

REVISED***Regional Conservation Authority*****Policy for Local Development Mitigation Fee Remittance
by Member Agencies****Staff Contact:****Best Best & Krieger LLP
(951) 686-1450****Background:**

The MSHCP and related Implementing Agreement provide for the establishment of a Local Development Mitigation Fee to fund the acquisition of conservation lands within western Riverside County. The Implementing Agreement and Fee ordinances adopted by the Member Agencies require each agency to collect the Fees from new development within western Riverside County. Staff believes that it is important to establish policies by which the fees will be collected by the member agencies and remitted to the RCA. Issues addressed in the policy could include the timeframe for remittance of fees to the RCA, the process for accounting for such fees and the remedies available to the RCA should the fees not be collected or remitted in a timely manner. Staff believes that it is important to establish these policies in order to assure that all of the member agencies are treated consistently with regards to the collection and remittance of fees as well as to assure the timely availability of funds for the agency. Should the Board concur with this concern, we recommend that the Board direct staff to prepare these policies for presentation to the Administrative Committee and the Board of Directors.

Staff Recommendation:

Consider directing staff to prepare a policy regarding the collection and remittance of Local Development Mitigation Fees by member agencies for presentation to the Administrative Committee and Board at a subsequent meeting.

Attachments:

None

Regional Conservation Authority

**Policy for Review of Member Agency-Proposed
Local Development Mitigation Fee Credit**

Staff Contact:

**Best Best & Krieger LLP
(951) 686-1450**

Background:

The Western Riverside County MSHCP provides for the establishment of the Local Development Mitigation Fee to fund the acquisition of conservation lands within Western Riverside County. The Implementing Agreement and Implementing Mechanisms adopted by the Member Agencies require each agency to collect such fees from new development within Western Riverside County.

The generation, collection and expenditure of the Local Development Mitigation Fee is a key component to allow acquisition of the 153,000 acres of Additional Conservation Land that will complete the 500,000 acre MSHCP Reserve System.

Section 8.0 of the MSHCP states that a variety of incentives may be offered by the Local Permittees, including waiver and/or reduction of the fee. In some instances, such fee "credits" may be an appropriate tool to provide incentives to developers to contribute property. RCA Staff believes it is important, however, to establish a policy for the use of fee credits to ensure adequate funding exists for acquisition, including but not limited to review, comment and approval by RCA Staff. Should the Board concur with this issue, we recommend that the Board direct staff to prepare a policy for presentation to the Administrative Committee and the Board of Directors.

Staff Recommendation:

Consider directing staff to prepare a policy regarding the use of fee waivers and reductions for presentation to the Administrative Committee and Board of Directors at a subsequent meeting.

Attachments:

None

Regional Conservation Authority

Consideration of a Contract with DUDEK & Associates

Staff Contact:

**Best Best & Krieger, Legal Counsel
(951) 686-1450**

Background:

Under the Western Riverside County MSHCP, the RCA has an obligation to review certain proposed project applications submitted by its member agencies. This process is called the Joint Project/Acquisition Review Process (JPR). DUDEK & Associates was instrumental in drafting the biological sections and associated analyses for the MSHCP. They provided a technical bridge with the Resource Agencies that would enable the MSHCP to move forward with strong consensus. Their expertise would be beneficial to early stages of implementation of the Plan. The RCA's obligations concerning administration of the JPR process is critical to the success of this Plan. DUDEK & Associates brings strong technical and scientific experience which would benefit the JPR.

The RCA Board has budgeted up to \$250,000 for DUDEK & Associates services. A copy of the proposed DUDEK & Associates Scope of Services is attached.

Staff Recommendation:

Authorize the Chair to execute a contract with DUDEK & Associates for an amount not to exceed \$250,000, subject to review by RCA Legal Counsel.

Attachments:

DUDEK & Associates proposed Scope of Services

**DUDEK AND ASSOCIATES
SCOPE OF WORK AND COST ESTIMATE
ASSISTANCE TO RCA IN MSHCP IMPLEMENTATION
YEAR ONE**

Task 1 Criteria Consistency Review

It is Dudek's understanding that the role of the RCA is to provide review of project findings made by individual local Permittees, to monitor Reserve Assembly and implementation of the MSHCP requirements. Application of the Reserve Assembly guidance provided in the MSHCP is designed to occur first at the broad, landscape scale then proceed through the individual Cell Criteria. This approach is important to achieve a reserve configuration that provides significant blocks of habitat and minimizes internal fragmentation. Dudek will provide assistance to RCA staff in review of individual projects by examining the project in the context of the overall MSHCP Conservation Area and by relating the project to the MSHCP Conservation Area description in Section 3.2.2 of the Plan and the descriptions of the applicable Cores and Linkages in Section 3.2.3 of the Plan. The review process would continue with identification of the specific Area Plan and Area Plan Subunit within which the particular individual project is located and identification of Planning Species and Biological Issues and Considerations that apply to the specific project.

