WEST CHICAGO MOSQUITO ABATEMENT DISTRICT
ORDINANCE NO. 2012-03

PROCUREMENT POLICY

BE IT ORDAINED by the President and Board of Trustees of the West Chicago Mosquito Abatement District, DuPage County, Illinois, as follows:

SECTION ONE: Interpretation and Purpose. This Ordinance shall be interpreted and applied to promote its underlying purpose and policies.

The underlying purpose and policies of this Ordinance are to manage the procurement process in accordance with the law; spend taxpayer's money wisely and fairly; protect against fraud and favoritism; and to best meet the needs of the West Chicago Mosquito Abatement District (the “District”) through continuous improvement of purchasing systems and procedures. To the extent permitted by law, the District will promote economic development by encouraging the participation of DuPage County businesses, by providing equal opportunity for minority and women-owned businesses, and for veterans, and by applying environmentally sound practices in the procurement process.

SECTION TWO: Application. This Purchasing Ordinance applies to contracts for procurement of Goods, Services, and Construction entered into by the District after the effective date of this Ordinance. It shall apply to every expenditure of public funds by the District for public purchasing irrespective of its source, except as otherwise provided by the federal or state law, federal or state regulation, District Ordinances or administrative policy. When the procurement involves the expenditure of State or Federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory State and/or Federal law. Nothing in this Ordinance shall prevent the District from complying with the terms and conditions of any grant, gift, bequest or co-operative purchasing agreement that is otherwise consistent with law. The District may adopt administrative procedures to ensure compliance with all bidding requirements, and those procedures may be more restrictive than required by statute.

SECTION THREE: Requirement of Good Faith. This Ordinance requires all parties involved in the procurement, negotiation, performance, or administration of District contracts to act in good faith. District officials and employees shall take care to limit communication with bidders/offerors during the solicitation process so that the integrity of the competitive solicitation process is maintained. If it is determined that a bidder/offeror received an unfair advantage from information obtained through improper circumstances, the solicitation may be canceled, or the bidder/offeror disqualified from participation in that solicitation request.

SECTION FOUR: Severability. If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.
SECTION FIVE: Singular – Plural and Gender Rules. Words in the singular number include the plural, and those in the plural include the singular. Words of a particular gender include any gender and the neuter, and when the senses indicate, words of the neuter gender may refer to any gender.

SECTION SIX: Definitions. The words defined in this Section shall have the meanings set forth below whenever they appear in this Ordinance.

"Board" means the Board of Trustees of the District.

"Business" means any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.

"Change Order" means a written authorization by the District to the Contractor to modify or change an existing Purchase Order or Contract; these changes generally must be within the scope of the Contract.

"Construction" means the process of building, altering, repairing, improving, or demolishing any structure or building or other improvements of any kind to any real property.

"Contract" means all types of District agreements regardless of what they may be called, for the procurement of Goods, Services or Construction, for example, payment vouchers, Purchase Orders, maintenance contracts, service contracts, systems contract, oral agreements, etc.

"Contract Renewal" means a continuation for an additional period under the original terms and conditions, where the renewal clause is included in the quote solicitation document. If the quote solicitation document does not include the terms and conditions of a renewal, any continuation of the Contract is considered a new Contract, which must go through the quote solicitation process.

"Contractor" means any person or entity who is a party or beneficiary of a Contract with the District.

"Cooperative Purchasing" means, but is not limited to, joint or multi-party contracts between Public Procurement Units and open-ended state/national public procurement unit contracts, which are made available to other Public Procurement Units after having been bid by another Public Procurement Unit where required.

"District's Attorneys" means the law firm appointed by the Board to act as legal counsel to the District.

"District's Auditor" means the firm of independent public accountants appointed by the Board to audit the financial books and records and financial statements of the District.

"Emergency Procurement" means a procurement made in response to an imminent disruption of essential operations or conditions adversely affecting the safety, health or security
of persons or property, where it is unfeasible to remedy such disruption or conditions through
the use of normal quote solicitation procedures.

“Employee” means individuals providing services for the District and drawing a salary
from the District, but excluding independent contractors.

“Engineers, Architects and Land Surveyors” means those persons providing Professional
Services within the practice of architecture, professional engineering, structural engineering or
land surveying, as defined by Local Government Professional Services Selection Act (50 ILCS
510/0.01, et seq.).

“Goods” means all tangible maintenance, repairs, and operation supplies, physical
computer software and equipment necessary to sustain day-to-day District operations.

“Large Procurement” means the purchase of Goods or Services or Construction by the
District in an amount at or in excess of $5,000.

“Multi-Year Contracts” means Procurement Contracts extending more than one year.

“Person” means any individual or group of individuals, business, union, firm,
corporation, trustee, partnership, association, joint venture, committee, or other entity.

