



Midpeninsula Regional  
Open Space District

## ACTION PLAN AND BUDGET COMMITTEE MEETING

R-26-155  
October 20, 2026

### AGENDA ITEM 2

#### AGENDA ITEM

Proposed Updates to Board Policy 3.03 – *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing*

#### GENERAL MANAGER'S RECOMMENDATION

(51) *deur*

Forward the proposed amendments to Board Policy 3.03 with any additional amendments from the Committee to the full Board of Directors for consideration and approval.

#### SUMMARY

The General Manager recommends updates to Board Policy 3.03 - *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing* (Board Policy) (Attachment 1). The Board Policy last underwent a comprehensive update in 2015, when the Public Resources Code was amended to increase the General Manager's purchasing authority from \$25,000 to \$50,000. Over the last decade, Midpeninsula Regional Open Space District (District) has grown substantially along with its procurement needs, meriting another comprehensive review and update of the policy. The proposed policy revisions update and formalize language, correct typos and errors, and make substantive changes that are intended to make purchasing more efficient and effective to support project and program delivery while still upholding strong due diligence and oversight responsibilities.

#### DISCUSSION

##### Recent Updates

In 2022, the Board of Directors (Board) approved changes to Board Policy 3.03 to incorporate environmentally preferable purchasing and local preference provisions. Annually for the past several years, the Board has made minor updates to the policy to authorize two percent increases to the General Manager's purchasing authority as allowed by enabling legislation. Otherwise, Board Policy 3.03 has not undergone a full and comprehensive update since 2015. However, over the last decade, procurement needs for goods, contractor services and professional services have substantially grown, with current policy language insufficiently keeping up to pace with inflationary changes, the level of contracting, and current local government best practices, thus creating undue limits and hurdles to project and program delivery.

##### Financial and Operational Sustainability Model (FOSM) Refresh

On January 24, 2024, the Board voted unanimously to accept the FOSM Refresh Report. One theme included in the FOSM Refresh was to look for opportunities in streamlining purchasing to reduce the time and effort that District staff and senior leadership spend on these administrative

tasks. The FOSM Refresh included two specific purchasing recommendations that are reflected in the proposed Board Policy updates. First, FOSM recommended that the District evaluate the level of authority required for contract reviews and ascertain when lower-level reviews are appropriate to reduce potential bottlenecks (Recommendation 9). Second, FOSM recommended that the District modify the change order authorization limits to expedite the approval of change orders and reduce potential delays to completing contracted scope of work (Recommendation 10).

Separately, FOSM also noted that the District signing authority, as reflected in the Public Resources Code, was low compared to the purchasing needs. Although the signing authority can only be changed legislatively (or at minimally increased by 2% per year – it currently stands at \$54,000), the District Board has the authority to modify its internal policies within the current authority limit.

The proposed Board Policy 3.03 updates incorporate the FOSM recommendations and allow for modifications to procurement thresholds that would remain within the purchasing authority limit to improve contracting efficiencies while upholding due diligence in obtaining competitive pricing, ensuring consistent and equitable practices, and retaining strong oversight responsibilities.

#### Summary of Key Changes

A brief discussion of key changes is provided below and summarized in Attachment 2.

#### *Delegation of Purchasing Under the General Manager's Authority*

One of the proposed key changes is to move specific purchasing process thresholds that fall under the General Manager's authority to the Administrative Procedures, which are set and periodically updated by the General Manager. District staff analyzed the spending under all three categories of purchases (goods, services and professional services) and determined that amending the purchasing authority levels that exist below the General Manager's authority is one of the most effective ways of expediting internal contracting process to support project delivery. These levels are proposed to be set by the General Manager and defined in the Administrative Procedures to allow for ease of periodical updates based on the 2% anticipated annual increases to their authority level.

The proposed changes also (i) direct purchasing to be made either through an informal solicitation or by a direct purchase and (ii) establish a new due diligence requirement to ensure that vendors are qualified and responsible, and pricing is in line with prevailing market rates. Qualifications can be verified through (a) research, (b) reference checks, (c) information gained as part of their inclusion onto a Prequalified List, or (d) information collected in a prior solicitation with the vendor within the previous four years. Pricing can be verified through (a) conducting a competitive solicitation, (b) comparing proposed costs to previously acquired goods or services of similar nature or (c) evaluating comparable, local market pricing. These options would allow staff to readily use available sources for verifying qualifications and pricing, avoiding more time-consuming verification processes, to gain efficiency while still meeting Board due diligence objectives.

#### *Coordination with the Administrative Procedures for Purchasing*

Numerous proposed changes remove redundancies between Board Policy 3.03 and the accompanying Administrative Procedures. Currently, the two policies have repetitive text.

Changes were made to focus the Board Policy on policy-level purchasing direction and the Administrative Procedures on the steps District staff must follow to implement Board direction.

The proposed changes add a section for definitions to the Board Policy on applicable terms and concepts to improve clarity and consistent understanding. Included is a definition for the types of purchases that apply under the policy, naming in particular those that are less obvious such as District-issued grants, agreements with other public agencies, partnership agreements with nonprofits, real property transactions, purchase of utilities, and District insurance coverage.

#### *New Goods Authorization*

Effective January 1, 2026, Public Resources Code 5549 was amended to allow the General Manager to purchase goods for up to \$150,000. This authority is separate from the General Manager's authority to purchase services, including public works contracts and professional services, which was not changed. The proposed changes to Board Policy 3.03 codify the increase in the General Manager's purchasing authority for goods and delegate the authority to the General Manager to administer this change under the Administrative Procedures.

#### *Prequalified Consultant Lists*

Prequalifying consultants for four-year terms is currently part of the Board Policy. The proposed amendments formalize this process through public solicitations to establish prequalified lists. The proposed changes also clarify that District staff can use prequalified consultant lists to procure contracts of any dollar amount. Three quotes or proposals can be obtained from these lists to compare pricing, unless there is another suitable way to verify that the pricing is competitive (as discussed on page 2 of this report). The intent of these changes is to encourage the periodic prequalification of consultants and the use of these lists to streamline procurements of professional services.

#### *Environmentally Preferable Purchasing (EPP)*

The Board adopted EPP requirements for purchases in 2022. Since that time, District staff have attempted to devise procedures for implementing the policy as written and have encountered significant challenges. One of the major challenges is implementing the preference for EPP during procurements for services. These types of procurements typically involve a host of different components, all affecting or applying to one contract (e.g., materials/supplies, means and methods of implementation, work crews with multiple sites of deployment, etc.). Each of these components could be evaluated for EPP in different ways and with different assigned weights, but the policy currently calls for a single, across-the-board percentage to be applied for each submission without accounting for these distinctions. Many components also do not have readily available standards that could be used to apply an objective preference evaluation. Therefore, to apply the preference uniformly, staff is required to spend substantial time analyzing quotes and proposals and seeking information about how vendors propose to complete the work. These lengthy procedural requirements are impractical, result in delays, and are ineffective in truly validating that the vendor or service provider meets the intent of the EPP policy.

To address the issues identified above, the proposed updates apply EPP only to the purchases of goods. Also, rather than applying a preference, the proposed update directs staff to identify objective environmental/green product standards, such as ecolabels (e.g., Ecologo/UL, Green Seal, Safer Choice, WaterSense, etc.), that the purchased goods must satisfy. Using ecolabels and other objective standards is a best practice by federal and California agencies, and there are readily available standards and specifications that District staff can utilize when making

purchases. This approach eliminates processes that do not work well, while ensuring that the District is purchasing goods with a low environmental footprint.

#### *Notices for Certain Services*

AB 339 (Gov't Code 3504.1) became law on January 1, 2026, requiring the District to provide advanced written notice to its represented bargaining units when conducting a solicitation for services within the scope of the represented job classifications. While the scope of AB 339 is potentially broad for some public agencies, its practical application for the District is limited because the law does not apply to most District solicitations and contracts. The proposed changes to Board Policy 3.03 requires the General Manager to implement AB 339, who will include this requirement in the Administrative Procedures to implement the notice requirements per state law as applicable.

#### **FISCAL IMPACT**

None

#### **PRIOR BOARD AND COMMITTEE REVIEW**

- **December 16, 2015** – The Board approved the General Manager's approval authority increase from \$25,000 to \$50,000. ([R-15-172, Minutes](#))
- **July 24, 2024** – The Board approved the increase to the General Manager's authority by 2% (\$52,000) pursuant to the California Public Resources Code section 5549 (b)(2) ([R-24-96, Minutes](#)).
- **August 14, 2024** – The Board approved the proposed addition to Board Policy 3.03 to include the supplemental policy "Procurement Procedures for Federal Awards" ([R-24-21, Minutes](#)).
- **May 13, 2025** – Action Plan and Budget Committee's annual review of Fiscal Management Policies for Fiscal Year 2025 and the proposed increase to the General Manager's authority by 2% pursuant to the California Public Resources Code section 5549 (b)(2). ([R-25-58, Minutes](#)).
- **June 11, 2025** – The Board approved amending Board Purchasing Policy 3.03 to increase the General Manager's authority by 2% (\$53,000) pursuant to the California Public Resources Code section 5549 (b)(2) ([R-25-16, Minutes](#)).
- **June 24, 2026** – The Board approved amending Board Purchasing Policy 3.03 to increase the General Manager's authority by 2% pursuant (\$54,000) to the California Public Resources Code section 5549 (b)(2) ([R-26-79, Minutes](#)).

#### **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act. No additional notice is required.

## CEQA COMPLIANCE

This proposed action is not a project under the California Environmental Quality Act and no environmental review is required.

## NEXT STEPS

Upon approval from the ABC, the proposed Board Policy, with any additional amendments by the ABC, will be forwarded to the full Board of Directors for its consideration.

### Attachments

1. Board Policy 3.03 – *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing* (Current – June 24, 2026)
2. Board Policy 3.03 – *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing* (Proposed – Clean)
3. Board Policy 3.03 – *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing* (Proposed – Redline)
4. Summary of Proposed Changes to Board Policy

Responsible Department Head:

Stefan Jaskulak, CFO & Director of Administrative Services

Prepared by / Contact Person:

Sarah Araya, Procurement Program Manager, Administrative Services

## Midpeninsula Regional Open Space District

### Board Policy Manual

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|---------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <p align="center"><b>Public Contract Bidding,<br/>Vendor and Professional<br/>Consultant Selection, and<br/>Purchasing Policy</b></p> | <p align="center"><b>Policy 3.03<br/>Chapter 3 – Fiscal Management</b></p> |
| <p>Original Effective Date: 7/24/02</p>                                                                                               | <p>Revised Date: 07/01/2026</p>                                            |
| <p>Prior Versions: 12/16/09, 1/27/10, 9/23/15, 1/24/18, 06/10/2020, 01/12/2024, 07/24/2024, 07/01/2025</p>                            |                                                                            |

### Purpose

The purpose of this policy is to formalize the process by which the Midpeninsula Regional Open Space District (District): (1) obtains quality services, supplies, material and labor at the lowest possible monetary and environmental cost to ensure the responsible stewardship of public tax dollars; and (2) provides a uniform method for procurement of services and supplies to ensure consistent and equitable contracting with vendors, suppliers, consultants, and contractors.

### Policy

#### I. PURCHASING AUTHORITY

There are three levels of authority for purchases: Board Approval, General Manager Approval and General Manager Delegated Approval. The maximum purchasing authority amounts refer to the total price of an order, including tax and/or shipping, which may include more than one item and also includes change orders and contract amendments. As used in this Policy, the term “purchasing” refers collectively to contracting or procurement of services, supplies, material or labor, including Capital Improvements.