Review of the specific Criteria for the identified Cell or Cell Group within which the project site is located will then be done. Criteria for each Cell or Cell Group include sequential consideration of the following:

- Applicable Core or Linkage
- Vegetation Communities
- Percentage conservation portion of the Cell Criteria,

In addition to application of specific Criteria, projects may also be subject to additional policies/processes contained in the MSHCP, including policies relating to:

- Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools
- Protection of Narrow Endemic Plant Species
- Additional Survey Needs and Procedures
- Guidelines Pertaining to the Urban Wildlands Interface
- Best management practices
- Construction, siting, and design criteria
- Equivalent or biologically superior findings made in accordance with the processes described in Sections 6.1.2, 6.1.3, 6.3.2 and 6.5

The Local Permittees will provide findings to the RCA demonstrating that they have appropriately complied with all applicable requirements of the MSHCP. Dudek will review the findings made by the Local Permittees to determine the adequacy of the analyses and identify any possible issues. This scope of work assumes 1 to 2 meetings/review sessions per week with additional analysis of projects between meetings, for the first six months, and 1 meeting per week and additional analysis for second six month period. For purposes of cost estimation, it is assumed that an approximate average of 10 projects per month (projects of typical size and complexity) would be reviewed.

Estimated Costs - Months 1-6: \$21,000 per month

Estimated Costs - Months 7-12: \$16,000 per month

Total annual costs \$222,000

Task 2 Training

Training Local Permittee staff is identified in the MSHCP to occur within the first year of MSHCP implementation and to be ongoing during the life of the Permit. Dudek will provide training of RCA and Local Permittee staff through the project review process. It is anticipated that RCA staff and Local Permittee staff (if desired by the Local Permittee) will be in attendance at meetings where findings are reviewed, thus providing the opportunity for “on-the-job” training as individual cases are reviewed.

In addition to jointly reviewing individual projects, Dudek will provide monthly training sessions with Local Permittees to provide an overview of the project review process and detailed instruction regarding specific geographic considerations. In this way, the RCA could offer it’s members specialized training in the issues relevant to the members’ areas of jurisdiction.

Estimated Costs - Months 1-12: \$3,000 per month

Total Annual Costs: \$36,000

Task 3 As-Needed Management and Monitoring Consultation

Dudek will provide the selected management entity(ies) with assistance in interpreting management requirements of the MSHCP plan. In addition, Dudek can provide field assistance in implementing management and monitoring requirements. This initial scope includes

Estimated Costs – Months 1-12: \$2,000 per month

Total Annual Costs: \$24,000

GRAND TOTAL ANNUAL COSTS: \$282,000

*Regional Conservation Authority***Real Property Acquisition Policy****Staff Contact:****Best Best & Krieger, Legal Counsel
(951) 686-1450****Background:**

Under Section 3.D. of the Regional Conservation Authority (RCA) Joint Powers Authority (JPA) Agreement, the RCA has the power, in carrying out the purposes of the JPA, to acquire property and any interest in property, both real and personal by purchase, gift, option, grant, bequest, devise or otherwise, and hold and dispose of such property. Under Section 17 of the JPA, the laws of the State of California applicable to the County of Riverside govern the RCA in the manner of exercising its powers. Under Section 15 of the JPA, acquisition priorities are to be determined by the RCA's Board of Directors taking into consideration recommendations of the Funding Coordination Committee.

Pursuant to Government Code section 25350.60(a), the RCA may authorize an officer it deems appropriate to perform any or all acts necessary to approve and accept for the RCA the acquisition of any interest in real property. Under Government Code section 25350.60(b), the RCA must specify procedures for the exercise of the authority by the officer so designated and must establish a dollar limit on any purchase price. Pursuant to Government Code section 25355, the RCA may delegate to any officer or employee the power to accept any gift, bequest, or devise made to or in favor of the RCA for any public purpose.

The attached Ordinance 04-02 establishes a policy for property acquisition by the RCA. Specifically, the Ordinance authorizes the General Manager to acquire property in an amount up to \$100,000 without additional consultation and in an amount up to \$500,000 with the concurrence of the Funding Coordination Committee Working Group. The Ordinance also authorizes the General Manager to accept property as a gift, bequest or devise. The Ordinance reiterates the Funding Coordination Committee's role in recommending priorities for MSHCP Conservation Area acquisitions through the General Manager and requires the Authority to use standard forms to ensure consistency.

