


Public Procurement for Florida Special Districts

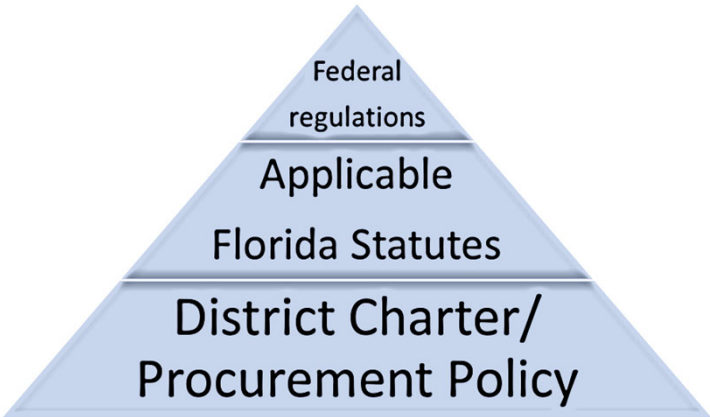
LWDD Governing Board Workshop
December 5, 2023
Agenda Item #3
Janice Rustin, LLW
Reagan Walker, LWDD



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Overview of Applicable Laws





Federal
regulations

Applicable

Florida Statutes

District Charter/
Procurement Policy



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District Charter/Procurement Policy

- No requirement for District charter to address procurement matters under state law.
- Some District charters do provide specific guidelines for procurement, such as the requirement that the Board must approve purchases over a certain amount.
- District may adopt policy and procedures to govern district procurement matters, but is not required to.

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District Charter/Procurement Policy

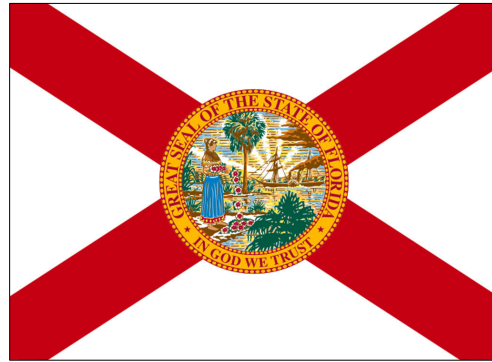
- If adopted, District's policy cannot conflict with applicable state laws.
- If using federal funds to purchase goods or services, District **must** "have and use documented procurement procedures."
- Absent a purchasing policy or applicable state law, District purchases may be "made by any practicable method that will safeguard the public interest."

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Applicable State Laws



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Procurement of Consultants

§ 287.055, Fla. Stat:

- Competitive Consultant's Negotiation Act
- Used to obtain services of architects, engineers, surveyors, mappers, landscape architects.
- Consultants must be selected on basis of qualifications. Price cannot be a factor in selection process.



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Procurement of Construction Services

§ 255.20, Fla. Stat.:

- Construction services for public building, structure, or public work must be competitively awarded to licensed contractor:
 - Project estimated to cost more than \$300,000.
 - Electrical work over \$75,000.
- If District policy is more restrictive, must comply with District purchasing thresholds (even if threshold is below statutory threshold).



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Procurement of Auditing Services

§ 218.391, Fla. Stat.:

- District board required to appoint an authority selection committee, consisting of at least 3 members, one of whom must be a District board member who will service as the chair (effective July 2019)
- Audit selection committee will establish evaluation factors consistent with the statute, evaluate and rank responses.



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Florida's Prompt Payment Act

- ▶ Florida Statutes §§ 218.70 - 218.80 set forth the Local Government Prompt Payment Act which requires payment for all purchases by local governmental entities, including special districts, be made in a timely manner.
- ▶ The Prompt Payment Act sets forth timeframes when payments are due by a special district following receipt of an invoice for purchases relating to services rendered, rental periods, contracts, and construction services. Fla. Stat. §§ 218.73, 218.735.



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Other State Laws Regarding Procurement

- Some state purchasing laws apply only to state agencies (not special districts).
- District may want to adopt these laws in its procurement policy, but does not have to.
 - §287.018, Fla. Stat: Establishing purchasing thresholds
 - §287.057, Fla. Stat.: Describing methods of procurement



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Piggyback Agreements

§189.053, Fla. Stat

- Districts may purchase items from the purchasing agreements of other districts, municipalities, or counties.
- Agreement must have been competitively procured, using process that complies with your District's procurement policy.
- Cannot use to obtain services governed by CCNA.

Watch out for Federal funds



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Piggy Backing Cont'

- ▶ If you are going to use the piggy back statute, your district needs to make sure that your legal counsel has reviewed all the relevant procurement documents from the local government whose process and agreement you want to adopt.
- ▶ Your district needs to maintain the bid request and response for the commodity or service submitted to the other local government. •
- ▶ In other words, maintain the evidence/facts that supported the decision to use this process.



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Questions



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LWDD Policy
for Procurement of
Goods & Services

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Lake Worth Drainage District Policy for Procurement of Goods & Services

Procurement Methods

- ▶ Category Four: Over \$65,000 - Requires Board Approval
 - Obtain through formal competitive solicitation methods (Invitation to Bid, Request for Proposals, Request for Qualifications) except for exempt purchases
- ▶ Category Three (\$35,000 - \$65,000) and Category Two (\$15,000 - \$35,000)
 - Obtain using informal methods such as obtaining written or verbal quotes
 - Executive Director or designee will purchase items after making determination that vendor or item provides best value to District
- ▶ Category One (Under \$15,000)
 - Purchases under \$15,000 will be purchased after determination is made that price is fair and reasonable
- ▶ Direct acquisition (Non-Competitive Solicitations)
 - Purchases exempt from competitive solicitations; contracts/purchases over \$65K must be approved by Board



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Lake Worth Drainage District Policy for Procurement of Goods & Services

Non-Competitive Solicitations (Direct Acquisition Methods)

- Professional services (e.g. attorneys, accountants, appraisers, lobbyists, environmental experts, insurance brokers, financial advisors, etc.)
- Sole Source - only one vendor capable of providing item/service or manufacturer specific items/services
- Software
- Pre-qualified vendor lists - District issues a Request for Pre-Qualification for specific services; requests for work order bids issued to pre-qualified vendors and award made to lowest vendor
- Piggyback contracts with other local governments (e.g. SFWMD Herbicide contracts)
- Cooperative purchasing program agreements (e.g. Florida Sheriff's Association)
- Emergency purchases
- Purchases of certain budgeted goods and services



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Lake Worth Drainage District Policy for Procurement of Goods & Services

Non-Competitive Solicitations (Direct Acquisition Methods)