#### A. Board Approval for Purchases In Excess of \$54,000

If the cost for furnishing services, supplies, materials, labor, or other valuable consideration to the District will exceed Fifty-four Thousand Dollars (\$54,000), approval from the Board of Directors is required prior to entering into the contract.

The Board may reject all bids and re-advertise, or by a five-sevenths vote may elect to purchase the materials or supplies in the open market, or to construct a building, structure, or improvement using District personnel.

## **1. Signature**

Contracts which have been approved by the Board shall be signed by the General Manager or designee unless the Board has directed that the President sign on behalf of the District. The District Clerk shall sign all such contracts and affix the seal of the District.

## **B. General Manager Approval for Purchases Not Exceeding \$54,000**

Pursuant to Public Resources Code 5549, the General Manager may obtain bids without advertisement or published notice inviting bids and may authorize and execute contracts for payment for services, supplies, material, labor, or other valuable consideration for any purpose, including the new construction of any building, structure, or improvement, in amounts not exceeding \$54,000. See Section II of this policy for competitive bidding requirements. Expenditures under the General Manager's purchasing authority shall be reported to the Board of Directors at its next regular meeting. Reporting expenditures on the Board-agendized Claims List fulfills this reporting obligation.

### **1. Administrative Purchasing Policy/Procedure**

The General Manager shall issue an Administrative Purchasing Policy/Procedure, which provides appropriate guidance to staff to ensure that all District purchases are made in accordance with this Policy and required documentation procedures are followed.

The General Manager shall issue written delegation of purchasing authority to those job classifications whose duties include making purchases within his or her area of responsibility. Purchasing authority limits shall be consistent with this Policy. Such written delegation of purchasing authority shall include the authority to execute contracts, purchase orders, and other documents necessary to approve a purchase within the employee's purchasing authority.

## **C. Contract Change Orders and Contingencies**

Staff may issue change orders to a contract, provided that the aggregate of all change orders to that contract does not exceed the total contract amount with contingency as approved by the Board for amounts over \$54,000. Contingencies generally shall range between 5% and no more than 15% of the original contract price and be dependent on the level of uncertainty regarding potential additional issues that may emerge and generate unexpected costs in order to complete the intended base contract work. A contingency greater than 15% may be authorized by the Board when accompanied by a finding that circumstances warrant a larger contingency.

## **II. SOLICITATION OF BIDS**

### **A. Solicitation of Formal Advertised Bids for Expenditures Exceeding \$54,000**

When any Contract, excluding Professional services, is expected to exceed \$54,000, the District shall conduct a formal bidding process pursuant to Public Resources Code section 5594.

This type of formal bidding process typically includes the issuance of written plans or specifications describing the goods or services to be provided and the receipt of written bids from the bidders involved. Staff shall attempt to solicit formal bids from a minimum of three bidders. Following Board approval, the contract shall then be executed by the General Manager or designee, unless the Board President's signature is required. A Contract shall be awarded to the lowest responsible, responsive bidder, except as otherwise provided in this Policy (see Sections III, IV and Section V).

**B. Solicitation of Three Written Bids for Expenditures Exceeding \$25,000 but Not Exceeding \$54,000**

When any expenditure is expected to exceed \$25,000, but not exceed \$54,000, the District shall solicit written proposals from a minimum of three (3) bidders. The General Manager's or designee's approval of the contract or purchase order is required as applicable under this Policy.

**C. Solicitation of Three Quotes or Proposals for Expenditures Exceeding \$5,000 but Not Exceeding \$25,000**

When any expenditure is expected to exceed \$5,000, but not exceed \$25,000, the staff member responsible for the purchase is to solicit a minimum of three (3) quotes or proposals to provide the goods or services. The results of the solicitation, including any quotes, shall be documented in writing pursuant to the Administrative Purchasing Policy/Procedure.

**D. Expenditures Not Exceeding \$5,000**

Staff members shall obtain competitive cost information, whenever feasible, for any District purchase even though formal cost quotations are not required for goods or services costing \$5,000 or less.

**III. Professional Services**

Professional consultant services are of a technical and professional nature, and, due to the nature of the services to be provided, do not readily fall within the "low bid" competitive bidding process. In addition, State law requires that selection of professional consultants in the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consulting be made on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the required services. Professional consultants should be individually selected for a specific project or problem with the objective of selecting the most qualified consultant at a price that is fair and reasonable. Professional services agreements shall include the full scope of anticipated services for the project, program or annual service agreements and shall not be split into smaller units for the purpose of circumvention of this Policy and the required purchasing procedures.

**A. Selection Procedures for Professional Services in Excess of \$54,000**

When the cost for professional services is expected to be in excess of \$54,000, the District shall prepare a Request for Qualifications (RFQ) outlining the professional's qualifications, relevant experience, staffing and support, and hourly rates. This information becomes the basis for negotiating a contract or a Request for Proposal (RFP) outlining the terms, conditions and specifications of the services required by the District. The District may also prepare, as an alternative, a Request for Qualifications and Proposal, combining the required elements of the RFQ and the RFP described above. A minimum of three (3) qualified firms or individuals shall be invited to submit qualifications and/or proposals.

District staff will review the proposals received, will select the most qualified firms for interviews, and will rank the consultants based upon criteria, including but not limited to the following:

- i. Ability of the consultants to perform the specific tasks outlined in the RFP/RFQ.
- ii. Qualifications of the specific individuals who will work on the project.
- iii. Amount and quality of time key personnel will be involved in their respective portions of the project.
- iv. Reasonableness of the fee requested to do the work; comparability of fee to similar services offered by other qualified consultants.
- v. Demonstrated record of success by the consultant on work previously performed for the District or for other public agencies or enterprises.
- vi. The specific method and techniques to be employed by the consultant on the project or problem.
- vii. Ability of the consultant to provide appropriate insurance in adequate amounts, including errors and omissions if applicable.
- viii. The firm's location, if it is situated within District boundaries, and/or its business practices (such as sales, marketing, manufacturing, servicing, provision of services, procurement of local materials and/or labor, or research and development) that enable the firm to complete the contracted work consistent with District objectives (see Section V.D.).

For the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consultants, initial selection of the most qualified and competent consultants shall not include the cost criteria listed in Section III.A. of this Policy. After staff has determined the most qualified and competent consultants, this cost criteria shall be considered in negotiating a professional services agreement with the selected consultant.

**B. Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$54,000**

District staff shall solicit written proposals from a minimum of three (3) qualified consultants. A formal RFP/ RFQ is not required. The selection shall be based upon the criteria noted in Section iii. A. The General Manager or designee may approve the selection and execute the agreement.

**C. Selection Procedures for Professional Services Not Exceeding \$10,000**

District staff shall maintain current files on qualified consultants in appropriate categories. The department shall, by telephone, email, or letter, contact at least three (3) qualified consultants and request them to submit a proposal either orally or in writing. The results of the solicitation, including any oral quotes, shall be memorialized in writing, pursuant to the Administrative Purchasing Policy/Procedure. The selection shall be based upon the criteria noted in Section iii. A. and per the Administrative Purchasing Procedure. The authorized Department Manager or other authorized District employee may approve the selection and execute the agreement.

**D. Renewal of Contracts with Professional Consultants**

The District may, at its sole discretion, and after following required consultant selection procedures, enter into consultant agreements which contain provisions authorizing their extension or renewal. However, recommendations to extend or renew an existing contract with a professional consultant should include an annual written evaluation prepared by the District for the work performed by the consultant as well as a determination that the fees being charged are comparable to similar services offered by other consultants at the time of renewal or extension. If the total amount of the original and renewed contract in any one fiscal year does not exceed \$54,000, the General Manager or designee may execute the agreement. If the total amount exceeds \$54,000, the request must be approved by the Board.

**E. Conflict of Law**

These procedures are not applicable where superseded by local, state or federal law, where the terms of grant funding provide for the use of other consultant selection procedures, or where the District is obligated to select consultants through the use of different procedures, such as due to the requirements of an insurance or self-insurance program.

**F. Special Circumstances**

These procedures are not applicable when three (3) bids or proposals are unavailable, or if it is appropriate and in the best interest of the District under the specific circumstances, to limit the number of bids or proposals solicited. The basis for such action shall be documented in writing and approved by the General Manager or designee in his/her absence. When Board approval is required, the documented basis for such action shall be included in the report to the Board.

**G. Prequalified Consultant File**

When, after District staff has undertaken the selection procedures as set out in this Policy and determined that a consultant is qualified and competent in the performance of the professional services in the consultant's category, District staff may maintain a current file of such consultants in their appropriate categories. For a period of four (4) years from determination of the qualification of such consultant, District staff may select such a prequalified consultant from the current file of prequalified consultants who can provide the services for a fair and reasonable price.

#### **IV. EXCEPTIONS TO STANDARD PURCHASING PROCEDURES**

##### **A. Emergency Conditions**

An emergency is defined as a breakdown in machinery or equipment or a natural disaster resulting in the inability of the District to provide services, or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to natural resources. In the case of an emergency determined by the District, or federal, state, or other local jurisdictions requiring an immediate purchase, the General Manager or designee may authorize District staff to secure in the open market, at the lowest obtainable price, any services, supplies, material or labor required to respond to the emergency, regardless of the amount of the expenditure. The General Manager shall, as soon as possible, provide a full written explanation of the circumstances to the Board.

In the case of a disaster or for civil defense, nothing contained in this Policy shall limit the authority of the General Manager to make purchases and take such other emergency steps as are, or may be, authorized by the Board.

##### **B. Limited Availability/Sole Source**

Occasionally, necessary supplies, materials, equipment, or services are of a unique type, are of a proprietary nature, or are otherwise of such a required and specific design or construction, or are for purposes of maintaining consistency and operational efficiency, so as to be available from only one source. After reasonable efforts to find alternative suppliers, the District may dispense with the requirement of competitive bids and recommend negotiating and making the purchase from the sole source. The basis for the sole source recommendation shall be documented in writing and approved, in advance, by the Board for purchases exceeding \$54,000, and the General Manager or other authorized District employee, for purchases not exceeding \$54,000.

##### **C. Cooperative Purchasing**

The District shall have the authority to join in cooperative purchasing agreements with other public agencies, (e.g., the State of California, counties, cities, schools, or other special districts), to purchase goods or services at a price established by that agency through a competitive bidding process. The General Manager or designee may authorize and execute such cooperative purchasing agreements.

##### **1. Purchases Exceeding \$54,000**

The formal competitive bidding procedures of Section II.A. for purchases exceeding \$54,000 are not required when the other public agency has secured a price through a formal, advertised competitive bidding process. Board approval is required prior to purchase.

## **2. Purchases Not Exceeding \$54,000**

The bidding procedures of Section II. B. for purchases not exceeding and up to \$54,000 are not required when the other public agency has secured a price through a competitive bidding process. Approval from the General Manager or designee is required prior to purchase.

