



**FINANCE & INFORMATION TECHNOLOGY
BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
September 17, 2014
9:00 AM
Approximate Meeting Time: 3 Hours**

1. CALL MEETING TO ORDER
2. APPROVE THE MINUTES OF THE AUGUST 20, 2014 FINANCE AND INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING

PUBLIC COMMENTS - CLOSED SESSION

CLOSED SESSION

3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS, Pursuant to Government Code Section 54956.8

Property: 4 Liberty, Aliso Viejo, CA 92656

Under Negotiation: Price and terms of payment

Real Property Negotiators: Joone Lopez, Matt Collings, Kevin Turner, Mike Hartel

PUBLIC COMMENTS - OPEN SESSION

DISCUSSION ITEMS/ACTION ITEMS

4. AT LARGE VOTING (RESOLUTION NO. 14-__)

Recommended Action: As directed by the Board of Directors

5. ADOPTION OF THE PURCHASING POLICY (RESOLUTION NO. 14-__)

It is recommended that the Board of Directors approve the resolution entitled, " Resolution of the Board of Directors of Moulton Niguel Water District Approving Updated Purchasing Policy."

6. LEGAL COUNSEL SERVICES FOR THE DISTRICT

It is recommended that the Board of Directors approve the continued utilization of Downey Brand and Bowie Arneson Wiles & Giannone (BAWG) for District's legal counsel based on the current engagement within the budgeted legal services for FY 2014-15.

INFORMATION ITEMS

7. Cost of Service Update
8. Monthly Financial Report
 - a. Summary of Financial Results
 - b. Budget Comparison Report
 - c. Financial Statements
 - d. Restricted Cash and Investments with Fiscal Agent
 - e. Unrestricted and Restricted Fund Balances
 - f. Summary of Disbursements August 2014
9. Late Items (Appropriate Findings to be Made)
 - a. Need to take immediate action; and
 - b. Need for action came to District's attention after Agenda Posting. [Requires 2/3 vote (5 members) or unanimous vote if less than 2/3 are present]

CLOSED SESSION

10. CONFERENCE INVOLVING A JOINT POWERS AGENCY: SAN JUAN BASIN AUTHORITY (SJBA)

Pursuant to Government Code Section 54956.96 (a) (1) and (b), a Closed Session will be conducted for the following purposes (Legal Counsel in attendance):

Discussion will concern: Government Code Section 54956.9 (a)-(d)(1), Existing Litigation of San Juan Basin Authority: One Case

San Juan Hills Golf Club, LP v. City of San Juan Capistrano, San Juan Basin Authority, et. al.
Case No. 30-2014-00742347

ADJOURNMENT

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 831-2500 at least forty-eight (48) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least forty-eight (48) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If

such writings are distributed to members of the Board less than seventy-two (72) hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room and on the District website at www.mnwd.com.



DRAFT
MINUTES OF THE REGULAR MEETING OF THE
FINANCE & INFORMATION TECHNOLOGY BOARD OF DIRECTORS OF THE
MOULTON NIGUEL WATER DISTRICT

August 20, 2014

A Regular Meeting of the Finance & Information Technology Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 9:00 AM on August 20, 2014. There were present and participating:

DIRECTORS

Scott Colton	Director
Richard Fiore	Director
Donald Froelich	Vice President
Gary Kurtz	Director
Larry Lizotte	Director
Larry McKenney	President (arrived at 9:17 a.m.)
Brian Probolsky	Vice President/Chair

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC

Joone Lopez	General Manager
Matt Collings	Assistant General Manager
Marc Serna	Director of Engineering & Operations
Gina Hillary	Director of Human Resources
Kelly Winsor	Assistant to the General Manager
Paige Gulck	Board Secretary
Ruth Zintzun	Finance Manager
Karren Maddox	MNWD
Drew Atwater	MNWD
Michael Bell	Public Financial Management
Matt Weber	Downey Brand

1. CALL MEETING TO ORDER

The meeting was called to order by Brian Probolsky at 9:04 a.m.

2. APPROVE THE MINUTES OF THE JULY 16, 2014 FINANCE AND INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING

MOTION DULY MADE BY RICHARD FIORE AND SECONDED BY LARRY LIZOTTE, MINUTES OF THE JULY 16, 2014 FINANCE AND INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING WERE APPROVED AS PRESENTED. A ROLL CALL VOTE WAS TAKEN AND THE VOTE WAS UNANIMOUS WITH DIRECTORS SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, LARRY LIZOTTE, BRIAN PROBOLSKY ALL VOTING 'AYE'. DIRECTORS GARY KURTZ AND LARRY MCKENNEY WERE ABSENT.

3. PUBLIC COMMENTS - CLOSED SESSION

None.

CLOSED SESSION

4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS, Pursuant to Government Code Section 54956.8

Property: 4 Liberty, Aliso Viejo, 92656

Under Negotiation: Price and terms of payment

Real Property Negotiators: Joone Lopez, Matt Collings, Kevin Turner, Mike Hartel

Closed session ended at 9:13 a.m.

Brian Probolsky stated that no reportable action was taken on this item.

5. PUBLIC COMMENTS - OPEN SESSION

None.

PRESENTATION ITEMS

6. Update on Rate Study

Joone Lopez gave a brief background on this item. Michael Bell, Ruth Zintzun, and Drew Atwater provided details on this item. Discussion ensued regarding progress of the model, modeling assumptions, and timeline of the project.

Larry McKenney arrived at 9:17 a.m.

7. Revised Cash Flow Model

This item was continued to the Thursday, August 21, 2014, Board of Directors' Meeting.

DISCUSSION ITEMS

8. Revised Reserve Policy

This item was continued to the Thursday, August 21, 2014, Board of Directors' Meeting.

9. At-Large Voting

Joone Lopez provided details on this item. Discussion ensued regarding divisional vs. at-large voting.

Lyle Overby, a member of the public, stated his support for at-large voting.

Larry Lizotte left at 10:51 a.m.

INFORMATION ITEMS

10. Monthly Financial Report

Michael Bell presented the Monthly Financial Report.

11. Late Items (Appropriate Findings to be Made)

Staff has none.

ADJOURNMENT

The meeting was adjourned and will be continued to Thursday, August 21, 2014 at 5:30 p.m.

Respectfully submitted,

Paige Gulck
Board Secretary



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** September 17, 2014

FROM: Joone Lopez, General Manager

SUBJECT: At-Large Voting

DIVISION: District-Wide

SUMMARY:

Issue: The Board has requested that staff research transitioning from the current divisional voting to at-large voting starting October 1, 2014.

Recommendation: This item is subject to Board direction.

Fiscal Impact: Unknown at this time.

BACKGROUND:

In June 1981, the Moulton Niguel Water District (the “District”) changed from at-large elections and created election divisions. Seven divisions were created, one to coincide with each Board member. Since the November 1981 election, the Board has been elected through divisional voting, meaning only voters in the Board member’s division can vote for that seat. Also, to run for a specific seat, the candidate must reside in that division.

The Board has asked staff to research information regarding returning the District to at-large elections.

DISCUSSION:

The District is a California Water District organized under California Water Code section 34010 and following. Elections in the District are governed by a special enactment found in Water Code sections 35185 through 35195, and secondarily by the Uniform District Elections law. Where those sets of laws do not address an issue, the more general provisions of the Water Code relating to California Water Districts

#4.

At-Large Voting
September 17, 2014
Page 2 of 2

apply. Although the Board members were originally elected at-large in 1981, the District moved to residential, divisional voting. (MNWD Resolution 81-37) Under this system, residents of a division cast a single vote per resident to elect a Board member within their own division.

Water Code section 35189 provides that by default directors shall be elected on an at-large basis, “unless the board of directors determines that directors shall be elected by divisions.” The Water Code does not set a procedure by which the District may transition back to at-large voting. Still, Water Code sections 34806 and 34807 give the Board the authority to adopt resolutions governing the business and affairs of the District, and the voting procedures of the District as a whole appear to be within the scope of that directive.

Accordingly, in order to change to at-large voting it would be appropriate for the District to adopt a resolution repealing Resolution No. 81-37, and returning the District to an at-large voting regime. The resolution should include a finding that Water Code section 35189 provides for at-large elections within the District; that the Board has determined that a return to at-large elections is in the best interest of the District; and that, as required by Water Code sections 35186 and 35192, District elections will continue to be conducted as resident voter elections under the provisions of the Water Code and the Uniform District Elections Law.