Recommendation:

Approve Ordinance No. 04-02 Establishing a Policy for Property Acquisition.

Attachment:

Ordinance No. 04-02

ORDINANCE NO. 04-02

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
ORDINANCE ESTABLISHING A POLICY FOR PROPERTY ACQUISITION

PREAMBLE

The Western Riverside County Regional Conservation Authority (“Authority”) is a public agency of the State of California formed by a Joint Exercise of Powers Agreement (“Agreement”). Pursuant to Section 3.D. of the Agreement, the Authority has the power, in carrying out the purposes of the Agreement, to acquire property and any interest in property, both real and personal by purchase, gift, option, grant, bequest, devise or otherwise, and hold and dispose of such property. Under Section 17 of the Agreement, the laws of the State of California applicable to the County of Riverside govern the Authority in the manner of exercising its powers. Under Section 15 of the Agreement, acquisition priorities are to be determined by the Authority’s Board of Directors taking into account any recommendations of the Funding Coordination Committee (“FCC”).

Pursuant to Government Code section 25350.60(a), the Authority may authorize an officer it deems appropriate to perform any or all acts necessary to approve and accept for the Authority the acquisition of any interest in real property. Under Government Code section 25350.60(b), the Authority must specify procedures for the exercise of the authority by the officer so designated and must establish a dollar limit on any purchase price. Pursuant to Government Code section 25355, the Authority may delegate to any officer or employee the power to accept any gift, bequest, or devise made to or in favor of the Authority for any public purpose.

The Western Riverside County Regional Conservation Authority ordains as follows:

SECTION 1. AUTHORITY. This Ordinance is enacted, in part, pursuant to the provisions of Government Code sections 25350, 25350.60, and 25355.

SECTION 2. AUTHORITY OF GENERAL MANAGER FOR LAND ACQUISITION GENERALLY.

2.1 Authority Up To \$100,000

The Authority authorizes its General Manager to perform any or all acts necessary, including the execution of a certificate of acceptance on behalf of the Authority, to approve and accept for the Authority the acquisition of any interest in real property consistent with the Multi-Species Habitat Conservation Plan (MSHCP) in an amount up to \$100,000.

2.2 Authority Up To \$500,000

The Authority authorizes its General Manager to perform any or all acts necessary, including the execution of a certificate of acceptance on behalf of the Authority, to approve and accept for the Authority the acquisition of any interest in real property consistent with the MSHCP, with the consent of the FCC Working Group, in an amount up to \$500,000. The FCC Working Group shall be comprised of the Executive Director, General Manager, the Chairperson of the Funding Coordination Committee, Legal Counsel, and other individuals appointed by the Chairperson of the Authority.

2.3 Acquisitions Greater than \$500,000 Require Board Approval

The acquisition of any interest in real property in an amount greater than \$500,000 shall require an affirmative vote of the Authority's Board of Directors.

2.4 Expiration of Authority

Pursuant to Government Code section 25350.60(c) the authority granted the General Manager under this section will be effective only until five years from the date this Ordinance is adopted unless renewed.

SECTION 3. BROADER AUTHORITY TO ACCEPT GIFTS, BEQUESTS AND DEVICES.

Notwithstanding the limitations which would otherwise be imposed under Section 3 of this Ordinance, the Authority authorizes its General Manager to perform any or all acts necessary, including the execution of a certificate of acceptance on behalf of the Authority, to approve and accept for the Authority the acquisition of any interest in real property consistent with the MSHCP obtained through gift, bequest, or devise made to or in favor of the Authority for any public purpose without regard to the value of the property so obtained.

**SECTION 4. ACQUISITION PRIORITIES TO BE DETERMINED BY THE BOARD
BASED ON RECOMMENDATIONS OF THE FUNDING COORDINATION
COMMITTEE THROUGH THE EXECUTIVE DIRECTOR**

Pursuant to Section 15 of the Agreement, the Authority's Board of Directors shall establish local funding priorities for acquisitions. The Funding Coordination Committee formed by the Board may provide recommendations on these priorities through the General Manager.

SECTION 5. FORM OF ACQUISITION DOCUMENTS

Standard documents, approved as to form by the Authority's counsel, shall be used to ensure consistency in the Authority's land acquisition process. Counsel must approve any deviation from the standard documents. Any such deviation shall be minor.

October 4, 2004	By: _____ Robin Reeser Lowe, Chairperson Western Riverside County Regional Conservation Authority
ATTESTED: By: _____	