

**Procurement Policy
of
James River Water Authority**

1.0 Introduction:

It is the intent of the James River Water Authority (the “**Authority**”) to obtain high quality goods and services at a reasonable cost and to conduct its purchasing procedures in a fair and impartial manner without impropriety or the appearance of impropriety and at all times in accordance with the provisions of this policy (this “**Procurement Policy**”). Maximum feasible competition will be sought, giving all qualified vendors access to Authority business with no offeror arbitrarily or capriciously excluded.

All procurement transactions shall be conducted in a manner that provides full and open competition, consistent with the ethical standards specified in Article 6 (§2.2-4367 et seq.) of the Virginia Public Procurement Act (“**Ethics in Public Contracting Article**”), Chapter 43 of Title 2.2 of the Code of Virginia of 1950, as amended (the “**Code**”), and the State and Local Government Conflict of Interest Act, §2.2-3100 et seq. of the Code (the “**Conflict of Interest Act**”).

2.0 Procurement Policy

2.1 Procurement of Goods and Nonprofessional Services.

2.1.1 Purchases of all parts, supplies and nonprofessional services valued at less than \$500 shall be procured after comparing offered prices by way of telephone, catalog, or other similar means. No permanent documentation of price comparison is required. When a purchase is made pursuant to this subsection, the purchase shall be made from the vendor quoting the lowest price, unless the Authority reasonably determines that it is in the best interest of the Authority that such purchase be made from another supplier quoting a higher price.

2.1.2 Except as permitted by law, contracts with non-governmental contractors for the purchase or lease of goods or nonprofessional services which in the aggregate are valued at more than \$500 and less than \$30,000 shall be awarded by solicitation of informal bids or quotations, preferably in writing, from three or more bidders or offerors, where practicable. When a purchase is made pursuant to this subsection, the purchase shall be made from the vendor quoting the lowest price, unless the Authority makes a written determination that it is in the best interest of the Authority that such purchase be made from another supplier quoting a higher price.

2.1.3 Except as permitted by law, contracts with non-governmental contractors for the purchase or lease of goods or nonprofessional services which in the aggregate are valued at \$30,000 or more, but

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less than \$50,000, shall be awarded by solicitation of informal bids or quotations in writing, from a minimum of four bidders or offerors. When a purchase is made pursuant to this subsection, the purchase shall be made from the vendor quoting the lowest price, unless the Authority makes a written determination that it is in the best interest of the Authority that such purchase be made from another supplier quoting a higher price.

- 2.1.4 Except as permitted by law, contracts with non-governmental contractors for the purchase or lease of goods or nonprofessional services which in the aggregate are valued at more than \$50,000 shall be procured through competitive sealed bidding¹. If, in advance of the purchase, the Chairman of the Authority determines in writing that competitive sealed bidding is either not practicable or not fiscally advantageous, the Authority may procure the parts, supplies, and nonprofessional services through competitive negotiation². When competitive sealed bidding is used, the following factors shall be considered, in addition to price, when determining the lowest responsible bidder and the responsiveness of the bid: (a) the ability, capacity, and skill of the bidder to perform the contract or provide the service required; (b) whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference; (c) the character, integrity, reputation, judgment, experience, and efficiency of the bidder; (d) the quality of performance of previous contracts or services; (e) the previous and existing compliance by the bidder with laws and ordinances relating to the contract or service; (f) the sufficiency of financial resources and ability of the bidder to perform the contract or provide the service; (g) the quality, availability, and adaptability of the goods or services to the particular use required; (h) the ability of the bidder to perform future maintenance and service for use of the subject of the contract; (i) the number and scope of conditions attached to the bid; and (j) any other condition or criteria included in the request for bids or the instructions to bidders.

¹ The Virginia Public Procurement Act defines competitive sealed bidding as a method of contractor selection, other than for professional services, which includes the following elements: (i) issuance of a written invitation to bid; (ii) public notice of the invitation to bid; (iii) public opening and announcement of all bids received; (iv) evaluation of bids; and (v) award to the lowest responsive and responsible bidder.