RESOLUTION NO. 14-_____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT REPEALING RESOLUTION NO. 81-37 AND RETURNING TO AT LARGE ELECTIONS

WHEREAS, Water Code Section 35189 provides that directors of the Moulton Niguel Water District (the “District”) shall be elected on an at-large basis unless the board of directors determines that directors shall be elected by divisions; and

WHEREAS, in June of 1981 District adopted Resolution No. 81-37, which created seven divisions in the District and provided that effective the November 1981 election the board of directors were to be elected by divisions;

WHEREAS, the Board of Directors believes it is in the best interest of the District and the District voters to return to at-large elections which would emphasize District-wide representation to all voters and to broaden community involvement in District elections.

NOW, THEREFORE, the Board of Directors of the Moulton Niguel Water District does hereby **RESOLVE, DETERMINE** and **ORDER** as follows:

Section 1. Be it resolved by the Board of Directors of the Moulton Niguel Water District that Resolution No. 81.37 is hereby repealed as of October 1, 2014. That for all elections after November of 2014, pursuant to Water Code Section 35189, the directors of the District shall be elected on an at-large basis. This Resolution shall not impact the November 2014 elections, as those will be by division and those Directors elected, will serve until 2018. Directors in 2016 will be elected on an at-large basis.

Section 2. As required by Water Code Sections 35186 and 35191 the District elections will continue to be conducted as resident voter elections under the provisions of the Water Code and the Uniform District Elections Law.

Section 3. That the Secretary be and the same is hereby directed to transmit a certified copy of this Resolution to the Registrar of Voters for the County of Orange.

APPROVED, ADOPTED and **SIGNED** this 17th day of September, 2014.

MOULTON NIGUEL WATER DISTRICT

By: _____
Larry McKenney, President
MOULTON NIGUEL WATER DISTRICT
And the Board of Directors thereof

By: _____
Paige Gulck, Secretary
MOULTON NIGUEL WATER DISTRICT
And the Board of Directors thereof



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** September 17, 2014

FROM: Marc Serna, Director of Engineering and Operations
Megan Geer, Contracts and Purchasing Manager

SUBJECT: Adoption of the Purchasing Policy (Resolution No. 14-___)

DIVISION: District-wide

SUMMARY:

Issue: An update of the 2009 Purchasing Policy is needed in order to address the current needs of the District and more clearly define authority and establish guidelines for carrying out procurement responsibilities.

Recommendation: It is recommended that the Board of Directors approve the resolution entitled, “Resolution of the Board of Directors of Moulton Niguel Water District Approving Updated Purchasing Policy.”

Fiscal Impact: There is no direct impact to Board-approved budgets.

BACKGROUND:

The Board adopted MNWD’s current Purchasing Policy in 2009. The Purchasing Policy is intended to establish guidelines and provide appropriate authority for the procurement of contractual services, equipment, and professional services. The policy is implemented by staff throughout the organization with support from the District’s Purchasing Department. The current policy has been updated to address the evolving needs of the District and to provide additional clarity and guidance on procurement policies as recommended in past financial audits.

DISCUSSION:

In preparation for updating the Purchasing Policy, the Purchasing Department conducted research to review and compare the policies and limits adopted by other water agencies, along with legal requirements and best practices of public agency procurement. Additionally, staff solicited comments, discussion, and review from

#5.

Adoption of the Purchasing Policy

September 15, 2014

Page 2 of 2

District management in order to ensure that the updated Purchasing Policy met the needs of the District and accurately reflected the District's purchasing principles.

As a result, the attached Purchasing Policy was developed to ensure responsible public management practices, increased efficiency, and enable the use of uniform procurement procedures throughout the District.

Some of the notable changes from the 2009 Purchasing Policy to the updated Purchasing Policy are:

1. Increases to approval limits and clarification of staff authorizations
2. Changes to competitive solicitation level requirements
3. Contract signing authority clarifications
4. Authorization and competitive solicitation limits measured on a per-purchase/per-contract basis
5. Clarification of emergency situations
6. Clarification of competitive solicitation exemptions
7. Requirement of contract documents for the procurement of services over \$5,000
8. Clarifies General Manager's authorization with respect to emergencies, change orders, and procurement generally

Staff provided an overview of the Policy changes at the Finance and Information Technology meeting in May 2014 and July 2014. Based on the feedback and discussion, staff is bringing this item back for the Board's consideration. Attached are the current 2009 Purchasing Policy and the proposed revised policy. Staff did not provide a red-line of the current policy because the revised policy was completely rewritten. The revised policy was reviewed by General Counsel. Once the updated Purchasing Policy is adopted, staff will roll out the changes to the District staff and begin to implement the updated policy.

Attachments:

1. Resolution
2. Purchasing Policy – Redlined from July 2014 meeting
3. 2009 Purchasing Policy

**Moulton Niguel Water District
Purchasing Policy (Effective _____, 2014)**

I. PURPOSE OF POLICY

1.1 The Moulton Niguel Water District Purchasing Policy (this "Policy") establishes policies and procedures for acquiring services, and materials, equipment and supplies (referred to collectively as "materials"), and for public works projects, for the Moulton Niguel Water District (the "District"), pursuant to Government Code Section 54201 *et seq.*

California Government Code Section 54202: requires every local agency to adopt policies and procedures, including bidding regulations, governing purchases of supplies, materials and equipment and that said purchases shall be in accordance with said duly adopted policies and procedures.

California Government Code Section 54204: requires that if the local agency is other than a city or county, policies provided for in *Section 54202* shall be adopted by means of a written rule or regulation, copies of which shall be available for public distribution.

1.2 This Policy establishes the Board of Directors' (the "Board") approved policies with respect to the procurement of services and materials and for public works projects, including expenditure authorization and limits, competitive proposal and bidding requirements, and general procurement procedures. All purchases of services or materials and public works projects to be paid for by the District must adhere to the authority level and dollar limits of this Policy as set forth in Section 2, except as otherwise provided by specific terms and exceptions set forth in this Policy.

II. AUTHORIZATION

2.1 By adoption of this Policy, the Board is authorizing the General Manager, or his/her designated representatives to exercise certain duties and responsibilities that are essential for the day-to-day operation of the District.

2.2 The General Manager may delegate the procurement of services and materials and the provision of public works projects to those staff members given specific authority, consistent with the terms of this Policy.

2.3 Delegation of purchasing authority may be through the authorized use of purchasing cards, purchase orders, check requests, or other written authorization. All such purchases will be made in conformity with the policies and procedures prescribed within this Policy.

2.4 The Board-established procurement limits and contract signatory authority are listed in Table 1 below. These limits are applicable on a per-expenditure/per-contract basis, and not on an aggregated basis.

1 | MOULTON NIGUEL WATER DISTRICT PURCHASING POLICY; ADOPTED ON _____

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Table 1

Procurement Limits and Contract Signature Authority		
Title	Expenditures	Contract Signature Authority
<i>General Manager</i>	up to \$75,000	\$75,001 and over with Board authorization Up to \$75,000 without Board authorization.
<i>Assistant General Manager</i>	up to \$50,000	Up to \$50,000
<i>Director of Human Resources, Director of Engineering and Operations, Director of Finance</i>	up to \$25,000	Up to \$25,000
<i>Assistant Director of Operations, Assistant Director of Engineering</i>	up to \$10,000	Up to \$10,000
<i>Superintendents, Managers, Controller, Principal Engineer</i>	up to \$5,000	None
<i>Supervisors, Assistant to the General Manager, Board Secretary</i>	up to \$2,500	None
<i>Purchasing Agent, Administrative Personnel</i>	up to \$1,000	None

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III. DEFINITIONS

The terms referenced in this Policy shall have the meanings as defined below.

Administrative Personnel – District administrative employees authorized by the General Manager to purchase miscellaneous items, food and travel in support of District functions; includes Administrative Assistant, Administrative Analyst, Human Resources Administrator and any other administrative position as authorized by the General Manager.

~~Agreement – Written agreement for materials and services (both Professional and Non-Professional), including both Formal Contracts and Purchase Orders. Term is interchangeable with the term "Contract."~~

Contract Amendment – A written change or addition to a legal document which, when properly executed, has the same legal validity of the original document.

Board – The Board of Directors of Moulton Niguel Water District.

Change Order – A written Amendment modifying the terms of an existing Contract or Purchase Order.

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Consultant – An individual, firm or entity that provides or offers to provide Professional Services to the District.

Contingency - A predetermined amount or percentage of a Contract held for changes in a Public Works project.

