



MEETING AGENDA

TIME/DATE: 12:30 p.m. / Monday, February 1, 2021

Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the meeting will only be conducted via video conferencing and by telephone. Please follow the instructions on the following page to join the meeting remotely.

BOARD OF DIRECTORS

Chair – Natasha Johnson

Vice Chair – Jeff Hewitt

Kevin Jeffries, County of Riverside, District 1
Karen Spiegel, County of Riverside, District 2
Chuck Washington, County of Riverside, District 3
V. Manuel Perez, County of Riverside, District 4
Jeff Hewitt, County of Riverside, District 5
Colleen Wallace / David Happe, City of Banning
Julio Martinez / Mike Lara, City of Beaumont
Jeff Cervantez / Bill Davis, City of Calimesa
Larry Greene / Jeremy Smith, City of Canyon Lake
Tony Daddario / Wes Speake, City of Corona
Jocelyn Yow / Todd Rigby, City of Eastvale
To Be Appointed / To Be Appointed, City of Hemet
Lorena Barajas / Leslie Altamirano, City of Jurupa Valley
Natasha Johnson / Bob Magee, City of Lake Elsinore
Lesa Sobek / Bob Karwin, City of Meniffee
David Marquez / To Be Appointed, City of Moreno Valley
Jonathan Ingram / Christi White, City of Murrieta
Kevin Bash / Katherine Aleman, City of Norco
David Starr Rabb / Malcolm Corona, City of Perris
Andy Melendrez / Ronaldo Fierro, City of Riverside
Crystal Ruiz / Phil Ayala, City of San Jacinto
Maryann Edwards / Zak Schwank, City of Temecula
Ben J. Benoit / Joseph Morabito, City of Wildomar

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

www.wrc-rca.org

MEETING AGENDA*

***Actions may be taken on any item listed on the agenda**

12:30 p.m.

Monday, February 1, 2021

Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the Board meeting will only be conducted via video conferencing and by telephone. Please follow the instructions below to join the meeting remotely.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Join Zoom Meeting

Join Zoom Meeting

<https://rctc.zoom.us/j/89041830574>

Meeting ID: 890 4183 0574

One tap mobile

+16699006833,,89041830574# US

For members of the public wishing to submit comment in connection with the Board of Directors Meeting please email written comments to the Clerk of the Board at lmobley@rctc.org prior to January 31, 2021 at 5:00 p.m. and your comments will be made part of the official record of the proceedings. Members of the public may also make public comments through their telephone or Zoom connection when recognized by the Chair.

In compliance with the Brown Act and Government Code Section 54957.5, agenda materials distributed 72 hours prior to the meeting, which are public records relating to open session agenda items, will be available for inspection by members of the public prior to the meeting on the RCA's website, www.wrc-rca.org.

In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, Executive Order N-29-20, and the Federal Transit Administration Title VI, please contact the Clerk of the Board at (951) 787-7141 if special assistance is needed to participate in a Board meeting, including accessibility and translation services. Assistance is provided free of charge. Notification of at least 48 hours prior to the meeting time will assist staff in assuring reasonable arrangements can be made to provide assistance at the meeting.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**

4. **PUBLIC COMMENTS** – Under the Brown Act, the Board should not take action on or discuss matters raised during public comment portion of the agenda that are not listed on the agenda. The Board members may refer such matters to staff for factual information or to be placed on the subsequent agenda for consideration.
5. **ADDITIONS / REVISIONS** – *The Board may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Board subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Board. If there are less than 2/3 of the Board members present, adding an item to the agenda requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.*
6. **CONSENT CALENDAR** – *All matters on the Consent Calendar will be approved in a single motion unless the Board Member(s) requests separate action on specific item(s). Items pulled from the Consent Calendar will be placed for discussion at the end of the agenda.*

6A. APPROVAL OF MINUTES – DECEMBER 7, 2020

Page 1

6B. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE COLLECTION REPORTS

Page 16

Overview

This item is for the Board of Directors to:

- 1) Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Reports for November and December 2020; and
- 2) Direct staff to provide fee collection updates to the Board on a quarterly basis.

6C. ADOPT RESOLUTION 2021-001 RELATED TO REVISED INVESTMENT POLICY

Page 20

Overview

This item is for the Board of Directors to:

- 1) Approve the revised investment policy for the Western Riverside County Regional Conservation Authority (RCA); and
- 2) Adopt Resolution No. 2021-001, *“Resolution of the Board of the Western Riverside County Regional Conservation Authority Adopting a Statement of Investment Policy”*.

6D. ADOPT RESOLUTION 2021-002 RELATED TO DELEGATION OF AUTHORITY TO SIGN INSTRUMENTS ON BEHALF OF THE EXECUTIVE DIRECTOR IN THE EXECUTIVE DIRECTOR’S ABSENCE

Page 41

Overview

This item is for the Board of Directors to:

- 1) Approve the delegation of authority to sign instruments on behalf of the Executive Director in the Executive Director’s absence; and
- 2) Adopt Resolution No. 2021-002, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Delegating Authority to Sign Instruments on Behalf of the Executive Director in the Executive Director’s Absence”*.

6E. ADOPT RESOLUTION 2021-003 AUTHORIZING THE ACCEPTANCE OF CREDIT CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFER AS ADDITIONAL METHODS OF PAYMENT AND COLLECTION OF PAYMENT PROCESSING FEES

Page 44

Overview

This item is for the Board of Directors to:

- 1) Approve the acceptance of credit cards, debit cards, and electronic funds transfer as additional methods of payment and collection of payment processing fees; and
- 2) Adopt Resolution No. 2021-003, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Authorizing the Acceptance of Credit Cards, Debit Cards, and Electronic Funds Transfer as Additional Methods of Payment and Collection of Payment Processing Fees”*.

7. CLOSED SESSION

7A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Agency Negotiator: Executive Director or Designee

Item	Property Description	Property Owner	Buyer(s)
1	470-080-015	Rodrigows, et al	RCA
2	583-190-050, 583-200-014, 583-200-018, 583-200-065	Mustang Lane LLC	RCA
3	427-170-040 and 427-170-042	Peter J Cohen	RCA
4	470-080-015	Cheryl McCurry	RCA
5	932-170-016	The Nature Conservancy	RCA

7B. REPORT OUT FROM CLOSED SESSION

8. ADOPT ORDINANCE NO. 21-01 RELATED TO PROCUREMENT POLICY MANUAL AND RESOLUTION NO. 2021-005 RELATED TO ELECTRONIC SIGNATURE USE POLICY

Page 49 Overview

This item is for the Board of Directors to:

- 1) Approve the revised Riverside County Transportation Commission (RCTC) and Western Riverside County Regional Conservation Agency (RCA) Procurement Policy Manual (PPM) for the procurement and contracting activities undertaken by the agencies, pursuant to legal counsel review as to conformance to state and federal law;
- 2) Rescind Ordinance No. 08-02, *“An Ordinance of the Western Riverside County Regional Conservation Agency Adopting a Purchasing Policy for Supplies, Materials, or Equipment”*;
- 3) Introduce Ordinance No. 21-01, *“Ordinance of the Western Riverside County Regional Conservation Agency Regarding the Revised Procurement Policy Manual”*;
- 4) Approve the Electronic Signature Use Policy for the use of electronic signatures in lieu of manual signatures, pursuant to legal counsel review; and
- 5) Adopt Resolution No. 2021-005, *“Resolution of the Western Riverside County Regional Conservation Agency Regarding the Electronic Signature Use Policy”*.

9. INTRODUCTION OF RESOLUTION NO. 2021-006 TO AMEND BYLAWS WITH REGARD TO THE EXECUTIVE DIRECTOR’S PURCHASING AUTHORITY AND OTHER ADMINISTRATIVE CHANGES

Page 134 Overview

This item is for the Board of Directors to:

- 1) Approve the proposed amendments to the Western Riverside County Regional Conservation Authority (RCA) Bylaws, subject to the four-week noticing period required in Article XIII(B) of the RCA Bylaws; and
- 2) Introduce Resolution No. 2021-006, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Amending Its Bylaws with Regard to the Executive Director’s Purchasing Authority and Other Administrative Changes”*.

10. ADOPT RESOLUTION NO. 2021-004 RELATED TO A SUPER BLOOM POLICY

Page 152

Overview

This item is for the Board of Directors to:

- 1) Approve a super bloom policy; and
- 2) Adopt Resolution No. 2021-004, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Super Bloom Policy”*.

11. APPOINTMENT OF EXECUTIVE COMMITTEE MEMBERS

12. PRESENTATION - GETTING TO KNOW THE MSHCP

13. PRESENTATION - SPECIES OF THE MONTH

14. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

15. BOARD OF DIRECTORS / EXECUTIVE DIRECTOR REPORT

Overview

This item provides the opportunity for the Board of Directors and the Executive Director to report on attended meetings/conferences and any other items related to Commission activities.

- RCA Management Transition
- Nexus Study Implementation Update

16. ADJOURNMENT

The next meeting of the Board of Directors is scheduled to be held on **Monday, March 1, 2021**, via Zoom.

AGENDA ITEM 6A

MINUTES



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**BOARD OF DIRECTORS
MEETING MINUTES
Monday, December 7, 2020**

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority was called to order by Chair Ingram at 12:30 p.m., Monday, December 7, 2020, via Zoom, at the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California, 92501.

2. PLEDGE OF ALLEGIANCE

Vice-Chair Johnson led the RCA Board Members and meeting attendees in a flag salute.

3. ROLL CALL

Member Agency	Board Member Name	Status
City of Banning	Daniela Andrade***	Present
City of Beaumont	Julio Martinez***	Present
City of Calimesa	Ed Clark***	Present
City of Canyon Lake	Larry Greene	Absent
City of Corona	Jacque Casillas	Absent
City of Eastvale	Jocelyn Yow***	Present
City of Hemet	Michael Perciful	Absent
City of Jurupa Valley	Lorena Barajas***	Present
City of Lake Elsinore*	Natasha Johnson, Vice Chair***	Present
City of Menifee	Lesa Sobek***	Present
City of Moreno Valley	David Marquez***	Present
City of Murrieta	Jonathan Ingram, Chair***	Present
City of Norco	Kevin Bash***	Present
City of Perris	David Starr Rabb***	Present
City of Riverside*	Andy Melendrez***	Present
City of San Jacinto	Crystal Ruiz***	Present
City of Temecula	Maryann Edwards*, ***	Present
City of Wildomar	Joseph Morabito***	Present
County District 1	Kevin Jeffries***	Present
County District 2	Karen Spiegel***	Present
County District 3	Chuck Washington	Absent
County District 4	V. Manuel Perez	Absent
County District 5	Jeff Hewitt***	Present

*Arrived after roll call was taken ** Departed before meeting adjourned ***via teleconference

4. PUBLIC COMMENT

The Building Industry Association of Southern California, Riverside Chapter submitted a letter in support of Agenda Item 11, 2020 Nexus Study, Revised MSHCP Local Development Mitigation Fee Ordinance, Resolution, MSHCP Mitigation Fee Implementation Manual, and Resolution 2020-013 to Repeal Resolution Nos. 2007-04 and 2161-003 and the “Tenants Relating to Local Infrastructure Contribution.” The letter was read into the record.

5. CLOSED SESSION

5A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to Government Code Section 54956.8

Agency Negotiator: RCA – Interim Executive Director or Designee

Under Negotiation: Price/Terms

Item	Assessor No(s)	Parcel	Negotiating Party(ies)/Agent
5A.1	915-280-012		W.H.J. Selders/Martha McKay
5A.2	917-280-002		Marlene Catlin Lowe, Catlin Investment Company/Ed Sauls, Garret Sauls
5A.3	915-140-066, 915-140-067		Peter Eustachio, Grace Eustachio, Joseph Eustachio, and Santa Eustachio/Matt Weaver

After Closed Session, the meeting was reconvened. Steve DeBaun, General Counsel, announced the following:

Concerning Agenda Item No. 5A.1 – APN 915-280-012, the Board of Directors approved a Purchase and Sale Agreement to purchase approximately 23.13 acres of real property for \$130,000.

Concerning Agenda Item No. 5A.2 – APN 917-280-002, the Board of Directors approved a Purchase and Sale Agreement to purchase approximately 23.84 acres of real property for \$95,000.

Concerning Agenda Item No. 5A.3 – APNs 915-140-066 and 915-140-067, the Board of Directors approved a Purchase and Sale Agreement to purchase approximately 103.04 acres of real property for \$670,000.

RESULT:	APPROVED AS RECOMMENDED [17 TO 0]
MOVER:	San Jacinto
SECONDER:	Menifee
AYES:	Banning, Beaumont, Calimesa, Eastvale, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Wildomar, District 1, District 2, District 5
NAYS:	None
ABSENT:	Canyon Lake, Corona, Hemet, Temecula, District 3, District 4

6. BOARD MEMBER ANNOUNCEMENTS (This item provides the opportunity for the Board Members to report on attended meetings/conferences and any other items related to RCA activities.)

There were no Board Member announcements.

7. ADDITIONS/REVISIONS (The Board may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Board subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Board. If there are less than 2/3 of the Board Members present, adding an item requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.)

There were no additions or revisions.

8. APPROVAL OF MINUTES — November 2, 2020, meeting of the RCA Board of Directors.

RESULT:	APPROVED AS RECOMMENDED [17 TO 0]
MOVER:	San Jacinto
SECONDER:	District 5
AYES:	Banning, Beaumont, Calimesa, Eastvale, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Wildomar, District 1, District 2, District 5
NAYS:	None
ABSENT:	Canyon Lake, Corona, Hemet, Temecula, District 3, District 4

9. **CONSENT CALENDAR (All matters listed under the Consent Calendar will be approved in a single motion unless a Board Member requests separate action on specific Consent Calendar item. The item will be pulled from the Consent Calendar and placed for discussion.)**

RESULT:	APPROVED AS RECOMMENDED [17 TO 0]
MOVER:	District 1
SECONDER:	District 5
AYES:	Banning, Beaumont, Calimesa, Eastvale, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Wildomar, District 1, District 2, District 5
NAYS:	None
ABSENT:	Canyon Lake, Corona, Hemet, Temecula, District 3, District 4

9.1 WESTERN RIVERSIDE COUNTY MSHCP FEE COLLECTION REPORT FOR OCTOBER 2020

Overview

This item is for the RCA Board of Directors to receive and file the Western Riverside County MSHCP Fee Collection Report for October 2020.

9.2 PROPOSED 2021 RCA BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE MEETING SCHEDULE

Overview

This item is for the RCA Board of Directors to adopt the Proposed 2021 Meeting Schedule of the RCA Board of Directors and Executive Committee.

9.3 FISCAL YEAR 2021 FIRST QUARTER FINANCIAL REPORT AND BUDGET ADJUSTMENT

Overview

This item is for the RCA Board of Directors to:

- 1) Receive and file the Fiscal Year 2021 First Quarter Financial Report;
- 2) Approve the budget adjustment contained in Exhibit A; and
- 3) Authorize the Chair to direct the Auditor-Controller to make the budget adjustment contained in Exhibit A.

10. FISCAL YEAR 2020 AUDITED FINANCIAL STATEMENTS

Jennifer Fuller, Director of Administrative Services, presented the Fiscal Year 2020 Audited Financial Statements. She stated that this is the fourth year the RCA has been audited by Brown Armstrong Accountancy Corporation. Due to COVID restrictions, the auditors conducted the audit from their office and worked with RCA staff remotely. The audit went smoothly, and no problems were encountered.

The Independent Auditor's Report indicates that the financial statements present fairly in all material respects, the financial position of the RCA as of June 30, 2020. The opinion was "clean" or "unmodified" which means that the RCA's accounting and financial reporting is consistent with GAAP (Generally Accepted Accounting Principles).