### **H. Open Purchase Orders for Routine and Repetitive Supplies and Services**

Open purchase orders may be entered into with vendors who are expected to supply routine services, supplies, materials, or labor to the District on a regular basis throughout the fiscal year (such as gasoline, discing, road maintenance, vehicle maintenance, printing, office supplies, and field hardware). Open purchase orders shall be closed at the conclusion of each fiscal year. Vendors of repetitive supplies and services shall be selected through the competitive bidding procedures set out in Section II, based upon the anticipated or budgeted cumulative cost of the supply or service. Where competitive bidding procedures cannot feasibly be used, a comparison of vendors' prices will be made and staff will provide written documentation of the price quotations used to select the vendor with the lowest cost, pursuant to the Administrative Purchasing Policy/Procedure. Multi-year contracts can be entered into only when appropriate and necessary to secure the best pricing or assure continuity of service. An annual review of the services and prices provided shall be documented by District staff to assure that the vendor is meeting the District's needs and expectations and remains at a competitive price. Whenever feasible, multi-year contracts for service or supplies shall provide that the option to renew or extend the contract is at the District's sole discretion.

### **I. Design Build Contracts**

Pursuant to Public Resources Code section 5580, upon approval by the Board, the design-build process (Public Contract Code sections 22160-22169) may be used to assign contracts for the construction of facilities or other buildings in the District). The minimum project limitation of one million dollars for design build projects set forth in the Public Contract Code does not apply to District design-build projects. A conflict of interest policy for design-build contracts required by Public Contract Code section 22162 is included in Design-Build Contracts - Conflicts of Interest (Board Policy 6.09).

## **V. GENERAL PROVISIONS**

### **A. Conflict of Interest**

No District employee or official shall be financially interested, directly or indirectly, in any purchase, contract, sale, or transaction to which the District is a party and which comes before said official or employee for recommendation or action. Any purchase, contract, sale, or transaction in which any employee or official is or becomes financially interested shall become void at the election of the District. No employee or official shall realize any personal gain from any purchase, contract, sale, or transaction involving the District. More information can be found in Board Policy 6.02 – Conflict of Interest Code.

## **B. Credit Cards**

The General Manager may approve the use of District credit cards for District purchases by authorized employees. Employees utilizing a credit card shall not exceed his/her purchasing authority, as authorized in this Policy and as delegated by the General Manager, unless prior approval is given by a supervisor with the appropriate purchasing authority. All card holders must follow the credit card procedures outlined in the Administrative Purchasing Policy/Procedure. District credit cards shall not be issued to individual members of the District Board of Directors.

## **C. Environmentally Preferable Purchasing**

In keeping with the District's mission to "protect and restore the natural environment," the District shall seek to minimize, to the extent practicable, environmental impacts arising out of its purchases of services, supplies, and materials. The District shall select environmentally preferable services, supplies, and materials when suitability, quality, sustainability, and cost, taken together, provide the best outcome for the environment and best value for the public.

The District shall consider environmental factors, including but not limited to:

- Postconsumer recycled content
- Energy efficiency
- Durability
- Low/zero air emissions
- Low/zero hazardous substances
- Water efficiency
- Product maintenance impacts (e.g., release of chemicals/waste generation)
- End-of-life management that keeps materials out of landfills (e.g., reuse, recycling, return to manufacturers)
- Low life-cycle cost/Longer life cycle
- Responsible manufacturing
- Packaging and distribution efficiency

This provision may be waived if performance objectives cannot be met, and/or the product or service is cost-prohibitive or unavailable within a reasonable period of time or if restricted by grant funders for grant-funded projects. Environmentally preferable products and services may be identified by an eco-label such as those recognized by the United States Environmental Protection Agency, or may be deemed by staff to be preferable based on objective metrics (e.g., vehicle miles traveled and/or type of fuel used to provide a service, or the material and/or end-of-life disposal options for a product). The District shall give a preference to environmentally preferable goods and services equal to five percent (5%) of the total contract amount. The General Manager is authorized to apply a preference greater than 5% for procurements not exceeding \$10,000 where circumstances warrant a larger preference to serve the purposes of this policy. Application of the environmentally preferable purchasing provision shall be documented in writing.

**D. Local Preference for Professional Services, Supplies, and Materials**

This section is limited to the District's procurement of professional services and the purchase of supplies and/or materials (this section does not apply to public works/construction contracts). The District shall give a preference to local businesses (as defined below) by giving a preference equal to five percent (5%) of the contract amount. This preference will be given whenever practical and feasible in the selection process for professional services if qualifications are equal and/or for procurement of equally acceptable supplies and materials. The General Manager is authorized to apply a preference greater than 5% for procurements not exceeding \$10,000 where circumstances warrant a larger preference to serve the purposes of this policy. The selection and evaluation process shall be based upon the criteria set forth in Sections II and III above.

A local business is defined as one with a valid physical address located within Santa Clara County, San Mateo County, or Santa Cruz County. The business will be required to provide evidence that it operates or performs its business within these counties on a day-to-day-basis and holds a valid business license, if required, to operate at its local address.

Local preference shall not apply under the following conditions:

- Where the District determines that such a preference is precluded by local, state, or federal law or regulation or pertinent grant funding requirements.
- When participating in a cooperative purchasing agreement
- Emergency purchases
- Sole Source purchases

Application of the Local Preference provision shall be documented in writing by the District.

**E. Violations of This Policy**

Employees are subject to disciplinary action up to and including termination for violation of this Policy.

# Midpeninsula Regional Open Space District

## Board Policy Manual

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|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <p align="center"><b>Public Contract Bidding,<br/>Vendor and Professional<br/>Consultant Selection, and<br/>Purchasing Policy</b></p> | <p align="center"><b>Policy 3.03</b></p> <p align="center"><b>Chapter 3 – Fiscal Management</b></p> |
| <p>Effective Date: 7/24/02</p>                                                                                                        | <p>Revised Date: __/__/2026</p>                                                                     |
| <p>Prior Versions: 12/16/09, 1/27/10, 9/23/15, 1/24/18, 06/10/2020, 01/12/2024, 07/24/2024, 07/01/2025, 07/01/26</p>                  |                                                                                                     |

### I. PURPOSE

This policy ("Policy") formalizes the processes by which the Midpeninsula Regional Open Space District ("District"): (1) obtains quality services, supplies, material and labor at competitive prices while mitigating environmental costs to ensure the responsible stewardship of public tax dollars; (2) provides uniform procurement methods to ensure consistent and equitable contracting with vendors, consultants, and contractors; and (3) administers public contracting in an efficient manner.

### II. DEFINITIONS

The following definitions shall apply to this Policy.

"Administrative Purchasing Procedures" means one or more administrative procedures issued by the General Manager that identify detailed procedures for Purchases to ensure they are made in accordance with this Policy.

"Board" means the District's Board of Directors.

"Direct Acquisition" means a Purchase made with a vendor, without first issuing a competitive solicitation for the Goods, Services or Professional Services.

"Emergency" means a breakdown in machinery, equipment, or facilities, a natural disaster, or other sudden occurrence resulting in the inability of the District to provide services, or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to property or natural resources.

"Formal Bid" means a competitive solicitation for sealed bids, in compliance with Public Resources Code Section 5594, for a Purchase of Services or a Purchase of Goods costing more

than the General Manager's Purchasing Authority. A Formal Bid requires that the Purchase of Services or Purchase of Goods be recommended for award to the lowest responsive, responsible bidder, after notice inviting bids posted to the District's website and/or online procurement platform and published in a newspaper in the District at least one week before the time of receiving bids. A Formal Bid requires the issuance of written plans or specifications describing the Goods or Services to be provided.

"Goods" means tangible equipment, supplies, and materials purchased by the District for any purpose, excluding such items that are incorporated into a Purchase of Services or Purchase of Professional Services.

"Informal Bid" means a competitive solicitation for cost quotes in writing for Goods or Services, with written documentation of the informal bid process and results. An Informal Bid requires that the Purchase of Goods or Purchase of Services be recommended for award to the lowest responsive, responsible bidder, but does not require a notice inviting bids or advertisement. An Informal Bid does not require the issuance of written plans or specifications describing the Goods or Services to be provided, except as otherwise required by this Policy.

"Local Business" means a business with a valid physical address located within Santa Clara County, San Mateo County, or Santa Cruz County from which it operates or performs its business on a day-to-day-basis and for which it holds a valid business license, if required, to operate at the local address.

"On-Call Contract" means either a Purchase of Professional Services or a Purchase of Services that retains a vendor without authorizing specific work at the time of contract execution.

"Open Purchase Order" means an arrangement with a vendor where the District acquires routine services, supplies, materials or labor throughout a fiscal year to support the District's day-to-day operations.

"Prequalified Consultant List" means a list of consultants deemed qualified by the District to perform services specified in the list.

"Professional Services" means independent contractor services requiring specialized knowledge or expertise provided by outside consultants exercising independent judgment which are generally characterized as a profession rather than a business, industry, occupation, or trade. Professional services include technical and consultant services which typically include providing analysis, design, ideas, information or reports.

"Purchase Cost" means the aggregate cost that the District would be required to pay for Goods or services being purchased under a contract or Purchase Order, including taxes, shipping costs, fees, contingencies, allowances, change orders and contract amendments.

"Purchase" or "Purchasing" means:

- The acquisition of Services, Professional Services or Goods. Purchasing includes amendments and change orders to a contract but does not include task orders issued under an On-Call Contract.

- For purposes of this Policy, “Purchasing” does not include the following: District-issued grants; agreements with other public agencies; partnership agreements with non-profit entities providing community benefit services; licenses, leases or other interests in real property; the purchase of utilities or District insurance coverage; retaining consultants for the purpose of assisting the General Manager; retaining outside legal counsel; or retaining consultants to temporarily fill vacant staff positions which are provided for in a Board-adopted budget.

“Purchase Order” means an individual Purchase from a vendor for Goods or Services for which a District contract is not required. Examples of such Purchases include gasoline, discing, equipment rental, vehicle maintenance, printing, office supplies, field materials and hardware and computer software.

“Purchasing Authority” means the entity or individual authorized to approve a Purchase under this Policy, including any delegation of that authority in the Administrative Purchasing Procedures.

“Request for Qualifications” or “RFQ” means a competitive solicitation for Professional Services that outlines the professional’s qualifications, relevant experience, staffing and support, and fees. The RFQ becomes the basis for awarding an On-Call Contract and/or issuing an RFP. An RFQ also may be used to identify qualified consultants on a Prequalified Consultant List.

“Request for Proposals” or “RFP” means a competitive solicitation for Professional Services that outlines the terms, conditions and specifications of the Professional Services required by the District and becomes the basis for awarding a Purchase of Professional Services.

“Request for Proposals and Qualifications” or “RFPQ” means a competitive solicitation for Professional Services that combines the elements required in an RFP and RFQ and becomes the basis for awarding a Purchase of Professional Services and/or an On-Call Contract. An RFPQ also may be used to identify qualified consultants on a Prequalified Consultant List.

“Services” means independent contractor services categorized as general services, construction services, or maintenance services, but excluding Purchases of Goods and Professional Services.

### **III. PURCHASING AUTHORITY**

#### **A. Levels of Purchasing Authority**

This Policy establishes levels of authority for Purchasing based on the type of Purchase being authorized and the person or entity authorizing the Purchase. This Policy categorizes Purchases into three general types: Goods, Services and Professional Services. This Policy establishes three categories of Purchasing Authority: Board, General Manager and General Manager delegees. When this Policy requires any approval, or allows any rejection, in connection with a Purchase (e.g., approval of a written determination or rejection of bids), such approval or rejection may be given by the Purchasing Authority for the Purchase in question.

##### **1. Purchases of Goods**

- **Board Authority.** If the Purchase Cost of Goods exceeds One Hundred and Fifty Thousand Dollars (\$150,000), the Board of Directors must approve the Purchase.
- **General Manager Authority.** Pursuant to Public Resources Code 5549, the General Manager or their designee may bind the District for the payment of Goods in amounts not exceeding One Hundred and Fifty Thousand Dollars (\$150,000).
- **Execution.** Purchases approved by the Board shall be executed by the General Manager or their designee unless the Board has directed that the President execute on behalf of the District.