² The Virginia Public Procurement Act defines competitive negotiation as a method of contractor selection and includes the following elements: (i) an issuance of a written request for proposal; (ii) public notice of the request for proposal; (iii) selection of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, and (iv) negotiate with each offeror and award the contract to the offeror who has put forth the best proposal.

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2.1.5 In addition to the requirements set forth in the request for bids or the instructions to bidders, evaluation of bids may be based upon special qualifications of potential contractors, life-cycle costing, value analysis, and other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

2.1.6 Procurement of goods and nonprofessional services shall not be split to avoid the minimum amounts specified in this section.

2.2 Sole Source Procurement.

2.2.1 Upon written determination by the Chairman of the Authority that there is only one source for parts or supplies practically available, a contract may be awarded without competitive sealed bidding or competitive negotiation. The Chairman of the Authority shall issue a written notice stating that only one source was determined to be practicably available, and identify that which is being procured, the contractor selected, and the date on which the contract was or will be awarded.

2.3 Emergency Procurement.

2.3.1 Emergency procurement may be made without formal sealed bidding or competitive negotiation with a written determination by the Chairman of the Authority of the basis of the emergency, identification of what is being procured, the contractor selected, and the date of the contract award; however, such procurement shall be made with such competition as is practicable under the circumstances.

2.4 Goods and Services Provided by Local Governments

2.4.1 Goods and services provided by local governments may be used without competitive bidding. A cost analysis must accompany the requisition which demonstrates this is a low-cost alternative.

2.5 Procurement of Legal and Related Services.

2.5.1 Contracts for legal services, expert witnesses, and other services associated with litigation, regulatory proceedings, or other legal matters shall be exempt from price competition.

2.6 Procurement of Other Professional Services.

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- 2.6.1 All professional services valued at less than \$30,000 shall be procured on the basis of three quotes, where practicable.
- 2.6.2 All professional services valued at \$30,000 or more shall be procured on the basis of competitive negotiation, as defined in the Virginia Public Procurement Act.
- 2.6.3 Procurement of professional services shall not be split to avoid the \$30,000 minimum.

2.7 Construction Procurement and Prequalification.

- 2.7.1 Competitive sealed bidding shall be the preferred method of construction procurement for the Authority, provided, however, that the Authority may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis provided subject to the requirements specified in §2.2-4308 of the Virginia Public Procurement Act, Chapter 43 of Title 2.2 of the Code, as amended.
- 2.7.2 The Authority shall be permitted to prequalify prospective contractors for construction contracts valued at \$100,000 or more, subject to the requirements specified in §2.2-4317 of the Virginia Public Procurement Act, Chapter 43 of Title 2.2 of the Code, as amended. In evaluating requests for prequalification, the Authority shall determine whether offerors possess the management, financial soundness, and history of performance that indicate apparent ability to complete successfully the plans and/or specifications of the construction procurement solicitation.

2.8 Assignment of Procurement Contracts.

- 2.8.1 The Authority shall be permitted to accept an assignment of an existing contract for the purchase or lease of goods or the provision of professional or nonprofessional services from the Commonwealth of Virginia or another state or local governmental entity provided that such contract was procured by the assigning entity in accordance with applicable law.

2.9 Preference for Local Vendors.

- 2.9.1 If more than one bid or proposal received pursuant to the terms of this Procurement Policy is for the same total amount or unit price, quality and service being equal, the tie bidders shall be invited to resubmit written bids below the original price, and award shall be made to the lower bidder. If upon rebidding the bidders are again

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equal, preference shall be given to goods and services produced in (i) the Counties of Fluvanna and/or Louisa; or (ii) the Commonwealth of Virginia (in that order), or provided by persons or entities located in (i) the Counties of Fluvanna and/or Louisa; or (ii) the Commonwealth of Virginia (in that order).