Ms. Fuller stated that revenues exceeded expenditures in the General Fund by \$1.2 million. This is a direct result of Landfill Tipping Fees of \$3.8 million and interest of \$416 thousand. Both of these revenue sources exceeded budget expectations. The General Fund's Fund Balance increased from \$25.7 million in Fiscal Year 2019 to \$26.9 million by the end of Fiscal Year 2020. Of this amount, \$23.8 million is unassigned, which means the RCA can use it toward of any of its programs without restrictions. The RCA Board committed \$3.1 million on June 11, 2020, toward pension retirement for County staff dedicated to RCA. An additional \$82 thousand of the General Fund's Fund Balance is restricted by outside agencies for Burrowing Owl related expenditures.

Ms. Fuller discussed the Capital Projects Fund next. She stated that in the Capital Projects Fund, revenues of \$22.8 million exceeded expenditures of \$14.7 million in Fiscal Year 2020 by \$8.1 million. The RCA received \$16.1 million in Mitigation Fees for Fiscal Year 2020, which was 9% less than the \$17.8 million collected in Fiscal Year 2019. During Fiscal Year 2020, Member Agencies collected MSHCP fees on approximately 6,657 residential units and 463 acres of industrial/commercial development. In addition, the Capital Projects Fund received \$3 million in Measure A funds and \$2 million in TUMF funds toward land acquisition.

The Capital Projects' Fund Balance increased by \$8.1 million, from \$12.1 million in Fiscal Year 2019 to \$20.1 million in Fiscal Year 2020.

Ms. Fuller stated the RCA's capital assets increased by \$13.7 million during Fiscal Year 2020. RCA acquired 29 new properties and 3 conservation easements. The ARL acquired during the year was 1,088 acres.

During the year, the Permanent Endowment Fund received one permanent contribution of \$267 thousand. This brings the total permanent endowment fund balance to \$4.6 million. In addition, the RCA has assigned \$1.3 million in fund balance in the permanent endowment fund by setting aside 10% of PSE revenues since 2013 and committing \$500 thousand from tipping fees in Fiscal Year 2019. Interest earned and restricted for endowment funds is \$432 thousand since inception. Total fund balance is \$6.8 million.

RCA was not required to undergo a Single Audit for Fiscal Year 2020 which is required for entities with expenditures over \$750 thousand in federal funds. In Fiscal Year 2020, the RCA expended about \$457 thousand in federal funds, including \$20 thousand in

CARES funds. Currently, the RCA staff is negotiating various properties eligible for federal funds which amount to at least \$6.5 million. RCA currently has \$11.3 million in federal grants awarded (\$1.3 million in 2017 and \$10 million 2019 Section 6 grant funds).

Ms. Fuller thanked the accounting team for their hard work and dedication.

RESULT:	APPROVED AS RECOMMENDED [17 TO 0]
MOVER:	Menifee
SECONDER:	Banning
AYES:	Banning, Beaumont, Calimesa, Eastvale, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Wildomar, District 1, District 2, District 5
NAYS:	None
ABSENT:	Canyon Lake, Corona, Hemet, Temecula, District 3, District 4

Overview

This item is for the RCA Board of Directors to receive and file the following reports:

- 1) Basic Financial Statements and Independent Auditors' Report for the Year Ended June 30, 2020; and
- 2) SAS 114 Report – *The Auditors' Communication with Those Charged with Governance*.

11. 2020 NEXUS STUDY, REVISED MSHCP LOCAL DEVELOPMENT MITIGATION FEE ORDINANCE, RESOLUTION, MSHCP MITIGATION FEE IMPLEMENTATION MANUAL, AND RESOLUTION 2020-014 TO REPEAL RESOLUTION NOS. 2007-04 AND 2016-003, AND THE "TENANTS RELATING TO LOCAL INFRASTRUCTURE CONTRIBUTION"

Representative from City of Temecula arrived during the discussion on this item.

Honey Bernas, Interim Executive Director, gave a presentation on the 2020 Nexus Study and related items. She stated that the RCA was formed in 2004 to achieve one of America's most ambitious environmental efforts, the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP is vital to the future economic, residential, and transportation needs of western Riverside County. It is the largest conservation plan of its kind in the nation with at 500,000 acres with nearly 410,000 acres assembled in the reserve to date. The MSHCP provides Endangered Species Act coverage under the federal and state permits for critical wildlife areas, accelerating construction of freeway and road projects by as much as five years, saving taxpayers more than \$500 million to date. The MSHCP has expedited the construction of more than 35 transportation improvement projects.

Ms. Bernas provided background on the Nexus Study and the MSHCP Local Development Mitigation Fees (LDMF). She stated that the implementation of the MSHCP

LDMF and the overall financing of the MSHCP have been serious concerns for years. The RCA has not updated the original Nexus Study that was used to determine the original LDMF in 2004. Delays occurred due to the slow economic recovery from the Great Recession of 2008 and except for periodic Consumer Price Index (CPI) adjustments, the fee adopted in 2004 has not changed. Staff have been working with Economic & Planning Systems, Inc. to prepare the updated Nexus Study.

The Nexus Study provides the financials and technical justification for the changes to the LDMF fee schedule that applies to Local Permittee participants in the MSHCP. Changes are necessary to ensure adequate funding of the obligations of the Local Permittees under the MSHCP and the associated Incidental Take Permit and Implementing Agreement. The resulting increased fee revenues will support the continued implementation of the MSHCP; streamlining of endangered species incidental take permitting for new development in western Riverside County; and the funding necessary to acquire, monitor, and manage the 500,00 acres reserve required by the MSHCP. The updated Nexus Study is consistent with California Government Code Section 66000 et seq., the Mitigation Fee Act.

Ms. Bernas next discussed the results of the 2020 Nexus Study stating that the adjustment to the LDMF is the result of several contributing factors which are thoroughly explained in the 2020 Nexus Study. These primary factors are lower than expected land dedications which substantially increased Local Permittee overall land acquisition costs, lower than expected regional infrastructure public contributions which reduced non-fee funding available, the change toward consistent “per gross developed acre” fee basis which provided a more consistent approach for all land use development types, inclusion of a non-depleting endowment to cover land management and monitoring required beyond the fee collection period, and the estimates of average per acre land costs did not change substantially from the prior Nexus Study.

Overall changes include adding language reaffirming that RCA is the administrator; authorizing the RCA to receive all fees generated; and to invest, account for, and expend fees in accordance with the MSHCP. Other changes include adding additional clarification with respect to refunds, clarifying the exemptions, adding additional clarifying language that the LDMF will be paid no later than building permit issuance, proposing a Fee Resolution in addition to the Fee Ordinance to allow for a more efficient process for future fee updates, and rescinding Resolutions 2007-04 and 2016-003 and “*Tenants Relating to Local Infrastructure Contributions.*” Staff also assembled an MSHCP Mitigation Fee Implementation Manual which sets the rules for fee implementation, discusses the collection and remittance of fees, outlines the appropriate methods for calculating mitigation payments for different types of projects, provides multiple examples of how to apply the LDMF, and should make it easier for Local Permittees to implement the fee. Permittees have asked for a manual to be developed.

The Building Industry Association of Southern California, Riverside Chapter reviewed the 2020 Nexus Study and provided feedback to staff. Based on that discussion a two phased fee increase is recommended with half of the increase effective July 1, 2021 and the full fee effective January 1, 2022 along with a 15-year extension of the land acquisition period so the fee increase will not be so substantial.

Chair Ingram asked if staff had reviewed the question concerning single-family homes asked by Board Member Jeffries during the Executive Committee. Ms. Bernas stated that staff considered the possible exemption but did not recommend an exemption as single-family homes currently pay the LDMF. If the Board of Directors were to not implement the LDMF on single-family homes, there would need to be a discussion on where the lost funding would be recovered from.

Board Member Jeffries has always felt that an individual who owns property who is building their home on their land and they are not subdividing or building track homes, should be exempt from the LDMF to build their one home on their one parcel.

Chair Ingram asked for clarification from Counsel on the discussion of the single-family homes. Steve DeBaun, Legal Counsel stated that the hope was to move forward with the item today but the discussion around the single-family home could occur and an addendum could be added to the motion if needed to bring the single-family homes back for discussion at a future meeting. The implementation manual could be used to document these changes without having to update the Ordinance.

Board Member Hewitt stated that the matter deserves more discussion

Board Member Spiegel asked legal counsel for clarification on his statements and asked if the package will be sent out to the Member Agencies to be adopted in time to be effective July 1, 2020.

Steve DeBaun, General Counsel, responded that staff has added an implementation manual to allow the Board to make certain changes to the fee program without requiring the cities without having to change the ordinance. It does not allow us to change the fee, but it would allow for changes like the question from Board Member Jeffries.

Ms. Bernas introduced Teifion Rice-Evans, Managing Principal with Economic & Planning Systems, Inc. to give a presentation on the Nexus Study.

Mr. Rice-Evans stated that the 2020 Nexus Study Update is a detailed technical document with many assumptions. His presentation gave a summary of the document, the assumptions, and the conclusions. The goal of the Nexus Study is to ensure there is sufficient funding for MSHCP implementation. To complete the Nexus Study, it was necessary to identify the funding responsibilities, the total plan implementation costs, and the Local Permittee and state and federal cost responsibilities. From there the mitigation fees must be determined. Much had changed over 16 years, making the Nexus Study important to ensure appropriate funding for RCA to meet its obligations.

Three primary reasons why funding of the MSHCP has been more challenging and why fee increases are needed are the Great Recession, the limited land dedications, and the endowment was not included in the current fee. The endowment will allow for management, monitoring, and administrative costs to be paid for after the acquisition period into perpetuity as the MSHCP asks for.

Mr. Rice-Evans next discussed the methodology saying it was a five-step process like the 2004 study. The steps included identifying the overall obligations, how much was

RCA/Local Permittee obligations, and what was left; estimating the Local Permittee implementation costs including land acquisition costs, land management and monitoring costs, the cost of program administration, and amount needed to fund the endowment; estimating other local funding sources that reduce the amount that needs to be collected through the LDMF; determining mitigation fees required to cover net costs; and determining mitigation fee scenarios with varying extension of the acquisition period to moderate the fee increases.

All the obligations came to approximately \$975 million in today's dollars to complete the plan. The net amount after other funding sources is approximately \$912 million. Most of the obligation relates to land acquisition at over \$700 million.

Mr. Rice-Evans next presented the extension scenarios with respect to the mitigation fee per acre for each time frame. The main benefit of the extension is to spread the cost over a much larger amount of development to lower the mitigation fee per acre. The per acre fee was translated into per unit amounts for residential development to limit the amount of programming needed by Member Agencies.

Finally, Mr. Rice-Evans provided the estimated annual revenues under the different extension scenarios including the division between RCA Core functions and the endowment funding.

Chair Ingram stated that during the process the RCA was very aware of the need to moderate the needed increases with fee amounts that were manageable to the local economy.

Board Member Marquez would be comfortable to vote today and come back in February for further discussion.

Board Member Sobek stated that if there is a question from a Board Member that it should be addressed. She would like to see the pros and cons and how a change with single-family home would affect the plan. The information is not available today to make that decision, therefore, the Board of Directors should approve the package today and bring back the other discussion in February.

Chair Ingram asked Board Member Jeffries for clarification on his question.

Board Member Jeffries stated that he would be looking at existing parcel when the RCA jurisdiction was approved. He is primarily concerned with the individual landowner trying to build their home on land they owned prior to the plan.

Board Member Spiegel stated that it would be a grandfather clause, when you have your home and your plans, now it changes in the middle. That is not something that we want to be a part of. She would support grandfathering in those. This is the family homeowner.

Board Member Hewitt stated that if it is just a matter of grandfathering something, they have owned for so long he probably would not have a problem with it. This is just one of many increasing fees that will increase the cost of housing. Single-family homes might do less disruption to the environment but then again individuals without children still pay for

schools. He does not know the makeup of ownership in the plan area which would be an important piece of information to know.

Board Member Clark from Calimesa would have an issue charging for accessory dwelling units (ADUs). ADUs are governed under state law.

Vice-Chair Johnson stated that she is not in favor of prolonging the discussion. Future discussion will need to happen with perhaps an amendment. She stated that the Nexus Study was long overdue. There will be other concerns that will pop up that will need to be addressed.

Board Member Morabito from Wildomar stated that concern would be under the previous rules.

Anne Mayer, RCTC Executive Director, stated she thinks the amendment process is workable. Staff could work during January to evaluate options and bring something back for discussion about the single-family homes in February with some more details and information. There is a lot of momentum currently with the BIA's support.

Karin Cleary-Rose, U.S. Fish and Wildlife Services stated that the MSHCP structurally facilitates to the best of its ability the single-family residences on existing legal lots. For owners of single-lots inside of the criteria area, none of the MSHCP reserve configuration things are applied to them. The point merits consideration, but it is up the Board of Directors to determine how to pay for the MSHCP and she appreciates the commitment to getting that done. It is helpful to remember that the MSHCP is providing for a single-family dwelling on every legal lot in the plan area should that landowner so choose without implementation of the rest of the policies that provide for conservation under the plan. The mitigation fee is not an enormous burden. If there is a line drawn, it will be difficult to determine how or where to draw that line for the grandfather clause.

Board Member Ruiz stated that she would be concerned with how the caveat would be worded and do an in-depth discussion on the topic.

Board Member Andrade stated that we need to put this on hold until February to make a good decision.

Board Member Melendrez wanted to know clarity on the fee amount for the single-family home. He does not think the amount of the fee is large enough to warrant this amount of discussion or to have a grandfather clause. He would most likely not be in favor of that when brought back. He wants the RCA to move forward and acquire lands for the reserve area.

Board Member Jeffries state that he is supportive of a motion to move staff recommendations and request that staff return in February with an analysis or recommendations on a grandfather clause. He wants to move forward with the Nexus Study if there is assurance that staff will return in February with an item on the grandfather clause.

Board Member Jeffries presented an alternate motion to move staff recommendations and request that staff return in February to both the Executive Committee and Board of Directors with grandfather possibilities to be evaluated.

RESULT:	APPROVED AS RESTATED [17 TO 1]
MOVER:	District 1
SECONDER:	District 2
AYES:	Beaumont, Calimesa, Eastvale, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 1, District 2, District 5
NAYS:	Banning
ABSENT:	Canyon Lake, Corona, Hemet, District 3, District 4

Overview

This item is for the RCA Board of Directors to:

- 1) Adopt the findings of the 2020 Nexus Study;
- 2) Extend the period to assemble the reserve by 15 years, until June 30, 2044;
- 3) Direct staff to send a revised Fee Ordinance and Fee Resolution to the Member Agencies for adoption prior to the implementation of the new fee on July 1, 2021;
- 4) Adopt Resolution 2020-013, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Repealing Resolutions 2007-04 and 2016-003 and the “*Tenants Relating to Local Infrastructure Contribution*” adopted on February 5, 2007; and
- 5) Approve the MSHCP Mitigation Fee Implementation Manual.

12. ELECTION OF 2021 RCA OFFICERS AND TWO MEMBERS OF THE RCA EXECUTIVE COMMITTEE

Representative from City of Eastvale departed the meeting at the start of this item.

Steve DeBaun, General Counsel, stated that this item is for the Board of Directors to elect a Chair and Vice-Chair. Per the RCA Bylaws the Chair or Vice-Chair must be a County Board of Supervisors member at least once every three years and 2021 will be the three-year mark. Following election of the Chair and Vice-Chair, the Board of Directors will be asked to appoint two members to the Executive Committee. At the February meeting the Chair will bring back his or her appointments to the two remaining seats on the Executive Committee for the Board’s ratification.