- Purchases of certain budgeted goods and services - approved by Executive Director based on best value
 - Bulk fuel
 - Commercial and Investment Banking services
 - Commercial Insurance
 - Health benefits
 - Utilities
 - Advertising
 - Memberships, dues & subscriptions
 - Postage
 - Recording fees
 - Refunds/reimbursements
 - Personnel verifications
 - Employee uniform services
 - First aid/safety equipment services



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Lake Worth Drainage District Policy for Procurement of Goods & Services

Bid Protest Procedures

- Respondent must file Notice of Intent to Protest with Executive Director
- Any Respondent who files a Formal written protest shall post a protest bond in the amount of 1% of the contract amount or \$25,000 whichever is less
- Executive Director has authority to settle or resolve
- If protest not resolved, decision may be appealed to Board of Supervisors



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LAKE WORTH DRAINAGE DISTRICT POLICY FOR PROCUREMENT OF GOODS AND SERVICES

Introduction:

The procurement of goods and services for Lake Worth Drainage District (“District” or “LWDD”) is regulated by this policy, the District’s enabling legislation (Chapter 2009-258, Laws of Florida), and applicable state laws. The procedures established herein shall be applied to all procurements of goods and services.

1.1 Purchasing Authority

1.1.1 The District Board of Supervisors (“Board”) has delegated limited authority to the Executive Director, or his or her designee, to procure goods and services. Any contract for goods and services in excess of the authority of the Executive Director as described in Section 1.2.2 shall be approved by the Board.

1.1.2 The Executive Director, or his or her designee, has the authority to carry out all executive procurement functions including but not limited to the following: development of solicitation materials; advertisement of solicitations; cancellation or postponement of solicitations; determination whether responses are responsible and responsive; determination of sole source procurements; negotiation of contracts, where negotiation is called for herein; administration of contracts; renewal of contracts where the contract provides for unilateral renewal by the District upon written notice; and all other procurement functions reasonably necessary to effectuate the provisions in this Chapter.

1.1.3 The Executive Director shall delegate the authority to conduct purchasing activities that are described in this policy through the issuance of a Purchasing Delegation of Authority memo. The memo will list the names of all individuals who are authorized to conduct certain purchasing procedures on behalf of the Executive Director, and the limits of that authority (if any). The Purchasing Delegation of Authority memo will remain on file with the District and be periodically reviewed.

1.2 Purchasing Category Thresholds

1.2.1 The current purchasing threshold categories are:

CATEGORY ONE:	\$ Under \$15,000
CATEGORY TWO:	\$ 15,001 to \$35,000
CATEGORY THREE:	\$ 35,001 to \$65,000
CATEGORY FOUR:	\$ 65,001 and over

1.2.2 The procurement of goods and services where the purchase price or total contract price is estimated to be \$65,000 or less during the contract term shall be approved by the Executive Director or designee.

1.2.3 The procurement of goods and services where the purchase price or total contract price is estimated to be greater than \$65,000 shall be approved by the Board, except for the purchase of certain budgeted goods and services made pursuant to Section 1.5.7.

1.2.4 Purchases of goods and/or services shall not be divided so as to avoid the requirements of Section 1.4 herein.

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POLICY FOR PROCUREMENT OF GOODS AND SERVICES**

1.3 Informal Methods of Competitive Solicitation: Categories One, Two and Three

For the procurement of goods and/or services for Category One, Two, and Three, the District may use informal competitive solicitation methods as described in this section, unless otherwise the procurement is exempted from competitive solicitation as described in Section 1.5.

Purchases under this section shall be selected on the basis of best value. "Best value" means the highest overall value to the District based on objective and subjective factors that include, but are not limited to, price, quality, design, workmanship, and vendor's history of performance with the District.

1.3.1 Category One purchases may be made without seeking competitive price quotes if the Executive Director or designee considers the price to be reasonable based on research, experience, purchase history, or other information.

1.3.2 Category Two purchases shall be made by obtaining two or more written or verbal quotations whenever practical. Should verbal quotations be received, the name and address of the company and the amount quoted shall be documented. If after reasonable effort, only one quotation is received, the purchase may be made provided that the pricing is determined to be fair and reasonable.

1.3.3 Category Three purchases shall be made by obtaining an adequate number of quotes from qualified sources after publicly advertising a Request for Quotations. The Request for Quotations shall be advertised on a website designated by the District for this purpose for a minimum of seven (7) days or by using such other method that ensures fair and open competition, as determined by the Executive Director or designee. If after such time, only one quotation is received, the purchase may be made provided that the pricing is determined to be fair and reasonable.

1.4 Formal Methods of Competitive Solicitation: Category Four

For the procurement of goods and/or services for Category Four, the competitive solicitation methods described in this section shall be used, unless otherwise the procurement is exempted from competitive solicitation as described in Section 1.5. The three types of methods described in this section are Invitation to Bid, Request for Proposal, and Request for Qualifications. Any formal competitive solicitation shall be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies and of the public opening of bids (if required), and must include all contractual terms and conditions applicable to the procurement, including the criteria that will be used to evaluate the bid, proposal, or reply.

1.4.1 Invitation to Bid

An Invitation to Bid shall be used when LWDD is capable of specifically defining the scope of work for which a contractual service is required or when LWDD is capable of establishing precise specifications defining the actual commodity or group of commodities required. The contract is awarded primarily on the basis of price.

1.4.1.1

The Invitation to Bid shall be advertised on a website designated by the District for this purpose and ensures fair and open competition include a detailed description of the commodities or contractual services sought. If LWDD contemplates renewal

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POLICY FOR PROCUREMENT OF GOODS AND SERVICES**

of the contract, the Invitation to Bid shall include a statement to that effect. An Invitation to Bid for a public construction project in excess of \$200,000 shall also be publicly advertised at least once in a newspaper of general circulation in Palm Beach County for a minimum of thirty (30) days, in accordance with F.S. § 255.0525, as may be amended.

1.4.1.2

Sealed bids shall be opened at a publicly noticed meeting at the time and place stated in the Invitation to Bid.

1.4.1.3

The Executive Director, or designee, shall evaluate the bids to determine which responsive and responsible bidder will provide the lowest price to the LWDD. The evaluation shall include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor.

1.4.1.4

If less than two responsive bids are received, the Executive Director may negotiate on the best terms and conditions. The Executive Director shall document the reasons that such action is in the best interest of LWDD in lieu of reissuing the Invitation to Bid.

1.4.1.5

A Notice of Intent to Award a contract shall be posted on a website designated by the District for this purpose.

1.4.1.6

The Executive Director, or designee, shall present the evaluation of the bids, or the negotiated terms and conditions from the sole bidder, to the Board as a recommendation to award. A firm fixed-price contract shall be awarded to the responsive and responsible bidder whose bid is lowest in price.