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~~Contract - Written agreement for authorizing a contractor, Consultant, supplier or service provider to provide materials and/or services (both Professional and Non-Professional), including both Formal Contracts and Purchase Orders. Term is interchangeable, or Public Works, in accordance with the term "Agreement." material requirements, conditions or scope of work stated in the Contract~~

Cooperative Purchasing – Participation with other agencies in cooperative purchasing arrangements and programs to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices, and the reduction of administrative time and expenses.

District –Moulton Niguel Water District.

Emergency – A situation in which unforeseen circumstances present an immediate risk of harm or hazard to the public health, safety, and welfare, or to the District property, or threaten serious interruption of District operations.

~~Formal Contract – A written agreement separate from and in addition to a Purchase Order, authorizing a contractor, Consultant, supplier or service provider to provide materials or services, or Public Works, in accordance with the material requirements, conditions or scope of work stated in the contract.~~

General Manager – General Manager of the District or the person appointed by the Board to act in the capacity of the General Manager and authorized to administer this Policy on his/her behalf.

Invitation for Bids - A formal process for soliciting sealed bids from qualified prospective suppliers or Public Works contractors. Typically involves a formal bid opening, and the awarding of a Contract to a responsive and responsible supplier or contractor based on price and other specified factors, and as otherwise required by law.

Multiple Year Contract - A Contract for the purchase of services or materials, or for Public Works for a basic period multiple year term or that may contain provisions to extend performance by exercising pre-priced option optional renewal periods ~~(normally one (1) year per option period).~~ A Multiple Year Contract does not obligate the District beyond the initial award period and shall not provide for a cancellation payment to the contractor if options are not exercised.

Non-Discretionary Purchases – ~~Purchases that do not fall within other purchase categories in this Policy and~~ Payments to utilities, temporary employment services, insurance providers, healthcare providers and national, state or local agencies that relate to routine obligations and expenses essential to the District's ability to provide service to customers ~~(includes but is not limited to water purchases and utility payments, insurance, memberships, fees, payroll related costs, tax obligations, PERS, employee benefits and voluntary deductions, and other purchases that are have been~~ approved in fiscal year operating ~~and/or~~ capital budgets.–

Non-Professional Services – Services other than Professional Services, including supply and maintenance services.

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Procurement - The purchase or lease of materials, supplies, equipment, ~~or~~ services, or Public Works.

Professional Services – Any type of special service or advice in financial, economic, accounting, engineering, legal or administrative matters by persons specially trained and experienced and competent to perform the special services required. (Gov't Code § 53060.) Such services include but are not limited to architectural; engineering; environmental; financial; land surveying; construction management; audits; training services; legal services; preparation of planning or studies; technology application development; and personnel, job classification and benefit studies.

Public Works – As defined by California Public Code Section 22002, public projects include construction, reconstruction, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility. Maintenance work is not considered a public project for purposes of this definition.

Purchasing Card - A form of charge card that allows materials and services to be purchased without using a Purchase Order. The District participates in the Cal Card, Home Depot, and Costco credit card programs.

Purchasing Department – The District employees assigned the duties of identifying vendors, obtaining competitive bids, issuing and processing Purchase Order Requisitions, maintaining office inventory, and assisting the General Manager in the application of Policy procedures within the District.

Purchase Order (PO) – ~~An Agreement~~ authorization, under a standardized form in which the party designated as the “provider” is to provide materials and/or services for which the District agrees to pay.

Request for Proposal (RFP) - A solicitation used for the procurement of Professional Services and Non-Professional Services. Prospective suppliers or Consultants submit requested information and are evaluated/awarded based on pre-established criteria.

Request for Quotes (RFQ) - A solicitation used for procurement of supplies, materials, or equipment.

Requisition (REQ) - The procedural method by which departments may request a PO for the purchase of materials, supplies or equipment. Requisitions are entered into the District's ERP system application.

Single Source Purchase - Procurement where: (1) there is a compelling reason for only one source, a preferred brand, like material, etc., to be procured; or (2) the commodity is unique, including, but not limited to, acquisition of data processing, telecommunications and word processing equipment, goods and services; or (3) the purchase of a specific brand name, make or model is necessary to match existing District equipment or facilitate effective maintenance and support; or (4) when it is in the best interest of the District to extend or renew a Contract from a previous contract period, based on satisfactory service ~~and~~, reasonable prices, ~~to avoid the interruption~~ avoidance of start-up costs, avoidance of interruptions to District business ~~and/ or based on~~ good business practices.

Sole Source Purchase - Procurement where only one viable source exists. This is usually due to legal restrictions of patent rights, a proprietary process, warranty issues, original equipment, copyrights, etc.

IV. GENERAL PROCUREMENT POLICIES

4.1 Procurement practices shall comply with laws, regulations and guidelines of the State and any other applicable law, and the provisions of grant or funding ~~agreements~~contracts, if applicable.

4.2 Any employee/individual effecting any procurement action outside of the policies and procedures established by this Policy and without General Manager or Board authorization to do so, ~~may~~shall be subject to disciplinary action and/or termination in accordance with District policies.

4.3 Expenditures and Contract awards must be authorized by the appropriate authorization level indicated in Table 1.

4.3.1 Separating or dividing Contracts into smaller components for the purpose of bringing the cost of one or more Contracts below any specified sum to avoid a requirement in any section of this Policy or any policy incorporated herein is strictly prohibited. Contracts may be divided only to meet unique scheduling of a project or to accommodate necessary time frames. In addition, no specifications shall be drafted in such a manner as to limit competitive bidding or solicitation directly or indirectly to any one specific vendor, or any specific brand, product, thing, or service, except for those items that are approved as exempt from competitive bidding or solicitation requirements as provided ~~for below~~ in Section 7.1.3.

4.4 Purchase amounts include taxes and the cost of shipping, freight fees and any other charges billed by the supplier or contractor for purposes of the authorization limits under this Policy.

4.5 Purchase authorization and expenditure limits in Table 1, and competitive solicitation requirements in Table 2 and as further set forth in this Policy, are on a per purchase/per contract basis and shall not be applied as an aggregate limit to any vendor, supplier, contractor or Consultant.

4.6 With the exception of the General Manager, in the absence of an authorized signatory for a given request, authorization will be obtained from the next highest authority in Table 1.

~~4.8 The General Manager or his/her approved designee is authorized to approve Contingencies and expenditures of Contingencies up to ten percent (10%) of the Contract value.~~

~~4.9~~4.7 The District may use electronic commerce whenever practicable or cost-effective. The District may accept electronic signatures and records in connection with District procurement, as permitted by applicable law.

~~4.10 Except where applicable law requires otherwise, price, fitness and quality being equal, the Purchasing Department, or any other person authorized to purchase supplies for the use of the District, shall prefer supplies grown, manufactured or produced or sold within the boundaries of the District, and shall next prefer supplies grown, manufactured or produced in the region, the State and the contiguous United States.~~

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V. PROCUREMENT METHODS

The following methods are available to initiate a purchase request or to pay for materials, services or Public Works:

5.1 Requisition/Purchase Order: Staff that require materials or services to carry out the defined duties of their positions shall submit Requisitions, in advance, for purchases in accordance with this Policy and other applicable procedures and policies of the District. The Purchasing Department will generate a PO from the Requisition.

5.2 Check Request: A check request can be used to initiate payment for certain limited materials or services without a PO. Check requests can be used to request payment for Non-Discretionary ~~Expenses~~Purchases, services rendered, subscriptions, membership dues, workshop/seminar/conference registrations, use of facilities, etc.

5.3 Cal Card and Other Purchasing Cards: Designated staff may be assigned a Cal Card for miscellaneous purchases up to \$1,000.00 per purchase/per day. Purchases using the Cal Card are subject to the terms and conditions of the District Cardholder Acceptance Agreement and any other applicable District Cal Card policies or procedures. Services are not to be acquired on Cal Cards due to lack of insurance and indemnification language associated with these purchases. Cal Card limits may be increased temporarily or permanently with approval by an authorized manager subject to the authorization limits in Table 1. Use of all other Purchasing Cards are subject to the terms of this Policy and to any usage terms provided at the time of card issuance to the designated staff and any subsequent amendments to such terms, and other applicable District policies.

5.4 Blanket Purchase Order: A Blanket Purchase Order is used for payment to the same supplier/contractor/Consultant multiple times, or for ongoing monthly purchases/expenses. A Blanket Purchase Order is issued to cover all amounts anticipated to be paid to the supplier/contractor/Consultant for the fiscal year or through a contract term and typically expires at the end of the fiscal year or at the expiration or termination of a ~~contract~~Contract.