Chair Ingram asked for clarity on the Executive Committee members as most city councils had not appointed their members to Boards for the next calendar year yet.

Mr. DeBaun responded that the Executive Committee members could be delayed until February. There is a process for filling a vacant seat in the Bylaws in the event that a seat is open.

- 1) **Motion To:** Nominate Natasha Johnson, City of Lake Elsinore representative, for RCA Chair for 2021.

RESULT:	APPROVED AS RECOMMENDED [17 TO 0]
MOVER:	District 1
SECONDER:	District 2
AYES:	Banning, Beaumont, Calimesa, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 1, District 2, District 5
NAYS:	None
ABSENT:	Canyon Lake, Corona, Eastvale, Hemet, District 3, District 4

- 2) **Motion To:** Nominate Jeff Hewitt, County of Riverside District 5 representative, for RCA Vice-Chair for 2021.

RESULT:	APPROVED AS RECOMMENDED [17 TO 0]
MOVER:	Banning
SECONDER:	District 1
AYES:	Banning, Beaumont, Calimesa, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 1, District 2, District 5
NAYS:	None
ABSENT:	Canyon Lake, Corona, Eastvale, Hemet, District 3, District 4

Overview

This item is for the RCA Board of Directors to hold an election for the following RCA Offices and members of the RCA Executive Committee:

- 1) RCA Chair;
- 2) RCA Vice-Chair;
- 3) Member of the RCA Executive Committee; and
- 4) Member of the RCA Executive Committee.

13. EXECUTIVE DIRECTOR'S REPORT

13.1 WEBSITE UPDATE

Honey Bernas, Interim Executive Director, stated that the RCA website was honored with a Polaris Award by the Inland Empire Chapter of the Public Relations Society of America. The Polaris Award is the highest distinction awarded by the Public Relations Society of America to recognize exemplary public outreach efforts. Ms. Bernas thanked the RCA Board of Directors for its input and support during the website redevelopment process. She also thanked OPR Communications, for their hard work in coordinating this effort, along with RCA staff who dedicated their time to this tremendous undertaking. The RCA continues to receive great praise for the new website, and this award is a testament to the hard work and effort spent developing it.

13.2. MINOR AMENDMENT

Tricia Campbell, Director of Reserve Management and Monitoring, stated that the role of the RCA is to assist permittees with their minor amendments and to submit the package to the Wildlife Agencies. The RCA has no role in providing consistency findings for minor amendments. Only the Wildlife Agencies have that role.

However, in 2015, a draft minor amendment for roads was created that would expressly call out the ability of covered road exchange as a type of minor amendment and to have the RCA become part of the formal Consistency Findings process.

After much vigilance in working to get this amendment finalized, it has been decided by the California Department of Fish and Wildlife Counsel that having the RCA involved in providing concurrence on minor amendments is not necessary and that having a minor amendment specifically for road exchanges is not necessary. Any proposed covered road exchange needs to be minor and/or clerical in nature and as such no amendment is needed.

Ms. Campbell stated that this means that a letter will go out to Permittees letting them know that RCA will only be providing assistance if requested by the Member Agencies and the draft road amendment is no longer applicable to their road amendment submittals.

14. LAND ACQUISITION UPDATE

Honey Bernas, Interim Executive Director, reported that since the last land acquisition update, the RCA had acquired an additional 37 acres, bringing the reserve assembly total to approximately 62,801 acres. Total reserve lands including PQP are approximately 409,801 acres.

15. FEATURED SPECIES OF THE MONTH

Elizabeth "Betsy" Dionne, Ecological Resources Specialist, stated that the featured species for the month of December was the Southern Rubber Boa (*Charina bottae umbratica*). She then gave an overview of the Southern Rubber Boa's characteristics, life history, habitat, threats to the species, and how RCA manages for the species. Ms. Dionne was asked and responded to questions from Board members.

16. FUTURE AGENDA ITEMS: (Board Members are invited to suggest additional items to be brought forward for future discussion.)

No future agenda items were suggested.

17. PRESENTATIONS – RECOGNITION OF SERVICE

Chair Ingram recognized Honey Bernas, Interim Executive Director, for her service.

Recognition of Service plaques were presented to outgoing Board Members: Daniela Andrade representative, from the City of Banning; Ed Clark, representative from the City of Calimesa; and Michael Perciful, representative from the City of Hemet.

Vice-Chair Johnson presented a Recognition of Service plaque to the 2018-2020 RCA Chairman, Jonathan Ingram.

Jonathan Ingram has served as the RCA Chair for three years. During Jonathan's leadership, the RCA accomplished many important things, including, but not limited to:

- Management Transition to RCTC
- Nexus Study Update
- Acquired 4,528 acres of Additional Reserve Land during his leadership as the Chair
- Enhanced RCA's public outreach efforts, including revamping the RCA's website for which RCA was honored with a Polaris Award by the Inland Empire Chapter of the Public Relations Society of America
- Increased transparency, maintained high levels of communication, and tirelessly served the RCA

Chair Ingram thanked the RCA Board of Directors and staff and for the privilege of being Chair.

Board Member Hewitt stated that he has been on several different Boards, but he has never seen another Chair who has been so dedicated and moved a government agency so far ahead.

Board Members Edwards and Sobek thanked Chair Ingram for his service and the amount of time and dedication he put in.

18. ADJOURNMENT

There being no other items before the RCA Board, Chair Ingram adjourned the meeting at 2:10 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, February 1, 2021, at 12:30 p.m., at the John F. Tavaglione County Administrative Center Annex, Board Chambers, First Floor, 4080 Lemon Street, Riverside, California.

Respectfully submitted:



Jennifer Fuller

Director of Administrative Services

AGENDA ITEM 6B

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Jennifer Fuller, Financial Administration Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Western Riverside County Multiple Species Habitat Conservation Plan Fee Collection Reports

EXECUTIVE COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Reports for November and December 2020; and
- 2) Direct staff to provide fee collection updates to the Board on a quarterly basis.

BACKGROUND INFORMATION:

The Western Riverside County MSHCP Local Development Mitigation Fee (LDMF) collections provide funding for the acquisition of additional reserve lands and related costs. RCA budgeted \$10.5 million in LDMF collections for FY 2020/21. Attached are the Collection and Civic/Infrastructure Contribution LDMF reports for November and December 2020.

The Riverside County Transportation Commission (RCTC) and the Western Riverside County Regional Conservation Authority (RCA) entered into an Implementation and Management Services Agreement (Agreement) effective January 1, 2021. Under the Agreement, RCTC shall administer, coordinate, and supervise the activities of the RCA as set forth in the RCA Joint Exercise of Powers Agreement (JPA) and shall act for RCA in accomplishing its purposes. The County of Riverside provided management services for RCA under a prior agreement.

Among the reasons stated by the RCA Board for the management transition were management efficiencies, consolidation of administrative functions, and adding some of the professional practices of RCTC to the administration of RCA and the MSHCP.

Previously, staff generally presented these fee collection reports monthly to the Board. Staff reviewed the processes for interim financial reporting to the Board to determine any potential efficiencies. Staff proposes to prepare the fee collection updates to the Board on a quarterly basis as part of the quarterly financial statements reporting process. This shift from monthly to quarterly updates will provide the Board with information across multiple months in a

consolidated fashion, avail staff of additional time to address priorities, and align the updates with other financial reporting. In between updates to the Board, staff will maintain records of fee collection which can be made available to Board members and the public upon request.

FISCAL IMPACT:

There is no fiscal impact to the receipt and file of these fee collection reports.

Attachments:

- 1) Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for November 2020
- 2) Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for December 2020

Approved by the Executive Committee on January 20, 2021

In Favor: 6 Abstain: 0 No: 0

**WESTERN RIVERSIDE COUNTY MSHCP LDMF COLLECTION AND
CIVIC/INFRASTRUCTURE CONTRIBUTION REPORT FOR NOVEMBER 2020
CASH BASIS**

LOCAL DEVELOPMENT MITIGATION FEE COLLECTIONS						
City/County	Month	REMITTED			EXEMPTIONS & FEE CREDITS	
		Residential Permits	Commercial Industrial Acres	Amount Remitted	Residential Permits	Amount
City of Banning	October - No Activity					
City of Beaumont	October	12		\$26,808		
City of Calimesa	October	25		\$55,850		
City of Canyon Lake	October - No Activity					
City of Corona	October - Pending					
City of Eastvale	October - No Activity					
City of Hemet	October	14		\$31,210		
City of Jurupa Valley	October	18		\$40,212		
City of Lake Elsinore	October Summerly Project ¹	19		\$27,170	6	\$13,404
City of Menifee	August	103		\$218,846		
	September	108	2.8	\$262,493		
	October	100		\$212,144		
City of Moreno Valley	October	14	9.9	\$106,712		
City of Murrieta	September	1	1.5	\$13,415		
City of Norco	October - No Activity					
City of Perris	October - Pending					
City of Riverside	July	8		\$18,369		
	August	8	5.0	\$57,918		
	September	17	2.8	\$58,219		
City of San Jacinto	October	8		\$17,872		
City of Temecula	September	6		\$8,580		
	October Roripaugh DA ²	21	46.9	\$388,358	16	\$35,744
City of Wildomar	October	4		\$8,936		
County of Riverside	November	180	18.92	\$528,924		
Total LDMF Collections		666	87.81	\$2,082,035	22	\$ 49,148

CIVIC AND INFRASTRUCTURE CONTRIBUTIONS		
Flood Control and Water Conservation District	Norco - Crestview Drive Debris Basin, Stage 1	\$40,000
Total Civic/Infrastructure Contributions		\$40,000

TOTAL NOVEMBER 2020 \$2,122,035

¹ Summerly Project - Development agreement dated 8/24/04. Settlement Agreement with RCA per MOA dated 11/6/17.

² Roripaugh Development Agreement dated 12/17/02. Project is exempt under Assessment District 161.

**WESTERN RIVERSIDE COUNTY MSHCP LDMF COLLECTION AND CIVIC/INFRASTRUCTURE
CONTRIBUTION REPORT FOR DECEMBER 2020
CASH BASIS**

LOCAL DEVELOPMENT MITIGATION FEE COLLECTIONS						
City/County	Month	REMITTED			EXEMPTIONS & FEE CREDITS	
		Residential Permits	Commercial Industrial Acres	Amount Remitted	Residential Permits	Amount
City of Banning	November-Pending					
City of Beaumont	November	28	1.5	\$73,961		
City of Calimesa	November	30		\$67,020		
City of Canyon Lake	November	1		\$2,234		
	December	1		\$2,234		
City of Corona	October	17		\$28,686		
City of Eastvale	November	6		\$9,644		
City of Hemet	November	47		\$81,602		
City of Jurupa Valley	November	8		\$17,872		
City of Lake Elsinore	November	18		\$27,282		
	Summerly Project ¹				48	\$107,232
City of Menifee	November	91		\$203,294		
City of Moreno Valley	November	119		\$142,121		
City of Murrieta	October	8	5.0	\$55,955		
	November-No Activity					
City of Norco	November-No Activity					
City of Perris	October	31	24.0	\$251,798		
City of Riverside	October-Pending			\$0		
City of San Jacinto	November	23	0.32	\$53,816		
City of Temecula	November-Pending			\$0		
	Roripaugh DA ²				7	\$15,638
City of Wildomar	November	1		\$2,234		
County of Riverside	December	301		\$672,434		
Total LDMF Collections		730	30.83	\$1,692,187	55	\$ 122,870

CIVIC AND INFRASTRUCTURE CONTRIBUTIONS		
None		
Total Civic/Infrastructure Contributions		\$0

TOTAL DECEMBER 2020 \$1,692,187

¹ Summerly Project - Development agreement dated 8/24/04. Settlement Agreement with RCA per MOA dated 11/6/17.

² Roripaugh Development Agreement dated 12/17/02. Project is exempt under Assessment District 161.

AGENDA ITEM 6C

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Jennifer Fuller, Financial Administration Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Adopt Resolution 2021-001 Related to Revised Investment Policy

EXECUTIVE COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Approve the revised investment policy for the Western Riverside County Regional Conservation Authority (RCA); and
- 2) Adopt Resolution No. 2021-001, *“Resolution of the Board of the Western Riverside County Regional Conservation Authority Adopting a Statement of Investment Policy”*.

BACKGROUND INFORMATION:

Under California law, every public agency is required to adopt an investment policy which shall be updated periodically. Per the RCA Investment Policy, the policy shall be reviewed annually by the Board of Directors. Pursuant to the RCA Joint Exercise of Powers Agreement (JPA), the Riverside County Treasurer acts as the Treasurer for the RCA, and the County’s investment schedule was incorporated into the RCA policy to help assure consistency between the agencies.

The County’s Investment Oversight Committee reviewed, and the County Board of Supervisors adopted a revised Treasurer’s Statement of Investment Policy on October 27, 2020. All changes comply with California Government Code Sections 53601 & 53635, which govern the County Treasurer’s investments and surplus monies.

The County made the following changes to its Statement of Investment Policy on October 27, 2020:

1. Page 1, under Scope section, change the word ‘funds’ to ‘proceeds’.
2. Page 2, under Staff Authorized to Make Investments, delete Jon Christensen and replace with Matthew Jennings.
3. Page 6, on the signature line, delete Jon Christensen and replace with Matthew Jennings and change the date to 10/27/2020.
4. Page 8, under ‘Other authorized firms’, change SunTrust Bank to Truist Bank.
5. Page 11, replace “AAA” ratings with a “AAA” rating.

Staff recommends the changes listed above be incorporated in the revised RCA investment policy attached to this staff report.

FISCAL IMPACT:

There is no direct fiscal impact to updating the Investment Policy for the changes made by the County of Riverside.

Attachments:

- 1) Resolution No. 2021-001, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Statement of Investment Policy
- 2) Statement of Investment Policy – Redlined Copy

Approved by the Executive Committee on January 20, 2021

In Favor: 6 Abstain: 0 No: 0

RESOLUTION NO. 2021-001

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
ADOPTING A STATEMENT OF INVESTMENT POLICY**

WHEREAS, the California Legislature has provided standards for governing bodies authorized to make investment decisions for local agencies, which are set forth in Government Code sections 16429.1, 53600-53609 and 53630-53686 (the "Investment Act"); and

WHEREAS, Section 53684 of the Government Code permits the governing bodies of the local agencies to authorize the deposit of excess funds in the county treasury for the purposes of investment by the county treasurer pursuant to Section 53601 and 53635; and

WHEREAS, Section 53646 of the Government Code allows local agencies to annually approve a Statement of Investment Policy which has been prepared by the chief fiscal officer of such local agency; and

WHEREAS, the Board of Directors of the Western Riverside County Regional Conservation Authority has been presented with a Statement of Investment Policy, attached hereto as Exhibit A and incorporated by reference, which is designed to conform with the requirements of the Investment Act; and

WHEREAS, the Board of Directors, with the aid of its staff, has reviewed the Statement of Investment Policy and wishes to approve the same;

WHEREAS, this Resolution updates the Western Riverside County Regional Conservation Authority's Investment Policy, attached hereto as Exhibit A and incorporated by reference, to conform with California statutes governing cities, which will rescind, supersede and replace Resolution No. 2021-001.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that the Board of Directors hereby adopt the Western Riverside County Regional Conservation Authority Investment Policy, a copy of which is on file at the offices of the Authority and is available for inspection by the public.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Western Riverside County Regional Conservation Authority this 1st day of February, 2021.