“President” means the duly elected and acting president of the Board.

“Procurement” means the buying, purchasing, renting, leasing, or otherwise acquiring of
any Goods, Services, or Construction, including all functions that pertain to the obtaining of any
Goods or Services, or Construction, including descriptions of requirements, selection and
solicitation of sources, preparation and award of contract, and all phases of contract
administration.

“Professional Services” means the service of a person(s) possessing a high degree
of professional skill where the judgment, artistic or subjective talent, ability, experiences,
qualifications and fitness of the provider(s) play an important part in the selection and primary
reason for the service provided other than those described in the Local Government Professional
Services Selection Act (50 ILCS 510/0.01, et seq.).

“Public Procurement Unit” means the State of Illinois, any county, city, town and any
other subdivision of the state, or public agency of any such subdivision, public authority,
education, health or other institution, any agency of the United States, and to the extent provided
by law, any other entity which expends public funds for the procurement of Goods, Services and
Construction.

“Public Works Contract” means a contract for public works as defined in the Illinois
Prevailing Wage Act, 820 ILCS 130/0.01, et seq.

“Purchase Order” means a Contract for the purchase of Goods, Services or Construction.
“Responsible Bidder or Offeror” means a Person who has the capability in all respects to perform fully the Contract requirements, and the experience, personnel, integrity, reliability, facilities, capacity, equipment, acceptable past performance and credit which will assure good faith performance.

“Services” means the furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This definition shall not apply to employment agreements, collective bargaining agreements or to the definition of “Professional Services” as provided above.

“Small Procurement” means the purchase of Goods or Services or Construction by the District in an amount less than $5,000.

“Sole Source Procurement” means a situation created due to the inability to obtain competition. This may result because only one vendor or supplier possesses the unique ability to meet the particular requirements of the solicitation. Sole Source Procurement requires justification from the Board explaining why this is the only source for the requirement.

“Specifications” means any description of the physical or functional characteristics or of the nature of a Good, Service, or Construction item. It may include a description of any requirement for inspecting, testing, or preparing Goods, Services or Construction projects.

“String Purchasing” means the practice of issuing multiple Purchase Orders or requisitions for purchasing like items or services, with the willful intent to circumvent this purchasing policy. Splitting or stringing purchases will be dealt with as an impropriety and may result in withdrawal of delegated purchase authority. In addition, the Person(s) responsible may be subject to disciplinary actions, and may be personally obligated to pay for the items or services.

“Trustee” means a duly appointed and acting trustee of the District.

“Unauthorized Purchases” means an Unauthorized Purchase occurs when the materials, services, or any expense is charged to the District by a person who has not been given such authority. This includes ordering materials without an approved Purchase Order. The individual making an unauthorized purchase may incur a personal obligation to the vendor or the District for the expense incurred even though the materials or services are used for District business.

SECTION SEVEN: Small Procurements (Purchases under $5,000).

A. Condition of Use. These purchases are limited in frequency related to individual commodities and Services. Contract requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive procurement requirements for amounts in excess of $5,000 under Section Eight. The Board shall determine when market or operational factors require the combining or dividing of procurements.
B. **Minimum Requirements.** Procurements up to $5,000 may be obtained in a way that it is in the best interest of the District as determined by the Board.

**SECTION EIGHT: Large Procurements (Purchases $5,000 and over).**

A. **Condition of Use.** Any Large Procurement shall be made in accordance with procedures authorized herein. These purchases are related to individual commodities and services. Purchases shall not be artificially divided so as to constitute a Small Procurement or evade the competitive bidding requirements herein. The Board shall determine when market or operational factors require the combining or dividing requirements. String Purchasing is forbidden and purchases shall not be artificially divided for purposes of evading the requirements of this Ordinance.

B. **Minimum Quotation Requirements.** The Board shall determine the Specifications for quotations and shall utilize a method determined to be appropriate for quote solicitation. The Board shall obtain quotations/proposals (these may be in written form, fax or e-mail) from at least three (3) vendors. Where it is not feasible to obtain three (3) quotes, a Decision Memo must be prepared by the Board. Purchase documentation not in compliance with this Ordinance and all applicable statutes shall not be processed. The Board reserves the right to change a suggested vendor if a Contract exists for the requested Goods, Services or Construction, or if better prices are obtained.

C. **Evaluation Factors.** Evaluation factors which may justify an award to a vendor who has not provided the lowest quotation include, but are not limited to, delivery requirements, quantity requirements, quality and past vendor performance. Whenever it is determined that it is in the best interest to award a Purchase Contract to a vendor who did not submit the lowest acceptable quotation, the reason for the determination shall be indicated in a Decision Memo and retained with the Contract. The Decision Memo documents and determines the appropriateness of the requested procurement process and approvals.