1.4.2 Request for Proposals

A Request for Proposals shall be used when conditions are not appropriate for the use of an Invitation to Bid and when the contract award is not based primarily on price.

1.4.2.1

Requests for Proposals shall be made available simultaneously to all vendors and must include a statement describing the commodities or contractual services sought and the relative importance of price and other evaluation criteria. If LWDD contemplates renewal of the contract, the Request for Proposals shall include a statement to that effect.

1.4.2.2

Proposals may be opened at a publicly noticed meeting.

1.4.2.3

A selection committee appointed by the Executive Director, or designee, shall evaluate and rank the proposals. Meetings of the selection committee must be publicly noticed and comply with the Florida Sunshine law.

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1.4.2.4

If less than two responsive proposals are received, the Executive Director, or designee, may negotiate on the best terms and conditions. The Executive Director, or designee, shall document the reasons that such action is in the best interest of LWDD in lieu of reissuing the Request for Proposals.

1.4.2.5

A Notice of Intent to Award a contract shall be posted on the on a website designated by the District for this purpose.

1.4.2.6

The Executive Director shall present the selection committee's ranking of the proposals, or the negotiated terms and conditions from the sole proposer, to the Board as a recommendation to award. Notwithstanding the ranking of responses by the selection committee, the Board may elect to re-evaluate the responses when the recommendation to award is brought before the Board.

1.4.2.7

A contract shall be awarded to the responsible and responsive proposer whose proposal is determined to be the most advantageous to LWDD, taking into consideration the price and other criteria set forth in the request for proposals.

1.4.3 Request for Qualifications

A Request for Qualifications shall be used to procure the services of architects, landscape architects, professional engineers, and registered surveyors and mappers in accordance with F. S. § 287.055, the Consultants' Competitive Negotiation Act (CCNA), as may be amended from time to time. It may also be used when the District wants to select a vendor based solely on their professional skill and knowledge, and where price is not a selection factor.

1.4.3.1

Requests for Qualifications shall be made available simultaneously to all vendors and must include a statement describing the contractual services sought and qualifications required.

1.4.3.2

Vendor responses may be opened at a publicly noticed meeting.

1.4.3.3

The Executive Director, or designee, may evaluate and rank the statements of qualifications, or may appoint a selection committee to assist with evaluating and ranking of the statements of qualifications. Meetings of the selection committee must be publicly noticed and comply with the Florida Sunshine law.

1.4.3.4

The highest ranked vendor will be notified in writing to submit a Fee Proposal. Upon receipt of the Fee Proposal, the Executive Director, shall attempt to negotiate an agreement with the highest ranked vendor to bring before the Board for

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approval. If an agreement cannot be reached with the highest ranked vendor within 30 days of ranking, the Executive Director shall terminate negotiations with that vendor, and commence negotiations with the next-highest ranked vendor.

This process may continue until a contract acceptable to the District has been executed by the vendor or all responses are rejected. No vendor shall have any rights against the District arising from such negotiations or termination thereof.

1.4.3.5

A Notice of Intent to Award a contract shall be posted on a website designated by the District for this purpose.

1.4.3.6

The Executive Director shall present the negotiated contract to the Board as a recommendation to award.

1.4.3.7

The District may enter into continuing contracts for the services of architects, landscape architects, professional engineers, registered surveyors and mappers, whereby the firm provides professional services to the District for District projects, where the estimated construction cost for each individual project does not exceed \$4 million or for study services where the estimated fee for each individual study does not exceed \$500,000 in accordance with F. S. § 287.055, the Consultants' Competitive Negotiation Act (CCNA), as may be amended from time to time.

1.4.5 Auditing Services

The District shall issue a Request for Proposal for District auditing services. The Board of Supervisors shall establish the selection committee, which must consist of at least three members, one of who must be a member of the Board, in accordance with F. S. § 218.391 as may be amended. The Executive Director or District employees shall not serve as a members of the selection committee, but may serve as technical advisors to the selection committee.

1.4.6 Other Competitive Solicitation Methods

The Executive Director may develop and implement procedures for other methods of procurement, including but not limited to Invitation to Negotiate, Request for Information, Design-Build, and Construction Manager at Risk.

1.5 Direct acquisition methods (non-competitive solicitation methods)

The following procurements may be made without using the competitive solicitation methods described in Sections 1.3 and 1.4. Purchases over \$65,000 shall be approved by the Board, except for those of certain budgeted goods and services made pursuant to Section 1.5.7.

1.5.1 Professional services

Except as otherwise provided for in Florida Law, the LWDD may contract for professional services (which include, but is not limited to, services provided by attorneys, accountants,

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actuaries, appraisers, lobbyists, environmental experts, insurance brokers, and financial advisors) without using competitive solicitation methods described in Sections 1.3 and 1.4.

1.5.2. Sole Source

LWDD may purchase or contract for goods and services that are available from only one source without using the competitive solicitation methods described in Sections 1.3 and 1.4.

Sole source means that there is only one vendor capable of providing an item or service, and therefore it is not possible to obtain competitive bids. Sole source also includes those goods or services where licensing, warranty or compatibility requirements limit the selection to the original equipment manufacturer, manufacturer's service representative or distributor of the manufacturer's equipment, or authorized repair facility, including, but not limited to, purchases of parts, repairs or maintenance services for field equipment and water control facilities (ex. pumps, gates, generators, specialized field equipment, etc.).

1.5.3 Software

LWDD may purchase or contract for licensed computer software, web-based applications, or maintenance for such software and applications without using competitive solicitation methods described in Sections 1.3 and 1.4. Purchases of licensed computer software, web-based applications, or maintenance for such software and applications where the purchase is estimated to be greater than \$65,000 and is not part of an existing software or web-based application system, shall be subject to approval by the Board. This section does not apply to commercial off the shelf software that is available for purchase from multiple vendors.

1.5.4 Pre-qualified vendor lists

LWDD may pre-qualify vendors to perform certain services regularly required by the District by issuing a Request for Pre-Qualification that describes the necessary skills, certifications, equipment, or other pre-requisites required to perform the service. Vendors who meet the necessary requirements will be placed on the pre-qualified vendor list for that service, subject to the Board's approval of the list of pre-qualified vendors. The Board shall also approve the annual budget for service and/or the purchasing threshold for each individual work order.

When the LWDD has a need for work to be performed by a pre-qualified vendor, a Request for Work Order Bid shall be issued to the vendors who are on the pre-qualified vendor list for that type of work. The pre-qualified vendors will be given at least seven (7) days to submit a bid. A work order will be awarded to the pre-qualified vendor who submits to lowest bid. Work orders that exceed either the approved budget for that service or the approved purchasing threshold for work orders for that service shall be subject to Board approval.