By: _____
Natasha Johnson, Chair
Western Riverside County Regional
Conservation Authority

ATTEST:

By: _____
Lisa Mobley, Clerk of the Board
Western Riverside County Regional
Conservation Authority

Exhibit A

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY INVESTMENT POLICY

INTRODUCTION

The Western Riverside County Regional Conservation Authority, is a Joint Powers Authority (“RCA”) comprised of the County of Riverside and the Cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, and Wildomar. The RCA is responsible for the implementation and management of the Western Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”). The RCA is governed by a Board of Directors (the “Board”), comprised of the five members of the Riverside County Board of Supervisors and an elected official from each member city.

The Board has adopted this Investment Policy (the “Policy”) in order to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the RCA. All RCA funds will be invested in accordance with the Policy and with applicable sections of the California Government Code.

This Policy was endorsed and adopted by the Board of Directors of the Western Riverside County Regional Conservation Authority on February 1, 2021.

RIVERSIDE COUNTY TREASURER

Pursuant to California Government Code Section 53684, the Board authorizes the deposit of excess funds of the RCA in the Riverside County treasury for the purpose of investment by the County Treasurer as outlined in this Policy.

SCOPE & OBJECTIVES

The RCA's primary investment objectives, in priority order, shall be:

1. **Safety.** Safety of principal is the foremost objective of the investment program. Investments of the RCA shall be undertaken in a manner that seeks to ensure preservation of capital in the portfolio.
2. **Liquidity.** The investment portfolio of the RCA will remain sufficiently liquid to enable the RCA to meet its cash flow requirements.
3. **Return on Investment.** The investment portfolio of the RCA shall be designed with the objective of maximizing return on its investments, but only after ensuring safety and liquidity.

DELEGATION OF AUTHORITY

The management responsibility for the RCA's investment program is delegated annually by the Board to the Treasurer pursuant to California Government Code Section 53607. As designated by the Board of Directors, the Riverside County Treasurer serves as the Treasurer. The Treasurer may delegate the authority to conduct investment transactions and to manage the operation of the investment portfolio to other specifically authorized staff members. Authority may be delegated to other staff members provided the Treasurer exercises prudence in a selection of these staff members and imposes suitable safeguards to prevent abuse in the exercise of discretion. The Treasurer shall remain responsible for any investment decisions made by these staff members. The Treasurer shall maintain a list of every staff member who was delegated such authority, and his or her responsibilities with respect to investment decisions. No person may engage in an investment transaction except as expressly provided under the terms of this Policy.

The Treasurer, on behalf of the RCA, may engage the support services of outside investment advisors in regard to its investment program, so long as it can be clearly demonstrated that these services produce a net financial advantage or necessary financial protection of the RCA's financial resources.

PRUDENCE

The standard of prudence to be used for managing the RCA's investments shall be California Government Code Section 53600.3, the prudent investor standard which states:

“When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.”

The RCA's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The RCA recognizes that no investment is totally riskless and that the investment activities of the RCA are a matter of public record. Accordingly, the RCA recognizes that occasional measured losses are inevitable in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the RCA.

The Treasurer and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the RCA and appropriate action is taken to control adverse developments.

ETHICS AND CONFLICTS OF INTEREST

Elected officials and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Treasurer any financial interests they have in financial institutions that conduct business with the RCA and they shall subordinate their personal investment transactions to those of the RCA. In addition, the Treasurer shall file a Statement of Economic Interests each year pursuant to California Government Code Section 87203.

Any firm proposing to provide any type of investment service to RCA shall acknowledge their familiarity with the provisions of the Political Reform Act, (Government Code Section 81000 et seq., and 2 Cal. Code of Regs. 18110 et seq., hereinafter "PRA") and the provisions limiting contractual conflicts of interest under Government Code Section 1090 et seq. Any firm proposing to provide any type of investment service to RCA shall also acknowledge their familiarity with and agree to abide by any Federal or State law, regulation, rule or policy pertaining to or limiting campaign contributions by such firms, their employees, spouses and agents.

All persons, firms, dealers, brokers and advisors providing investment service or bond issue assistance shall disclose to the RCA all fee sharing, fee-splitting and commission arrangements with other entities or persons prior to RCA agreeing to buy an investment, or issuing bonds.

AUTHORIZED INVESTMENTS

1. **Riverside County Treasurer's Pooled Investment Fund ("RCTPIF").** The RCA may invest in the Riverside County Pooled Investment Fund.
2. **State of California Local Agency Investment Fund ("LAIF").** The RCA may invest in LAIF.
3. **Eligible Investments for Bond Proceeds.**

Bond proceeds shall be invested in securities permitted by the applicable bond documents. If the bond documents are silent as to permitted investments, bond proceeds will be invested in securities permitted by this Policy.

With respect to maximum maturities, the Policy authorizes investing bond reserve fund proceeds beyond the five years if prudent in the opinion of the Treasurer.

4. **Specific Investments Outside RCTPIF and LAIF.**

Specific investments shall be governed by the Treasurer's Pooled Investment Fund Statement of Investment Policy, as may be amended from time to time. A copy of the current policy is attached as Exhibit "1."

REPORTING

The Treasurer shall provide to the Board and the Executive Director a portfolio report, on a monthly basis in accordance with the requirement of the Government Code.

At least annually, if any investments outside the RCTPIF exist, the Treasurer shall present to the Board a review of the investment portfolio's adherence to appropriate risk levels and a comparison between the total portfolio return and the established investment goals, objectives and benchmarks.

POLICY REVIEW

This Investment Policy shall be presented annually to the Board for review pursuant to Section 53646(a)(2) of the Government Code. This Policy may be amended by the Board at a public meeting as conditions warrant.

EXHIBIT 1

**TREASURER'S POOLED INVESTMENT
FUND STATEMENT OF INVESTMENT POLICY
[ATTACHED]**



**COUNTY OF RIVERSIDE
OFFICE OF THE TREASURER-TAX-COLLECTOR
STATEMENT OF INVESTMENT POLICY**

INTRODUCTION

The Treasurer Tax-Collectors (TTC) Statement of Investment Policy is presented annually to the County Investment Oversight Committee (IOC) for review and to the Board of Supervisors (BOS) for approval, pursuant to the requirements of Sections 53646(a) and 27133 of the California Government Code (Code Section). This policy will become effective immediately upon approval by the BOS.

SCOPE

The TTC Statement of Investment Policy is limited in scope to only those county, school, special districts and other fund assets actually deposited and residing in the County Treasury. It does not apply to bond ~~proceeds~~ funds or other assets belonging to the County of Riverside, or any affiliated public agency the assets of which reside outside of the County Treasury.

FIDUCIARY RESPONSIBILITY

Code Section 27000.3 declares each Treasurer, or governing body authorized to make investment decisions on behalf of local agencies, to be a trustee and therefore a fiduciary subject to the prudent investor standard. This standard, as stated in Code Section 27000.3 requires that “When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the county Treasurer or the BOS, as applicable, shall act with care, skill, prudence, and diligence under the circumstances then prevailing, specifically including, but not limited to, the general economic conditions and the anticipated needs of the county and other depositors, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the county and the other depositors.”

PORTFOLIO OBJECTIVES

The first and primary objective of the TTC’s investment of public funds is to **safeguard investment principal**; second, to maintain sufficient **liquidity** within the portfolio to meet daily cash flow requirements; and third, to achieve a reasonable rate of return or **yield** on the portfolio consistent with these objectives. The portfolio shall be actively managed in a manner that is responsive to the public trust and consistent with State law.

AUTHORITY

Statutory authority for the TTC’s investment and safekeeping functions are found in Code Sections 53601 and 53635 et. seq. The TTC’s authority to make investments is to be renewed annually, pursuant to state law. It was last renewed by the BOS on October 22, 2019 by County Ordinance No.767.23. Code Section 53607 effectively requires the legislative body to delegate investment authority of the County on an annual basis.

AUTHORIZED INVESTMENTS

Investments shall be restricted to those authorized in Code Sections 53601 and 53635 as amended and as further restricted by this policy statement. All investments shall be governed by the restrictions shown in Schedule I which defines the type of investments authorized, maturity limitations, portfolio diversification, credit quality standards (two of the three nationally recognized ratings shall be used for corporate and municipal securities), and purchase restrictions that apply.

STAFF AUTHORIZED TO MAKE INVESTMENTS

Only the TTC, ~~Jon Christensen, Assistant TTC~~, Matthew Jennings, ~~Assistant Treasurer~~ Chief Investment Manager ~~Chief Investment Manager~~, Giovane Pizano, Deputy Investment Manager, Steve Faeth, and Assistant Investment Manager, Isela Licea, are authorized to make investments and to order the receipt and delivery of investment securities among custodial security clearance accounts.

AUTHORIZED BROKER/DEALERS

Securities transactions are limited solely to those noted on Schedule II of this policy.

DAILY ACCOUNTABILITY AND CONTROL

Except for emergencies or previous authorization by the TTC, all investment transactions are to be conducted at the TTC's office (if open and available to conduct business), documented, and reviewed by the TTC, and/or Assistant TTC. All investment transactions will be entered daily into the TTC's internal financial accounting system with copies to be filed on a timely basis. Portfolio income shall be reconciled daily against cash receipts and quarterly, prior to the distribution of earnings among those entities sharing in pooled fund investment income.

SECURITY CUSTODY & DELIVERIES

All securities, except for money market funds registered in the County's name and securities issued by the County or other local agencies shall be deposited for safekeeping with banks contracted to provide the County TTC with custodial security clearance services. These third party trust department arrangements provide the County with a perfected interest in, and ownership and control over, the securities held by the custodian on the County's behalf and are intended to protect the County from the bank's own creditors in the event of a bank default and filing for bankruptcy. Securities are **NOT** to be held in investment firm/broker dealer accounts. All security transactions are to be conducted on a "delivery versus payment basis." Confirmation receipts on all investments are to be reviewed immediately for conformity with County transaction documentation. Securities issued by local agencies purchased directly shall be held in the TTC's vault. The security holdings shall be reconciled with the custodian holding records daily. The TTC's Fiscal Compliance unit will audit purchases daily for compliance, and audit holding records monthly.

COMPETITIVE PRICING

Investment transactions are to be made at current market value and competitively priced whenever possible. Competitive pricing does not necessarily require submission of bids, but does require adequate comparative analysis. The current technology utilized by the Treasury provides this information.

MATURITY LIMITATIONS

No investment shall exceed a final maturity date of five years from the date of purchase unless it is authorized by the BOS pursuant to Code Section 53601. The settlement date will be used as the date of purchase for measuring maturity limitations.

LIQUIDITY

The portfolio shall maintain a weighted average days to maturity (WAM) of less than 541 days or 1.5 years. To provide sufficient liquidity to meet daily expenditure requirements, the portfolio shall maintain at least 40% of its total value in securities having maturities 1 year or less.

SECURITIES LENDING

The TTC may engage in securities lending activity limited to 20% of the portfolio's book value on the date of transaction. Instruments involved in a securities lending program are restricted to those securities pursuant to Code Section 53601 and by the TTC's Statement of Investment Policy.

REVERSE REPURCHASE AGREEMENTS

The Treasury shall not engage in any form of leverage for the purpose of enhancing portfolio yield. There shall be no entry into reverse repurchase agreements except for temporary and unanticipated cash flow requirements that would cause the TTC to sell securities at a principal loss. Any reverse repurchase agreements are restricted pursuant to Code Section 53601 and by the TTC's Statement of Investment Policy.

MITIGATING MARKET & CREDIT RISKS

Safety of principal is the primary objective of the portfolio. Each investment transaction shall seek to minimize the County's exposure to market and credit risks by giving careful and ongoing attention to the: (1) credit quality standards issued by the nationally recognized rating agencies on the credit worthiness of each issuer of the security, (2) limiting the concentration of investment in any single firm as noted in Schedule I, (3) by limiting the duration of investment to the time frames noted in Schedule I, and (4) by maintaining the diversification and liquidity standards expressed within this policy.

TRADING & EARLY SALE OF SECURITIES

All securities are to be purchased with the intent of holding them until maturity. However, in an effort to minimize market and credit risks, securities may be sold prior to maturity either at a profit or loss when economic circumstances, trend in short-term interest rates, or a deterioration in credit-worthiness of the issuer warrants a sale of the securities to either enhance overall portfolio yield or to minimize further erosion and loss of investment principal. Such sales should take into account the short and long term impacts on the portfolio. However, the sale of a security at a loss can only be made after first securing the approval of the TTC.

PURCHASE OF WHEN ISSUED SECURITIES

When issued (W.I.) purchases of securities and their subsequent sale prior to cash settlement are authorized as long as sufficient cash is available to consummate their acceptance into the TTC's portfolio on the settlement date.

PORTFOLIO REPORTS/AUDITING

Portfolio reports required by Code Sections 53607 and 27133(e) shall be filed monthly with the BOS, IOC, Superintendent of Schools, Executive

Officer, County Auditor Controller and interested parties. Consistent with Board Policy B-21 (County Investment Policy Statement), § III A, an outside compliance audit will be conducted annually. Outside audits will be conducted at least biennially by an independent auditing firm selected by the BOS, per Board Minute Order No. 3.48. Reports are posted monthly on the Treasurer's website:

<http://www.countyTreasurer.org/Treasurer/TreasurersPooledInvestmentFund/MonthlyReports.aspx>

SPECIFIC INVESTMENTS

Specific investments for individual funds may be made in accordance with the TTC's Statement of Investment Policy, upon written request and approval of the responsible agency's governing board, and, approval of the TTC. Investments outside of the policy may be made on behalf of such funds with approval of the governing Board and approval of the TTC. All specific investments shall be memorialized by a Memorandum of Understanding. With the purchase of specific investments, the fund will be allocated the earnings and/or loss associated with those investments. The TTC reserves the right to allocate a pro-rata charge for administrative costs to such funds.

PERFORMANCE EVALUATION

Portfolio performance is monitored daily and evaluated monthly in comparison to the movement of the Treasurer's Institutional Money Market Index (TIMMI), or other suitable index. Over time, the portfolio rate of return should perform in relationship to such an index. Regular meetings are to be conducted with the investment staff to review the portfolio's performance, in keeping with this policy, and, current market conditions.

INVESTMENT OVERSIGHT COMMITTEE

In accordance with Code Section 27130 et seq. of the Code, the BOS has established an IOC. The role of the Committee is advisory in nature. It has no input on day to day operations of the Treasury.

QUARTERLY DISTRIBUTION OF INVESTMENT EARNINGS

Portfolio income, including gains and losses (if any), will be distributed quarterly in compliance with Sections 53684 and 53844 of the Code which give the TTC broad authority to apportion earnings and losses among those participants sharing in pooled investment income, and, except for specific investments in which the interest income is to be credited directly to the fund from which the investment was made, all investment income is to be distributed pro-rata based upon each participant's average daily cash balance for the fiscal quarter. Any subsequent adjustments of reported earnings by the Auditor-Controller will be first reviewed and approved by the TTC to assure compliance with Code Sections 53684 and 53844.

QUARTERLY APPORTIONMENT OF ADMINISTRATIVE COSTS

Prior to the quarterly apportionment of pooled fund investment income, the County TTC is permitted, pursuant to Code Section 27013, to deduct from investment income before the distribution thereof, the actual cost of the investment, audit, deposit, handling and distribution of such income. Accordingly, in keeping with Code Sections 27013, 27133(f), and 27135, the Treasury shall deduct from pooled fund investment earnings the actual cost incurred for: banking services, custodial safekeeping charges, the pro-rata annual cost of the salaries including fringe benefits for the personnel in the TTC's office engaged in the administration, investment, auditing,

cashiering, accounting, reporting, remittance processing and depositing of public funds for investment, together with the related computer and office expenses associated with the performance of these functions. Costs are apportioned based upon average daily ending balances. Prior to gaining reimbursement for these costs, the TTC shall annually prepare a proposed budget revenue estimate per Code Section 27013.

