Judge  
Superior Court of California, Ventura County  
P. O. Box 6489  
Ventura, CA 93006



June 13, 2008

The Honorable Pedro Nava  
Member, California State Assembly  
P. O. Box 942849  
Sacramento, CA 94249-0035

The Honorable Tom McClintock  
Member, California State Senate  
State Capitol, Room 3070  
Sacramento, CA 95814

Subject: Public Contracts Code Section 20751

I am writing on behalf of the Board of Port Commissioners of the Ventura Port District to request your assistance in securing an amendment to Section 20751 of the California Public Contracts Code that would raise the expenditure thresholds above which the Port District must secure competitive bids for work or equipment. The existing limits as set forth in Section 20751 are as follows:

- More than \$10,000 for new construction work;
- More than \$25,000 for acquisition of supplies and equipment;
- More than \$10,000 for maintenance of buildings and improvements.

Those limits were established 24 years ago in 1984 (at that time the limits were in the Harbors and Navigation Code Section 6272) and are now rather impractical. It can cost several thousand dollars just to have an architect or engineer prepare bid documents. To incur that kind of cost and the 45 to 60 days that the entire bidding process requires just to paint a building borders on the ridiculous.

Inflationary pressures over the past 24 years have more than doubled the cost of living and as a consequence it is time to increase the expenditure thresholds set forth in Section 20751. Thus, the Ventura Port District respectfully requests your support in securing an amendment to Section 20751 of the Public Contracts Code providing that competitive bidding is required only for work, maintenance or purchases exceeding \$50,000.

Your assistance in this matter would be greatly appreciated.

A handwritten signature in black ink, appearing to read 'Oscar F. Peña'.

Oscar F. Peña  
General Manager

pc: Ventura Port District Board of Port Commissioners  
California Special Districts Association  
Jesús Torres, Field Representative, Assemblymember Nava

**Ventura Port District**

1603 Anchors Way Drive, Ventura, CA 93001-4229  
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**VENTURA PORT DISTRICT**  
BOARD COMMUNICATION

**Item 6**  
Meeting Date: February 25, 2009

TO: Board of Port Commissioners  
FROM: G. Scott Miller, Harbormaster  
SUBJECT: Gerald McGuire Report: "Evaluation of Organizational Framework"

Recommended Action

It is recommended that the Board of Port Commissioners approve by motion to:

- Accept the Gerald McGuire report "Ventura Port District – Evaluation of Organizational Framework";
- Direct the General Manager to immediately proceed with implementation of all aspects of "Option #2" as outlined in Mr. McGuire's report;
- Direct the General Manager to work with the District's legal counsel to establish an exit strategy for the District's Facilities Manager that could include a severance package including outplacement assistance, or consider other alternatives.

Summary

At the December 11, 2008 Board of Port Commissioners Meeting, the Board authorized Staff to enter into a professional service agreement with Gerald McGuire to evaluate the Organizational Framework as it relates to the position of Property Manager and some related Classifications. He has completed all three phases of his evaluation and has submitted his final report.

Phase 1: In this phase, the consultant reviewed the job classifications and essential duties of the following positions:

- Property Manager
- Facilities Manager
- Marketing Manager
- Administrative Assistant/Clerk
- Marina Manager

Mr. McGuire interviewed each of these employees to determine how each position interacted with the Property Manager position. Following this exercise, the consultant was able to consider reassigning Essential Functions to other Classifications.

Phase II: The consultant presented the General Manager and the Harbormaster with his preliminary findings and ideas. At this phase, Mr. McGuire was directed to move forward with his concept to consider possible organizational changes.

Phase III: In early January, Mr. McGuire was able to present to the General Manager and the Harbormaster a draft of new class specifications for the Property Manager position and other positions. He also presented a proposed Organizational Chart showing the revised organization based on Option #2.

On February 19, 2009, he presented his final draft report to the Harbormaster.

#### Discussion

With the Property Manager position currently vacant, the District has the opportunity to evaluate the duties and responsibilities of the position, expand the duties to include property management throughout the entire Harbor, and then recruit to find an individual who has the experience and skill set to perform those duties.

At the conclusion of his evaluation, Mr. McGuire provided the District with two options:

Option #1: Maintain the existing framework

Option #2:

- Increase the duties of the Property Manager to include Risk Management and Leasehold inspection;
- Expand the functions of the Marketing Manager to include recruiting new lease tenants;
- Change the Part-time Marketing Assistant position to full-time status;
- Eliminate the position of Facilities Manager.

Eliminating the position of the Facilities Manager would minimize overlaps in responsibilities, consolidate efforts, and clarify who is in charge of projects and Maintenance Staff. It would also result in an overall savings to the District.

The General Manager and Harbormaster have met with the Facilities Manager to advise him of the recommended action. There has been some preliminary discussion regarding possible exit strategies if Option #2 is approved by the Board.

#### Fiscal Impact

The District could reduce its personnel expenses by approximately \$78,000 annually by implementing Option #2.

The District does not have a policy on severance pay; therefore, the cost of implementing any exit strategy could vary.

#### Alternatives

The Board could approve all three of the recommended actions, approve only a portion of the recommended actions, direct the staff to make no changes to the organizational framework, or consider other alternatives.

July 29, 2010

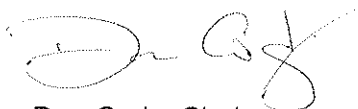
Re: *Ventura Port District Contracting Procedures*

Oscar Pena  
General Manager  
Ventura Port District  
1603 Anchors Way Drive  
Ventura, CA 93001-4229

Dear Mr. Pena:

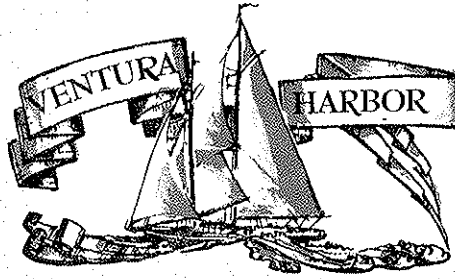
The Grand Jury Review Committee considered your request for an extension in responding to the above Grand Jury Report and considers the request reasonable. We have extended the "due" date to October 6, 2010.

Sincerely,



Don Cody, Chairman  
Grand Jury Review Committee  
2010-2011 Ventura County Grand Jury

Robert A. Peskay, Foreman  
2010-2011 Ventura County Grand Jury



RECEIVED  
JUL 21 2010  
VENTURA COUNTY  
GRAND JURY

July 16, 2010

H. G. Kelley, Foreman  
Ventura County Grand Jury  
800 S. Victoria Avenue  
Ventura, CA 93009

Subject: Request for 30-Day Extension to Respond to June 8, 2010 Grand Jury  
Report entitled *Ventura Port District Contracting Procedures*

Dear Mr. Kelley,

On behalf of Keith Turner, Chairman of the Ventura Port District Board of Port Commissioners, we respectfully request a 30-day extension of time to October 6, 2010 in which to respond to the Grand Jury's recommendations R-01 through R-05 in the above-referenced Report.

We ask for an additional 30 days in which to respond due to the following:

- 1) Our Board of Port Commissioners is dark, that is, not meeting during the month of August.
- 2) Absent the August meeting, the response must be brought to the full Board for a vote either on July 28th or at a special meeting before September 6th.

We sincerely thank you for considering this request.

Yours truly,

A handwritten signature in black ink, appearing to read "Oscar Peña", with a long horizontal flourish extending to the right.

Oscar Peña  
General Manager

c: Board of Port Commissioners  
Legal Counsel