1.5.5. Other government contracts (piggyback contracts)

LWDD may purchase or contract for goods and/or services by piggybacking off the purchasing agreements of other Florida special districts, municipalities, or counties without using competitive solicitation methods described in Sections 1.3 and 1.4, subject to the

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following conditions. Contracts for purchases that are estimated to be greater than \$65,000 must be approved by the Board.

1.5.5.1

The other government entities' purchasing agreement must have been procured using formal competitive selection procedures that meet or exceed the requirements of this Purchasing Policy.

1.5.5.2

LWDD may not use this method to contract for services governed by F. S. § 287.055, the Consultants' Competitive Negotiation Act (CCNA) or for goods and/or services that are not the same as or exceed the scope of the other government's purchasing agreement.

1.5.5.3

LWDD may piggyback off other government entities' purchasing agreement only during the term of the other governmental entity's agreement. The term of the LWDD contract shall extend no more than six months from the expiration date of the other governmental entity's purchasing agreement, including expiration of any renewals.

1.5.5.4

The District shall require the vendor to certify that the price or rate represents the lowest price or rate for the non-real property, goods, or services of any contract between the vendor and any other governmental entity within the state.

1.5.6 Use of cooperative purchasing program agreements

LWDD may purchase or contract for goods and/or services from vendors participating in a cooperative purchasing program without using the competitive solicitation methods described in Sections 1.3 and 1.4, subject to the following conditions. This includes in cooperative purchasing program operated by the State of Florida, associations affiliated with State (such as the Florida Sheriffs Association and the Florida Fire Chiefs' Association), and the Goods and Services Administration (GSA) of the Federal government.

1.5.6.1

Purchases shall be based on the rates or prices listed in the vendor's agreement with the cooperative purchasing program.

1.5.6.2

Purchases from a vendor participating in cooperative purchasing program operated by private organizations such as National Association of State Purchasing Officials (NASPO) ValuePoint, Sourcewell, and Omnia Partners, shall be made after review and approval of cooperative purchasing agreement by the District legal counsel.

1.5.7 Purchases of certain budgeted goods and services

The LWDD may purchase or contract for the following goods and services without using competitive selection procedures described in Sections 1.3 and 1.4 when the goods and/or

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service is properly budgeted for, as demonstrated in the approved budget as a line item. The purchase must be made on the basis of best value, subject to the approval by the Executive Director, or designee.

- 1.5.7.1 Bulk fuel
- 1.5.7.2 Commercial and Investment Banking services
- 1.5.7.3 Commercial Insurance
- 1.5.7.4 Health benefits and other health-related services
- 1.5.7.5 Utilities. Water, sewer, gas, electrical, phone, internet, security, and other utility services
- 1.5.7.6 Advertising services
- 1.5.7.7 Purchases of licensed computer software, web-based applications, or maintenance for such software and applications that are part of an existing software or web-based application system use by the District, in accordance with Section 1.5.3
- 1.5.7.8 Work orders issued to pre-qualified vendors, in accordance with Section 1.5.4
- 1.5.7.9 Purchases of vehicles and equipment made through a cooperative purchasing program, in accordance with Section 1.5.6
- 1.5.7.10 Maintenance service of equipment when considered to be in the best interest of the District. Services must be performed by the equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment or after at least three (3) responsive services have been evaluated.
- 1.5.7.11 Memberships, dues, subscriptions, publications
- 1.5.7.12 Training, conferences, seminars, and travel expenses
- 1.5.7.13 Postage, shipping and freight costs
- 1.5.7.14 Recording fees
- 1.5.7.15 Licenses and permits
- 1.5.7.16 Refunds
- 1.5.7.17 Reimbursements for damages to non-vendor or third parties
- 1.5.7.18 Personnel verifications, background checks and drug testing

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1.5.7.19 Employee uniform services

1.5.7.20 First aid/safety equipment and services

1.5.8 Emergency purchases

In the case of an emergency, which is defined as a situation where there is an imminent danger to the public health, safety, or welfare or other substantial loss to LWDD, the LWDD may purchase or contract for goods and/or services without using competitive selection procedures described in Sections 1.3 and 1.4, subject to the following conditions.

1.5.8.1

In the case of an emergency declared by the federal, state, or local government, the Executive Director shall have the authority to make an emergency purchase of goods and services necessitated by the emergency without prior Board approval. Purchases that are estimated to be greater than \$65,000 shall be ratified by the Board as soon as practicable.

1.5.8.2

In the case of a non-declared emergency, the Executive Director shall first make a written determination that an imminent danger to the public health, safety, or welfare, or other substantial loss to LWDD requires an emergency action. The LWDD may purchase or contract for goods and services after endeavoring to obtain pricing information from at least two prospective vendors, unless LWDD determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to LWDD. Purchases that are estimated to be greater than \$65,000 shall be ratified by the Board as soon as practicable.

1.6 Contract Renewals and Extensions

1.6.1

When the Board approves a contract for goods and/or services that provides for one or more unilateral renewals, the Executive Director may approve such renewals, unless otherwise provided in the contract or applicable law. A renewal approved under this section shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract.

1.6.2

The Executive Director may extend an expiring contract approved by the Board for a period not to exceed 6 months. A contract extension approved under this section shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract.

1.7 Bid Protest Procedures

If a Respondent intends to protest LWDD's award of a contract, it must follow the procedure described in this section. Failure to comply with the requirements of this section shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting

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from LWDD's award of the contract. Only Category Four purchases that are made subject to a competitive solicitation procedure are subject to protest.

1.7.1

The Respondent shall file a Notice of Intent to Protest with the Executive Director in writing within 72 hours (excluding weekends and District observed holidays) after the Notice of Intent to Award is posted. The Respondent shall file a Formal Written Protest which includes a complete and concise statement of the grounds for the protest, supported by relevant documents, within ten (10) calendar days after filing Notice of Intent to Protest.

1.7.2

The Notice of Intent to Protest and Formal Written Notice shall be delivered via certified or registered U.S. Mail, return receipt requested, to the LWDD administrative offices, 13081 South Military Trail, Delray Beach, FL 33484, Attn: Executive Director, with an electronic mail copy transmitted to info@lwdd.net.

1.7.3

Any Respondent who files a formal written protest shall post with the District at the time of filing the formal written protest, a protest bond in the amount of 1% of the contract amount or \$25,000 whichever is less. In the event the Respondent receives an adverse determination of its protest, the bond shall be forfeited to the LWDD.

1.7.4

Failure to file notice of intent to protest, a formal written protest, and/or the protest bond within the time prescribed shall constitute a waiver of proceedings.

1.7.5

The Executive Director shall have the authority to settle and resolve the protest if such a settlement or resolution is in the best interest of the LWDD in the Executive Director's sole opinion.