TREASURY OPERATIONS

Treasury operations are to be conducted in the most efficient manner to reduce costs and assure the full investment of funds. The TTC will maintain a policy regarding outgoing wires and other electronic transfers. Requests for outgoing transfers which do not arrive on a timely basis may be delayed. The County TTC may institute a fee schedule to more equitably allocate costs that would otherwise be spread to all depositors.

POLICY CRITERIA FOR AGENCIES SEEKING VOLUNTARY ENTRY

Should any agency solicit entry, the agency shall comply with the requirements of Section 53684 of the Code and adopt a resolution by the legislative or governing body of the local agency authorizing the deposit of excess funds into the County treasury for the purpose of investment by the County TTC. The resolution shall specify the amount of monies to be invested, the person authorized by the agency to coordinate the transaction, the anticipated time frame for deposits, the agency's willingness to be bound to the statutory 30-day written notice requirement for withdrawals, and acknowledging the TTC's ability to deduct pro-rata administrative charges permitted by Code Section 27013. Any solicitation for entry into the TPIF must have the County TTC's consent before the receipt of funds is authorized. The depositing entity will enter into a depository agreement with the TTC.

POLICY CRITERIA FOR VOLUNTARY PARTICIPANT WITHDRAWALS

With the TTC being required to maintain a 40% liquidity position at all times during the calendar year, it is anticipated that sufficient funds will be on hand to immediately meet on demand all participant withdrawals for the full dollar amounts requested without having to make any allowance or pro-rata adjustment based on the current market value of the portfolio. In addition, any withdrawal by a local agency for the purpose of investing or depositing those funds outside the Pool shall have the prior written approval of the County TTC.

The TTC's approval of the withdrawal request shall be based on the availability of funds; the circumstances prompting the request; the dollar volume of similar requests; the prevailing condition of the financial markets, and, an assessment of the effect of the proposed withdrawal on the stability and predictability of the investments in the county treasury.

POLICY ON RECEIPT OF HONORARIA, GIFTS AND GRATUITIES

Neither the TTC nor any member of his staff, shall accept any gift, gratuity or honoraria from financial advisors, brokers, dealers, bankers or other persons or firms conducting business with the County TTC which exceeds the limits established by the Fair Political Practices Commission (FPPC) and relevant portions of Code Section 27133. IOC members shall be subject to the limits included in the BOS Policy B-21.

ETHICS & CONFLICTS OF INTEREST

Officers and staff members involved in the investment process shall refrain from any personal business activity that compromises the security and integrity of the County's investment program

or impairs their ability to make impartial and prudent investment decisions. In addition, the County TTC, Assistant TTC, Chief Investment Manager, Deputy Investment Manager and Assistant Investment Manager are required to file annually the applicable financial disclosure statements as mandated by the FPPC and County policy.

INVESTMENTS MADE FROM DEBT ISSUANCE PROCEEDS

The proceeds of a borrowing may be specifically invested per Schedule I of this policy (with the exception of Collateralized Time Deposits and Local Agency Obligations) as well as competitively bid investments (see County of Riverside Office Of The TTC Policy Governing Competitively Bid Investments, dated March 3, 2011).

No pooled fund investments made from the proceeds of a borrowing, the monies of which are deposited in the County TTC, shall be invested for a period of time exceeding the maturity date of the borrowing. Nor shall any monies deposited with a bank trustee or fiscal agent for the ultimate purpose of retiring the borrowing be invested beyond the maturity date of the borrowing.

POLICY ADOPTION & AMENDMENTS

This policy statement will become effective following adoption by the BOS, and, will remain in force until subsequently amended in writing by the TTC and approved by the BOS.

Jon Christensen-Matthew Jennings
County of Riverside
Treasurer-Tax Collector

08/04/2020 10/207/2020

SCHEDULE I

AUTHORIZED INVESTMENTS	DIVERSIFICATION (1)	PURCHASE RESTRICTIONS	MATURITY	CREDIT QUALITY (S&P/MOODY'S/FITCH)
U.S. Treasury notes, bills, bonds or other certificates of indebtedness	100%	N/A	Maximum 5 years	N/A
Notes, participations, or obligations issued by the agencies of the federal government	100%	N/A	Maximum 5 years	N/A
Bonds, notes, warrants or certificates of indebtedness issued by the state of CA, or local agencies, or, the County of Riverside. Registered treasury notes or bonds of any of the other 49 United States per Government Code Section 53601 (d)	15% maximum	See Schedule VI	Maximum 4 years	Long term "AA-, Aa3, AA-" or better
Notes, participations or obligations issued or fully guaranteed as to principal and interest by the International Bank for Reconstruction and Development, and the International Finance Corporation	20% maximum	Max 10% per issuer	Maximum 4 years	Long term "AA, Aa, AA" or better
Local Agency Investment Fund (LAIF)	\$50 million maximum	Maximum \$50 million per LAIF	Daily Liquidity	N/A
Commercial Paper (CP)	40% maximum	See Schedule VI	Maximum 270 days	Short term "A-1,P-1,F-1" or better
Local Agency Obligations (LAO)	2.5% maximum	BOS approval required. Issued by pool depositors only	Maximum 3 years	Non-rated, if in the opinion of the Treasurer, considered to be of investment grade or better
CalTRUST Short Term Fund (CLTR)	1% maximum	Board of Supervisors approval required	Daily liquidity	NR / Portfolio managed pursuant to California Government Code § 53601 & 53635
Negotiable CD's (NCD'S) issued by national or state chartered banks or a licensed branch of a foreign bank	25% maximum	See Schedule VI	Maximum 1 year	Short term "A-1,P-1,F-1" or better
Collateralized Time Deposits (TCD)	2% maximum	See Schedule IV	Maximum 1 year	N/A
Repurchase Agreements (REPO) with 102% collateral restricted to U. S. Treasuries, agencies, agency mortgages, CP, BA's	40% max, 25% in term repo over 7 days. No more than 20% w/one dealer in term repo	Repurchase agreements to be on file	Maximum 45 days	Short Term "A-1, P-1, F-1" or better If "A-2, P-2, F2" then overnight only
Reverse Repurchase Agreements on U. S. Treasury & federal agency securities in portfolio	10% maximum	For temporary cash flow needs only.	Max 60 days with prior approval of BOS	N/A
Medium Term Notes (MTN) or Corporate Notes	20% maximum	See Schedule VI	Maximum 3 years	"AA, Aa2, AA" minimum if under 1 year
Interest bearing Checking Account	20% maximum	N/A	Daily Liquidity	Fully collateralized with US Treasuries or US Federal agency notes
Money Market Mutual Funds (MMF) that invest in eligible securities meeting requirements of California Government Code	20% maximum	See Schedule V	Daily liquidity	Long Term "AAA" (2 of 3 nationally recognized rating services)

(1) Whichever is greater.

**AUTHORIZED BROKER/DEALERS
SCHEDULE II**

The TTC is authorized to conduct investment security transactions with the broker/dealers which are designated by the Federal Reserve Bank as primary government dealers. Security transactions with firms, other than those appearing on this list, are prohibited.

1. Other authorized firms:

Union Bank
Piper Sandler & Co.
~~Sun~~Truist Bank
FHN Financial
InCapital
Raymond James & Associates, Inc.
Siebert Williams Shank & Co.
Academy Securities, Inc.
Bank of New York

2. Direct purchases from major commercial paper issuers, money market mutual funds, banker's acceptance issuers, negotiable CD issuers, or savings and loan are authorized.
3. Incidental purchases of less than \$10 million may be made with other firms if in the opinion of the TTC, such transactions are deemed advantageous.

To ensure compliance with the County TTC's investment guidelines, each newly authorized primary government dealer and other authorized firms (as listed above in section 1, 2 and 3) will be supplied a complete copy of this Investment Policy document approved by the BOS.

**POLICY CRITERIA FOR SELECTION OF BROKER/DEALERS
SCHEDULE III**

1. The County TTC has elected to limit security transactions as mentioned in Schedule II. Accordingly, the financial institution must confirm that they are a member of the Financial Industry Regulatory Authority (FINRA), registered with the Securities & Exchange Commission (SEC), and possess all other required licenses. The TTC is prohibited from the selection of any broker, brokerage, dealer, or securities firm that has, within any consecutive 48-month period following January 1, 1996, made a political contribution in an amount exceeding the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board, to the local Treasurer, any member of the governing board of the local agency, or any candidate for those offices.
2. The County TTC's intent is to enter into long-term relationships. Therefore, the integrity of the firm and the personnel assigned to our account is of primary importance.
3. The firm must specify the types of securities it specializes in and will be made available for our account.
4. It is important that the firm provide related services that will enhance the account relationship which could include:
 - (a) An active secondary market for its securities.
 - (b) Internal credit research analysis on commercial paper, banker's acceptances and other securities it offers for sale.
 - (c) Be willing to trade securities for our portfolio.
 - (d) Be capable of providing market analysis, economic projections, and newsletters.
 - (e) Provide market education on new investment products, security spread relationships, graphs, etc.
5. The firm must be willing to provide us monthly financial statements, and transactional confirms.
6. The County TTC is prohibited from the establishment of a broker/dealer account for the purpose of holding the County's securities. All securities must be subject to delivery at the County's custodial bank.
7. Without exception, all transactions are to be conducted on a delivery versus payment (DVP) basis.
8. The broker/dealer must have been in operation for more than 5 years, and, if requested, the firm must be willing to provide us a list of local government clients or other reference, particularly those client relationships established within the State of California.

**POLICY CRITERIA FOR COLLATERALIZED TIME DEPOSITS
SCHEDULE IV**

Before the TTC can place a time deposit with a local bank or savings and loan, the following criteria must be met:

1. The bank must provide us with an executed copy of the "Contract for Deposit of Moneys."
2. The interest rate on the Time Certificate of Deposit must be competitive with rates offered by other banks and savings and loans residing in Riverside County, as well as exceed that of U.S. Treasury Securities.
3. Investments less than the FDIC insurance limit will be sufficient without requiring any collateral to be pledged with the Federal Reserve to secure the public fund deposit.
4. Investments exceeding the FDIC insurance limit shall be fully collateralized by U.S. Treasury and Federal Agency securities having maturities five years or less. The County Treasury must receive written confirmation that these securities have been pledged in repayment of the time deposit. The securities pledged as collateral must have a current market value greater than the dollar amount of the deposit in keeping with the ratio requirements specified in Code Section 53652. Additionally, a statement of the collateral shall be provided on a monthly basis. A collateral waiver for the portion insured by the FDIC will be granted.
5. The County TTC must be given a current audited financial statement for the financial year just ended as well as the most recent quarterly statement of financial condition. The financial reports must both include a statement of financial condition as well as an income statement depicting current and prior year operations.
6. The County TTC will not place a public fund deposit for more than 10% of the present paid-in capital and surplus of the bank.
7. The County TTC must receive a certificate of deposit which specifically expresses the terms governing the transaction, deposit amount, issue date, maturity date, name of depositor, interest rate, interest payment terms (monthly, quarterly, etc).
8. All time certificates must have a maturity date not exceeding one year from the date of the deposit, with interest payments based upon the stated interest rate.
9. The County TTC must receive a letter from an officer of the bank at the time the initial deposit is made, that there is no known pending financial disclosure or public announcement of an adverse financial event involving the bank or savings and loan, nor is there any knowledge that a conflict of interest situation exists between any County official and an officer or employee of the bank.
10. Time deposits will only be made with banks and savings and loans having branch office locations within Riverside County.

POLICY CRITERIA FOR ENTERING INTO A MONEY MARKET FUND SCHEDULE V

Shares of beneficial interest issued by diversified management companies, also known as money market mutual funds, invest in the securities and obligations authorized by Code Sections 53601.7(10). Approved mutual funds will be registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et. seq.) and shall meet the following criteria:

1. The fund must have ~~a~~ “AAA” ratings from two of the nationally recognized rating services: Moody’s, Fitch, Standard & Poor’s.
2. The fund’s prospectus cannot allow hedging strategies, options or futures.
3. The fund must provide a current prospectus before participation in the fund and provide copies of their portfolio reports and shall provide at least at month-end, a complete listing of securities within the fund’s portfolio.

**POLICY CRITERIA
CORPORATE AND MUNICIPAL SECURITIES
SCHEDULE VI**

Corporate Criteria. Money market securities will be first restricted by short-term ratings and then further restricted by long term credit ratings. The long term credit ratings, including the outlook of the parent company will be used. Money market securities consist of negotiable certificates of deposit (NCDs), bankers acceptances, and commercial paper. Medium term securities will be restricted by the long term ratings of the legal issuer. Concentration limit restrictions will make no distinction between medium term notes and money market securities.

No short term negative credit watch or long-term negative outlook by 2 of 3 nationally recognized rating services except for entities participating in government guaranteed programs. Credit Category 1 and Category 2 with negative credit watch or long-term negative outlook, by more than one nationally recognized rating service is permitted as Category 3 and Category 4 respectively.

Municipal Criteria. Minimum of A or A2 or A, underlying credit rating for selecting insured municipal securities and a maximum of 5% exposure to any one insurer (direct purchases and indirect commitments).

Liquidity Provider Restrictions. Maximum of 5% exposure to any one institution (direct purchases and indirect commitments).

Category	Short-Term Ratings	Long-Term Ratings	Restrictions
1	A-1+/P-1/F-1+ (SP-1+/MIG1/F-1+)	AAA/Aaa/AAA	Corp. Maximum of 5% per issuer with no more than 2% greater than 1 year final maturity and no more than 1% greater than 2 year final maturity. Muni. Maximum of 5% per issuer with no more than 2% greater than 13 month final maturity.
2	A-1+/P-1/F-1+ (SP-1+/MIG1/F-1)	AA+/Aa1/AA+, AA/Aa2/AA	Corp. Maximum of 4% per issuer with no more than 1% greater than 1 year final maturity. No more than 13 month final maturity. Muni. Maximum of 5% per issuer with no more than 1% greater than 13 month final maturity. For the State of California debt only maximum of 2% greater than 13 month final maturity.
3	A-1+/P-1/F-1+ (SP-1+/MIG1/F-1)	AA-/Aa3/AA-	Corp. Maximum of 3% per issuer with no more than 1.5% greater than 90 days. No more than 270 days final maturity. Muni. Maximum of 5% per issuer. No more than 13 month final maturity.
4	A-1/P-1/F-1 (SP-1/MIG1/F-1)	A/A2/A or better.	Corp. No Asset Backed programs. Maximum of 2% per issuer with no more than 1% greater than 7 days. No more than 45 days maximum maturity.

Rating Agency Comparison Table

Short-Term Scale

S&P	A-1+, A-1
Moody's	P-1
Fitch	F-1+, F-1

Long-Term Scale

S&P	AAA, AA+, AA, AA-, A+, A
Moody's	Aaa, Aa1, Aa2, Aa3, A1, A2
Fitch	AAA, AA+, AA, AA-, A+, A

AGENDA ITEM 6D

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Jennifer Fuller, Financial Administration Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Adopt Resolution 2021-002 Related to Delegation of Authority to Sign Instruments on Behalf of the Executive Director in the Executive Director's Absence

EXECUTIVE COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Approve the delegation of authority to sign instruments on behalf of the Executive Director in the Executive Director's absence; and
- 2) Adopt Resolution No. 2021-002, *"Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Delegating Authority to Sign Instruments on Behalf of the Executive Director in the Executive Director's Absence"*.