## 2. Purchases of Services and Professional Services

- **Board Authority.** If the Purchase Cost exceeds \$54,000, the Board of Directors must approve the Purchase.
- **General Manager Authority.** Pursuant to Public Resources Code 5549, the General Manager or their designee may bind the District and authorize and execute contracts for services, supplies, material, labor, or other valuable consideration for any purpose, including the construction of any building, structure, or improvement, in amounts not exceeding \$54,000.
- **Execution.** Purchases approved by the Board shall be executed by the General Manager or their designee unless the Board has directed that the President execute on behalf of the District.

## 3. Administrative Purchasing Procedures

The General Manager shall issue and maintain the Administrative Purchasing Procedures to ensure that Purchases are made in accordance with this Policy. The Administrative Purchasing Procedures also shall govern Purchases that are subject to the General Manager's Purchasing Authority and may delegate Purchasing Authority to those job classifications whose duties include making Purchases within their area of responsibility. Purchases made pursuant to General Manager's Purchasing Authority shall be reported to the Board at its next regular meeting. Reporting expenditures on the Board-agendized Claims List fulfills this reporting obligation.

### B. **General Provisions Governing Purchasing Authority**

#### 1. Purchases Must Include the Full Anticipated Scope

All Purchases shall include the full scope of anticipated Goods, Services or Professional Services for the project or program and shall not be split into smaller units for the purpose of circumventing this Policy. Staff must document the solicitation process and results in writing for all Purchases that require a competitive solicitation.

#### 2. Due Diligence

For all Purchases made under the General Manager's Purchasing Authority, District staff are responsible for conducting appropriate due diligence prior to authorizing the Purchase. Due diligence includes, at a minimum, that District staff ensure (i) contractors are responsible and consultants are qualified to perform solicited work, and (ii) the vendor's proposed fees, rates or

charges are comparable to those prevailing in the market at the time of the Purchase. This due diligence can be accomplished through research, references, a District solicitation or contract with the vendor within the previous four years or other reliable means. For all Purchases in excess of \$15,000, the Purchasing Authority's due diligence efforts must be documented in writing and maintained as part of the project file.

### 3. Advanced Written Notice for Certain Services

Prior to authorizing a Purchase, the District shall provide advanced written notice, to the extent applicable, in accordance with Government Code §3504.1. The Administrative Purchasing Procedures shall specify the process for providing, and contents of, such advanced written notice when required by applicable law.

### 4. Change Orders, Contingencies and Allowances

District staff may issue and approve change orders and amendments to a contract, provided that any amended scope of work is necessary to complete the scope of work originally approved and that the aggregate of all change orders and amendments to that contract does not exceed the authorized Purchase Cost.

Contingencies and allowances may be authorized for a Purchase of Services or a Purchase of Professional Services in accordance with this section. Contingencies and allowances are not applicable to Open Purchase Orders or Purchases of Goods. Contingencies normally should not exceed fifteen percent (15%) of the base contract price and are dependent on the level of uncertainty regarding potential unknown issues that may emerge and result in additional costs to complete the base contract work. A contingency greater than fifteen percent (15%) may be authorized by the Board, or General Manager for Purchases within the General Manager's Purchasing Authority, when accompanied by a finding that circumstances warrant a larger contingency. The vendor shall not be entitled to unspent amounts from the contingency.

Separate from a contingency, a Purchase of Services or a Purchase of Professional Services may include a fixed amount as an allowance to pay for specific materials, equipment, services or events that have a reasonable likelihood to occur given site conditions or other factors. The allowance may be included in the contract price, but the vendor shall not be entitled to unspent amounts from the allowance.

## **IV. PURCHASES OF GOODS**

Except as otherwise authorized by this Policy, Purchasing of Goods shall be made on the basis of lowest price offered by a responsive bidder.

### **A. Purchases Exceeding \$150,000**

When the Purchase Cost of Goods is expected to exceed \$150,000, the District shall conduct a Formal Bid. In the event of a tied low bid, the award shall be recommended based on a coin flip or other random selection process. The Board may reject all bids and re-advertise, or by at least a five-sevenths (5/7) vote may elect to purchase the Goods in the open market.

### **B. Purchases Not Exceeding \$150,000**

For Purchases of Goods less than \$150,000, the Administrative Purchasing Procedures shall govern the process for the acquisition of the Goods. The Administrative Purchasing Procedures may provide for Purchases of Goods through an Informal Bid or Direct Acquisition.

## **V. PURCHASES OF SERVICES**

Except as otherwise authorized by this Policy, Purchasing of Services shall be made on the basis of lowest price offered by responsive, responsible bidders.

### **A. Purchases Exceeding \$54,000**

When the Purchase Cost of a Purchase of Services is expected to exceed \$54,000, the District shall conduct a Formal Bid. In the event of a tied low bid, the award shall be recommended based on a coin flip or other random selection process. The Board may reject all bids and re-advertise, or by at least a five-sevenths (5/7) vote may elect to purchase the materials or supplies in the open market, or to construct a building, structure, or improvement using District personnel.

### **B. Purchases Not Exceeding \$54,000**

For Purchases of Services not exceeding \$54,000, the Administrative Purchasing Procedures shall govern the process for the acquisition of the Services. The Administrative Purchasing Procedures may provide for Purchases of Services through an Informal Bid or Direct Acquisition.

### **C. Special Provisions for Purchases of Services**

#### **1. Open Purchase Orders**

Open Purchase Orders are appropriate only for Goods and Services that are appropriate for Purchase without a contract, as described in the Administrative Purchasing Procedures. Open Purchase Orders shall be procured through the same procedures applicable to a Purchase of Services or Purchase of Goods, based upon the cumulative Purchase Cost of the supplies or services over the course of the fiscal year.

Open Purchase Orders should normally be closed at the conclusion of each fiscal year. Open Purchase Orders spanning multiple fiscal years are only allowed when necessary to either secure the best pricing or assure continuity of service for a critical District function. If a multi-year Open Purchase Order is approved, District staff shall conduct reviews annually to ensure the vendor continues to meet the District's needs and expectations and that its prices remain competitive. Annual reviews shall be documented in writing.

#### **2. On-Call Contracts**

Following required procurement processes in this Policy, On-Call Contracts may be used when appropriate to provide routine services, supplies, materials or labor to the District. The Purchase Cost for each On-Call Contract cannot exceed the General Manager's Purchasing Authority.

On-Call Contracts may be renewed annually for up to four (4) consecutive years. Upon the expiration of the fourth year, staff must follow required procurement processes to solicit a new

contract. The procurement process and Purchasing Authority for On-Call Contracts is based on the Purchase Cost.

## **VI. PURCHASES OF PROFESSIONAL SERVICES**

Purchasing of Professional Services shall be made on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the required services, and at a cost to the District that is fair and reasonable. Professional consultants should be individually selected for a specific project or pursuant to an annual or multi-year service agreement, with the objective of selecting the consultant that best satisfies the District's objectives at a fair and reasonable price. The Administrative Purchasing Procedures shall specify the relevant criteria that District staff shall use to evaluate the competence, qualifications, experience, personnel and fees of consultants in accordance with this Policy.

### **A. Purchases Exceeding \$54,000**

When the Purchase Cost for a Purchase of Professional Services is expected to exceed \$54,000, the District shall prepare an RFQ, RFP or an RFQP. The solicitation may be issued to at least three consultants listed on the Prequalified Consultant List for the services without conducting a public solicitation. However, if there are fewer than three consultants listed on a Prequalified Consultant List for the services, the solicitation shall be posted to the District's online procurement platform for a minimum of seven days prior to the close of the solicitation.

### **B. Purchases Not Exceeding \$54,000**

For Purchases of Professional Services less than \$54,000, the Administrative Purchasing Procedures shall govern the process for the acquisition of the Professional Services. The Administrative Purchasing Procedures may provide for Purchases of Professional Services through evaluation of verbal or written proposals or Direct Acquisitions.

### **C. Special Provisions for Contracts for Professional Services**

#### **1. On-Call Contracts for Professional Services**

Following required procurement processes in this Policy, On-Call Contracts for Professional Services of a routine and recurring nature may be executed with qualified firms. On-Call Contracts for Professional Services may be renewed annually for up to a total of four (4) consecutive years. Upon the expiration of the fourth year, staff must follow required procurement processes to solicit a new contract for the Professional Services. The procurement process and Purchasing Authority for an On-Call Purchase of Professional Services is based on the Purchase Cost.

#### **2. Prequalified Consultant List**

If the District has publicly advertised a solicitation to evaluate the qualifications of consultants for Professional Services in accordance with this Policy, and determined that one or more consultants are qualified and competent to perform such services at fair and reasonable prices, staff may include such consultants on a Prequalified Consultant List for the qualified services. Prequalified Consultant Lists may contain one or more categories of Professional Services. For a

period of four (4) years from staff's determination of a consultant's qualifications, the consultant shall be deemed pre-qualified for purposes of this Policy. Notwithstanding anything to the contrary in this Policy, the District may solicit proposals solely from vendors on the Prequalified Consultant List, without any further solicitation and regardless of contract amount, provided that such solicitation otherwise complies with this Policy.

## **VII. EXCEPTIONS TO STANDARD PURCHASING PROCEDURES**

### **A. Emergency Conditions**

When the District or another federal, state or other local jurisdiction has determined that an Emergency exists, and the Emergency requires an immediate Purchase, the General Manager or designee may authorize District staff to secure in the open market, at the lowest obtainable price, any services, supplies, material or labor required to respond to the Emergency, regardless of the amount of the expenditure. The General Manager shall, as soon as possible, provide the Board with a written explanation of the circumstances requiring the Purchase.

In the case of a disaster or for civil defense, nothing contained in this Policy shall limit the authority of the General Manager to make Purchases and take such other Emergency steps as are, or may be, authorized by the Board.

### **B. Sole Source**

#### **1. Purchases of Goods or Services**

Occasionally, necessary Goods or Services are of a unique type, are of a proprietary nature, or are otherwise of such a required and specific design or construction, or are for purposes of matching existing supplies, materials or equipment, so as to be available from only one source. After making reasonable efforts to find alternative vendors, the District may dispense with the requirement of competitive bids and recommend directly negotiating the Purchase of Goods or Purchase of Services with the sole source. The basis for the sole source recommendation shall be documented in writing and approved by the applicable Purchasing Authority concurrently with the Purchase.

#### **2. Purchases of Professional Services**

Where this Policy requires a competitive solicitation for Professional Services, the District may decide that the applicable procedures are not appropriate and in the best interest of the District under the specific circumstances. The determination must be made in writing and approved by the applicable Purchasing Authority concurrently with the Purchase.

### **C. Cooperative Purchasing**

The District has the authority to join in cooperative purchasing agreements with other public agencies, (e.g. the State of California or counties, cities, or other special districts), to purchase Goods, Services or Professional Services at prices and on terms established by that agency through a competitive bidding process consistent with California law. The General Manager or designee may authorize and execute cooperative Purchasing agreements, where required. When making a Purchase through a cooperative purchasing arrangement, the District is not

required to follow the competitive solicitation procedures otherwise required by this Policy if the other public agency has conducted an equivalent solicitation.