1.7.6

If the protest is not resolved by mutual agreement, the Executive Director shall issue a decision in writing within ten (10) calendar days after receipt of the formal written protest, which time may be extended upon agreement of the parties. The decision shall state the reasons for the action taken and inform the Respondent of his or her right to appeal the decision to the LWDD Board of Supervisors. A copy of the decision shall be mailed or otherwise furnished to the Respondent.

1.8 Definitions

“Cooperative purchasing program” means an arrangement in which multiple governmental agencies combine their buying requirements onto a single contract and where the aggregate volume enhances their purchasing power.

“Construction Manager at Risk” means an alternative competitive solicitation method done in accordance with F.S. § 287.055 that is used to obtain a firm that will be responsible for construction project scheduling and coordination in both preconstruction and construction phases and generally responsible for the successful, timely, and economical completion of the construction project.

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“Design-Build” means an alternative competitive solicitation method that is used to obtain single contract with a design/build firm for the design and construction of a District construction project in accordance with F.S. § 287.055.

“Executive Director” means the Executive Director of the District.

“Invitation to Bid (ITB)” means a written solicitation for competitive sealed bids where the District can define the commodity, group of commodities, or contractual service that is required.

“Invitation to Negotiate (ITN)” means an alternative competitive solicitation method that is used to determine the best method for achieving a specific goal or solving a particular problem. An Invitation to Negotiate may be issued to identify one or more responsive vendors with which the agency may negotiate in order to receive the best value. This method shall not be used for procurements governed by F.S. § 287.055.

“Piggyback” or “Piggybacking” means procurement of goods and/or services by relying upon the terms and conditions of a contract made between another government entity and a vendor that was awarded pursuant to a competitive solicitation.

“Respondent” means any person or entity that responds to a competitive solicitation issued by LWDD.

“Responsible” means that a vendor has the present capability in all respects to fully perform the contract requirements, the integrity, and the reliability that will assure good faith performance. Evidence of responsibility will include without limitation, the vendor’s history of past performance, the vendor’s complaint history, the vendor’s history of litigation related to the provision of services, the number of years the vendor has been in the business of performing the service, and the technical and financial resources available to the vendor to perform the work.


“Responsive” means a response to a solicitation that conforms in all material respects to the solicitation.

“Request for Information (RFI)” means an alternative competitive solicitation method that is used to assess the market or the feasibility of a proposed good or service, or when vendor input to specifications or a scope of work is required. An RFI may be issued to request submission of unpriced offers, products, or scopes of services, which may be followed by subsequent competitive solicitation method that is not limited to those firms who responded to the RFI.

“Request for Proposals (RFP)” means a written solicitation for competitive proposals when it is not practicable for the District to specifically define the scope of work for which the goods and/or contractual service is required.

“Request for Qualifications (RFQ)” means a written solicitation for statements of qualification based on a respondent’s qualifications and experience for a prescribed scope of services, where price is not used as a selection factor.


“Sole source” means there is only one vendor capable of providing an item or service, and therefore it is not possible to obtain competitive bids.



Canal Rehabilitation Program – Phase II

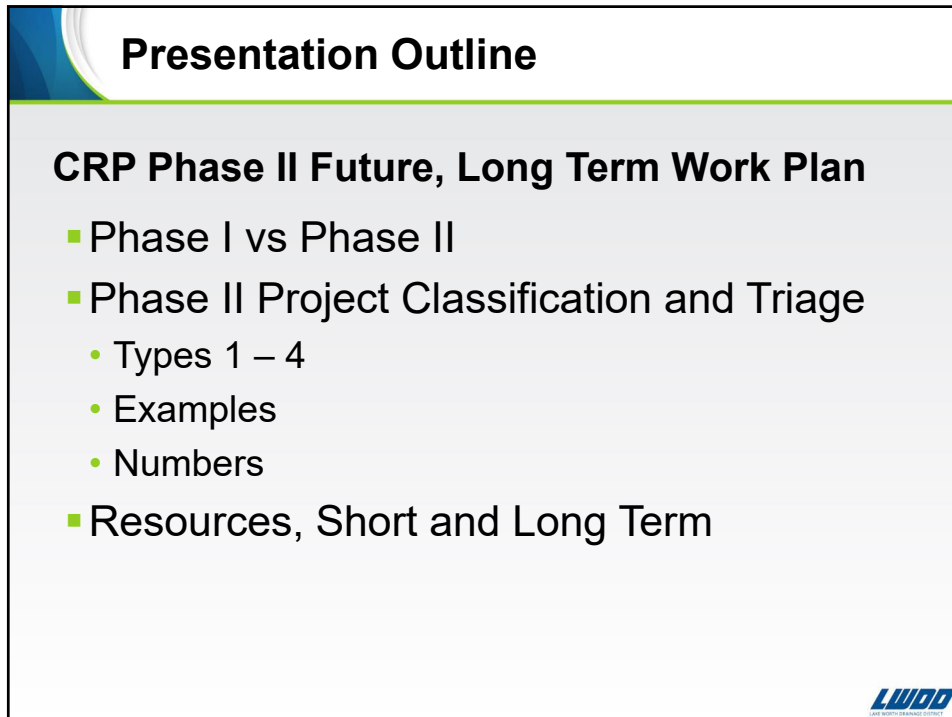
Anthony LasCasas, P.E.
Director, Operations & Maintenance

Governing Board Workshop
December 5, 2023
Agenda Item #4



LWDD
LAKE WORTH DRAINAGE DISTRICT


1



Presentation Outline

CRP Phase II Future, Long Term Work Plan

- Phase I vs Phase II
- Phase II Project Classification and Triage
 - Types 1 – 4
 - Examples
 - Numbers
- Resources, Short and Long Term




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Canal Rehabilitation Program

- Phase I – Vegetation Removal (CRP/CCRP)
 - Removal of encroaching non-native vegetation
 - Native trees remain where possible (e.g. oaks, pines)
 - Vegetation behind encroaching fences not removed
 - Encroachments identified; some addressed during projects where possible, but many remain (>1,000)
- Phase II – Maintenance Restoration(MRP)
 - Restoration of canal banks/slopes and removal of encroachments to recover/establish maintenance banks



3

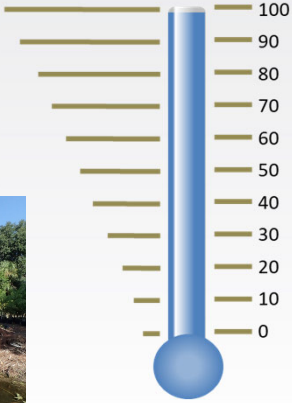
Canal Rehabilitation Program Phase I – Vegetation Removal



