POLICY A-5: PROCURING SERVICES, MATERIALS, AND PUBLIC WORKS PROJECTS

This policy applies to the procurement of services and materials, equipment, supplies (referred to collectively as “materials”), and Public Works projects for the Moulton Niguel Water District (“District”) as required by California State law (Code Sections 54201, 54202 and 54204) and the Office of Management and Budget Uniform Grants Guidance Title 2, Subtitle A, Chapter II, Part 200, Subpart D (UGG 2 CFR 200).

Procuring services or materials and Public Works projects paid for by the District must adhere to the authority level and dollar limits set in this Policy.

1. Delegation of Purchasing Authority

The Board has authorized the General Manager, or assigned representatives, to perform essential duties for District operations, including purchasing authority.

The General Manager may delegate purchasing authority to others who may use purchasing cards, purchase orders, check requests, or other written authorization.

Board-established purchasing limits and contract signatory authority are listed in Table 2. These limits apply on a per-purchase/per-contract basis, not on an aggregated basis, for unrelated activities.

Purchases and Contract awards must be authorized by the appropriate authority in Table 2.

If an authorized signatory (other than the General Manager) for a given request is absent, the next highest authority in Table 2 may provide the purchase authority.

2. Unauthorized Purchasing is Prohibited and Subject to Penalties

Anyone making purchases outside this Policy and without General Manager or Board authorization, will be subject to disciplinary action up to and including termination as outlined in the District Personnel and Salary Policy.

3. Division of Contracts

The District prohibits separating or dividing Contracts, reducing its cost below a specified sum to avoid the requirements of this or any related policy. Contracts, however, may be divided to meet unique scheduling needs of a project or to meet necessary time frames. No Contract shall include language to limit competitive bidding or solicitation to any one specific vendor, brand, product, thing, or service, except for the exempt items listed in this policy. (See Item #14)

4. Purchase Amounts Include Taxes and Shipping

Purchase amounts include taxes and the cost of shipping, freight fees, and any other charges billed by the supplier or contractor within the authorized limits in this Policy.

5. Online Purchases and Utilization of Electronic Signatures

The District may use electronic commerce whenever reasonable or cost-effective. The District may accept electronic signatures and records for District procurement.

6. Requisitions for Purchasing Materials and Services

District staff who 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. The Procurement Department will generate a Purchase Order (PO) from the approved Requisition.

7. Check Requests

A check request can be used for certain limited materials or services without a PO. Requests should be submitted in advance of delivery of the materials or performance of the services. Check requests may be used to request payment for Non-Discretionary Purchases, such as services rendered, subscriptions, membership dues, workshop/seminar/conference registrations, and use of facilities. For all service-related requests, the Procurement Departments should be engaged to ensure risks have been addressed and any required insurance has been obtained. Check requests are subject to the authorization limits established in Table 2.

8. Purchasing Cards

Authorized District staff may be assigned District credit cards to make miscellaneous purchases within the limits of Table 2. District credit card purchases are subject to the terms and conditions of the District Cardholder Acceptance Agreement.

Services may not be purchased with District credit cards due to lack of insurance and indemnification language associated with these purchases. District staff using District credit cards are subject to the terms of this Policy and all related District credit card usage terms or amendments. A District credit card should not be used if a Purchase Order or other procurement method would be appropriate.

9. Blanket Purchase Orders

A Blanket Purchase Order is issued to cover all amounts expected to be paid to the supplier/contractor/Consultant for the fiscal year or through a Contract term. Blanket Purchase Orders expire at the end of the fiscal year or as soon as a Contract ends.

For Blanket Purchase Orders exceeding $75,000, the District will utilize work order forms to initiate work with the supplier/contractor/Consultant. The work order forms will indicate the estimated cost for the work order and must be signed by a Staff Director or Staff Officer prior to initiating the work with the supplier/contractor/Consultant. If the Director or Officer for a given work order is absent, the next highest authority in Table 2 may provide the authorization.

10. References and Financial Responsibility Before Awarding Contracts

Before awarding any Contract, the District will verify the references and financial responsibility of the contracting parties. After award, all Contracts shall be executed on behalf of the District by the appropriate authorized signatory indicated in Table 2.

No Contract will be awarded if funds are not available to make payment upon delivery or completion, or by payment schedule, unless authorized and approved by the Board or General Manager.

11. Contracts are Required for Any Services and Public Works Projects over $5,000

Contracts for Non-Professional Services, Professional Services and Public Works shall be executed when the cost exceeds $5,000 (except for an Emergency as defined in this policy).

12. Authorization of Multi-Year Contracts in the District's Best Interest

Multiple Year Contracts are allowed when they are in the best interest of the District as determined by the General Manager.