BACKGROUND INFORMATION:

On June 11, 2020, the Western Riverside County Regional Conservation Authority (RCA) Board of Directors adopted Resolution 2020-003, "Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Delegating Authority to Sign Instruments on Behalf of the Executive Director in the Executive Director's Absence." The Executive Director executes a number of miscellaneous instruments, including, but not limited to, agreements, grant deeds, and easements to fulfill the responsibilities delegated to the Executive Director by the Board of Directors, the Joint Exercise of Powers Agreement, and the Multiple Species Habitat Conservation Plan. On occasion, the Executive Director is unavailable to execute such documents. Most agencies have a process to delegate, on a temporary basis, the power to execute instruments when the Executive Director is unavailable.

With the recent change in managing entity to the Riverside County Transportation Commission, the individuals whom authority can be delegated must be updated. Therefore, the previous delegations should be removed and replaced with the Regional Conservation Deputy Executive Director, Deputy Executive Director, and Chief Financial Officer, or any combination of the three. The resolution continues to allow for future updates to the list of authorized positions should the need arise. This delegation of authority would only be triggered by the Executive Director in writing or by the Chair if the Executive Director is not available.

FISCAL IMPACT:

Although there is no direct fiscal impact from this resolution, without the ability to delegate signature authority in the Executive Director’s absence, document signing could be delayed and affect RCA functions—all or some of which could have a future fiscal impact.

Attachment: Resolution No. 2021-002

Approved by the Executive Committee on January 20, 2021

In Favor: 6 Abstain: 0 No: 0

RESOLUTION NO. 2021-002

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
DELEGATING AUTHORITY TO SIGN INSTRUMENTS ON BEHALF OF THE
EXECUTIVE DIRECTOR IN THE EXECUTIVE DIRECTOR'S ABSENCE**

WHEREAS, the Western Riverside County Regional Conservation Authority (the "RCA") desires to ensure the continued efficiency of its operations, including in the absence of its Executive Director (the "Executive Director"); and

WHEREAS, the Board of Directors anticipates a need for instruments to be signed if and when the Executive Director is absent;

WHEREAS, this resolution supersedes and replaces Resolution No. 2020-003.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the RCA Board of Directors as follows:

Unless otherwise prohibited by law, the Executive Director, or the Chair of the Board if the Executive Director is not available, may hereby designate in writing either the Regional Conservation Deputy Executive Director, the Deputy Executive Director, the Chief Financial Officer, or any combination of the three, the authority to execute any type of document that the Executive Director would normally be authorized to execute under the Western Riverside County Multiple Species Habitat Conservation Plan, the RCA Bylaws, resolutions, ordinances, or the Joint Exercise of Powers Agreement creating the Western Riverside County Regional Conservation Authority, and any amendments thereto.

As necessary, the Executive Director or the Chair of the Board, if the Executive Director is not available, may, in writing, add future positions to the list of authorized positions, to allow for needed delegation.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Western Riverside County Regional Conservation Authority this 1st day of February, 2021.

Natasha Johnson, Chair
Western Riverside County Regional
Conservation Authority

ATTEST:

Lisa Mobley, Clerk of the Board
Western Riverside County Regional
Conservation Authority

AGENDA ITEM 6E

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Jennifer Fuller, Financial Administration Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Adopt Resolution 2021-003 Authorizing the Acceptance of Credit Cards, Debit Cards, and Electronic Funds Transfer as Additional Methods of Payment and Collection of Payment Processing Fees

EXECUTIVE COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Approve the acceptance of credit cards, debit cards, and electronic funds transfer as additional methods of payment and collection of payment processing fees; and
- 2) Adopt Resolution No. 2021-003, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Authorizing the Acceptance of Credit Cards, Debit Cards, and Electronic Funds Transfer as Additional Methods of Payment and Collection of Payment Processing Fees”*.

BACKGROUND INFORMATION:

The Riverside County Transportation Commission (RCTC) and the Western Riverside County Regional Conservation Authority (RCA) entered into an Implementation and Management Services Agreement (Agreement) effective January 1, 2021. Under the Agreement, RCTC shall administer, coordinate, and supervise the activities of the RCA as set forth in the RCA Joint Exercise of Powers Agreement and shall act for RCA in accomplishing its purposes. The County of Riverside provided management services for RCA under a prior agreement.

RCTC staff has been working remotely during the COVID-19 pandemic. Therefore, all staff are working remotely. RCTC staff has effectively administered the duties of the agency during the pandemic by adapting some business practices to a remote work situation. In some instances, these new business practices have led to increased efficiencies that will benefit the public beyond over the longer term. This item proposes one such new practice.

RCA collects payments from member agencies and other entities for joint project reviews (JPRs) pursuant to the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). Occasionally, RCA processes refunds of JPR fees. Currently most payments to and from the RCA are made via physical check. RCA initiates the JPR process after receipt of an initial deposit; the

JPR process is bound by time constraints memorialized in the MSHCP to ensure timely decision-making for member agencies and project applicants. To better accommodate a remote work environment; promote a safer payment collection process; increase efficiency and customer service; and provide widely accepted electronic payment methods to local governments, businesses, and individuals; staff has actively explored opportunities to expand the method of payment collection to include electronic means.

The acceptance of credit cards, debit cards, or electronic funds transfer is governed by California Government Code. Government Code Section 6159 allows public agencies to accept these forms of payment and to impose a fee for the use of these methods not to exceed the costs incurred by the agency or its agent in providing for such payment as long as approved by the agency's governing Board.

RCA invests its cash in the Riverside County Pooled Investment Fund managed by the Treasurer Tax-Collector. Therefore, any electronic payment system for RCA must be coordinated with the County. Accordingly, staff consulted with the County Treasurer Tax-Collector's Office to research methods to accept electronic payment. The County Treasurer Tax-Collector's Office set up a separate cash account for RCA to accept payments by credit card, debit card, or electronic funds transfer.

Based on consultation with the County Treasurer Tax-Collector's Office, staff recommends that the Board approve the RCA to begin to collect payments via credit card, debit card, or electronic funds transfer for any number of items including but not limited to fees collected and remitted by local governments and reimbursements for joint project reviews. Staff also recommends the collection of payment processing fees from those making payments via credit or debit cards utilizing the County of Riverside Treasurer's Credit Card Processing Program. Further, staff recommends adoption of Resolution No. 2021-003 authorizing the acceptance of credit cards, debit cards, and electronic funds transfer as additional methods of payment and collection of payment processing fees. Approval of the additional methods of payment and collection of fees provides options to those making payments to RCA and allows greater flexibility to receive payments sooner and deposit such payments into interest-bearing accounts.

Payment by a physical check will remain acceptable.

FISCAL IMPACT:

There will be no direct fiscal impact to the RCA for accepting credit card, debit card, and electronic funds transfer payments, as the processing costs related to credit and debit cards will be paid by the party making the payment via credit or debit card. The payment processor will collect the fee at the time of payment. The only funds that will flow through to the RCA will be the original amount of the payment before the payment processing fees and the full amount of electronic funds transfer payments.

Attachment: Resolution No. 2021-003

Approved by the Executive Committee on January 20, 2021

In Favor: 6 Abstain: 0 No: 0

RESOLUTION NO. 2021-003

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
AUTHORIZING THE ACCEPTANCE OF CREDIT CARDS, DEBIT CARDS, AND
ELECTRONIC FUNDS TRANSFER AS ADDITIONAL METHODS OF PAYMENT
AND COLLECTION OF PAYMENT PROCESSING FEES**

WHEREAS, the Western Riverside County Regional Conservation Authority (“RCA”) administers the Multiple Species Habitat Conservation Plan (MSHCP) and receives payments for services rendered and collect fees related to the MSHCP; and

WHEREAS, California Government Code section 6159, subdivision (b), allows a public agency to authorize acceptance of a credit card, debit card, or electronic funds transfer for payment for services rendered by a city, county, city and county, or other public agency or for payment of a fee, charge, or tax due a city, county, city and county, or other public agency; and

WHEREAS, California Government Code section 6159 further authorizes a public agency to 1) impose a fee for the use of a credit or debit card or electronic funds transfer not to exceed the costs incurred by the agency or its agent in providing for such payment and to pass-through reasonable issuer processing fees to the cardholder with the approval of the governing body having financial responsibility for the agency; and 2) charge a reasonable charge for the charge back or return not to exceed the actual costs incurred by the agency, to recover the agency’s processing and collection costs in the event a credit card, debit card, electronic funds transfer is returned without payment for any reason; and

WHEREAS, the Board of Directors is the governing body for the RCA and has financial responsibility for the RCA; and

WHEREAS, the Board of Directors desires to approve and authorize the RCA to accept payment via credit card, debit card, and electronic funds transfer as an additional method for payment for among other things the payment of any fee or service rendered and to further authorize them to 1) impose a fee for the use of credit cards, debit cards, or electronic funds transfers not to exceed the costs incurred by it or its agent in providing for such payment and to pass-through reasonable issuer processing fees to the cardholder; and 2) charge a reasonable charge for the charge back or return, not to exceed the actual costs incurred by the RCA, to recover the RCA’s processing and collection costs in the event a credit card, debit card, or electronic funds transfer is returned without payment for any reason; and

WHEREAS, the Board of Directors previously delegated the County Treasurer to act as the Treasurer for the RCA; and

WHEREAS, the Board of Directors desires to approve and authorize the RCA to utilize the County Treasurer’s Credit Card Processing Program (“Program”).

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the Board of Directors of the Western Riverside County Regional Conservation Authority as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by reference as though fully set forth herein.

Section 2. Authorization. The Board of Directors of the RCA hereby approves and authorizes the RCA to utilize the Program and approves the collection of a payment processing fee for credit and debit card payments paid to the RCA through the Program. The fee will be assessed directly by the payment processor to collect on-line payments. Further, the Board of Directors of the RCA also approves the acceptance of electronic funds transfers through the County Treasurer.

Section 3. Effective Date. This Resolution shall become effective upon the date of its adoption.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Western Riverside County Regional Conservation Authority this 1st day of February, 2021.

Natasha Johnson, Chair
Western Riverside County
Regional Conservation Authority

ATTEST:

Lisa Mobley, Clerk of the Board
Western Riverside County Regional
Conservation Authority

AGENDA ITEM 8

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Matt Wallace, Deputy Director of Financial Administration
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Adopt Ordinance No. 21-01 Related to Procurement Policy Manual and Resolution No. 2021-005 Related to Electronic Signature Use Policy

EXECUTIVE COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Approve the revised Riverside County Transportation Commission (RCTC) and Western Riverside County Regional Conservation Agency (RCA) Procurement Policy Manual (PPM) for the procurement and contracting activities undertaken by the agencies, pursuant to legal counsel review as to conformance to state and federal law;
- 2) Rescind Ordinance No. 08-02, *“An Ordinance of the Western Riverside County Regional Conservation Agency Adopting a Purchasing Policy for Supplies, Materials, or Equipment”*;
- 3) Introduce Ordinance No. 21-01, *“Ordinance of the Western Riverside County Regional Conservation Agency Regarding the Revised Procurement Policy Manual”*;
- 4) Approve the Electronic Signature Use Policy for the use of electronic signatures in lieu of manual signatures, pursuant to legal counsel review; and
- 5) Adopt Resolution No. 2021-005, *“Resolution of the Western Riverside County Regional Conservation Agency Regarding the Electronic Signature Use Policy”*.

BACKGROUND INFORMATION:

RCTC’s Procurement Department was established in July 2008 and is responsible for the purchase of all goods and services, in accordance with RCTC’s PPM and federal and state funding requirements to ensure the implementation of RCTC’s projects and programs. The procurement process is centralized and includes conducting outreach, issuing solicitations, oversight of the proposal evaluation process, conducting contract negotiations, recommending contract award, and updating procurement policies and procedures as required. After contract award and during the contract lifetime, contract administration activities include issuing contract task orders and amendments; ensuring compliance with contract terms, conditions, and deliverables; and monitoring contract balances to prevent contract overruns.

RCTC’s initial PPM was adopted in April 2007 to set forth a general procurement policy and set of standards that govern the conduct of RCTC procurement activities and of RCTC personnel

engaged in those activities. Since the initial adoption of the PPM, RCTC adopted several revisions to update the PPM as a comprehensive document and to comply with the Federal Transit Administration; Federal Highway Administration; Caltrans; Office of Management and Budget's issuance of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; RCTC regulations; and best practices. The policies are intended to maintain the integrity of RCTC's procurement process, while ensuring that purchases are made in a cost effective, timely manner; with fair and open competition; and in accordance with all applicable laws and regulations. The objectives of RCTC's Procurement Policy Manual are to:

1. Maximize the value received for RCTC's expenditure of public funds;
2. Protect assets and/or services purchased with public funds and ensure their application in RCTC's interests;
3. Provide all vendors an equal opportunity to provide needed goods and/or services; and
4. Protect the integrity and reputation of RCTC, its officers, and employees.
5. Ensure compliance with state and federal funding requirements, as applicable.

The PPM has successfully guided RCTC's procurements for design-build, construction, preliminary engineering, and professional services as well as supplies, equipment, and materials.

In 2012, RCTC selected PlanetBids to provide online vendor and bid management support services after evaluating multiple software options and participating in demonstrations from similar providers. PlanetBids provides RCTC with a web-based e-procurement application to streamline the complete bidding process and further enable the collection, analysis, and leverage of all aspects of vendor data, purchasing activities, and corresponding history. Through the use of PlanetBids, RCTC has realized efficiency gains such as vendor registration and profile management; greater outreach to vendors; bid document distribution, including automatic addenda notification and acknowledgements; customer email notification; online question and answer management; secure e-bidding; robust reporting; and Request for Proposals/Request for Qualifications/Invitations for Bids evaluation tools. PlanetBids is also used by numerous other governmental agencies in Southern California which allows for bidding collaboration.

The RCA Board of Directors adopted RCA Ordinance No. 08-02 on September 8, 2008. The ordinance reflects professional standards in the management of RCA's resources to ensure that services, supplies, materials, or equipment are acquired in a uniform manner at the best possible cost commensurate with the quality needed. Further, RCA's bylaws include a provision for the Executive Director's authority to enter into contracts.

DISCUSSION:

RCTC and RCA entered into an Implementation and Management Services Agreement (Agreement) effective January 1, 2021. Under the Agreement, RCTC shall administer, coordinate, and supervise the activities of the RCA as set forth in the RCA Joint Exercise of Powers Agreement (JPA) and shall act for RCA in accomplishing its purposes. As a result of RCTC's management responsibilities, staff and legal counsel have reviewed RCA policies to determine which can be combined with RCTC policies into a comprehensive policy.

Since RCTC, acting through its personnel, attorneys and consultants, shall from time to time contract with and/or appoint personnel and consultants to provide the services to RCA, a revised procurement policy and related electronic signature policy have been developed to reflect RCTC's new role as managing agency for RCA and to provide greater specificity to RCA's existing policies.

Procurement Policies

The following is an overview of the major changes to the PPM:

General

Changes have been made throughout the manual to change "the Commission" to "the Agency." In certain cases, reference to "Agencies" or "each Agency/applicable Agency" is used where appropriate.

Chapter 1 – Procurement Process

- **Section 1 – Purpose and Scope:** References and definitions for both agencies have been added. This section also specifies that the term "Agency," as used in the manual, refers to either agency, as applicable.
- **Section 4(E) – Time-and-Materials Contracts:** General requirements appear first, and the specific subsections that have been carved out as only applicable to federal funding appear next.
- **All Sections:** Minor changes to the remainder of the chapter make the provisions applicable to both agencies.

Chapter 2 – Procurement Generally

- **Section 1(D) – Executive Director Single Signature Authority:** A new provision, with certain limitations, has been added for the RCA Executive Director's signature authority up to \$100,000 per contract and an annual aggregate amount not to exceed \$300,000. For RCTC, the annual aggregate amount of Executive Director's signature authority has been increased from \$1.5 million to \$2 million, and a constraint on the single signature authority has been removed. The language

regarding the Executive Director's authority to execute contract amendments under single signature authority has been updated to avoid confusion.