D. **Award.** Except as provided herein award shall be made to the vendor offering the lowest responsive and responsible quote who meets the Specifications. Adequate records to document the competition solicited and award determination made shall be retained with the Contract.

E. **Sole Source.** Circumstances may exist where the Board determines that it is not feasible to secure three (3) quotations. In other situations, the Board may determine that it is in the best interests of the District to consider only one supplier who has previous expertise relative to procurement. Whenever the Board determines that it is not feasible, or is not in the District’s best interest to satisfy the minimum quotation requirements, the reason for this determination shall be indicated in writing on a Decision Memo and retained with the Contract.

**SECTION NINE: Emergency Procurements.** In emergency situations, the President shall have the authority to waive the procedures set forth in this Ordinance and to negotiate and execute Contracts without prior approval of the Board, pursuant to the following procedures: (a) the reason for the determination of the emergency shall be indicated in a Decision Memo, and
(b) a Purchase Order, along with all written documentation, shall be submitted to the Board for ratification.

SECTION TEN: Cooperative Purchasing Authorized. Subject to applicable state statutes, the District may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of Goods, Services, or Construction with one or more Public Procurement Units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between Public Procurement Units and open-ended state Public Procurement Unit contracts, which are made available to other Public Procurement Units after having been bid by another Public Procurement Unit where required.

SECTION ELEVEN: Professional Services Selection Process. It is the intention of the District to employ consultants to provide Professional Services on the basis of their perceived competence and expertise relative to the services to be rendered, the cost of their services, their ability to complete work within a required time frame, their past record in performing similar type work, and their ability to work with the Board. Types of Services covered by this section include, but are not limited to, legal services, accounting services, contract administration services and Engineers, Architects and Land Surveyors. These Professional Services are excluded from the minimum quotation process provided for herein. Purchase Orders for such Services shall require the approval of the Board.

Upon completion of each Contract for Professional Services over $25,000, the Board shall prepare a written evaluation of the consultant’s performance. The details of the evaluation shall be consistent with the cost and complexity of such assignments. The Board will maintain a record of such evaluations for the use of the Board when selecting future Professional Service/consultants. No consultant shall be awarded subsequent contracts unless the Board has submitted a satisfactory evaluation.

Notwithstanding anything in the foregoing to the contrary, Engineers, Architects and Land Surveyors shall be selected in accordance with the Local Government Professional Services Selection Act (50 ILCS 510/0.01, et seq.).

Contracts for legal services will be made through a countersigned engagement letter.

SECTION TWELVE: Insurance Requirements. For all Contracts the Contractor and all sub-contractors shall be required to maintain adequate insurance coverage for the duration of the Contract. The Board shall determine the types and amounts of coverage that shall be required. The Contractor shall have the District named as an additional insured as its interests may appear and furnish the Board with satisfactory evidence of said insurance.

SECTION THIRTEEN: Contractor Record Retention. For all Contracts, the Contractor and all sub-contractors shall be required to maintain adequate records appropriate to the type of Contract, to retain such records for a minimum of three (3) years from final payment unless otherwise specified in the solicitation, and to make such records available for inspection by the District upon reasonable terms consistent with state law. For Contracts subject to the Illinois
Prevailing Wage Act, the retention period shall be five (5) years and the Contractor shall also be required to submit certified payroll affidavits and to make all such payroll records available for inspection by the Illinois Department of Labor.

SECTION FOURTEEN: Responsibility of Bidders and Offerors. If a bidder, designee or offeror who otherwise would have been awarded a Contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the findings shall be prepared by the Board. In determining responsibility of any bidder, the District may take into account, in addition to financial responsibility, past records of transactions with the bidder, experience, adequacy of equipment and ability to complete performance within a specific time. (For example, the ability to meet the specified completion date in accordance with the Specifications.) A detailed explanation shall be sent promptly to the non-responsible bidder or offeror who shall then have three (3) days to provide evidence to defeat the determination. The final determination shall be made part of the contract file. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for such determination.

SECTION FIFTEEN: Contract Administration. A contract administration system is designed to insure that the Contractor is performing in accordance with the terms and conditions of the Contract. Contract administration results may be utilized by the Board for vendor evaluation. The Board shall be responsible to match Contract terms and prices with invoices, and to otherwise monitor compliance with the Contract terms. The Board is also responsible to determine the imminent need for and to begin processing a Change Order where appropriate. Payment must be identified to an existing Contract or Purchase Order.

SECTION SIXTEEN: Procurement Records. All determinations and other written records, notes of telephone conversations and notes for oral conversations pertaining to the solicitation, award and performance of a Contract shall be maintained by the Board.

Upon the request of the Board, the District's Auditor shall be entitled to audit the books and records of a Contractor or a subcontractor at any tier under any Contract or subcontract to the extent that such books, documents, papers, and records are pertinent to the performance of such Contract or subcontract. The Contractor or subcontractor shall maintain such books and records for a period of three years from the date of final payment.