2.10 Anti-Discrimination Provisions.

2.10.1 The Authority shall not discriminate in the procurement process because of the race, religion, color, sex, or national origin of the bidder or offeror.

2.10.2 As provided in the Virginia Public Procurement Act, all procurement contracts of more than \$10,000 shall include the following provisions:

2.10.1.1 During the performance of this contract, the contractor agrees as follows: (a) the contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor; (b) the contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; (c) the contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer; and (d) notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements in this section.

2.10.1.2 During the performance of this contract, the contractor agrees to (a) provide a drug-free workplace for the contractor's employees, (b) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the

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actions that will be taken against employees for violation of such prohibition, and (c) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace.

2.11 Participation of Small, Women-, Minority- and Service Disabled Veteran-Owned Businesses.

2.11.1 Pursuant to §2.2-4310 of the Virginia Public Procurement Act, Chapter 43 of Title 2.2 of the Code, the Chairman of the Authority shall establish a program to facilitate the participation of small businesses and businesses owned by women, minorities, and service disabled veterans in the Authority's procurement transactions.

2.12 Certification of Compliance.

2.12.1 All Authority employees or officials who have official responsibility for any aspect of a procurement transaction must sign a statement certifying that they have complied with all provisions of the Ethics in Public Contracting Article of the Virginia Public Procurement Act, and the Conflicts of Interests Act.

2.12.2 Any Authority employee or official required to sign a certification who knowingly makes a false statement in such certification shall be guilty of committing a Class 1 Misdemeanor. Upon conviction, any Authority employee or official, in addition to any other fine or penalty provided by law, shall forfeit his or her employment or appointment.

2.12.3 An Annual Certification of Compliance form, attached hereto as Exhibit A, shall be distributed each year for all appropriate Authority employees and/or officials to sign. This form is to be signed on or before July 1 of each year, and forwarded to the Treasurer of the Authority (provided, however, that any such form signed by the Treasurer shall be forwarded to the Chairman of the Authority), with a copy to the Authority's general outside legal counsel. As new employees are hired, new officials are appointed, or purchasing related duties change, the form must be appropriately updated and forwarded to the Treasurer of the Authority, with a copy to the Authority's general outside legal counsel. The forms will be maintained on file with the Treasurer of the Authority for three (3) years after the current calendar year (provided, however, that any such forms signed by the Treasurer

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shall be maintained on file with the Chairman of the Authority for three (3) years after the current calendar year).

Exhibit A
to
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**ANNUAL CERTIFICATION OF COMPLIANCE
WITH THE VIRGINIA PUBLIC PROCUREMENT ACT AND CONFLICT OF
INTEREST ACT**

Pursuant to the provisions of Section 2.2-4375 of the Virginia Public Procurement Act, Chapter 43 of Title 2.2 of the Code of Virginia of 1950, as amended, I, [EMPLOYEE / OFFICIAL NAME], [EMPLOYEE / OFFICIAL TITLE], DO HEREBY CERTIFY as follows:

1. During the past fiscal year, in my capacity as [EMPLOYEE TITLE], I had official responsibility for some aspect of one or more procurement transaction involving the James River Water Authority (the “Authority”).
2. I have complied with all of the provisions of Article 6 (§2.2-4367 et seq.) of the Virginia Public Procurement Act, Chapter 43 of Title 2.2 of the Code of Virginia of 1950, as amended (the “Code”), and the State and Local Government Conflict of Interest Act, §2.2-3100 et seq. of the Code.
3. I am aware that if I knowingly make a false statement in this Annual Certification of Compliance, I shall be guilty of committing a Class 1 Misdemeanor. Upon conviction, in addition to any other fine or penalty provided by law, I shall forfeit my employment or appointment with the Authority, as applicable.

WITNESS my hand this ___ day of _____, 20___.

[Employee / Official Name]
[Employee / Official Title]