- **Section 1(G) – Approval Limits and Solicitation Types:** Two new tables for RCA approval limits and solicitation types have been added. RCA is not subject to the Public Utilities Code (PUC) limitation and bid requirements for supplies, equipment and materials and for public works; however, RCA is subject to Public Contract Code (PCC) for limitations and bid requirements for public projects. Accordingly, separate tables are shown for each agency. RCA's authority for supplies, equipment and materials are included in the same table as its authority for services.
- **Section 2 – Procurement Officer – Designation and Delegation:** The designated Procurement Officer has been changed from the Chief Financial Officer to the Deputy Director of Financial Administration.
- **Section 9(D) – Authority's Public Project Advertisement/Publication:** A paragraph was added to address RCA's public project authority under the PCC.
- **Section 12(D) – Duties of Commission Staff Regarding Procurements:** Construction Change Order approval limits have been modified. Any change order exceeding \$100,000 but no greater than \$250,000 requires approval by the Project Delivery Director or the Toll Program Director. Any change order greater than \$250,000 requires approval by the Executive Director. *This provision is not applicable to RCA.*

Chapter 3 – Competitive Sealed Bids (“Low Bid”)

This chapter has been updated to include the RCA's public project PCC requirement and to be consistent with current practices of using electronic bidding.

Chapter 7– Non-Competitive and Emergency Procurements and Remedial Measures

This chapter has been updated to track the language in the PUC for RCTC. New provisions have been added to refer to the RCA's emergency procurement provisions under the PCC and to address emergency procurement provisions not covered by the PUC or PCC.

Chapter 8 – References to Applicable Laws/Regulations

This chapter is related to references to applicable laws/regulations. Most of this chapter is inapplicable to the RCA, as RCA does not receive FHWA or FTA funds; however, a general reference has been included regarding RCA compliance with grant requirements.

Chapter 9 – Disposal of Surplus Property

This chapter has been narrowed to address surplus personal property only. The approach for addressing surplus real property of the RCA and RCTC will be included in the updated right of way policies and procedures manual.

Electronic Signature Policy

Chapter 2, Section 16.A.3 of the PPM provides for the use and acceptance of electronic signatures in accordance with an adopted policy. Due to the impacts of COVID-19 on work environments, the RCTC Executive Director, in consultation with legal counsel, established an electronic signature policy. Subsequently, staff worked with legal counsel to develop a comprehensive electronic signature policy that allows the use of electronic signatures in lieu of manual signatures, when permitted by law, and establishes when an electronic signature may replace a manual signature. The Electronic Signature Use Policy (“Policy”) will allow the implementation of guidelines for the use and acceptance of electronic signatures used to conduct official business of RCTC and RCA.

The use of electronic signature technology will allow the Agency’s to collect and preserve signatures on documents quickly, securely, and efficiently. Additionally, the Policy will help reduce the waste of paper, increase the efficient use of public resources, and ensure the security and authenticity of electronic records, including electronic signatures.

SUMMARY AND FISCAL IMPACT:

Staff recommended changes to the RCA bylaws in a separate agenda item at this meeting. The changes include a revision for the Executive Director’s contract authority to comply with the PPM.

Staff recommends approval of the PPM and adoption of Ordinance No. 21-01 related to the PPM. Ordinance No. 08-02 will be rescinded upon the effective date of Ordinance No. 21-01.

In accordance with its JPA and state law, the RCA must adopt the PPM by ordinance. The ordinance will be introduced at the RCA Board meeting on February 1, with the second reading and potential adoption at the March 1, 2021 Board meeting. The ordinance will be effective thirty days following adoption. Therefore, if the revised PPM is approved by the RCA, staff anticipates it will be effective March 31, 2021.

Additionally, staff recommends approval of the Electronic Signature Use Policy and adoption of Resolution No. 2021-005 related to the use and acceptance of electronic signatures in lieu of manual signatures.

There is no fiscal impact related to the approval and adoption of these policies; the approval by the Board of Directors or Executive Director, as provided in the PPM, of agreements and commitments from specific procurement activities results in a direct fiscal impact.

Attachments:

- 1) Ordinance No. 21-01, *“Ordinance of the Western Riverside County Regional Conservation Agency Regarding the Revised Procurement Policy Manual”*

- 2) Riverside County Transportation Commission and Western Riverside County Regional Conservation Authority Procurement Policy Manual (Revised February 2021)
- 3) Resolution No. 2021-005, *“Western Riverside County Regional Conservation Authority Electronic Signature Use Policy”*
- 4) Riverside County Transportation Commission and Western Riverside County Regional Conservation Authority Electronic Signature Use Policy

Approved by the Executive Committee on January 20, 2021

In Favor: 6 Abstain: 0 No: 0

ORDINANCE NO. 21-01

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
ADOPTING PROCUREMENT POLICY MANUAL**

WHEREAS, the Western Riverside County Regional Conservation Authority (“RCA”) is a public agency of the State of California formed by a Joint Exercise of Powers Agreement (“JPA”); and

WHEREAS, pursuant to Section 19 of the JPA, RCA has the power to adopt such rules and regulations as the Board may deem necessary for the conduct of RCA's affairs; and

WHEREAS, RCA adopts purchasing policies and procedures pursuant to Government Code section 54201 *et seq.*; and

WHEREAS, RCA previously adopted Ordinance No. 08-02; and

WHEREAS, RCA recently appointed the Riverside County Transportation Commission (“RCTC”) to serve as the Authority’s management entity; and

WHEREAS, RCA seeks to adopt a purchasing policy that reflects highly ethical and professional standards in the management of its resources, and ensure that services, work, supplies, materials or equipment are acquired in a uniform manner at the best possible cost commensurate with the quality or qualifications needed; and

WHEREAS, RCA, under the management supervision of RCTC, seeks to run its operations as efficiently and effectively as possible; and

WHEREAS, RCTC has a procurement policy manual; and

WHEREAS; RCA and RCTC have worked to combine RCA’s purchasing policies and RCTC’s procurement policies into one procurement policy manual; and

WHEREAS, it is the desire of both agencies to adopt combined procurement policies.

**NOW, THEREFORE, THE WESTERN RIVERSIDE COUNTY REGIONAL
CONSERVATION AUTHORITY HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. RCA hereby adopts the Procurement Policy Manual attached hereto as Exhibit “A,” as the same may be amended by RCTC from time to time without need for further action by RCA.

SECTION 2. This Ordinance supersedes and replaces Ordinance 08-02 and any other purchase policies or guidelines previously adopted by RCA.

SECTION 3: If any provision or clause of this Ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance

are declared to be severable.

SECTION 4. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption.

INTRODUCED on the 1st day of February, 2021, and PASSED AND ADOPTED at the regular meeting of the Board of Directors at the Western Riverside County Regional Conservation Authority held this 1st day of March 2021.

By:

Natasha Johnson, Chair
Western Riverside County
Regional Conservation Authority

ATTEST:

By: _____
Lisa Mobley, Clerk
Western Riverside County
Regional Conservation Authority

EXHIBIT "A"
PROCUREMENT POLICY MANUAL

[attached behind this page]

4th Draft 1/4/21



Riverside County Transportation Commission
and
Western Riverside County
Regional Conservation Authority
Procurement Policy Manual

(Revised February 2021,
Effective March 31, 2021)

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CHAPTER 1 – PROCUREMENT PROCESS

1.0 PURPOSE AND SCOPE

- A. The Riverside County Transportation Commission (hereinafter “RCTC” or “Commission”) and the Western Riverside County Regional Conservation Authority (“RCA” or “Authority”) procures goods and services using public funds. The Commission and Authority (collectively, “Agencies”) ~~It~~ has a responsibility to uphold the public trust and maximize the value of public funds by using them as efficiently and cost-effectively as possible. As used herein, the term “Agency” is intended to refer individually, and interchangeably, to the Commission or Authority, as applicable.-
- B. Employees of the Commission conduct the operations of both Agencies.
- C. This Procurement Policy Manual (Manual) sets forth a general procurement policy and set of standards that will govern the conduct of ~~Commission~~ Agencies’ procurement activities and of Commission personnel engaged in those activities. The policies contained herein are advisory, not mandatory, except as related to applicable state or federal laws, and any deviation therefrom shall not render any contract of either Agency ~~the Commission~~ void or voidable. This manual is for ~~Commission~~ the Agencies’ internal purposes only and shall not create any rights in any third parties. Compliance with the provisions in this Manual related to state or federal funding is required in order to maintain funding eligibility.
- ~~DC.~~ This Manual is intended to supersede, in its entirety, the Commission’s *Procurement Policies Manual* which was adopted on September 11, 2019, and the Authority’s procurement ordinance, Ordinance No. 08-02, adopted on September 8, 2008. December 13, 2017.
- ~~ED.~~ As used herein, “FHWA” refers to the Federal Highway Administration; “FTA” refers to the Federal Transit Administration; and “Caltrans” refers to the California Department of Transportation.

2.0 PROCUREMENT POLICY STATEMENT

- A. These ~~Commission~~ procurement policies establish the guidelines and policies for procuring the goods and services necessary for the ~~Commission~~ Agencies to carry out ~~their~~ responsibilities and duties. The policies are intended to maintain the integrity of each ~~the~~ Commission Agency’s procurement process, while ensuring that purchases are made in a cost effective, timely manner; with fair and open competition; and in accordance with all applicable laws and regulations.
- B. The objectives of this ~~Commission’s~~ Procurement Policy Manual are to:
1. Maximize the value received for each ~~the~~ Commission Agency’s expenditure of public funds;
 2. Protect assets and/or services purchased with public funds and ensure their application in each ~~the~~ Commission Agency’s interests;

3. Provide all vendors an equal opportunity to provide needed goods and/or services; and
4. Protect the integrity and reputation of the Authority and ~~Commission~~, its officers, and the Commission, its officers and employees.
5. Ensure compliance with state and federal funding requirements, as applicable.

C. Notwithstanding reference in this Manual to a single Agency, when in the best interest of the Agencies and consistent with legal requirements applicable to each Agency, the procurements described herein may be conducted as joint procurements.

3.0 PROCUREMENT STANDARDS

A. General

1. Contract Administration System. Each Agency~~The Commission~~ will maintain a contract administration system that helps ensure that contractors perform in accordance with the terms, conditions, and specifications of their respective contracts.
 - a. Contract administration activities may include the following:
 - i. Receive, evaluate, and act on value engineering and other change proposals.
 - ii. Negotiate cost and schedule impact related to change orders and other contract modifications.
 - iii. Process disputes under the contract's disputes clause.
 - iv. Review and approve payments under any progress payments clause.
 - v. Ensure that invoiced personnel charges are for positions and classifications included in the contract. If new positions or classifications are required, they must be included pursuant to a written contract amendment dated prior to the date costs are incurred.
 - vi. Ensure that hourly rates and other costs are billed at the contracted rates. The contracted rates may not be changed, except in accordance with the terms of the contract, or as legally allowed based on specific findings approved by the applicable Agency ~~Commission~~ members.
 - vii. Monitor progress and ensure timely notification of anticipated overrun.
 - viii. Monitor financial status and advise if contract performance is jeopardized.

- ix. Issue task orders and ensure that the basis for payment set forth in any task order is consistent with the terms of the contract and the hourly rates included in the contract, as applicable.
 - x. Perform property administration.
 - xi. Ensure contractor compliance with quality assurance requirements.
 - xii. Evaluate, for adequacy, the contractor's engineering efforts and management systems that relate to design, development, production and testing.
 - xiii. Evaluate and make recommendations on contractor requests for waivers and deviations.
 - xiv. Monitor contractor's small and disadvantaged business subcontracting.
 - xv. Ensure timely submission of required reports.
 - xvi. Administer special clauses such as drug and alcohol testing.
 - xvii. Receive, inspect, and accept or reject partial deliveries and final deliveries of all contract deliverables.
 - xviii. Assist in contract close out.
- b. ~~For~~ For Commission contracts, the administration of construction contracts may be further supplemented by the Caltrans Construction Manual or other manual developed for a specific project, as required.
2. Avoid Duplicative Purchases. Commission staff should regularly review proposed and planned procurements to avoid purchase of unnecessary or duplicative items for either Agency.
 3. Lease vs. Purchase Analysis. Where appropriate, an analysis should be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical procurement approach.
 4. Value Engineering. When appropriate and in the AgencyCommission's best interests, the AgencyCommission will encourage the use of value engineering by including applicable clauses in contracts for appropriate equipment purchases and construction projects.
 5. Award to Responsive and Responsible Contractors. ~~TheThe Commission~~ Agency will make awards only to responsive and responsible contractors, as determined by the CommissionAgency, possessing the ability to perform successfully under the terms and conditions of a proposed contract. Consideration will be given to such matters as contractor integrity, compliance with public policy as implemented by applicable laws and regulations, record of past performance, and financial and technical resources.

- a. In connection with the responsibility determination for federally funded procurements, a check of debarment and suspension must be performed and documented in the procurement records.
6. AgencyCommission Rejection of Bids, Quotes, and/or Proposals. The AgencyThe Commission, to the extent permitted by applicable laws, may reject any and all bids, quotes and/or proposals and re-advertise at its sole discretion. TheThe AgencyCommission should ensure that such rights are clearly stated in all AgencyCommission bid documents.
 7. Procurement Records. Records sufficient to document the significant history of each procurement activity should be maintained and retained by eachthe CommissionAgency in accordance with the applicable CommissionAgency's records retention policy. At a minimum, these records should include:
 - a. The rationale for the method of procurement;
 - b. Selection of contract type;
 - c. Reasons for contractor selection or rejection; and
 - d. The basis for the contract price.
 8. Specifications. The CommissionAgency will have clear and accurate contract specifications or statements of work that identify all requirements that offerors must fulfill. Additionally, written selection procedures for formal procurements shall be prepared to help ensure fair, unbiased evaluation of competing proposals.
 - a. For federally funded procurements, the AgencyCommission is prohibited from unduly restricting competition or placing unreasonable requirements on firms in order for them to qualify to do business (e.g., unnecessary experience and excessive bonding requirements).
 9. Brand Name or Equal. The use of "brand name or equal" purchase descriptions may be permitted:
 - a. Only when an adequate specification cannot be provided without performing an inspection and analysis in time for the acquisition under consideration; and
 - b. When minimum needs are carefully identified and those salient physical and functional characteristics of the brand name product are clearly set forth in the solicitation.
 - c. For non-federally funded procurements, as otherwise permitted by state law.

This section is not intended to impose limitations on the Agency'sCommission's ability to require a brand name when the procurement is not federally funded and is not a "public work" or "public project" subject to the requirements contained in the California Public

Utilities Code (PUC), for the Commission, or the Public Contract Code (PCC), for the Authority.

10. Audit Provisions. Every AgencyCommission contract wherein contractor or other entity is receiving AgencyCommission funds in excess of \$10,000 should include a provision allowing examination and audit of records related to the contract by the AgencyCommission's auditor for a period of three years after final payment under the terms of the contract.
11. Violations or Breach of Contract. All contracts exceeding \$100,000 should include administrative, contractual, or legal remedies for violations or breach of the contract by the contractor.
12. Termination Clause. All contracts in excess of \$25,000, and public works contracts in excess of \$2,000, should provide for the termination of the contract for the CommissionAgency's convenience, and all contracts should provide for the termination of the contract for default in cases of contractor breach or non-performance. Federally funded contracts in excess of \$10,000 must provide for both termination for convenience and cause.
13. Issues not Included in the Procurement Policy Manual. If a policy, procedure or particular strategy or practice is in the best interest of the CommissionAgencies, or either of them, and is not specifically addressed, nor prohibited by statute or case law, users of this Manual should not assume it is prohibited. Rather, the absence of direction should be interpreted as permitting the Executive Director to innovate and use sound business judgment that is otherwise consistent with law and within the limits of his or her authority.