170.7 miles completed since October 2015


LWDD – 84.4 miles
 Contractor Services – 80.3 miles
 3RD Party (Developer/Govt.) – 6.0 miles

Goal – 173.1 mi

170.7 mi 99%

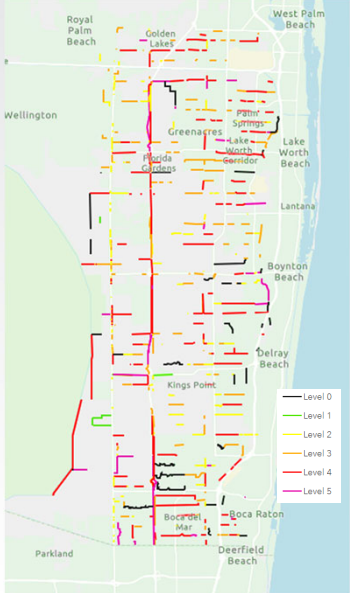




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Canal Rehabilitation Program Phase II



- **GOAL**
 - Reconstruct, re-align and rehabilitate existing canals to maximize flow capacity and operational efficiencies, minimize maintenance
 - Construct sustainable improvements
 - Construct canal sections to their final configuration
 - Reduce dependence of herbicide treatment of banks in favor of mechanical treatment
- ~ 500 DEFINED PROJECTS OVER 250 MILES
- MORE THAN ½ MILLION MAN HOURS over APPROXIMATELY 20-YEARS

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Canal Rehabilitation Program – Phase II Project Triage

- Projects were identified and evaluated based on type and complexity
 - **Level 0** - Require review of permits and agreements to better define LWDD's authority and responsibilities
 - **Level 1** - Projects which shall be completed by a 3rd party, such as the FDOT, developer, etc.
 - **Level 2** - Generally minor in nature, and several can be incorporated into staff's routine maintenance work
 - **Level 3** - Significant projects that may require encroachment removal, tree clearing and earthwork
 - **Level 4** - Similar to Level 3 but will require rebuilding banks and in some cases canal realignment and structural improvements
 - **Level 5** - Most challenging projects and may require land acquisition, structural improvements or more innovative solutions to address future maintenance


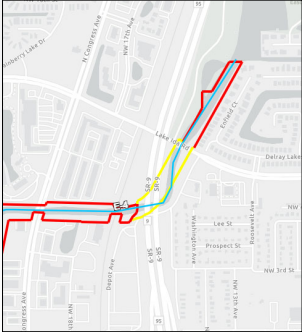
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6

Canal Rehabilitation Program – Phase II Project Triage

Level 0; 66 projects ~40 miles of canals

- Requires review of ROW authority and responsibilities before project scope can be defined
- Examples include:
 - Hunters Run - May need to realign interests with as-built or revised lake configuration
 - L-32/E-4 and I-95 overpass - May need to review interests/authority and/or strengthening NON-EXCLUSIVE easement

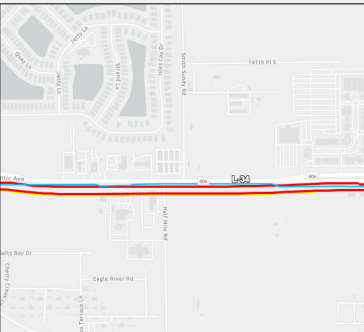
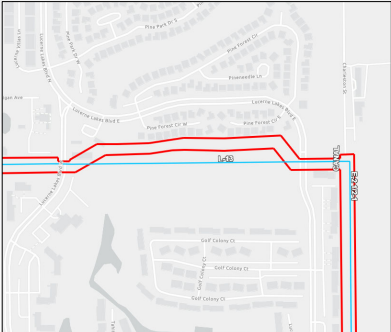



7

Canal Rehabilitation Program – Phase II Project Triage

Level 1; 7 Projects, ~6 miles

- Work to performed under 3rd Party improvements
- Examples include:
 - L-34 - SR7 to Lyons, to be re-aligned by FDOT as part of their widening project
 - L-13 - Portion to be re-aligned as part of a golf course re-development



8

Canal Rehabilitation Program – Phase II Project Triage

Level 2; 129 Projects, ~37 miles

- Applied to small projects that can be performed as part of Low Maintenance Crew duties
- Examples include:
 - L-36, East of E-2 ½ - Remove cabbage palms and opportunistic vegetation along the bank
 - E-1 - Re-build and stabilize isolated locations along the west bank






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Canal Rehabilitation Program – Phase II Project Triage

Level 3; 164 Projects, ~64 miles

- Projects may have a moderate amount of earthwork as well as encroachments and some tree/vegetation removal
- Examples include:
 - L-11 - Removal of a remaining fence encroachment & vegetation and regrading the low maintenance bank
 - L-14 - Removal of a remaining fence encroachment & vegetation and regrading the low maintenance bank



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Canal Rehabilitation Program – Phase II Project Triage

Level 4; 135 Projects, ~106 miles

- Heavy construction projects requiring significant earthwork, bank re-shaping, and in some cases, canal re-alignment
- Examples include:
 - L-27 east of Military will need to reconstruct the Low Maintenance Bank
 - L-45 from E-1 to E-2W will need to be re-aligned and shifted to the north

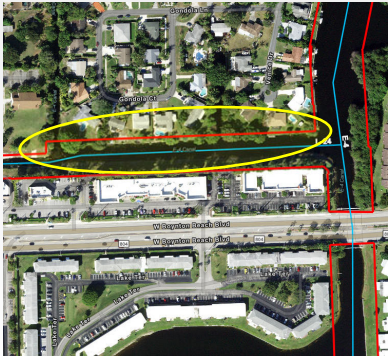

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Canal Rehabilitation Program – Phase II Project Triage

Level 5; 15 Projects, ~9 miles

- Projects that currently have no practical solution and may require canal re-alignment, land acquisition, culvert installations or other structural improvements
- Examples include:
 - L-24, west or E-4 - Currently there is no usable ROW on the north bank or any practical means to access it
 - E-1E - Little to no usable ROW on either bank, extensive docks, embankments and encroachments; some sections are wide and deep, and adjoining property is steeply graded

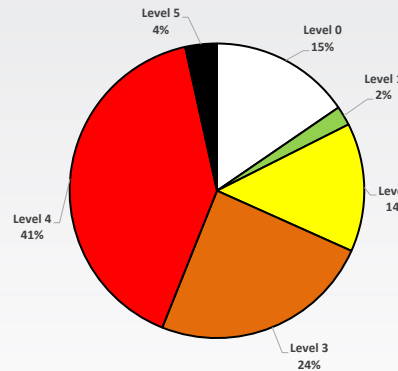



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Canal Rehabilitation Program – Phase II Project Triage