#### **D. Design-Build Contracts**

Pursuant to Public Resources Code section 5580, upon approval by the Board, the design-build process (Public Contract Code sections 22160-22169) may be used to assign contracts for the construction of facilities or other buildings in the District. The Board may assign design-build contracts regardless of the Purchase Cost. A conflict of interest policy for design-build contracts required by Public Contract Code section 22162 is included in Design-Build Contracts - Conflicts of Interest (Board Policy 6.10).

#### **E. Conflict of Law**

These procedures are not applicable where superseded by local, state or federal law, where the terms of grant funding or other obligations require the use of other solicitation or selection procedures or to the extent they conflict with a legal mandate.

### **VIII. GENERAL PROVISIONS**

#### **A. Environmentally Preferable Purchasing**

In keeping with the District's mission to "protect and restore the natural environment," the District shall seek to minimize, to the extent practicable, environmental impacts arising out of its purchases of Goods. The District will select environmentally preferable products when, in the District's judgment, suitability, quality, sustainability, and cost, taken together, provide the best outcome for the environment and best value for the public.

When making Purchases other than by Direct Acquisition, District staff must adhere to these environmentally preferable purchasing procedures. Environmental factors that the District may consider, without limitation, include the following:

- Postconsumer recycled content
- Energy efficiency
- Durability
- Low/zero air emissions
- Low/zero hazardous substances
- Water efficiency
- Product maintenance impacts (e.g., release of chemicals/waste generation)
- End-of-life management that keeps materials out of landfills (e.g., reuse, recycling, return to manufacturers)
- Low life-cycle cost/Longer life cycle
- Responsible manufacturing
- Packaging and distribution efficiency

Environmentally preferable products may be identified by an eco-label such as those recognized by the United States Environmental Protection Agency, or may be deemed by staff to be preferable based on other objective metrics. The Administrative Purchasing Procedures shall set

forth the minimum standards for environmentally preferable products that are to be incorporated into District Purchases.

Environmentally preferable Purchasing may be waived by the Purchasing Authority in the following circumstances: (i) performance objectives cannot be met if environmentally preferable products are used; (ii) the environmentally preferable products are cost-prohibitive or unavailable within a reasonable period of time; or (iii) use of environmentally preferable products is prohibited by applicable laws or grant funding requirements. Application of environmentally preferable Purchases shall be documented in writing.

#### **B. Local Preference**

This section is limited to the District's competitive solicitations for Goods, Contracts for Services (excluding public works/construction contracts), and Contracts for Professional Services. The District shall give a preference to each Local Business equal to five percent (5%) of the Purchase Cost where the basis of award is price determinative or equal to five percent (5%) of the total points where the basis of award is qualifications-based. Application of a Local Preference shall be documented in writing by the District.

A business seeking a local preference shall provide evidence satisfactory to the District that it qualifies as a Local Business.

Local preference shall not apply in the following circumstances:

- Where the District determines that such a preference is prohibited by applicable laws or grant funding requirements.
- When participating in a cooperative purchasing agreement
- Emergency purchases
- Sole Source purchases

#### **C. Conflict of Interest**

No District employee or official shall be financially interested, directly or indirectly, in any purchase, contract, sale, or transaction to which the District is a party and which comes before said official or employee for recommendation or action. Any purchase, contract, sale, or transaction in which any employee or official is or becomes financially interested may be rendered void. No employee or official shall realize any personal gain from any purchase, contract, sale, or transaction involving the District. More information can be found in Board Policy 6.02 – Conflict of Interest Code.

#### **D. Credit Cards**

The General Manager may approve the use of District credit cards for District purchases by authorized employees. Employees utilizing a credit card shall not exceed his/her purchasing authority, as authorized in this Policy and as delegated by the General Manager, unless prior approval is given by a supervisor with the appropriate purchasing authority. All card holders must follow the credit card procedures outlined in Administrative Purchasing Procedures. District credit cards shall not be issued to individual members of the District Board of Directors.

**E. Violations of this Policy**

Employees are subject to disciplinary action up to and including termination for violation of this Policy.

## Midpeninsula Regional Open Space District

## Board Policy Manual

|                                                                                                                                                    |                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b>Public Contract Bidding,<br/>Vendor and Professional<br/>Consultant Selection, and<br/>Purchasing Policy</b></p> | <p style="text-align: center;"><b>Policy 3.03</b></p> <p style="text-align: center;"><b>Chapter 3 – Fiscal Management</b></p> |
| Effective Date: 7/24/02                                                                                                                            | Revised Date: __/__/2026                                                                                                      |
| Prior Versions: 12/16/09, 1/27/10, 9/23/15, 1/24/18, 06/10/2020, 01/12/2024, 07/24/2024, 07/01/2025, 07/01/26                                      |                                                                                                                               |

## Purpose

### ~~The purpose of I.~~ PURPOSE

This policy ~~is to formalize~~ (“Policy”) ~~formalizes~~ the ~~process~~processes by which the Midpeninsula Regional Open Space District ~~(“District”)~~: (1) obtains quality services, supplies, material and labor at ~~the lowest possible monetary and competitive prices while mitigating~~ environmental ~~cost~~costs to ensure the responsible stewardship of public tax dollars; ~~and~~ (2) provides ~~a uniform method for~~ procurement ~~of services and supplies~~methods to ensure consistent and equitable contracting with vendors, ~~suppliers~~, consultants, and contractors; ~~and (3) administers public contracting in an efficient manner.~~

## Policy

### ~~I.~~ II. DEFINITIONS

The following definitions shall apply to this Policy.

“Administrative Purchasing Procedures” means one or more administrative procedures issued by the General Manager that identify detailed procedures for Purchases to ensure they are made in accordance with this Policy.

“Board” means the District’s Board of Directors.

“Direct Acquisition” means a Purchase made with a vendor, without first issuing a competitive solicitation for the Goods, Services or Professional Services.

“Emergency” means a breakdown in machinery, equipment, or facilities, a natural disaster, or other sudden occurrence resulting in the inability of the District to provide services, or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to property or natural resources.

“Formal Bid” means a competitive solicitation for sealed bids, in compliance with Public Resources Code Section 5594, for a Purchase of Services or a Purchase of Goods costing more than the General Manager’s Purchasing Authority. A Formal Bid requires that the Purchase of Services or Purchase of Goods be recommended for award to the lowest responsive, responsible bidder, after notice inviting bids posted to the District’s website and/or online procurement platform and published in a newspaper in the District at least one week before the time of receiving bids. A Formal Bid requires the issuance of written plans or specifications describing the Goods or Services to be provided.

“Goods” means tangible equipment, supplies, and materials purchased by the District for any purpose, excluding such items that are incorporated into a Purchase of Services or Purchase of Professional Services.

“Informal Bid” means a competitive solicitation for cost quotes in writing for Goods or Services, with written documentation of the informal bid process and results. An Informal Bid requires that the Purchase of Goods or Purchase of Services be recommended for award to the lowest responsive, responsible bidder, but does not require a notice inviting bids or advertisement. An Informal Bid does not require the issuance of written plans or specifications describing the Goods or Services to be provided, except as otherwise required by this Policy.

“Local Business” means a business with a valid physical address located within Santa Clara County, San Mateo County, or Santa Cruz County from which it operates or performs its business on a day-to-day-basis and for which it holds a valid business license, if required, to operate at the local address.

“On-Call Contract” means either a Purchase of Professional Services or a Purchase of Services that retains a vendor without authorizing specific work at the time of contract execution.

“Open Purchase Order” means an arrangement with a vendor where the District acquires routine services, supplies, materials or labor throughout a fiscal year to support the District’s day-to-day operations.

“Prequalified Consultant List” means a list of consultants deemed qualified by the District to perform services specified in the list.

“Professional Services” means independent contractor services requiring specialized knowledge or expertise provided by outside consultants exercising independent judgment which are generally characterized as a profession rather than a business, industry, occupation, or trade.

Professional services include technical and consultant services which typically include providing analysis, design, ideas, information or reports.

“Purchase Cost” means the aggregate cost that the District would be required to pay for Goods or services being purchased under a contract or Purchase Order, including taxes, shipping costs, fees, contingencies, allowances, change orders and contract amendments.

“Purchase” or “Purchasing” means:

- The acquisition of Services, Professional Services or Goods. Purchasing includes amendments and change orders to a contract but does not include task orders issued under an On-Call Contract.
- For purposes of this Policy, “Purchasing” does not include the following: District-issued grants; agreements with other public agencies; partnership agreements with non-profit entities providing community benefit services; licenses, leases or other interests in real property; the purchase of utilities or District insurance coverage; retaining consultants for the purpose of assisting the General Manager; retaining outside legal counsel; or retaining consultants to temporarily fill vacant staff positions which are provided for in a Board-adopted budget.

“Purchase Order” means an individual Purchase from a vendor for Goods or Services for which a District contract is not required. Examples of such Purchases include gasoline, discing, equipment rental, vehicle maintenance, printing, office supplies, field materials and hardware and computer software.

“Purchasing Authority” means the entity or individual authorized to approve a Purchase under this Policy, including any delegation of that authority in the Administrative Purchasing Procedures.

“Request for Qualifications” or “RFQ” means a competitive solicitation for Professional Services that outlines the professional’s qualifications, relevant experience, staffing and support, and fees. The RFQ becomes the basis for awarding an On-Call Contract and/or issuing an RFP. An RFQ also may be used to identify qualified consultants on a Prequalified Consultant List.

“Request for Proposals” or “RFP” means a competitive solicitation for Professional Services that outlines the terms, conditions and specifications of the Professional Services required by the District and becomes the basis for awarding a Purchase of Professional Services.

“Request for Proposals and Qualifications” or “RFPQ” means a competitive solicitation for Professional Services that combines the elements required in an RFP and RFQ and becomes the basis for awarding a Purchase of Professional Services and/or an On-Call Contract. An RFPQ also may be used to identify qualified consultants on a Prequalified Consultant List.

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### **III. PURCHASING AUTHORITY**

### There are three **A. Levels of Purchasing Authority**

This Policy establishes levels of authority for purchasesPurchasing based on the type of Purchase being authorized and the person or entity authorizing the Purchase. This Policy categorizes Purchases into three general types: Goods, Services and Professional Services. This Policy establishes three categories of Purchasing Authority: Board Approval, General Manager Approval and General Manager Delegated Approval. The maximum purchasing authoritydelegees. When this Policy requires any approval, or allows any rejection, in connection with a Purchase (e.g., approval of a written determination or rejection of bids), such approval or rejection may be given by the Purchasing Authority for the Purchase in question.

#### 1. Purchases of Goods

- **Board Authority.** If the Purchase Cost of Goods exceeds One Hundred and Fifty Thousand Dollars (\$150,000), the Board of Directors must approve the Purchase.
- **General Manager Authority.** Pursuant to Public Resources Code 5549, the General Manager or their designee may bind the District for the payment of Goods in amounts refer to the total price of an ordernot exceeding One Hundred and Fifty Thousand Dollars (\$150,000).
- **Execution.** Purchases approved by the Board shall be executed by the General Manager or their designee unless the Board has directed that the President execute on behalf of the District.

#### 2. Purchases of Services and Professional Services

- **Board Authority.** If the Purchase Cost exceeds \$54,000, the Board of Directors must approve the Purchase.
- **General Manager Authority.** Pursuant to Public Resources Code 5549, the General Manager or their designee may bind the District and authorize and execute contracts for services, supplies, material, labor, or other valuable consideration for any purpose, including tax and/or shipping, which may the construction of any building, structure, or improvement, in amounts not exceeding \$54,000.
- **Execution.** Purchases approved by the Board shall be executed by the General Manager or their designee unless the Board has directed that the President execute on behalf of the District.