The dollar value of a Multiple Year Contract shall be the total contract value, including optional renewal periods. Once initially approved by the Board of Directors, any contract renewals may be authorized by the General Manager, regardless of dollar amount, if the pre-priced option is consistent with the terms of the initial Contract.

13. Non-Discretionary Purchases

Non-Discretionary Purchases do not require Board approval for payment, including those exceeding the General Manager's approval limit of $75,000. Non-Discretionary Purchases exceeding $25,000, require approval by a Division Head. Initial software license agreements and cloud-based services are subject to the purchase limits in Table 2. Purchase Orders are not required for Non-Discretionary Purchases.

14. Emergency Services Above $75,000

The General Manager, Assistant General Manager or the assigned Emergency Operations Director may authorize Emergency expenditures for work, services, and/or supplies exceeding $75,000 pursuant to Board policy. The Board shall be notified of any such expenditures for Emergency work, services and/or supplies exceeding the General Manager's authorization limit.

15. District Warehouse Inventory

Purchase requests to replenish the District's warehouse inventory within established inventory re-order levels require no prior authorization or signatory approval under Table 2.

16. Non-Professional Services, Materials Procurement and Leases

The District requires a competitive bid or selection process for the procurement of non-professional services, materials, and leases, as well as Public Works projects, based on the estimated contract amount, as outlined below:

- $10,000 or less: District staff may request a quote or proposal from one qualified Consultant or Vendor.
- $10,001 to $75,000: District staff will request a minimum of three quotes or proposals from qualified vendors or consultants.
- Over $75,000: The District will initiate a formal solicitation, such as a RFP, RFQ or Invitation to Bid.
    - All quotes, bids and proposals must be in writing. Email is acceptable.
    - RFP, RFQ, and Invitation to Bid submissions must comply with all terms of the solicitation, or any related laws. Submissions that fail to comply may be disqualified.

17. Exceptions to Competitive Solicitations

Competitive solicitation requirements may be waived under the following circumstances:

- Sole Source Purchases
- Single Source Purchases
- Emergency expenditures
- Cooperative Purchasing/Piggybacking: Supplies, materials or equipment procured through a Cooperative Purchasing program or through "piggyback" agreements with federal, state, county, or other public agencies, in accordance with applicable laws.
- Insufficient Competition: Purchases made after a reasonable effort to obtain competitive bids or proposals where:
    - No additional suppliers/providers/contractors/Consultants can be located.
    - The District receives no response from suppliers/providers/contractors/Consultants to a competitive bid.
    - No other satisfactory bids/proposals are received.

Except for purchases greater than $75,000 and requiring Board authorization, the General Manager, Assistant General Manager, or Deputy General Manager may decide whether a purchase meets the criteria above to be exempt from competitive solicitation.

18. Public Works Contracts

Contracts for Public Works projects shall comply with all requirements for Public Works contracts under State law, including rules for:

- Listing subcontractors.
- Posting payment bonds equal to no less than 100 percent of the total contract amount (for all Public Works contracts over $25,000).
- Paying prevailing wages (for all contracts for Public Works exceeding $1,000), or as otherwise required by law.

Unless the General Manager and legal counsel approve a waiver, the District requires performance bonds for all Public Works Contracts equal to no less than 100 percent of the total contract amount. Public Works Contracts let by an Invitation to Bid will be awarded to the lowest responsive, responsible bidder as allowed by State law and the District's standard Public Works contract documents.

19. Professional Services Procurement

Professional Services Contracts must meet the terms of California Government Code §4525 et seq., and §53060, and shall be awarded based on competence and qualifications for the services to be performed at fair and reasonable prices, as determined by the District.

- $25,000 or less: District staff may request a proposal from one qualified Consultant.
- $25,001 to $75,000: District staff will request three proposals from qualified consultants.
- Over $75,000: The District will initiate a formal RFP.

The following criteria shall apply as exceptions to the competitive solicitation requirements as indicated for Professional Services where such requirements would otherwise apply:

- In the case of procuring sole or single source Professional Services, only one proposal from a qualified firm is required.
- For Professional Services in which it is infeasible to comply with the selection process because of the unique, exploratory or experimental nature of the project, District staff may request a proposal from one qualified Consultant.

20. Nonresponsive or Unqualified Bid or Response

In response to any Invitation to Bid, RFQ, or RFP, the District may reject any unqualified bid or other response that is 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 District's best interest, and in accordance with law.

Rejection of all bids or responses or cancellation of competitive solicitations, including determinations to re-bid, or re-solicit is subject to the same authority level required to award a Contract in Table 2, and as required by law.

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.

21. Change Orders for Goods and Services

The District may issue Change Orders, as required by changes in the specifications or conditions of a project, services performed, or materials issued.