- Projects were identified and evaluated based on type and complexity
 - **Level 0** - Require review of permits and agreements to better define LWDD's authority and responsibilities
 - **Level 1** - Projects which shall be completed by a 3rd party, such as the FDOT, developer, etc.
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 - **Level 3** - Significant projects that may require encroachment removal, tree clearing and earthwork
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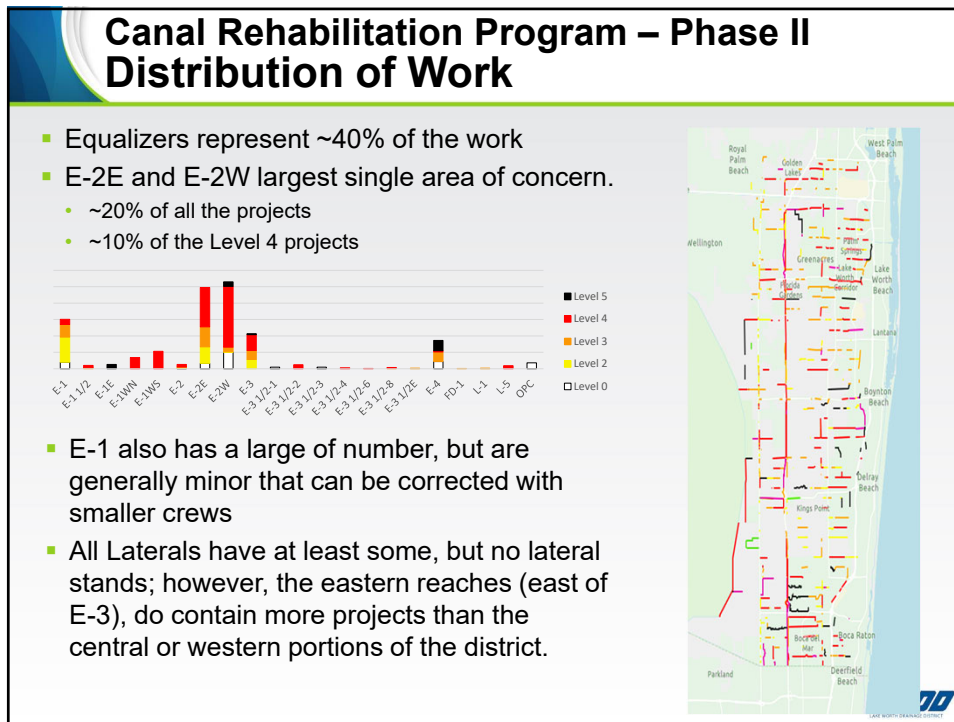
13

Canal Rehabilitation Program – Phase II Timeframes

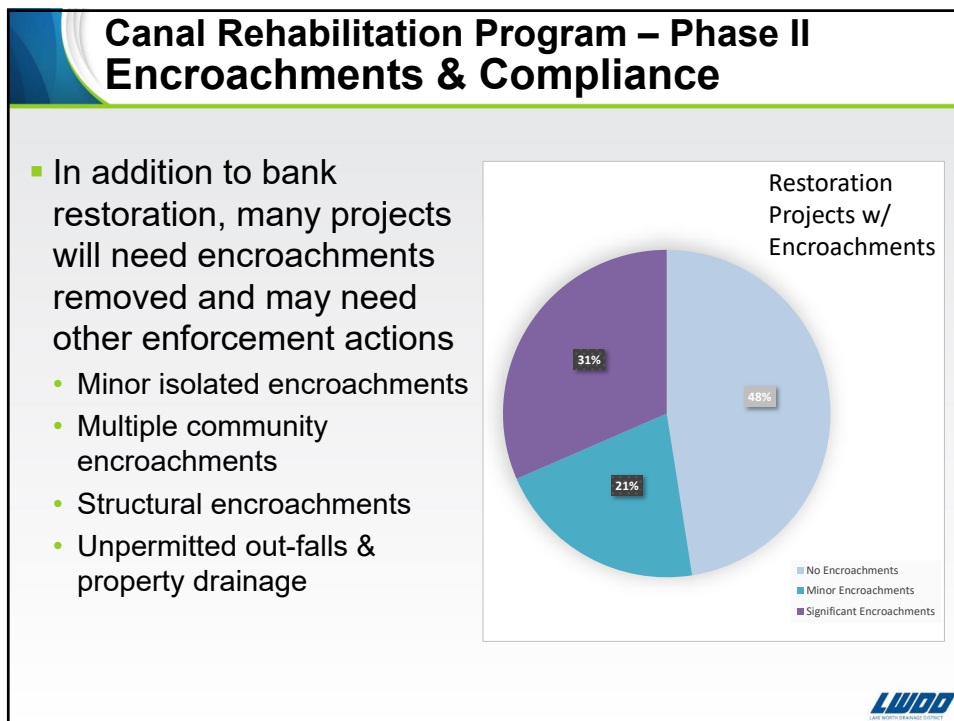
- Level 0, 66 Projects ~40 miles
 - Undetermined
- Level 1, 7 Projects ~6 miles
 - Undetermined
- **Level 2, 129 Projects ~37 miles**
 - 3 to 4 years
- **Level 3, 164 Projects ~64 miles**
 - 6 to 8 years
- **Level 4, 135 Projects ~106 miles**
 - Approximately 20 years
- Level 5, 15 Projects ~9 miles
 - Undetermined

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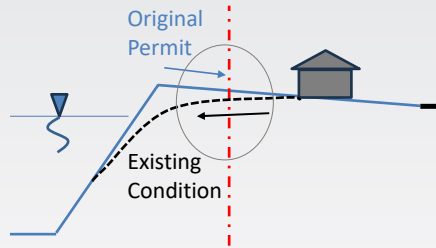


15



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Canal Rehabilitation Program – Phase II Property Drainage



- **Competing Criteria**
 - Maintain the hydraulic section
 - 35 ft high maintenance bank, 10 ft low maintenance bank
 - Minimum top of bank above maintained water level
 - Eliminate un-controlled discharge and direct over land flow

- **Design Options**

- Review modification to hydraulic section
- Consider reduced maintenance banks or dual low maintenance banks
- Reduce low maintenance bank to 5ft and rip-rap slope, w/ gravel top of bank
- Create temporary swale at ROW and drain to existing roads, inlets or install temporary drains, until adjacent property drainage is corrected
- Sand cement or gravity wall installation



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Canal Rehabilitation Program – Phase II Prioritization & Scheduling