#### 3. Administrative Purchasing Procedures

The General Manager shall issue and maintain the Administrative Purchasing Procedures to ensure that Purchases are made in accordance with this Policy. The Administrative Purchasing Procedures also shall govern Purchases that are subject to the General Manager's Purchasing Authority and may delegate Purchasing Authority to those job classifications whose duties include more than one item and also making Purchases within their area of responsibility. Purchases made pursuant to General Manager's Purchasing Authority shall be reported to the Board at its next regular meeting. Reporting expenditures on the Board-agendized Claims List fulfills this reporting obligation.

## **B. General Provisions Governing Purchasing Authority**

### **1. Purchases Must Include the Full Anticipated Scope**

All Purchases shall include the full scope of anticipated Goods, Services or Professional Services for the project or program and shall not be split into smaller units for the purpose of circumventing this Policy. Staff must document the solicitation process and results in writing for all Purchases that require a competitive solicitation.

### **2. Due Diligence**

For all Purchases made under the General Manager's Purchasing Authority, District staff are responsible for conducting appropriate due diligence prior to authorizing the Purchase. Due diligence includes, at a minimum, that District staff ensure (i) contractors are responsible and consultants are qualified to perform solicited work, and (ii) the vendor's proposed fees, rates or charges are comparable to those prevailing in the market at the time of the Purchase. This due diligence can be accomplished through research, references, a District solicitation or contract with the vendor within the previous four years or other reliable means. For all Purchases in excess of \$15,000, the Purchasing Authority's due diligence efforts must be documented in writing and maintained as part of the project file.

### **3. Advanced Written Notice for Certain Services**

Prior to authorizing a Purchase, the District shall provide advanced written notice, to the extent applicable, in accordance with Government Code §3504.1. The Administrative Purchasing Procedures shall specify the process for providing, and contents of, such advanced written notice when required by applicable law.

### **4. Change Orders, Contingencies and Allowances**

District staff may issue and approve change orders and contract amendments. As used in this Policy, the term "purchasing" refers collectively to contracting or procurement of services, supplies, material or labor, including Capital Improvements. amendments to a contract, provided that any amended scope of work is necessary to complete the scope of work originally approved and that the aggregate of all change orders and amendments to that contract does not exceed the authorized Purchase Cost.

## **A. Board Approval for Purchases In Excess of \$54,000**

If the cost for furnishing services, supplies, materials, labor, or other valuable consideration to the District will exceed Fifty-four Thousand Dollars (\$54,000), approval from the Board of Directors is required prior to entering into the contract.

Contingencies and allowances may be authorized for a Purchase of Services or a Purchase of Professional Services in accordance with this section. Contingencies and allowances are not applicable to Open Purchase Orders or Purchases of Goods. Contingencies normally should not exceed fifteen percent (15%) of the base contract price and are dependent on the level of uncertainty regarding potential unknown issues that may emerge and result in additional costs to complete the base contract work. A contingency greater than fifteen percent (15%) may be authorized by the Board, or General Manager for Purchases within the General Manager's Purchasing Authority, when accompanied by a finding that circumstances warrant a larger contingency. The vendor shall not be entitled to unspent amounts from the contingency.

Separate from a contingency, a Purchase of Services or a Purchase of Professional Services may include a fixed amount as an allowance to pay for specific materials, equipment, services or events that have a reasonable likelihood to occur given site conditions or other factors. The allowance may be included in the contract price, but the vendor shall not be entitled to unspent amounts from the allowance.

#### **IV. PURCHASES OF GOODS**

Except as otherwise authorized by this Policy, Purchasing of Goods shall be made on the basis of lowest price offered by a responsive bidder.

##### **A. Purchases Exceeding \$150,000**

When the Purchase Cost of Goods is expected to exceed \$150,000, the District shall conduct a Formal Bid. In the event of a tied low bid, the award shall be recommended based on a coin flip or other random selection process. The Board may reject all bids and re-advertise, or by at least a five-sevenths (5/7) vote may elect to purchase the Goods in the open market.

##### **B. Purchases Not Exceeding \$150,000**

For Purchases of Goods less than \$150,000, the Administrative Purchasing Procedures shall govern the process for the acquisition of the Goods. The Administrative Purchasing Procedures may provide for Purchases of Goods through an Informal Bid or Direct Acquisition.

#### **V. PURCHASES OF SERVICES**

Except as otherwise authorized by this Policy, Purchasing of Services shall be made on the basis of lowest price offered by responsive, responsible bidders.

##### **A. Purchases Exceeding \$54,000**

When the Purchase Cost of a Purchase of Services is expected to exceed \$54,000, the District shall conduct a Formal Bid. In the event of a tied low bid, the award shall be recommended based on a coin flip or other random selection process. The Board may reject all bids and re-advertise, or by at least a five-sevenths (5/7) vote may elect to purchase the materials or supplies in the open market, or to construct a building, structure, or improvement using District personnel.

## ~~1.-Signature~~

~~Contracts which have been approved by the Board shall be signed by the General Manager or designee unless the Board has directed that the President sign on behalf of the District. The District Clerk shall sign all such contracts and affix the seal of the District.~~

### **B. ~~-General Manager Approval for~~ Purchases Not Exceeding \$54,000**

~~Pursuant to Public Resources Code 5549, the General Manager may obtain bids without advertisement or published notice inviting bids and may authorize and execute contracts for payment for services, supplies, material, labor, or other valuable consideration for any purpose, including the new construction of any building, structure, or improvement, in amounts not exceeding \$54,000. See Section II of this policy for competitive bidding requirements. Expenditures under the General Manager's purchasing authority shall be reported to the Board of Directors at its next regular meeting. Reporting expenditures on the Board-agendized Claims List fulfills this reporting obligation.~~

## ~~1.-Administrative Purchasing Policy/Procedure~~

~~The General Manager shall issue an Administrative Purchasing Policy/Procedure, which provides For Purchases of Services not exceeding \$54,000, the Administrative Purchasing Procedures shall govern the process for the acquisition of the Services. The Administrative Purchasing Procedures may provide for Purchases of Services through an Informal Bid or Direct Acquisition.~~

### **C. Special Provisions for Purchases of Services**

#### **1. Open Purchase Orders**

~~Open Purchase Orders are appropriate guidance to staff to ensure only for Goods and Services that all District purchases are made in accordance with this Policy and required documentation procedures are followed.~~

~~The General Manager shall issue written delegation of purchasing authority to those job classifications whose duties include making purchases within his or her area of~~

~~responsibility. Purchasing authority limits shall be consistent with this Policy. Such written delegation of purchasing authority shall include the authority to execute contracts, purchase orders, and other documents necessary to approve a purchase within the employee's purchasing authority.~~

## ~~C. Contract Change Orders and Contingencies~~

~~Staff may issue change orders to a appropriate for Purchase without a contract, provided that the aggregate of all change orders to that contract does not exceed the total contract amount with contingency as approved by the Board for amounts over \$54,000.~~

~~Contingencies generally shall range between 5% and no more than 15% of the original contract price and be dependent on the level of uncertainty regarding potential additional issues that may emerge and generate unexpected costs in order to complete the intended base contract work. A contingency greater than 15% may be authorized by the Board when accompanied by a finding that circumstances warrant a larger contingency.~~

## ~~II. SOLICITATION OF BIDS~~

### ~~A. Solicitation of Formal Advertised Bids for Expenditures Exceeding \$54,000~~

~~When any Contract, excluding Professional services, is expected to exceed \$54,000, the District shall conduct a formal bidding process pursuant to Public Resources Code section 5594.~~

~~This type of formal bidding process typically includes the issuance of written plans or specifications describing the goods or services to be provided and the receipt of written bids from the bidders involved. Staff shall attempt to solicit formal bids from a minimum of three bidders. Following Board approval, the contract shall then be executed by the General Manager or designee, unless the Board President's signature is required. A Contract shall be awarded to the lowest responsible, responsive bidder, except as otherwise provided in this Policy (see Sections III, IV and Section V).~~

## ~~B. Solicitation of Three Written Bids for Expenditures Exceeding \$25,000 but Not Exceeding \$54,000~~

~~When any expenditure is expected to exceed \$25,000, but not exceed \$54,000, the District shall solicit written proposals from a minimum of three (3) bidders. The General Manager's or designee's approval of the contract or purchase order is required as applicable under this Policy.~~

## ~~C. Solicitation of Three Quotes or Proposals for Expenditures Exceeding \$5,000 but Not Exceeding \$25,000~~

~~When any expenditure is expected to exceed \$5,000, but not exceed \$25,000, the staff member responsible for the purchase is to solicit a minimum of three (3) quotes or proposals to provide the goods or services. The results of the solicitation, including any quotes, shall be documented in writing pursuant to described in the Administrative Purchasing Policy/Procedure. Procedures. Open Purchase Orders shall be procured through the same procedures applicable to a Purchase of Services or Purchase of Goods, based upon the cumulative Purchase Cost of the supplies or services over the course of the fiscal year.~~

## ~~D. Expenditures Not Exceeding \$5,000~~

~~Staff members shall obtain competitive cost information, whenever feasible, for any District purchase even though formal cost quotations are not required for goods or services costing \$5,000 or less.~~

~~III. Open Purchase Orders should normally be closed at the conclusion of each fiscal year. Open Purchase Orders spanning multiple fiscal years are only allowed when necessary to either~~

secure the best pricing or assure continuity of service for a critical District function. If a multi-year Open Purchase Order is approved, District staff shall conduct reviews annually to ensure the vendor continues to meet the District's needs and expectations and that its prices remain competitive. Annual reviews shall be documented in writing.

## 2. On-Call Contracts

Following required procurement processes in this Policy, On-Call Contracts may be used when appropriate to provide routine services, supplies, materials or labor to the District. The Purchase Cost for each On-Call Contract cannot exceed the General Manager's Purchasing Authority.

On-Call Contracts may be renewed annually for up to four (4) consecutive years. Upon the expiration of the fourth year, staff must follow required procurement processes to solicit a new contract. The procurement process and Purchasing Authority for On-Call Contracts is based on the Purchase Cost.

## VI. PURCHASES OF PROFESSIONAL SERVICES

### Purchasing of Professional Services

~~Professional consultant services are of a technical and professional nature, and, due to the nature of the services to be provided, do not readily fall within the "low bid" competitive bidding process. In addition, State law requires that selection of professional consultants in the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consultants shall be made on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the required services.~~, and at a cost to the District that is fair and reasonable. Professional consultants should be individually selected for a specific project or ~~problem~~pursuant to an annual or multi-year service agreement, with the objective of selecting the ~~most qualified consultant at a price that is fair and reasonable.~~ Professional services agreements shall include the full scope of anticipated services for the project, program or annual service agreements and shall not be split into smaller units for the purpose of circumvention of this Policy and the required purchasing procedures.