Change orders or amendments that extend the expiration date of the original or Board approved contract by no more than 12 months, but do not affect the total contract price can be approved subject to the contract signing authority indicated in Table 2.

The Procurement Department may issue Change Orders up to 10 percent over the original PO without further approvals if the original purchase amount was $10,000 or less. For any Change Order request over the original PO by more than 10 percent or the $1,000 limit, the requesting department will complete a revised Purchase Order Requisition (approved at the levels in Table 2.)

- <u>For Contracts and Amendments up to $75,000:</u>

  - Change Orders can be approved by the total appropriate authorization levels as outlined in Table 2 up to a total Contract amount of $75,000 without Board approval.
  - Board approval is required for a Change Order if the proposed Change Order would cause the total Contract amount to exceed $75,000.

- <u>For Contracts and Amendments over $75,000:</u>

  - Board approval is required for Change Order requests which increase the contract amount, unless sufficient contract contingency was previously approved by the Board.

A Change Order above the Change Order limits set forth in this policy may be authorized by the General Manager or Assistant General Manager prior to Board approval if:

- A delay in Change Order authorization could result in a negative financial impact to the District.
- A delay in Change Order authorization could result in damage to or impairment of the operations of a District facility.

- An Emergency exists which requires immediate work/services.

The Board shall be notified by the General Manager of any Change Order above the General Manager's authorized limit at the next Board meeting.

22. Personal Financial Interest in District Contract

Board members and District staff, spouses, or dependent children shall not be financially interested in any contract made by them in their official capacity. (Government Code Section 1090).

Board Members and District staff, spouses, or dependent children shall not participate in any way to influence a governmental decision in which they have a financial interest. (Government Code Section 87100).

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

Confidential or proprietary information must be handled with due care and proper consideration of ethical and legal ramifications and governmental regulations. Purchasing activities must be performed in accordance with all applicable laws and this policy. Employees/individuals who violate the standards set forth in this Section are subject to disciplinary action consistent with District Personnel and Salary Policy.

23. This District Makes Purchases as a California Water District

As a California Water District, the District is not required by State law to competitively bid any purchases, unless otherwise stated in this policy.

The District may:
- Enter into non-bid contracts for Public Works.
- Purchase materials, services and supplies.
- Contract for design-build and design-bid-build work.
- Utilize job-order contracting.
- Participate in Cooperative Purchasing agreements to plan, build, and maintain Public Works.
- Undertake any other form of contract found to be in the District's lawful best interest.

24. Maintenance of this Policy

The General Manager and assigned representatives, working with the District's legal counsel, will maintain and propose revisions to this policy as needed. All changes to this policy shall require the approval of the Board of Directors. In all cases, the District shall implement this policy in a manner that is consistent with Federal, State or local regulations.

TABLE 1: Definitions

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.

Blanket Purchase Orders - Used for payment to the same supplier/contractor/Consultant multiple times, or for ongoing monthly purchases/expenses.

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 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, including “piggyback” agreements, 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.

Lease - A contractual agreement in which the District obtains the right to use real or personal property owned by another party for a specified period of time in exchange for agreed-upon compensation, subject to the terms and conditions set forth in the agreement.

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 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, and for the purposes of this policy, shall also include expenses previously approved by the Board, which would require significant advanced planning to change service providers, such as software license agreement renewal/cloud based services renewal, insurance providers, and healthcare providers.

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. (California Government 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 Contract 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 and Home Depot credit card programs.

Procurement 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 procuring 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 procuring supplies, materials, or equipment. Quotes are evaluated/awarded based primarily on cost/price.

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 Enterprise Resource Planning system application.

Single Source Purchase - Procuring 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 - Procuring 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.

Work Order – Request and approval for services or performances of specific tasks to be completed and placed against a pre-established contract. Vendors may also use the terms "task order", "product release form" and "statement of work". For District purposes, these items will be treated as "work orders". (These typically apply to on call or as needed contracts or Blanket Purchase Orders).

TABLE 2: Procurement Limits and Contract Signature Authority

Procurement Limits and Contract Signature Authority		
Title	**Expenditures**	**Contract Signature Authority**
General Manager	up to $75,000	$75,001 and over with Board authorization up to $75,000 without Board authorization
Assistant General Manager *Deputy General Manager*	up to $50,000	up to $50,000
Staff Directors, Staff Officers, Controller	up to $25,000	up to $25,000
Board Secretary *Staff Assistant Directors*	up to $20,000	None
Superintendents, Managers, Coordinators, Senior/Principal Engineers, Chief Plant Operators	up to $10,000	None
Supervisors, Purchasing Agent, Administrative Personnel, Sr. Water Efficiency Specialist, Assistant Chief Plant Operators, Sr. Wastewater Treatment Plant Operators, Administrators, Sr. Construction & Ops Analysts	up to $5,000	None