

Moulton Niguel Water District Purchasing Policy (Effective July 1, 2017)

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, not on an aggregated basis, for unrelated activities.

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>Staff Directors, Assistant Directors</i>	up to \$25,000	Up to \$25,000
<i>Board Secretary</i>	up to \$20,000	None
<i>Superintendents, Managers, Controller, Principal Engineers</i>	up to \$10,000	None
<i>Supervisors, Coordinators, Administrative Personnel</i>	up to \$5,000	None

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 Analyst and any other administrative position as authorized by the General Manager.

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.

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.

Contract - Written agreement 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.

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.

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 multiple year term or that may contain provisions to extend performance by exercising optional renewal periods. 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 – Payments to utilities, license renewals for software and cloud-based services that support critical business services, 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 and that have been approved in fiscal year operating or capital budgets.

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

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 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, reasonable prices, avoidance of start-up costs, avoidance of interruptions to District business, or 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.

Staff Directors – District employees with the title of “Director.”

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 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, 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 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.

4.7 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.

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 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 that fall within the authorization limits in Table 1. 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. 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. Use of the Cal Card is not to be used in lieu of situations where a Purchase Order or other Procurement methods would be appropriate.

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.

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, Professional Services and Public Works shall be executed when an expenditure exceeds \$5,000 (except in the event of an Emergency).

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 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. Initial engagement in all software license agreements and cloud-based service agreements are subject to the purchasing limitations as set forth in Table 1. Purchase Orders are not required for Non-Discretionary Purchases.

6.2 Emergency Work/Services: The General Manager, Assistant General Manager or 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, services and/or supplies exceeding the General Manager’s authorization limit at the next regularly scheduled Board meeting.

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.

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
\$10,000 and under	<i>One Quote</i>
\$10,001-\$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 practicable. In addition, to the exceptions stated under Section 7.3.2, the competitive solicitation requirements set forth under Table 2 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, 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. 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.

7.3 Professional Services (over \$75,000). RFPs will be initiated pursuant to the limits set forth in Table 2 when the 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. 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 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

This document will be maintained and revised by the General Manager with his/her designated representatives in consultation with the District's 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.

XII. POLICY APPROVAL AND ADOPTION

This Policy has been reviewed by the Moulton Niguel Water District Board of Directors and adopted by Resolution No. __-__ on June __, 2017.