### ~~A. Selection Procedures for Professional Services in Excess of \$54,000~~

~~When the cost for professional services is expected to be in excess of \$54,000, the District shall prepare a Request for Qualifications (RFQ) outlining the professional's qualifications, relevant experience, staffing and support, and hourly rates. This information becomes the basis for negotiating a contract or a Request for Proposal (RFP) outlining the terms, conditions and specifications of the services required by the District. The District may also prepare, as an alternative, a Request for Qualifications and Proposal, combining the required elements of the RFQ and the RFP described above. A minimum of three (3) qualified firms or individuals shall be invited to submit qualifications and/or proposals.~~

~~District staff will review the proposals received, will select the most qualified firms for interviews, and will rank the consultants based upon criteria, including but not limited to the following:~~

- ~~i. — Ability of the consultants to perform the specific tasks outlined in the RFP/RFQ.~~
- ~~ii. — Qualifications of the specific individuals who will work on the project.~~
- ~~iii. — Amount and quality of time key personnel will be involved in their respective portions of the project.~~
- ~~iv. — Reasonableness of the fee requested to do the work; comparability of fee to similar services offered by other qualified consultants.~~
- ~~v. — Demonstrated record of success by the consultant on work previously performed for the District or for other public agencies or enterprises.~~
- ~~vi. — The specific method and techniques to be employed by the consultant on the project or problem.~~
- ~~vii. — Ability of the consultant to provide appropriate insurance in adequate amounts, including errors and omissions if applicable.~~

~~The firm's location, if it is situated within District boundaries, and/or its business practices (such as sales, marketing, manufacturing, servicing, provision of services, procurement of local materials and/or labor, or research and development) that enable the firm to complete the contracted work consistent with District consultant that best satisfies the District's objectives (see Section V.D.): at a fair and reasonable price. The Administrative Purchasing Procedures shall specify the relevant criteria that District staff shall use to evaluate the competence, qualifications, experience, personnel and fees of consultants in accordance with this Policy.~~

~~For the categories of architects, landscape architects, engineers, surveyors, construction managers, and environmental consultants, initial selection of the most qualified and competent consultants shall not include the cost criteria listed in Section III.A. of this Policy. After staff has determined the most qualified and competent consultants, this cost~~

~~criteria shall be considered in negotiating a professional services agreement with the selected consultant.~~

## ~~B.—Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$54,000~~

~~District staff shall solicit written proposals from a minimum of three (3) qualified consultants. A formal RFP/ RFQ is not required. The selection shall be based upon the criteria noted in Section iii. A. The General Manager or designee may approve the selection and execute the agreement.~~

## ~~C.—Selection Procedures for Professional Services Not Exceeding \$10,000~~

~~District staff shall maintain current files on qualified consultants in appropriate categories. The department shall, by telephone, email, or letter, contact at least three (3) qualified consultants and request them to submit a proposal either orally or in writing. The results of the solicitation, including any oral quotes, shall be memorialized in writing, pursuant to the Administrative~~

~~Purchasing Policy/Procedure. The selection shall be based upon the criteria noted in Section iii.~~

~~A. and per the Administrative Purchasing Procedure. The authorized Department Manager or other authorized District employee may approve the selection and execute the agreement.~~

## ~~D.—Renewal of Contracts with Professional Consultants~~

~~The District may, at its sole discretion, and after following required consultant selection procedures, enter into consultant agreements which contain provisions authorizing their~~

extension or renewal. However, recommendations to extend or renew an existing contract with a professional consultant should include an annual written evaluation prepared by the District for the work performed by the consultant as well as a determination that the fees being charged are comparable to similar services offered by other consultants at the time of renewal or extension. If the total amount of the original and renewed contract in any one fiscal year does not exceed \$54,000, the General Manager or designee may execute the agreement. If the total amount exceeds \$54,000, the request must be approved by the Board.

## **E.-Conflict of Law**

These procedures are not applicable where superseded by local, state or federal law; where the terms of grant funding provide for the use of other consultant selection procedures, or where the District is obligated to select consultants through the use of different procedures, such as due to the requirements of an insurance or self-insurance program.

## **F.-Special Circumstances**

These procedures are not applicable when three (3) bids or proposals are unavailable, or if it is appropriate and in the best interest of the District under the specific circumstances, to limit the number of bids or proposals solicited. The basis for such action shall be documented in writing and approved by the General Manager or designee in his/her absence. When Board approval is required, the documented basis for such action shall be included in the report to the Board.

## **G.-Prequalified Consultant File**

When, after District staff has undertaken the selection procedures as set out in this Policy and determined that a consultant is qualified and competent in the performance of the professional services in the consultant's category, District staff may maintain a current file

~~of such consultants in their appropriate categories. For a period of four (4) years from determination of the qualification of such consultant, District staff may select such a prequalified consultant from the current file of prequalified consultants who can provide the services for a fair and reasonable price.~~

#### **IV.—A. Purchases Exceeding \$54,000**

When the Purchase Cost for a Purchase of Professional Services is expected to exceed \$54,000, the District shall prepare an RFQ, RFP or an RFQP. The solicitation may be issued to at least three consultants listed on the Prequalified Consultant List for the services without conducting a public solicitation. However, if there are fewer than three consultants listed on a Prequalified Consultant List for the services, the solicitation shall be posted to the District's online procurement platform for a minimum of seven days prior to the close of the solicitation.

#### **B. Purchases Not Exceeding \$54,000**

For Purchases of Professional Services less than \$54,000, the Administrative Purchasing Procedures shall govern the process for the acquisition of the Professional Services. The Administrative Purchasing Procedures may provide for Purchases of Professional Services through evaluation of verbal or written proposals or Direct Acquisitions.

#### **C. Special Provisions for Contracts for Professional Services**

##### **1. On-Call Contracts for Professional Services**

Following required procurement processes in this Policy, On-Call Contracts for Professional Services of a routine and recurring nature may be executed with qualified firms. On-Call Contracts for Professional Services may be renewed annually for up to a total of four (4) consecutive years. Upon the expiration of the fourth year, staff must follow required procurement processes to solicit a new contract for the Professional Services. The procurement process and Purchasing Authority for an On-Call Purchase of Professional Services is based on the Purchase Cost.

##### **2. Prequalified Consultant List**

If the District has publicly advertised a solicitation to evaluate the qualifications of consultants for Professional Services in accordance with this Policy, and determined that one or more consultants are qualified and competent to perform such services at fair and reasonable prices, staff may include such consultants on a Prequalified Consultant List for the qualified services. Prequalified Consultant Lists may contain one or more categories of Professional Services. For a period of four (4) years from staff's determination of a consultant's qualifications, the consultant shall be deemed pre-qualified for purposes of this Policy. Notwithstanding anything to the contrary in this Policy, the District may solicit proposals solely from vendors on the

Prequalified Consultant List, without any further solicitation and regardless of contract amount, provided that such solicitation otherwise complies with this Policy.

## **VII. EXCEPTIONS TO STANDARD PURCHASING PROCEDURES**

### **A. Emergency Conditions**

~~An emergency is defined as a breakdown in machinery or equipment or a natural disaster resulting in the inability of the District to provide services, or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to natural resources. In the case of an emergency determined by the District, or federal, state, or other local jurisdictions requiring~~When the District or another federal, state or other local jurisdiction has determined that an Emergency exists, and the Emergency requires an immediate Purchase, the General Manager or designee may authorize District staff to secure in the open market, at the lowest obtainable price, any services, supplies, material or labor required to respond to the Emergency, regardless of the amount of the expenditure. The General Manager shall, as soon as possible, provide ~~a full~~the Board with a written explanation of the circumstances ~~to requiring~~the Board. Purchase.

In the case of a disaster or for civil defense, nothing contained in this Policy shall limit the authority of the General Manager to make Purchases and take such other Emergency steps as are, or may be, authorized by the Board.

### **B. ~~———— Limited Availability/~~Sole Source**

#### **1. Purchases of Goods or Services**

Occasionally, necessary ~~supplies, materials, equipment,~~Goods or Services are of a unique type, are of a proprietary nature, or are otherwise of such a required and specific design or construction, or are for purposes of ~~maintaining consistency and operational efficiency~~matching existing supplies, materials or equipment, so as to be available from only one source. After making reasonable efforts to find alternative ~~suppliers~~vendors, the District may dispense with the requirement of competitive bids and recommend directly negotiating ~~and making~~ the Purchase ~~from of Goods or Purchase of Services with~~ the sole source. The basis for the sole source recommendation shall be documented in writing and approved, ~~in advance,~~ by the ~~Board for purchases exceeding \$54,000, and applicable Purchasing Authority concurrently with~~ the ~~General Manager or other authorized District employee, for purchases not exceeding \$54,000. Purchase.~~

#### **2. Purchases of Professional Services**

Where this Policy requires a competitive solicitation for Professional Services, the District may decide that the applicable procedures are not appropriate and in the best interest of the District under the specific circumstances. The determination must be made in writing and approved by the applicable Purchasing Authority concurrently with the Purchase.

### **C. Cooperative Purchasing**

The District ~~shall have~~has the authority to join in cooperative purchasing agreements with other public agencies, (e.g., the State of California, or counties, cities, ~~schools~~, or other special districts), to purchase Goods, Services or Professional Services at ~~a price~~prices and on terms established by that agency through a competitive bidding process. ~~consistent with California law.~~ The General Manager or designee may authorize and execute ~~such~~ cooperative Purchasing agreements.

## ~~1.-Purchases Exceeding \$54,000~~

~~The formal competitive bidding procedures of Section II.A. for purchases exceeding \$54,000 are not, where required when the other public agency has secured. When making a price~~Purchase through a formal, advertised cooperative purchasing arrangement, the District is not required to follow the competitive bidding process. Board approval is required prior to purchase.

## ~~2.-Purchases Not Exceeding \$54,000~~

~~The bidding solicitation procedures of Section II. B. for purchases not exceeding and up to \$54,000 are not otherwise required when by this Policy if the other public agency has secured a price through a competitive bidding process. Approval from the General Manager or designee is required prior to purchase~~conducted an equivalent solicitation.

## ~~H.-Open Purchase Orders for Routine and Repetitive Supplies and Services~~

~~Open purchase orders may be entered into with vendors who are expected to supply routine services, supplies, materials, or labor to the District on a regular basis throughout the fiscal year (such as gasoline, discing, road maintenance, vehicle maintenance, printing, office supplies, and field hardware). Open purchase orders shall be closed at the conclusion of each fiscal year. Vendors of repetitive supplies and services shall be~~

~~selected through the competitive bidding procedures set out in Section II, based upon the anticipated or budgeted cumulative cost of the supply or service. Where competitive bidding procedures cannot feasibly be used, a comparison of vendors' prices will be made and staff will provide written documentation of the price quotations used to select the vendor with the lowest cost, pursuant to the Administrative Purchasing Policy/Procedure. Multi-year contracts can be entered into only when appropriate and necessary to secure the best pricing or assure continuity of service. An annual review of the services and prices provided shall be documented by District staff to assure that the vendor is meeting the District's needs and expectations and remains at a competitive price. Whenever feasible, multi-year contracts for service or supplies shall provide that the option to renew or extend the contract is at the District's sole discretion.~~

#### **I. D. Design-Build Contracts**

Pursuant to Public Resources Code section 5580, upon approval by the Board, the design-build process (Public Contract Code sections 22160-22169) may be used to assign contracts for the construction of facilities or other buildings in the District). ~~The minimum project limitation of one million dollars for design build projects set forth in the Public Contract Code does not apply to District design-build projects. The Board may assign design-build contracts regardless of the Purchase Cost.~~ A conflict of interest policy for design-build contracts required by Public Contract Code section 22162 is included in Design-Build Contracts - Conflicts of Interest (Board Policy 6.~~09~~).10).

#### **V. E. Conflict of Law**

These procedures are not applicable where superseded by local, state or federal law, where the terms of grant funding or other obligations require the use of other solicitation or selection procedures or to the extent they conflict with a legal mandate.