- At this time staff is not aware of any areas requiring immediate attention but will continue to review the projects over the next several months that may need to be expedited
- Level 2 projects will be assigned to the routine maintenance teams including the Low Maintenance and Light Side Trimming Teams
- Heavy Equipment crews will work to complete those projects currently underway and will follow the remaining CRP projects once the contracted tree removal projects have been completed
- Future work will be prioritized based on:
 - Improvement to current maintenance activities, or “filling in the gaps”.
 - Overall priority and benefit to the system capacity, as either identified in the field or supported by the District’s modeling effort to be completed in early 2025
 - Identified areas where there is high risk vegetation, directly adjacent to canal
 - Encroachments and access restrictions



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Canal Rehabilitation Program – Phase II Resource Needs

- Staff intends to implement the referenced work utilizing District staff
 - Expansion of this program and maintenance of the rehabilitated ROWs will necessitate an increase in O&M staff & equipment over the next 3-5 years
 - Contract work may be considered, but only for a limited number of specific projects and only as budget resources allow; none are currently identified
- Compliance and legal resource needs are also expected to increase to facilitate encroachment removal and resolve property interest matters



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Canal Rehabilitation Program – Phase II Summary

- **LONG TERM PROGRAM**
 - Defines our Work Plan for the Future
 - Sustainable System
 - Maximize Hydraulic Capacity
 - Maximize Right of Ways
 - Improve Maintenance
 - Reduce reliance on Herbicides for Terrestrial



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2.2.11 Temporary Access

LWDD rights-of-way are intended for the exclusive use by the LWDD to perform its water management functions. Consequently, the use of LWDD rights-of-way by other parties for any other use is considered the option of last resort.

Access to the LWDD rights-of-way may be granted for specific activities. All requests for use of LWDD's right-of-way as temporary access will be considered on a case-by-case basis. If approved, permits for temporary access will be subject to the LWDD Operating Policies and General Permit Conditions (insert link). Special Conditions that are specific to the right-of-way usage shall be incorporated into the permit as may be necessary in the best interest of the LWDD.

The applicant is cautioned that the LWDD's approval of such a request will be limited by its ownership interest in the right-of-way. It is the applicant's responsibility to obtain any additional federal, state, local or underlying landowner's approvals that may be required.

If granted, the use must not be in any way adverse to the LWDD's operation and maintenance programs, policies and goals. The proposed use must not adversely affect previously authorized use(s) of the right-of-way, and must not interfere with the LWDD's continuous, uninterrupted vehicular access along either canal bank.

2.2.11.A. Permitting Requirements

2.2.11.A.1

Prior to using LWDD's right-of-way as temporary access the petitioner must submit an application to obtain a Right-of-Way Permit from LWDD authorizing the requested use.

2.2.11.A.2

The applicant must demonstrate that no other reasonable access point is available. The applicant must submit a location map illustrating the precise locations of ingress and egress. The applicant shall provide sufficient details regarding the request to utilize LWDD right-of-way including, but not limited to, specific ingress and egress points, limits of work, project duration, and the size, type, quantity and frequency (round trips per day) of vehicles accessing the right-of-way.

2.2.11.A.3

Proof of minimum of \$1,000,000.00 liability insurance must be furnished to LWDD for all parties accessing the right-of-way with LWDD listed as an additional insured.

2.2.11.A.4

The applicant will indemnify and hold harmless LWDD from any damages resulting from the use of the right-of-way.

2.2.11.A.5

Failure to maintain the right-of-way on a daily basis in accordance with the terms and conditions of the permit is grounds for immediate permit revocation. In this regard, permittees are responsible for the repair, replacement, and restoration of any damage to the LWDD right-of-way which may result from the permitted use. Such restoration shall be to the original or better condition and to the satisfaction of the LWDD.

2.2.11.A.6

Where access to the LWDD right-of-way is restricted by a gate, the permittee is responsible for securing the gate after each use. If required, the permittee is responsible for providing their own lock and removing the lock at the expiration of the permit.

2.2.11.A.7

The Right-of-Way Permit may be terminated immediately at the sole discretion of the LWDD Executive Director or Board of Supervisors.

2.2.11.A.8 Temporary Access for Construction Purposes

Approval by the LWDD Board of Supervisors is required for uses of right-of-way for periods greater than six (6) months.

For use of the right-of-way as temporary access for construction purposes for more than 60 calendar days, the permittee shall furnish a bond or letter of credit equal to \$50.00 per linear foot of right-of-way to be used, plus \$500.00 for equipment mobilization, to guarantee the return of the right-of-way to its original condition, or better as determined by LWDD.

2.2.11.A.9 Temporary Access for Non-Native, Exotic & Nuisance Species Management

Control of non-native, exotic and nuisance vegetation and species on properties adjacent to canal rights-of-way is a benefit to LWDD. Pre-emptive trimming/removal of non-native and nuisance vegetation and control of exotic species (e.g. iguanas) may prevent damage and reduce future canal maintenance obligations.

- Applicant must provide proof of an agreement with the adjacent property owner for services; permit shall not exceed timeframe of contracted services or a maximum of one (1) year.
- Applicant must provide 48-hour notice to the LWDD Field Representative to coordinate and obtain access to adjacent canals, as prescribed in the permit.
- Indiscriminate access for removal and trapping is prohibited; unauthorized entry will be considered trespassing pursuant to Chapter 810.09 Florida Statutes and the permit will be revoked.
- Permittee's access is authorized on dry ground only; occupation of the canal channel is prohibited.
- Traps and firearms are prohibited on LWDD right-of-way.
- Permittee must adhere to all federal, state and local laws and regulations, as well as removal practices as prescribed by Florida Fish and Wildlife Conservation Commission.
- All remains and/or debris shall be immediately (same day) removed from the right-of-way. It is unlawful to dispose of any materials within the LWDD rights-of-way pursuant to Chapter 403.413, Florida Statutes.

Commercial entities conducting tours and guided hunting trips are prohibited from accessing and using LWDD right-of-way. Unauthorized access will be considered trespassing and may be prosecuted pursuant to Chapter 810.09, Florida Statutes. ([Link 3.7 & 3.8 – Unauthorized access on LWDD rights-of-way; vendors of rights-of-way](#))

2.2.11. A.10 Fees

Refer to Subsection 1.3 – [link to fees](#))

Revisions to Fee Schedule – Policy Sub-Section 1.3.2

Temporary Access			
Temporary Access - Construction	\$670.00 each	Not Applicable	Requests for an extension of temporary access will be considered a permit extension and permittees will be charged accordingly. Refer to Subsections 1.3.3 - Error! Reference source not found. and 2.2.11 - 2.2.11 Temporary Access.
Temporary Access – Exotic/Nuisance Removal	\$100 each	Not Applicable	Refer to Subsection 2.2.11 - 2.2.11 Temporary Access

DRAFT