5.5 Contracts: Provisions shall be made, either through specifications or procedures established by the District, for verification of the references and financial responsibility of the contracting parties prior to the award of a Contract. After award, all Contracts shall be executed on behalf of the District by the appropriate authorized signatory indicated in Table 1. In no case shall any Contract be made if sufficient funds are not -budgeted and appropriated and not- available to make payment promptly upon delivery or completion, or in accordance with a progress payment schedule, unless otherwise authorized and approved by the Board or approved by the General Manager as provided for in Section 6.2 (Emergency).

5.5.1 Contracts for Non-Professional Services: ~~In addition to the issuance of a PO, Formal Contracts for Non-~~ Professional Services and Public Works shall be executed when an expenditure exceeds \$5,000 (except in the event of an Emergency).

~~5.5.2 Contracts for Professional Services and Public Works: Contracts for Professional Services, where the expenditure exceeds \$5,000, may be Formal Contracts, and for all Public Works projects, shall be Formal Contracts (except in the event of an Emergency).~~

~~5.5.3~~

5.5.2 Multiple Year Contracts are allowed when in the best interests of the District as determined, and executed by the General Manager.

a. For purposes of procurement authorization, the dollar value of a Multiple Year Contract shall be the total ~~agreement~~contract value, including optional renewal periods. Once initially approved in accordance with the Policy requirements, any optional renewals may then be authorized by the General Manager at the time of renewal, regardless of the dollar amount, provided the pre-priced option is consistent with the terms of the contract as initially approved.

VI. EXCEPTIONS TO PRE-AUTHORIZATION

6.1 Non-Discretionary Purchases do not require Board approval for payment, including those that exceed the General Manager limit of \$75,000. Purchase Orders are not required for Non-Discretionary Purchases.

6.2 Emergency Work/Services: The General Manager, Assistant General Manager, or ~~his/her designee~~the assigned Emergency Operations Director, may authorize Emergency expenditures for work, services, and/or supplies where the cost exceeds \$75,000 without prior Board approval. The Board shall be notified of any expenditures for Emergency work ~~or~~ services and/or supplies exceeding the General Manager's authorization limit at the next regularly scheduled Board meeting. ~~In the absence of the General Manager, the Assistant General Manager or the assigned Emergency Operations Director may authorize Emergency expenditures.~~

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6.3 Purchase requests to replenish the District's warehouse inventory within established inventory re-order levels require no prior authorization or signatory approval under Table 1.

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VII. COMPETITIVE SELECTION PROCESS

7.1 General. A competitive selection process for procurement of services and materials, and for Public Works projects, is required in accordance with the limits as set forth in Table 2 below (subject to certain exceptions, qualifications or limitations as further set forth below).

Table 2

Competitive Solicitation Process - Requirements	
Purchase Amount	Solicitation Requirement

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\$5,000 and under	<i>One Quote</i>
\$5,001-\$75,000	<i>Three Quotes</i>
\$75,001 and over	<i>RFP or RFQ or Invitation to Bid Process Required</i>

7.1.2 Competitive Solicitation - Submission.

- i) All quotes, bids and proposals must be in writing. Email is acceptable for expenditures under \$75,000.
- ii) RFP, RFQ, and Invitation to Bid submissions must be in writing and be in substantial compliance with terms in the solicitation, or as otherwise required by law, or may be disqualified.
- iii) Quotes, bids and proposal documentation shall be retained pursuant to the District's record retention policy.

7.1.3 Exceptions from Competitive Solicitation Process - Generally. Solicitation of bids or proposals is preferable whenever possible. In addition, to the exceptions stated under Section 7.3.32, the competitive solicitation requirements set forth under Table 2 shall not apply may be waived when any of the following is applicable:

- Sole Source Purchases.
- Single Source Purchases.
- Emergency expenditures.
- Supplies, materials or equipment procured through a Cooperative Purchasing program with federal, state, county, or other public agencies.
- After a reasonable attempt has been made to obtain competitive quotes/responses and it has been determined that no additional suppliers/providers/contractors/Consultants can be located; the District has a lack of response from suppliers/providers/contractors/Consultants to a competitive solicitation; or, when sufficient, satisfactory bids/proposals are not received, based on the District's sole discretion.
- Purchases to replenish the District's warehouse inventory within established inventory re-order levels.
- As dictated by law.

7.1.4 It shall be at the discretion of the General Manager ~~or his/her authorized representatives, Assistant General Manager or the Purchasing Manager~~ to determine whether an expenditure meets the qualifications listed herein to be exempt from a competitive solicitation, subject to any Board authorization.

7.2 Public Works. Contracts for Public Works projects shall conform to applicable requirements for Public Works contracts under State law, including but not limited to requirements relating to listing of subcontractors, posting of a payment bond in an amount not less than 100% of the total contract amount (for all Public Works contracts over \$25,000) and payment of prevailing wages (for all contracts for Public Works exceeding

\$1,000), or as otherwise required by statute. ~~Public Works contracts~~Unless specifically waived by the District with the approval of the General Manager and District's legal counsel, the District shall require performance bonds for all Public Works Contracts in an amount not less than 100% of the total contract amount. Public Works Contracts let by an Invitation to Bid shall be awarded to the lowest responsive, responsible bidder in accordance with State law and the District's standard Public Works contract documents. ~~The District may procure contracts for public works by sole source when appropriate findings have been made by the District pursuant to Public Contract Code §3400(c) for contracts over \$25,000. In addition, the General Manager may waive competitive bidding requirements where bidding would be unavailing or otherwise not in the public interest.~~

7.3 Professional Services (over \$75,000). RFPs will be initiated pursuant to the limits set forth in Table 2 when the Agreement Contract is anticipated to exceed \$75,000, unless the District's needs mandate uniquely qualified services, in which case only one proposal from a qualified firm may be solicited. Professional Services shall be engaged in accordance with California Government Code §4525 et seq., on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the District.

7.3.1 Professional Engineering Services. The District may request proposals for engineering services when the contract amount is anticipated to exceed \$25,000, and up to \$75,000. For engineering services anticipated to exceed \$75,000, RFPs will be initiated pursuant to the limits set forth in Table 2.

7.3.2 Exceptions from Competitive Solicitation Process – Professional Services. In addition to the exception for “uniquely qualified services” set forth under Section 7.3, the following criteria shall apply as exceptions to the competitive solicitation requirements set forth under Table 2 for Professional Services where such requirements would otherwise apply:

- For Professional Services estimated to cost \$25,000 or less, staff may request a proposal from one (1) qualified Consultant selecting from the list of qualified Consultants on file with the District.
- For Public Works projects where the project design is scheduled in phases, the related Professional Services may be negotiated with the Consultant that performed the work for a prior phase, if the Consultant performed satisfactory work on the prior phase(s) in terms of quality, schedule and estimated design costs and a satisfactory Contract can be negotiated.
- For Professional Services in which it is impracticable to comply with the selection process because of the unique, exploratory or experimental nature of the project, staff may request a proposal from one (1) qualified Consultant selecting from a list of qualified Consultants on file with the District.

7.4 Rejecting Competitive Responses - In response to an Invitation to Bid, RFQ, or RFP, the District may reject a bid or other response which is in any way incomplete, irregular, amplified, unqualified, conditional or otherwise not in compliance with the solicitation documents in all material respects, and in accordance with law. The District may waive any informality, irregularity, immaterial defects or technicalities in any bids or other responses received; and/or cancel an invitation for bids or RFP/RFQ, or reject all bids or responses for any other reason, which indicates the cancellation or rejection of all bids, or responses, is in the best interest of the District, and in accordance with law.

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Rejection of all bids or responses, or cancellation of competitive solicitations, including determinations to re-bid, or re-solicit are subject to the same level of authority which is required to award a Contract as provided under Table 1, and as required by law.

7.5 In the case of RFPs and RFQs, the General Manager and the Board reserve the right to award Contracts based upon the best interests of the District, as determined by the District in its sole discretion.

VIII. CHANGE ORDERS

8.1 Change Orders may be issued from time to time as required by changes in the specifications or conditions of a project, services performed or materials issued.

8.1.1 Change Orders – PO Only. Change Orders up to 10% (to a maximum additional \$1,000) of the original PO amount may be issued by the Purchasing or Finance Department without further approvals. A revised Purchase Order Requisition must be completed and approved at the appropriate authorization levels under Table 1 for any Change Order request exceeding the original amount by more than 10% or the \$1,000 limit.