### **VIII. GENERAL PROVISIONS**

#### **A. Environmentally Preferable Purchasing**

In keeping with the District's mission to "protect and restore the natural environment," the District shall seek to minimize, to the extent practicable, environmental impacts arising out of its purchases of Goods. The District will select environmentally preferable products when, in the District's judgment, suitability, quality, sustainability, and cost, taken together, provide the best outcome for the environment and best value for the public.

When making Purchases other than by Direct Acquisition, District staff must adhere to these environmentally preferable purchasing procedures. Environmental factors that the District may consider, without limitation, include the following:

- Postconsumer recycled content
- Energy efficiency
- Durability
- Low/zero air emissions
- Low/zero hazardous substances
- Water efficiency
- Product maintenance impacts (e.g., release of chemicals/waste generation)
- End-of-life management that keeps materials out of landfills (e.g., reuse, recycling, return to manufacturers)
- Low life-cycle cost/Longer life cycle
- Responsible manufacturing
- Packaging and distribution efficiency

Environmentally preferable products may be identified by an eco-label such as those recognized by the United States Environmental Protection Agency, or may be deemed by staff to be preferable based on other objective metrics. The Administrative Purchasing Procedures shall set forth the minimum standards for environmentally preferable products that are to be incorporated into District Purchases.

Environmentally preferable Purchasing may be waived by the Purchasing Authority in the following circumstances: (i) performance objectives cannot be met if environmentally preferable products are used; (ii) the environmentally preferable products are cost-prohibitive or unavailable within a reasonable period of time; or (iii) use of environmentally preferable products is prohibited by applicable laws or grant funding requirements. Application of environmentally preferable Purchases shall be documented in writing.

#### **B. Local Preference**

This section is limited to the District's competitive solicitations for Goods, Contracts for Services (excluding public works/construction contracts), and Contracts for Professional Services. The District shall give a preference to each Local Business equal to five percent (5%) of the Purchase Cost where the basis of award is price determinative or equal to five percent (5%) of the total points where the basis of award is qualifications-based. Application of a Local Preference shall be documented in writing by the District.

A business seeking a local preference shall provide evidence satisfactory to the District that it qualifies as a Local Business.

Local preference shall not apply in the following circumstances:

- Where the District determines that such a preference is prohibited by applicable laws or grant funding requirements.
- When participating in a cooperative purchasing agreement
- Emergency purchases
- Sole Source purchases

#### **C. Conflict of Interest**

No District employee or official shall be financially interested, directly or indirectly, in any purchase, contract, sale, or transaction to which the District is a party and which comes before said official or employee for recommendation or action. Any purchase, contract, sale, or transaction in which any employee or official is or becomes financially interested ~~shall become void at the election of the District.~~ may be rendered void. No employee or official shall realize any personal gain from any purchase, contract, sale, or transaction involving the District. More information can be found in Board Policy 6.02 – Conflict of Interest Code.

#### **B.D. Credit Cards**

The General Manager may approve the use of District credit cards for District purchases by authorized employees. Employees utilizing a credit card shall not exceed his/her purchasing authority, as authorized in this Policy and as delegated by the General Manager, unless prior approval is given by a supervisor with the appropriate purchasing authority. All card holders must follow the credit card procedures outlined in ~~the~~ Administrative Purchasing

Policy/ProcedureProcedures. District credit cards shall not be issued to individual members of the District Board of Directors.

### **~~C.-Environmentally Preferable Purchasing~~**

~~In keeping with the District's mission to "protect and restore the natural environment," the District shall seek to minimize, to the extent practicable, environmental impacts arising out of its purchases of services, supplies, and materials. The District shall select environmentally preferable services, supplies, and materials when suitability, quality, sustainability, and cost, taken together, provide the best outcome for the environment and best value for the public.~~

~~The District shall consider environmental factors, including but not limited to:~~

~~This provision may be waived if performance objectives cannot be met, and/or the product or service is cost-prohibitive or unavailable within a reasonable period of time or if restricted by grant funders for grant-funded projects. Environmentally preferable products and services may be identified by an eco-label such as those recognized by the United States Environmental~~

Protection Agency, or may be deemed by staff to be preferable based on objective metrics (e.g., vehicle miles traveled and/or type of fuel used to provide a service, or the material and/or end-of-life disposal options for a product). The District shall give a preference to environmentally preferable goods and services equal to five percent (5%) of the total contract amount. The General Manager is authorized to apply a preference greater than 5% for procurements not exceeding \$10,000 where circumstances warrant a larger preference to serve the purposes of this policy. Application of the environmentally preferable purchasing provision shall be documented in writing.

## ~~D. Local Preference for Professional Services, Supplies, and Materials~~

This section is limited to the District's procurement of professional services and the purchase of supplies and/or materials (this section does not apply to public works/construction contracts). The District shall give a preference to local businesses (as defined below) by giving a preference equal to five percent (5%) of the contract amount. This preference will be given whenever practical and feasible in the selection process for professional services if qualifications are equal and/or for procurement of equally acceptable supplies and materials. The General Manager is authorized to apply a preference greater than 5% for procurements not exceeding \$10,000 where circumstances warrant a larger preference to serve the purposes of this policy. The selection and evaluation process shall be based upon the criteria set forth in Sections II and III above.

A local business is defined as one with a valid physical address located within Santa Clara County, San Mateo County, or Santa Cruz County. The business will be required to provide evidence that it operates or performs its business within these counties on a day-to-day basis and holds a valid business license, if required, to operate at its local address.

Local preference shall not apply under the following conditions:

- ~~Where the District determines that such a preference is precluded by local, state, or federal law or regulation or pertinent grant funding requirements.~~
- ~~When participating in a cooperative purchasing agreement~~
- ~~Emergency purchases~~
- ~~Sole Source purchases~~

~~Application of the Local Preference provision shall be documented in writing by the District.~~

**E. Violations of this Policy**

Employees are subject to disciplinary action up to and including termination for violation of this Policy.

## Midpeninsula Regional Open Space District Summary of Proposed Changes to Board Purchasing Policy

This document summarizes the revisions to Board Policy 3.03, *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing* (Policy). The Policy proposed for adoption contains a number of changes to update and formalize language, correct typos and errors and to make substantive changes. The table below summarizes these changes and includes a reference to the applicable Policy section(s). Capitalized terms not defined in this summary have the meanings established in the Policy. Each ‘Type of Change’ is categorized as follows:

|               |                                                                                                   |
|---------------|---------------------------------------------------------------------------------------------------|
| Clean-up      | Non-substantive changes to language, including headings, punctuation/grammar, abbreviations, etc. |
| Policy        | Substantive changes to policy                                                                     |
| Clarification | Clarifies policy or procedure without making substantive change                                   |
| Legal         | Changes made in response to legal requirement or update                                           |

| Section / Title                                       | Type of Change | Summary of Change                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Entire Document</b>                                |                |                                                                                                                                                                                                                                                                                            |
| Entire Document                                       | Clean-up       | Amends the entire document to correct spelling errors, incorrect references, inaccurate titles and other non-substantive clean-up items.                                                                                                                                                   |
| <b>Section I – Purpose</b>                            |                |                                                                                                                                                                                                                                                                                            |
| Entire Section                                        | Policy Change  | Includes a third purpose of the Policy, which is to provide efficient public contracting.                                                                                                                                                                                                  |
| <b>Section II – Definitions</b>                       |                |                                                                                                                                                                                                                                                                                            |
| Entire Section                                        | Clarification  | Added new section for definitions. New key definitions include: <ul style="list-style-type: none"> <li>• “Direct Acquisition”</li> <li>• “Goods”</li> <li>• “Informal Bid”</li> <li>• “Purchase” / “Purchasing”</li> <li>• “Purchasing Authority”</li> </ul>                               |
| <b>Section III – Purchasing Authority</b>             |                |                                                                                                                                                                                                                                                                                            |
| III.A.1. Purchases of Goods                           | Policy/Legal   | Includes a new subsection, <u>Purchases of Goods</u> , to incorporate recent statute allowing GM purchasing of Goods (AB 769) of up to \$150,000 (new law effective Jan. 1, 2026).                                                                                                         |
| III.B.2. Due Diligence                                | Policy         | New provision requiring due diligence for all Purchases under the GM’s purchasing authority (i.e., informal solicitations or Direct Acquisitions) and to keep written due diligence actions in the project file for Purchases exceeding \$15,000.                                          |
| III.B.3. Advanced Written Notice for Certain Services | Legal          | Includes direction to provide advanced written notice to represented bargaining units, if required by Gov’t Code § 3504.1 (new law effective Jan. 1, 2026). Detailed procedures to be included in the Administrative Purchasing Procedures.                                                |
| III.B.4. Change Orders, Contingencies and Allowances  | Clarification  | Clarifies that allowances may be authorized separate from contingencies. Clarifies expectation that contingency amounts should generally be no more than 15% of base contract amount. Higher contingencies must be approved by the Board or General Manager in accordance with the Policy. |
| <b>Section IV – Purchases of Goods</b>                |                |                                                                                                                                                                                                                                                                                            |
| Entire Section                                        | Policy         | New section implementing AB 769 for <u>Purchases of Goods</u> . Board must approve Purchases of Goods exceeding the statutory threshold of \$150,000. The Administrative Purchasing Procedures to establish delegations for Purchases of Goods below this amount.                          |
| <b>Section V – Purchases of Services</b>              |                |                                                                                                                                                                                                                                                                                            |
| V.B. Purchases Not Exceeding \$54,000                 | Policy         | Identifies the Administrative Purchasing Procedures as establishing the procedures for Purchases below \$54,000, an authority delegated to the General Manager.                                                                                                                            |

**Midpeninsula Regional Open Space District  
Summary of Proposed Changes to Board Purchasing Policy**

| <b>Section / Title</b>                                            | <b>Type of Change</b> | <b>Summary of Change</b>                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| V.C. Special Provisions                                           | Clarification         | Relocates provisions addressing Open Purchase Orders and clarifies that On-Call Contracts are allowed for Services under GM purchasing authority.                                                                                                                                                                                                                                               |
| <b>Section VI – Purchase of Professional Services</b>             |                       |                                                                                                                                                                                                                                                                                                                                                                                                 |
| VI.B. Purchases Not Exceeding \$54,000                            | Policy/Clarification  | Identifies the Administrative Purchasing Procedures as establishing the procedures for Purchases below \$54,000, an authority delegated to the General Manager. Clarifies that proposals may be solicited from firms on the Prequalified Consultant List regardless of contract amount if the solicitation otherwise complies with the Policy, including evaluation of qualifications and fees. |
| VI.C. Special Provisions                                          | Policy/Clarification  | Clarifies that On-Call Contracts are allowed for Professional Services. Requires that Prequalified Consultant Lists be established through public solicitations.                                                                                                                                                                                                                                |
| <b>Section VII – Exceptions to Standard Purchasing Procedures</b> |                       |                                                                                                                                                                                                                                                                                                                                                                                                 |
| Entire Section                                                    | Clarification         | Relocates certain provisions to other sections of the Policy                                                                                                                                                                                                                                                                                                                                    |
| <b>Section VIII – General Provisions</b>                          |                       |                                                                                                                                                                                                                                                                                                                                                                                                 |
| VIII.A. Environmentally Preferable Purchasing (EPP)               | Policy                | Modifies EPP: (1) Limits EPP to Purchases of Goods; (2) Changes procedure for implementing EPP by requiring the General Manager to update the Administrative Purchasing Procedures to identify standards and specifications that apply to Purchases of Goods, rather than applying a preference as part of the solicitation.                                                                    |

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