All procurement records shall be retained and disposed of by the District in accordance with records retention guidelines and schedules approved by the State of Illinois Local Records Commission.

Procurement information shall be a public record subject to the exceptions of disclosure to the extent provided in the Illinois Freedom of Information Act, and shall be available to the public as provided said statute.

SECTION SEVENTEEN: Change Orders and Contract Modifications. All Change Orders and contract modifications shall be presented in advance to the Board for approval. No such Change Order or modification shall be effective absent such approval.
SECTION EIGHTEEN: Multi-Year Contracts. All multi-year contracts presented for approval to the Board shall contain the total value of the award for the multi-year period. Multi-year contracts shall not be presented to the Board that exceed a total term of four (4) years.

SECTION NINETEEN: Contract Renewals. All Contracts that contain an optional renewal clause shall be presented for approval to the Board with the total dollar value for the initial period of award. A request for renewal shall be submitted at least sixty (60) days prior to the expiration date of the current period. All renewals shall be for the time period specified in the original contract document. All Contracts containing renewal clauses shall not be presented to the Board that exceed a total term of four (4) years.

SECTION TWENTY: Specifications. The Board shall prepare, revise, maintain, and monitor Specifications for Goods, Services, and Construction required by the District. All Specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the District’s needs, and shall not be unduly restrictive. The policy applies to all Specifications including but not limited to, those prepared for the District by architects, engineers, designers and draftsmen.

SECTION TWENTY ONE: Non Responsibility.

A. Declaration of Non Responsibility. After reasonable notice to the Person involved and reasonable opportunity for that Person to be heard, the Board is authorized to declare the Person non-responsible for purposes of supplying Goods, Services and Construction to the District. The declaration shall be in effect for a period of not more than two years, for all solicitations. The causes for such a declaration include:

(i) Conviction for commission of a criminal offence as an incident to obtaining or attempting to obtain public or private contract or subcontract, or in the performance of such contract or subcontract;

(ii) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offences indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a Contractor;

(iii) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(iv) Violation of contract provisions, as set forth below, of a character which is regarded by the Board to be so serious as to evidence non responsibility:

(a) Deliberate failure without good cause to perform in accordance with the Specifications or within the time limit provided in the Contract; or

(b) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts; provided that failure to perform
or unsatisfactory performance is not caused by acts beyond the control of the Contractor;

(v) Any other cause the Board determines to be so serious and compelling as to affect responsibility as a Contractor, including suspension by another governmental entity for any cause listed in this Ordinance.

The Board shall issue a written determination, which shall state the reasons for the action taken. A copy of the determination shall be mailed to the affected Person by certified mail, return receipt requested.

B. Remedies.

(i) The President is authorized to resolve any procedural protest regarding the solicitation or award of any Contract hereunder.

(ii) Any actual or prospective bidder, offeror, or contractor who believes they have been adversely affected in connection with the solicitation or award of a Contract may, within seven (7) calendar days of the solicitation, bid opening or award, by mail, fax or have served, a letter of protest to the President. The President must submit a response in writing to the protesting entity, within five (5) business days from receipt of the protest.

(iii) In the event of a timely protest, the Board shall determine whether it is in its best interest to proceed with the solicitation of the bid, bid opening or award of the Contract.

(iv) If the protest or claim is not resolved by mutual agreement, the President shall promptly issue a decision in writing, and it shall be immediately mailed or otherwise furnished to the protesting entity. The decision shall state the reasons for the decision reached.

SECTION TWENTY TWO: Remedies for Solicitations or Awards in Violation of Law. If the Board, after consultation with the District’s Attorney, determines that a solicitation is in violation of federal, state or local law, then the solicitation shall be canceled or revised to comply with applicable law.

SECTION TWENTY THREE: Compliance with Ethics Ordinance. Any or all actions related to this Purchasing Ordinance shall comply with the District’s Ethics Ordinance. In the event of a conflict, the Ethics Ordinance shall control.

SECTION TWENTY FOUR: Reporting Of Anti-Competitive Practices. When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, or by any Trustee, any person with knowledge of such practices shall report the same, in writing, to the District’s Auditor or the State’s Attorney for appropriate investigation. Anyone making a good faith report under this section shall have all protections afforded to a whistleblower under
the Ethics Ordinance and State statute.

SECTION TWENTY FIVE: Repealer. All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION TWENTY SIX: Effective Date. This Ordinance shall be in effect upon its passage and approval as provide by law.

PASSED and APPROVED this 14 day of August, 2012.

President Smith
Trustee Dusza
Trustee Manna
Trustee Madden

APPROVED this 14 day of August, 2012.

President

ATTEST:
Secretary