8.1.2 Change Orders – Formal Contracts and Amendments.

(1) For Contracts and Amendments under \$75,000:

- a. Change Orders up to 10% of the original Contract amount can be approved by the appropriate authorization levels as outlined in Table 1 up to a maximum total Contract amount of \$75,000 without Board approval.
- b. Board approval is required for Change Order requests exceeding the original Contract amount by more than 10%, or resulting in a total Contract amount over \$75,000.

(2) For Contracts and Amendments \$75,001 and over:

- a. Change Orders up to 10% (to a maximum additional \$75,000) of the original Contract amount can be approved by the appropriate authorization levels as outlined in Table 1 without Board approval.
- b. Board approval is required for Change Order requests exceeding the original Contract amount by more than 10%, or resulting in a \$75,000 increase.

8.1.3 A Change Order exceeding the Change Order limits set forth in this article may be authorized by the General Manager prior to Board approval if, in the General Manager's determination, any of the following circumstances exist:

- (1) A delay in Change Order authorization could result in a negative financial impact to the District.
- (2) A delay in Change Order authorization could result in damage to or impairment of the operations of a District facility.
- (3) An Emergency exists which requires immediate work/services.

The Board shall be notified of any Change Order authorization exceeding the General Manager's authorization limit at the next regularly scheduled Board meeting.

IX. ETHICAL PROCUREMENT- CONFLICT OF INTEREST

9.1 Board members, and District officers and employees shall not be financially interested in any contract made by them in their official capacity. (Government Code Section 1090). Board Members, officers and employees shall not participate in any way to influence a governmental decision in which he/she knows or has reason to know that he/she has a financial interest. (Government Code Section 87100)

9.2 Any District employee (other than Administrative Personnel not under Designated Positions in the District's Conflict of Interest Code) authorized under this Policy to make or enter into purchases on behalf of the District will complete a Statement of Economic Interests (Form 700) and comply with the District's Conflict of Interest Code.

9.3 Confidential or proprietary information must be handled with due care and proper consideration of ethical and legal ramifications and governmental regulations.

9.4 Purchasing activities must be performed in accordance with all applicable laws and District policies.

9.5 Any employee/individual who violates the standards set forth in this Section shall be subject to disciplinary action consistent with District personnel policies.

X. CALIFORNIA WATER DISTRICT STATUS

Notwithstanding anything to the contrary in this Policy, the District is a California Water District and therefore is not mandated by State law to competitively bid any purchases, including those for Public Works projects and/or capital expenditures. The District is free to enter into non-bid contracts for Public Works, to purchase materials, services and supplies, to contract for design-build work, to utilize job-order contracting and to enter into Cooperative Purchasing arrangements for the design, construction and maintenance of Public Works, or undertake any other form of contracting determined to be in the District's best interest, except as otherwise expressly restricted by law.

XI. POLICY REVISIONS

11.01 This document will be maintained and revised by the General Manager with his/her designated representatives in consultation with the District's ~~Board and~~ legal counsel, subject to approval by the Board. Revisions will occur whenever applicable Federal, State or local regulations change or otherwise as the need arises and in the discretion of the Board.

11.42 Policy Approval and Adoption

This Policy has been reviewed by the Moulton Niguel Water District Board of Directors and adopted by Resolution No. ____ on _____, 2014.

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PURCHASING POLICY

September 2009

TABLE OF CONTENTS

SECTION 1. PURPOSE OF POLICY2

SECTION 2. POLICY STATEMENT2

SECTION 3. PURCHASING AUTHORIZATION3

SECTION 4. DELEGATION OF PURCHASING AUTHORITY TO OTHERS3

SECTION 4. COMPETITIVE SOLICITATION4

SECTION 5. PROFESSIONAL SERVICES5

SECTION 6. CONFLICT OF INTEREST6

SECTION 7. ETHICAL PRACTICES7

SECTION 8. PURCHASE REQUEST AUTHORIZATION LEVELS.....8

SECTION 9. NOTES AND EXCEPTIONS9

SECTION 1. PURPOSE OF POLICY

To establish the policies, procedures and authorizations for procurement of supplies, materials, equipment and services on behalf of the District in accordance with applicable public law, codes and regulations.

SECTION 2. POLICY STATEMENT

- A. Public law requires all local agencies to formally adopt policies and procedures governing the acquisition of materials, supplies, equipment and services.

“California Government Code Section 54202 requires that every local agency shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency. Purchases of supplies and equipment by the local agency shall be in accordance with said duly adopted policies and in accordance with all provisions of law governing the same. No policy, procedure, or regulation shall be adopted which is inconsistent or in conflict with statute.”

“California Government Code Section 54204 requires that if the local agency is other than a city, county, policies provided for in Section 52402 of said Code shall be adopted by means of a written rule or regulation, copies of which shall be available for public distribution.

- B. Purchasing authority for the acquisition of materials, supplies, equipment and services shall be centralized under one department and in such persons who are officially designated within this Policy.
- C. The Purchasing Agent will ensure performance within the guidelines prescribed by law, by legal opinions, and in accordance with established District policies and procedures.
- D. Any employee/individual effecting any procurement action outside of the policies and procedures established within this Policy and without Board authorization to do so, may be personally responsible for any liabilities or responsibilities incurred.

SECTION 3. PURCHASING AUTHORIZATION

The Purchasing Agent is authorized to:

1. Enter into contractual obligations on behalf of the District for the acquisition of supplies, materials, equipment, and services necessary to support District functions in accordance with this Policy.
2. Obtain full and open competition in accordance with prescribed policies and procedures in a manner that presents the best overall value to the District.
3. Provide for the fair and equitable treatment of vendors, suppliers and contractors.
4. Prepare and recommend revisions and amendments to procurement rules and requirements governing the purchase of materials, supplies, equipment and services.
5. Supervise the receipt and inspection of all materials, supplies, equipment and services purchased to ensure conformance with specifications.
6. Recommend the dispositions of surplus or unused supplies, materials, equipment, and scrap through sale or other means.
7. Maintain bidders' or proposers' lists, vendor catalogues, and necessary records for the efficient operation of the Purchasing Department.
8. Create and implement policy revisions and amendments and submit them periodically to the Board for approval.

SECTION 4. DELEGATION OF PURCHASING AUTHORITY TO OTHERS

The Purchasing Agent has been granted the authority and the responsibility for procurement of all materials, equipment, supplies, and services necessary to support day-to-day operation of the District. Within this authority, the Purchasing Agent may delegate certain individuals the responsibility for the performance of specific procurement activities. Only those persons so delegated are authorized to

contractually obligate the District for the purchase of materials, equipment, supplies, and services.

Such delegation may be through the authorized use of District credit card, purchase orders, or other written authorization. All such purchases will be made in conformity with the policies and procedures prescribed within this Policy.

SECTION 4. EXCEPTION FROM CENTRALIZED PURCHASING

Any purchase for supplies, materials, equipment and/or services, other than those exceptions listed below, shall not be made outside of the centralized purchasing process without the approval of the Purchasing Agent. Any unauthorized purchase may be deemed void and of no effect and will be subject to non-payment of invoicing.

Those purchases that are exempt from the centralized purchasing process are limited to the following:

- District Contributions
- Application Fees
- Bank Charges and Fees
- Bond Transactions
- Claims
- Conference Reimbursement
- Environment Fees & Permits
- Fees/Permits (City, County, State, Federal Agencies)
- Legal Fees
- Payroll
- Petty Cash
- Travel Reimbursement
- Utilities

SECTION 4. COMPETITIVE SOLICITATION

As a statement of policy and in accordance with the criteria specified within this Policy, all purchases or contracts for materials, supplies, equipment and services will be based, whenever possible and practicable, on competitive solicitation. The Purchasing Agent may grant exceptions to the competitive process for emergency conditions, supply limitation, or other circumstances with justification for such waiver being documented with the acquisition.

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Examples of exceptions to the competitive process may include:

- a. Emergency conditions as defined in Section 2 of this Policy;
- b. Sole source limitations; time constraints; or other circumstances where the Purchasing Agent is satisfied that the best price, terms and conditions for the procurement have been negotiated;
- c. Cooperative purchasing arrangements with other public entities;
- d. When the goods, services, material or equipment required are of such a nature that specifications are not readily available and cannot be developed in a timely manner to meet the needs of the District, in which case the Purchasing Agent shall be authorized to negotiate the procurement upon the price, terms and conditions deemed to be in the best interests of the District;
- e. When the dollar amount of a purchase is less than established competitive limits set forth in the Table below:

Quote Limit (Per Order) Guideline Table

\$ 0 - 1,000	One Quote
\$1,001 – 4,000	Two Quotes
\$4,001 – 45,000	Three Quotes
\$45,001+	RFP/Bid Process

- f. For Professional Services, as further described in Section 5

SECTION 5. PROFESSIONAL SERVICES

Professional services are defined as any specially trained and experienced person, firm, or corporation specializing in financial, economic, accounting, engineering, technical, legal, architectural, or other specialized disciplines. Technical and maintenance services (e.g. janitorial services, landscape maintenance, etc.) differ from professional services in that they involve limited discretionary judgment and are primarily manual in nature.

Although there is no one absolute definition for professional services, the following elements shall be used as a guideline to determine whether or not a trade or occupation qualifies as a professional service:

1. Is a license indicating sufficient qualifications for a trade or occupation required?
2. Are there general standards established and widely accepted for performance of this trade or occupation?
3. Is advanced and prolonged academic study a prerequisite for practicing this trade or occupations?
4. Does the trade or occupation involve specialized knowledge and experience beyond mere skill?
5. Is the work performed predominately mental verses manual?

Due to the nature of these services, California law does not require competitive bidding for acquisition of professional services. When deemed in the District's best interest as determined by management staff, competitive proposals will be solicited where practical and possible from more than one service provider.

SECTION 6. CONFLICT OF INTEREST

The Political Reform Act of 1974 (Government Code Section 81000 et seq.) requires state and local government agencies to adopt Conflict of Interest Codes. The District's Conflict of Interest Code is set forth in Resolution No. 06-20, as amended from time to time. This resolution incorporates the terms of the Model Conflict of Interest Code adopted by the Fair Political Practices Commission (Regulations 2 Cal. Adm. Code Section 18730) and designates which District employees are required to file statements of economic interests. The purpose of such reporting is to promulgate the performance of duties by public employees in an impartial manner, free from bias caused by their own financial interests.

In addition to elected officials, the General Manager, senior management personnel, the Purchasing Agent and staff members generally responsible for the purchase of supplies, materials, equipment and services for the District, are required to report investments and positions in entities, real property, and income (including loans,

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gifts, and travel payments) from sources that are, as applicable, (i) located or doing business in the District's jurisdiction; or (ii) doing business with the District.

SECTION 7. ETHICAL PRACTICES

It is the policy of the District to maintain good working relationships with its vendors and suppliers, as well as the community at large. Every employee has the ability to influence the opinions of others through daily interaction with the business community. In personal contacts with vendors and suppliers, employees shall represent the best interest of the District by conducting business in a fair, equitable and ethical manner.

The following are suggested guidelines as recommended by the National Association of Purchasing Management (NAPM):

1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
2. Demonstrate loyalty to the employer by diligently following the lawful instructions of the employer, using reasonable care and only authority granted.
3. Refrain from any private business or professional activity that would create a conflict between personal interests and the interests of the employer.
4. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence, purchasing decisions.
5. Handle confidential or proprietary information belonging to employers or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
6. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
7. Refrain from reciprocal agreements that restrain competition.

- 8. Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- 9. Encourage all segments of society to participate by demonstrating support for small, disadvantaged, and minority-owned businesses.
- 10. Discourage purchasing involvement in employer-sponsored programs of personal purchases that are not business related.
- 11. Enhance the proficiency and structure of the purchasing profession by acquiring and maintaining current technical knowledge and the highest standards of ethical behavior.
- 12. Conduct international purchasing in accordance with the laws, customs, and practices of foreign countries, consistent with United States laws, your organization policies, and these Ethical Standards and Guidelines.

SECTION 8. PURCHASE AUTHORIZATION LEVELS

All purchase requests or contracts must be submitted on an electronic Purchase Order Requisition form authorized by the appropriate signatory level as indicated in the table below.

Board of Directors	Authorized to approve all Contracts, but required for Purchases \$45,000 or over
General Manager	Authorized to review and approve all Contracts or Purchases budgeted less than \$45,000
Department Directors	Authorized to approve budgeted Purchases less than \$20,000
Superintendents	Authorized to approve budgeted Purchases less than \$4,000
Crew Chiefs, Purchasing Agent, Board Secretary	Authorized to approve budgeted Purchases less than \$1,000

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SECTION 9. NOTES AND EXCEPTIONS

1. With the exception of the General Manager, in the absence of an approved signatory for a given request, the next highest authority in accordance with the approval levels under Section 8 will provide authorization.
2. Purchase requests to replenish the District's warehouse inventory within established inventory re-order levels require no prior authorization or signatory approval under Section 8.



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** September 17, 2014

FROM: Joone Lopez, General Manager

SUBJECT: Legal Counsel Services for the District

DIVISION: District-wide

SUMMARY:

Issue: The District has utilized Downey Brand for legal counsel since Fiscal Year (FY) 2012-13 and seeks to continue with their services in conjunction with District’s existing counsel.

Recommendation: It is recommended that the Board of Directors approve the continued utilization of Downey Brand and Bowie Arneson Wiles & Giannone (BAWG) for District’s legal counsel based on the current engagement within the budgeted legal services for FY 2014-15.

Fiscal Impact: Funds have been budgeted for FY 2014-15.

BACKGROUND:

The District has utilized the legal services of Downey Brand (DB) since FY 2012-13 to provide counsel on special projects. DB has provided legal counsel on matters such as the operations headquarters facilities and South Orange County Wastewater Authority.

Based on feedback from both the Board members and staff, DB has delivered satisfactory work and demonstrated the firm’s ability to offer a broad network of legal resources and assistance. To date, the District has expended \$15,739 in FY 2012-13 and \$32,248 in FY 2013-14 with DB. Legal services costs remained within the Board approved budget for each of the fiscal years.

#6.

Legal Counsel Services for the District

September 17, 2014

Page 2 of 2

DISCUSSION:

Since FY 2012-13, the District has utilized different legal firms based on their area of expertise. This has proven to be effective because firms that offered the greatest expertise and that best meet the needs of issues facing the District were selected. DB has provided effective and responsive legal counsel as well as offered legal and legislative updates to clients at no additional cost. DB also offers a wide array of legal services and is well-respected in the water industry with a solid network ranging from State regulatory agencies to various statewide associations.

With the ongoing projects and additional legal matters facing the District, a board ad hoc committee was formed in August 2014 to discuss with staff the future utilization of legal services. Based on the discussion, the ad hoc committee and staff propose the following recommendation to the Board:

1. Continue to utilize BAWG for legal counsel based on the existing hourly engagement arrangement.
2. Continue to utilize DB for legal counsel based on the existing hourly engagement arrangement.
3. The General Manager will coordinate with both firms and determine matters to be handled by each.
4. The total cost of service for both firms will remain within the approved budget for FY 2014-15. In case the costs are projected to exceed the budgeted amount, staff will bring the matter before the Board for approval.
5. Staff will provide a recommendation to the Board in early 2015 regarding future legal services procurement and engagement structure.

MOULTON NIGUEL WATER DISTRICT
Summary of Financial Results

Results of operations for the one month ended July 31, 2014, as compared to the one month ended July 31, 2013, are summarized below. It is important to recognize that the unaudited statements presented below are currently being reviewed by the District's auditors and are not finalized. The year-end audit review process takes approximately 2 months to complete. Therefore, actual audited financial statements may differ from what is presented here.

Summary Budget Comparison Report

The Summary Budget Comparison Report is a high level statement of the operating activities of the District over the past twelve months compared to the budget. The report includes total revenues and expenses, as well as line item revenues and expenses for the General Fund and the Water Efficiency Fund. As shown in the summary report, operating revenues were approximately \$5.4 million, or 10% of the annual \$53.0 million budget. Operating expenses were \$9.4 million, or 14% of the annual \$67.7 million budget. Expenses are higher than expected due to annual Fiscal Year commitments.

Non-operating revenues are approximately at 1% of budget for the Fiscal Year due to the timing of the receipt of property tax revenue.

Statement of Net Position

The Statement of Net Position shows the District's assets and liabilities as of July 1, 2014, compared to the balances at fiscal year ended June 30, 2014. Overall, assets were about \$4.2 million lower than at June 30, 2014, primarily due to a reduction in current cash and investments. Liabilities have remained consistent with the prior month. As a result, the District's net position decreased by approximately \$3.6 million for the month ending July 31, 2014, compared to fiscal year ending June 30, 2014.

Revenues

Total revenues for the month ended July 31, 2014 were \$5.3 million, approximately \$0.7 million less than from July 31, 2013. Total Operating Revenues for the month ended July 31, 2014, were \$5.4 million, a decrease of \$0.2 million compared to July 31, 2013.

Expenses

Total expenses for the one month ended July 31, 2014, were \$8.9 million, an increase of \$0.6 million or 7% as compared to \$8.3 million on July 31, 2013. Total operating expenses were \$6.9 million, an increase of \$0.6 million from last year. Other operating expenses for the one month ended July 31, 2014, were \$1.5 million, an increase of \$61,641 compared to \$1.4 million on July 31, 2013. Other non-operating expenses for the one month ended July 31, 2014, totaled \$0.5 million, a decrease of approximately \$0.1 million or 15.9% compared to \$0.6 million on July 31, 2013.

#8.a.

MOULTON NIGUEL WATER DISTRICT Summary of Financial Results

Restricted Cash and Investments with Fiscal Agent

Restricted cash includes funds held by the trustee. The use of these funds is restricted by law or bond covenants. Funds in these accounts were about \$22.5 million at July 31, 2014, virtually unchanged from the prior month.

Unrestricted and Restricted Fund Balances

The unrestricted and restricted fund balances reflect the funds in each of the District's unrestricted and restricted funds that are not held by the Fiscal Agent. The unrestricted fund balances are further broken down by designated and undesignated funds. As shown in the report, the District has six funds that are designated by District policy for specific purposes, including Self Insurance, Water Efficiency, Replacement and Refurbishment, Water Supply Reliability, Planning and Construction and Rate Stabilization. Total unrestricted funds decreased by approximately \$4.0 million since June 30, 2014, due to market value fluctuations. Restricted fund balances remained virtually unchanged.

In August 2014, the Board of Directors adopted a revised Reserve policy for the District's funds. The adjustments to the District's reserve funds will be reflected in the August 2014 financial results.

**Moulton Niguel Water District
Summary - Budget Comparison Report
One Month Ended July 31, 2014**

#8.b.

Description	Approved Budget	Fiscal Year to Date Commitments	% of Commitments to Budget
<u>GENERAL FUND & WATER EFFICIENCY FUND:</u>			
Operating Revenues	\$ 53,033,500	\$ 5,414,478	10%
Operating Expenses	67,653,553	9,350,660	14%
Operating Income (Loss)	(14,620,053)	(3,936,182)	
Non-Operating Revenues (Expenses)	26,749,707	259,860	1%
Total Change in Funds	<u>\$ 12,129,654</u>	<u>\$ (3,676,323)</u>	
<u>GENERAL FUND:</u>			
Operating Revenues	\$ 49,683,500	\$ 4,972,185	10%
Operating Expenses	63,991,103	9,180,497	14%
Operating Income (Loss)	(14,307,603)	(4,208,312)	
Non-Operating Revenues (Expenses)	26,629,707	274,978	1%
Change in General Fund	<u>\$ 12,322,104</u>	<u>\$ (3,933,334)</u>	
<u>WATER EFFICIENCY FUND:</u>			
Operating Revenues	\$ 3,350,000	\$ 442,293	13%
Operating Expenses	3,662,450	170,163	5%
Operating Income (Loss)	(312,450)	272,129	
Non-Operating Revenues (Expenses)	120,000	(15,118)	-13%
Change in Water Efficiency Fund	<u>\$ (192,450)</u>	<u>\$ 257,011</u>	

**Moulton Niguel Water District
General Fund - Budget Comparison Report
One Month Ended July 31, 2014**

#8.b.

Description	Approved Budget	Fiscal Year to Date Commitments	% of Commitments to Budget
GENERAL FUND			
<u>Operating Revenues</u>			
Water Sales	\$ 27,325,000	\$ 2,718,692	10%
Recycled Water Sales	4,725,000	596,770	13%
Sewer Sales	17,150,000	1,623,342	9%
Other Operating Income	483,500	33,381	7%
Total Operating Revenue	49,683,500	4,972,185	
<u>Operating Expenses</u>			
Salaries	9,550,317	888,021	9%
PERs Employer Contributions	990,416	98,323	10%
PERs Employee Contributions	196,566	16,075	8%
PERs Other (Side fund, 401A)	214,956	17,215	8%
Educational Courses	51,720	1,359	3%
Travel & Meetings	251,034	15,989	6%
Employee Relations	14,800	1,324	9%
General Services	402,776	57,068	14%
Annual Audit	40,000	40,000	100%
Member Agencies O&M	1,231,370	782,098	64%
Dues & Memberships	93,968	6,247	7%
Election Expenses	150,000	-	
Consulting Services	1,602,900	247,815	15%
Equipment Rental	65,000	36,806	57%
District Fuel	340,000	22,324	7%
Insurance - District	576,151	43,160	7%
Insurance - Personnel	468,100	32,905	7%
Insurance - Benefits	2,360,333	168,700	7%
Legal Services - Personnel	50,000	-	0%
Legal Services - General (See Footnote 1)	170,000	-	0%
District Office Supplies	499,900	50,912	10%
District Operating Supplies	315,850	101,260	32%
Repairs & Maintenance - Equipment	867,287	183,697	21%
Repairs & Maintenance - Facilities	3,550,995	1,069,588	30%
Safety Program & Compliance Requirements	285,250	10,825	4%
SOCWA	8,450,820	2,239,198	26%
Special Outside Assessments	230,300	23,141	10%
Utilities	2,126,000	212,731	10%
Water Purchases	27,976,295	2,789,475	10%
Meter / Vault Purchases	868,000	24,242	3%
Total Operating Expenses	63,991,103	9,180,497	
Operating Income (Loss)	(14,307,603)	(4,208,312)	
<u>Non-Operating Revenues (Expenses)</u>			
Property Tax Revenue	21,848,500	-	0%
Investment Income	2,973,207	129,173	4%
Cellular Lease Income	1,740,000	141,159	8%
Misc. Non-Operating Income	68,000	4,647	7%
Total Non-Operating Revenue (Expenses)	26,629,707	274,978	
Change in General Fund	\$ 12,322,104	\$ (3,933,334)	

Footnote 1: Legal Services includes services provided by Bowie, Arneson, Wiles & Giannone, Downey Brand LLP and Best Best & Krieger LLP.

Moulton Niguel Water District
Water Efficiency Fund - Budget Comparison Report
One Month Ended July 31, 2014

#8.b.

Description	Approved Budget	Fiscal Year to Date Commitments	% of Commitments to Budget
WATER EFFICIENCY FUND			
<u>Operating Revenue</u>			
Water Efficiency	\$ 3,350,000	\$ 442,293	13%
Total Operating Revenue	3,350,000	442,293	
<u>Operating Expenses</u>			
Salaries	326,918	19,722	6%
PERs Employer Contributions	30,463	2,664	9%
PERs Employee Contributions	11,403	745	7%
Educational Courses	500	-	0%
Travel & Meetings	2,700	-	0%
Dues & Memberships	500	-	0%
Insurance - Personnel	4,131	386	9%
Insurance - Benefits	75,900	4,454	6%
District Office Supplies	77,810	228	0%
Water Efficiency	3,132,124	141,964	5%
Total Operating Expenses	3,662,450	170,163	
Operating Income (Loss)	(312,450)	272,129	
<u>Non-Operating Revenue</u>			
Investment Income	120,000	(15,118)	-13%
Total Non-Operating Revenue	120,000	(15,118)	
Change in Water Efficiency Fund	\$ (192,450)	\$ 257,011	

MOULTON NIGUEL WATER DISTRICT
STATEMENTS OF NET POSITION

	<u>(Unaudited)</u> <u>July 31, 2014</u>	<u>(Unaudited)</u> <u>June 30, 2014</u>
CURRENT ASSETS:		
Cash and investments	\$ 27,910,919	\$ 33,146,395
Accounts receivables:		
Water and sanitation charges	5,649,544	5,555,769
Taxes and acreage assessments	-	355,126
Other accounts receivable	308,496	232,217
Interest receivable	718,008	704,810
Current portion of AMP receivable	66,858	67,493
Inventory	1,613,134	1,511,749
Prepaid expenses	<u>741,918</u>	<u>302,644</u>
TOTAL CURRENT ASSETS	<u>37,008,877</u>	<u>41,876,204</u>
NONCURRENT ASSETS:		
Investments	113,218,693	111,995,607
Restricted cash and investments with fiscal agent	22,473,710	22,445,384
Retrofit loans receivable	625,226	629,243
Net pension asset (CalPERS sidefund payoff)	3,813,095	2,945,897
AMP Receivable	-	-
Capital assets, net of accumulated depreciation	349,598,509	350,982,234
Capital assets not being depreciated:		
Land	1,091,910	1,091,910
Construction in progress	<u>14,732,818</u>	<u>14,785,814</u>
TOTAL NONCURRENT ASSETS	<u>505,553,960</u>	<u>504,876,089</u>
TOTAL ASSETS	<u>542,562,837</u>	<u>546,752,293</u>
DEFERRED OUTFLOW OF RESOURCES:		
Deferred Charges on Refunding	<u>(736,104)</u>	<u>(747,875)</u>
TOTAL DEFERRED OUTFLOWS OF RESOURCES	<u>(736,104)</u>	<u>(747,875)</u>
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	<u>\$ 541,826,733</u>	<u>\$ 546,004,418</u>

MOULTON NIGUEL WATER DISTRICT
STATEMENTS OF NET POSITION

	(Unaudited)	(Unaudited)
	July 31, 2014	June 30, 2014
CURRENT LIABILITIES:		
Accounts payable	\$ 5,760,925	\$ 6,932,496
Interest payable	2,651,751	2,133,231
Compensated absences	627,923	529,919
Current portion of long-term debt:		
Bonds payable	5,465,000	5,465,000
Loans Payable	2,071,133	2,071,133
Certificates of participation	<u>1,715,000</u>	<u>1,715,000</u>
TOTAL CURRENT LIABILITIES	<u>18,291,732</u>	<u>18,846,779</u>
LONG-TERM LIABILITIES		
Compensated absences	14,259	-
Long-term debt:		
Bonds payable	15,850,000	15,850,000
Loans payable	12,948,778	12,948,778
Certificates of participation	<u>80,080,000</u>	<u>80,080,000</u>
TOTAL LONG-TERM LIABILITIES	<u>108,893,036</u>	<u>108,878,778</u>
TOTAL LIABILITIES	<u>127,184,768</u>	<u>127,725,557</u>
NET POSITION:		
Net investment in capital assets	273,512,352	273,136,859
Restricted for capital projects and GOB Refunding	9,224,592	9,243,269
Unrestricted	<u>131,905,021</u>	<u>135,898,733</u>
TOTAL NET POSITION	<u>414,641,964</u>	<u>418,278,861</u>
TOTAL LIABILITIES AND NET POSITION	<u>\$ 541,826,733</u>	<u>\$ 546,004,418</u>

Note: Totals may not sum due to rounding

MOULTON NIGUEL WATER DISTRICT
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

	(Unaudited)	
	One Month Ended July 31,	
	2014	2013
Operating Revenues:		
Water Sales	\$ 2,718,692	\$ 2,819,816
Recycled Water Sales	596,770	604,700
Sewer Sales	1,623,342	1,672,528
WBBRS Efficiency Funds	442,293	525,415
Other Operating Income	33,381	38,594
Total Operating Revenues	5,414,478	5,661,053
Non-Operating Revenues:		
Investment Income	(276,497)	206,564
Property Tax Revenue	-	-
GOB Assessment	-	-
Other Non-Operating Revenues	145,805	165,468
Total Non-Operating Revenues	(130,692)	372,032
TOTAL REVENUES	5,283,786	6,033,084
Operating Expenses:		
Water Purchases	2,789,475	2,726,212
Meter Purchases	25,885	5,224
Operating Supply and Maintenance	225,244	151,119
Salaries and Benefits	1,042,766	725,350
Professional Services	8,485	4,171
Member Agencies O&M	25,884	18,417
Insurance	249,605	261,954
SOCWA	2,239,198	2,175,549
Utilities	200,614	128,208
General, Administrative, and Other	78,942	71,071
Total Operating Expenses	6,886,097	6,267,275
Other Operating Revenues (Expenses):		
Depreciation and Misc. Operating Revenue	(1,387,268)	(1,384,173)
Water Efficiency	(141,964)	(83,419)
Total Other Operating Revenues (Expenses)	\$ (1,529,232)	\$ (1,467,592)

MOULTON NIGUEL WATER DISTRICT
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

	(Unaudited)	
	One Month Ended July 31,	
	2014	2013
Non Operating (Expenses):		
Interest Expense	\$ (518,520)	\$ (570,630)
Amortization and Misc. Non-Operating Expense	11,766	(31,827)
Total Non Operating (Expenses)	(506,754)	(602,457)
TOTAL EXPENSES	8,922,083	8,337,323
Capital Contributions:		
Connection Fees	1,400	-
Donated Facilities	-	-
Contributed Revenue	-	-
Total Capital Contributions	1,400	-
CHANGE IN NET POSITION	\$ (3,636,896)	\$ (2,304,239)
Net Position, Beginning	\$ 418,278,857	\$ 411,940,088
Change in Net Position	(3,636,896)	(2,304,239)
Net Position, Ending	\$ 414,641,960	\$ 409,635,850

Note: Totals may not sum due to rounding

MOULTON NIGUEL WATER DISTRICT
RESTRICTED CASH AND INVESTMENTS WITH FISCAL AGENT
AS OF JULY 31, 2014

	(Unaudited) Balance 6/30/2014	Net Change	(Unaudited) Balance 7/31/2014
<u>Restricted Cash and Investments:</u>			
DWR Trust Reserves	\$ 615,715	\$ -	\$ 615,715
2003 COPS Trust Reserve	2,514,893	7,128	2,522,022
2009 COPS Trust Reserve	6,032,816	20,828	6,053,644
2009 COPS Project Fund	12,385,581	347	12,385,928
2010 COPS Trust Reserves	896,263	22	896,285
2014 Refunding Bonds	115	-	115
Total Restricted Trust Accounts	<u>\$ 22,445,385</u>	<u>\$ 28,326</u>	<u>\$ 22,473,710</u>

Note: Totals may not sum due to rounding

**MOULTON NIGUEL WATER DISTRICT
UNRESTRICTED AND RESTRICTED FUND BALANCES
AS OF JULY 31, 2014**

	(Unaudited) Balance		(Unaudited) Balance
	6/30/2014	Net Change	7/31/2014
<u>Unrestricted Fund Balances:</u>			
Designated for Self Insurance Reserves	\$ 1,293,508	\$ (2,809)	\$ 1,290,699
Designated for Water Efficiency (WBRS)	6,691,089	255,145	6,946,234
Designated for Replacement and Refurbishment	27,397,177	(6,618)	27,390,559
Designated for Water Supply Reliability	4,886,211	(10,612)	4,875,599
Designated for Planning and Construction	29,730,932	(64,568)	29,666,364
Designated for Rate Stabilization	9,815,536	(21,317)	9,794,219
Unrestricted, undesignated	56,084,280	(4,142,933)	51,941,347
Total Unrestricted Fund Balance	135,898,733	(3,993,713)	131,905,021
<u>Restricted Fund Balances:</u>			
Restricted 2014 GOB Consolidated Refunding	8,311,666	(18,051)	8,293,615
Restricted for Capital Facilities (Projects)	931,602	(626)	930,976
Total Restricted Fund Balance	9,243,269	(18,677)	9,224,592
Total Unrestricted and Restricted Fund Balance	\$ 145,142,002	\$ (4,012,390)	\$ 141,129,612

Note: Totals may not sum due to rounding

**MOULTON NIGUEL WATER DISTRICT
SUMMARY OF DISBURSEMENTS
FOR THE MONTH OF AUGUST 2014**

Summary of Disbursements in August 2014:

General Fund Disbursements		\$ 4,406,172
<u>Restricted Fund Disbursements:</u>		
WBBRS Efficiency Fund	\$ 115,203	
Replacement & Refurbishment Fund	47,517	
Water Supply Reliability Fund	43,730	
Planning & Construction Fund	784	
SRF LOAN	1,184,595	
CIEDB LOAN	19,930	
2003 COPS REFUNDING	345,005	
2014 GOB (2003 REFUNDING)	5,893,031	
2009 COP DEBT SERVICE	2,016,672	
2010 COPS (93 REFUNDING)	1,860,325	11,526,793
Total Disbursements for all Funds		<u>\$ 15,932,965</u>

Detail of Major Expenditures in August 2014:

1. Municipal Water District of Orange County (MWDOC)		
June Water Purchases AF 2810.7	\$ 2,510,658	
Reclaimed Rebate AF 1494.30	(230,122)	
June Capacity Charge	29,362	
June RTS Charges	159,315	
June SCP Operation Surcharge	14,014	\$ 2,483,226
2. SOCWA		
1st QTR FY14/15 Capital Project Billings with FY13/14 credit reduction		174,303
3. Santa Margarita Water District		
Quarterly O&M Expenses		94,978
4. South Coast Water District/JRWSS		
O&M 1st Quarter Expenses 2014/2015		112,567