B. Written Standards of Conduct

1. Conflicts of Interest. All Commission members, officers, employees and other agents of each Agency, and Commission employees, must conduct the procurement process so as to avoid conflicts of interest, real or apparent. To maintain full and open competition, no Agency Commission member, officer, employee or other agent, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing individuals may participate in the selection, award, or administration of any CommissionAgency contract of the applicable Agency if a conflict of interest, prohibited by law, would be involved. For federally-funded contracts, the foregoing shall also apply when any of those individuals previously listed has a financial or other interest in the firm selected for award. In addition to the foregoing, all procurements must be conducted in accordance with as applicable, the most current version of the "Conflict of Interest Code for the Riverside County Transportation Commission" or the "Conflict of Interest Code for the Western Riverside County Regional Conservation Authority," both adopted pursuant to the Political Reform Act of 1974 (as amended).

2. Lobbying and Gifts. ~~Commission~~Agency officers, ~~employees,~~ agents and ~~Commission~~ members, and Commission employees must comply with applicable state and federal law regarding acceptance of gifts, gratuities, or favors from contractors, potential contractors, or parties to subcontractor agreements. For federally-funded procurements, the procuring CommissionAgency officers, ~~employees,~~ agents or ~~Commission~~ members, and Commission employees, may neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts; provided that exceptions may apply if, as determined by the Executive Director, the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. For federally-funded procurements, nominal value shall mean under fifty dollars (\$50).
3. Violations.
 - a. The violation of these Standards of Conduct by Commission employees will subject the violator to any disciplinary proceedings or action deemed appropriate by the Executive Director. Employees may correct a violation in any manner provided for under the Political Reform Act, and its implementing regulations.
 - b. The violation of any of these Standards of Conduct by ~~Commission~~ members or officers of either Agency will require correction of the violation in any manner provided for under the Political Reform Act, and its implementing regulations.
 - c. Contractors or subcontractors that violate these Standards of Conduct as relates to an active federally-funded procurement may be prohibited from bidding on the procurement, or may be subject to other action as deemed appropriate by the Executive Director.
 - d. Agents of ~~either the Commission~~Agency that violate these Standards of Conduct as relates to federally-funded procurements may be prohibited from participation on behalf of ~~that Agency~~~~Commission~~ on federally funded projects, or subject to other action as deemed appropriate by the Executive Director.
4. Prohibited Communications. To avoid any appearance of impropriety, instructions to bidders in solicitation documents should prohibit contacts of any kind from proposers/bidders with any ~~Commission~~ member of the procuring Agency or any Commission staff, other than the Procurement Officer, or designee, during an open procurement. Violation of this condition may result in immediate disqualification of a bid or proposal. This provision is not meant to prohibit communications between Commission staff and existing consultants/contractors related to existing business which the consultant/contractor is under contract to perform on behalf of the Agency. ~~the Commission.~~

4.0 TYPES OF CONTRACTS

A. General Provisions

1. The Procurement Officer should use the types of contracts described in this Chapter for most types of procurement, except as otherwise provided for certain small purchases described hereunder in Chapter 6. Innovative contracting arrangements are not prohibited, but require the advance approval of the Executive Director or the [applicable Agency Commission](#), as specified herein.
2. The “cost-plus-percentage-of-cost” method of contracting shall not be used for state or federally funded contracts.
3. The Procurement Officer, in consultation with the project manager, should select the type of contract that is most appropriate to the circumstances of each procurement, in accordance with the provisions of this Chapter.
4. In procurements by other than competitive sealed bidding, the Procurement Officer may negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance.

B. Selecting Contract Types

1. The type of contract to be used should be determined prior to the solicitation, and the solicitation should inform bidders of the type of contract that will be used.
2. When procurement is by competitive sealed bidding, the Procurement Officer must use a firm fixed-price contract.
3. Except when procurement is by competitive sealed bidding as required by law, the Procurement Officer should select the most effective contract type and should consider contract type together with the issues of price, risk, uncertainty, and responsibility for costs. The type of contract used should reflect the cost risk and responsibility assumed by the contractor or supplier.
4. The Procurement Officer should avoid the continued use of a cost reimbursement or time-and-materials contract after experience provides a basis for firmer pricing.
5. The Procurement Officer should include documentation in each contract file to show why the particular contract type was selected, except for purchase orders under the small purchase threshold.

C. Fixed-Price Contracts

1. Fixed-price contracts may provide for a firm price or, in appropriate cases, an adjustable price.
2. Fixed-price contracts providing for an adjustable price may include a ceiling price, a target price (including target cost), or both. Unless otherwise specified in the contract, the ceiling price or target price will be subject to

adjustment only by operation of contract clauses providing for equitable adjustment or other revision of the contract price under stated circumstances.

3. A firm-fixed-price contract should provide for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.
4. A firm-fixed-price contract should be used for acquiring commercial products or commercial-type products, or for acquiring other supplies or services, on the basis of reasonably definite functional or detailed specifications if the Procurement Officer can establish fair and reasonable prices at the outset, including the following circumstances:
 - a. When there is adequate price competition;
 - b. When there are reasonable price comparisons with prior purchases of the same or similar supplies or services made on a competitive basis;
 - c. When available cost or pricing information permits realistic estimates of the probable costs of performance;
 - d. When performance uncertainties can be identified and reasonable estimates of their cost impact can be made, and the contractor is willing to accept a firm-fixed-price contract; or
 - e. When required by law unless a sole source exception applies.

D. Cost Reimbursement/Cost-Plus-Fixed-Fee Contracts

1. Cost reimbursement contracts provide for payment of the contractor's reasonable, allocable and allowable incurred costs plus a negotiated fixed fee, to the extent prescribed in the underlying contract and Federal Acquisition Regulation (FAR) Part 31.
2. A cost reimbursement contract establishes an estimate of total cost for the purpose of obligating funds and establishing a ceiling on expenditures that the contractor may not exceed without the approval of the [Agency Commission](#).
3. Cost reimbursement contracts are suitable for use when the uncertainties of performance do not permit costs to be estimated with sufficient accuracy to use a fixed-price contract.
4. The [Agency Commission](#) must determine the adequacy of the contractor's accounting system for cost-type contracts before awarding such a contract.

E. Time-And-Materials Contracts

1. A time-and-materials contract should include direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, profit, and materials required at cost.

2. The user department/project manager should ensure that there is adequate surveillance of contractor performance when a time-and-materials type contract is used.

1.3. For federally funded procurements, A a time-and-materials contract should be used only after the Procurement Officer determines:

- a. In writing, that no other type of contract is suitable; and
- b. A ceiling price to be included in the contract that the contractor shall not exceed except at its own risk.

2.4. For federally funded procurements, Aa time-and-materials contract should be used only when it is not possible at the time of executing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of certainty or confidence.

~~3. A time-and-materials contract should include direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, profit, and materials required at cost.~~

~~4. The user department/project manager should ensure that there is adequate surveillance of contractor performance when a time-and-materials type contract is used.~~

F. Labor-Hour Contracts

1. When materials are not required, the Procurement Officer may use a labor-hour contract, a variation of the time-and-materials contract.
2. The use of a labor-hour contract should be in accordance with the above-referenced provisions related to time-and-materials contracts.

G. Letter Contracts (Letter Of Intent Contracts)

1. A letter contract is an interim type of contractual agreement that gives the contractor a limited notice of award for the delivery of the required goods/supplies or the performance of services.
2. The Procurement Officer may use a letter contract when the Agency's Commission's interests demand that the contractor be given a binding commitment so that work can start immediately and executing a definitive contract is not possible in sufficient time to meet the requirement. Each letter contract should be as complete and definitive as possible under the circumstances and should include clauses approved and required by the Procurement Officer.
3. The estimated cost of the definitive contract should determine the type and level of review and approval required for approval of a letter contract.
4. A letter contract may not be entered into without competition except as provided for under Non-Competitive and/or Emergency Procurements provisions of this Manual.

5. A letter contract may not be amended to satisfy a new requirement unless the new requirement is inseparable from the existing contract. Any amendment should be subject to the same requirements as a new letter contract.
6. The total value of the letter contract should be the estimated sum necessary to cover the contractor's requirement for funds before execution of the definitive contract. However, the total value of a letter contract should not, under any circumstances, exceed fifty percent (50%) of the overall price ceiling for the term of the final negotiated (i.e., definitive) contract.
7. A letter contract should contain a negotiated schedule for execution of the definitive contract, including dates for submission of the contractor's price proposal, cost or pricing data (if required), a date for start of negotiations, and a target for execution of the definitive contract.
8. The letter contract should provide that if the Procurement Officer and the contractor cannot negotiate a definitive contract because of failure to reach agreement regarding price or fee: 1) the Procurement Officer may terminate the letter contract; or 2) if a "contract definitization" clause is included in the letter contract, the Agency ~~Commission~~ may unilaterally require the contractor to continue the work and the Procurement Officer may, with the approval of the Executive Director, determine a reasonable price or fee.

H. Multiple Year Contracts

Multiple year contracts may be used with competitive sealed bids, competitive proposals, or by non-competitive procurement. The contract term, and any extensions thereof, shall be established based on sound business judgment of the Commission Agency. Multiple year contracting is a method by which the Commission Agency awards a contract for a base period of one or more years, with option provisions for future years' requirements. The option provision in the contract should provide for unilateral exercise at the discretion of the user department/project manager, as additional requirements and funding become available. See below under Section 5.0 of this Chapter for further information regarding Options.

For federally-funded procurements, the procurement file shall document the rationale for determining the term. Considerations should include the time necessary to accomplish the purpose of the contract, competition, pricing, and fairness.

I. Indefinite Delivery/Indefinite Quantity (ID/IQ) Contracts

1. The Procurement Officer may use an ID/IQ type of contract when the Commission Agency anticipates a recurring requirement, but cannot predetermine the precise quantities of supplies or services at the time of contract award.

2. FHWA or Caltrans funded ID/IQ on-call contracts and FTA funded ID/IQ contracts for rolling stock and replacement part contracts may not exceed five (5) years.
3. ID/IQ contracts should specify maximum or minimum estimated quantities that the [CommissionAgency](#) may require during the term of the agreement. An ID/IQ contract should make no promise of exclusivity and may in fact be one of several (multiple) contracts awarded for the same item or service.
4. There are several types of ID/IQ contracts, including:
 - a. Definite-quantity contracts
 - b. Requirements contracts
 - c. Indefinite quantity (IQ) contracts (commodities)
 - d. Task order contracts (services)
5. If possible under the circumstances, the Procurement Officer should ensure that original solicitation and resultant ID/IQ contract contain both a minimum and a maximum quantities, which represent the reasonably foreseeable needs of the parties to the solicitation, and a clause stating that the estimate is not a representation to a bidder, offeror, or consultant that the estimated quantity or dollar amount above the estimated minimum will actually be required or ordered by the [AgencyCommission](#).
6. For task orders contracts, the procurement documents and executed contracts must specify the procedures to be used in awarding task orders. Such procedures must comply with state and federal regulations, as applicable.

5.0 OPTIONS

A. General

1. When it is in the best interest of the [AgencyCommission](#), a contract option may be included providing the [AgencyCommission](#) the unilateral right to extend the term of the contract and/or to purchase additional supplies or services called for by the contract.
2. Any written findings required for a contract option shall specify both the base requirement(s) and the increase permitted by subsequent options. Contract provisions setting forth the cost of the option may include, but are not limited to, the following:
 - a. A specific dollar amount;
 - b. An amount to be determined by applying provisions (or a formula) provided in the basic contract, but not including renegotiation of the price for work in a fixed-price type contract;

- c. In a cost-type contract, a stated fixed or maximum fee, or a fixed or maximum fee amount determinable by applying a formula contained in the basic contract;
- d. A specific price that is subject to an economic price adjustment provision; or
- e. A specific price that is subject to change as a result of changes to the prevailing labor rates provided by the U.S. Department of Labor (DOL) or the California Department of Industrial Relations (DIR) prevailing rates, whichever is applicable.

B. Solicitation of Contracts with Options

- 1. If a contract provides for an option, the solicitation should include appropriate option clauses.
- 2. Each contract should state the period within which an option may be exercised.
- 3. In order to meet the requirements of this Manual for full and open competition, the option should be evaluated as part of the initial competition and be exercisable at an amount specified from the terms of the basic contract. When options have not been evaluated as part of the award, the exercise of such options will be considered a non-competitive procurement and must comply with the non-competitive procurement policies in described in this Manual.

C. Exercise of Options

- 1. The user department/project manager, in cooperation with the Procurement Officer, should initiate the exercise of an option only after determining the following [for the Agency](#):
 - a. That sufficient budget authority is available;
 - b. That the requirement covered by the option fulfills an existing [Agency Commission](#) need; and
 - ~~c. That the exercise of the option will be the most advantageous method of fulfilling the [Agency Commission's](#) needs, when price and other factors are considered.~~
- 2. The Procurement Officer, after considering price and other factors, should make the determination whether to recommend exercising the option on the basis of one of the following:
 - a. A new solicitation fails to produce a better price or a more advantageous offer than that offered by the option; provided, that if it is anticipated that the best price available is the option price (or that the option provides the more advantageous offer), the Procurement Officer should not use this method to test the market;

- b. An informal analysis of prices or an examination of the market indicates that the option price is better than prices available in the market or that the option is the most advantageous offer; or
 - c. The short time between the award of the contract containing the option and the exercise of the option indicates that the option price is the lowest price obtainable or the most advantageous.
3. The contract modification or other written document, which notifies the contractor of the exercise of the option, shall cite the option provision as authority for the action and should be issued within the time period specified in the contract.

6.0 COOPERATIVE AGREEMENTS

A. Policy on Intergovernmental or Inter-entity Agreements

To promote economy and efficiency, ~~the~~ [the Commission Agency](#) may enter into state and local intergovernmental agreements or inter-entity agreements, where such agreements are in the best interest of the [Commission Agency](#) and are appropriate for procurement or use of common or shared goods and services. The use of purchasing schedules may be prohibited for federally funded procurements. Out-of-state purchasing agreements are prohibited for FTA-funded procurements.

B. Memorandum of Understanding

A memorandum of understanding (MOU) is a contract document describing a bilateral or multilateral agreement outlining the terms and details of an arrangement between the parties to the MOU, including each party's requirements and responsibilities. An MOU is used when substantial involvement is expected between ~~the Agency the Commission~~ and another agency or entity when carrying out the activity contemplated in the MOU, and there exists some public or mutually beneficial purpose in carrying out this activity.

C. Piggybacking

- 1. Piggybacking is the post-award use of an acceptable contract/solicitation process that allows an entity not contemplated in the original procurement to purchase the same supplies or equipment under the original contract/solicitation process.
- 2. Piggybacking is permissible when:
 - a. The underlying solicitation document and the resultant contract contain an assignability clause that provides for the assignment of all or part of the specified deliverables as originally advertised, competed, evaluated, and awarded; and
 - b. For federally funded agreements, the original solicitation and resultant contract contain a minimum and a maximum quantity, which represent the reasonably foreseeable needs of the parties to the solicitation.

D. California Multiple Award Schedule and State Master Agreements

1. A California Multiple Award Schedule (CMAS) and State Master Agreements are agreements established between the California Department of General Services (DGS) and multiple vendors who agree to the State of California terms and conditions, and may be used by the [CommissionAgency](#).
2. Acquisitions based on CMAS or State Master Agreements shall be competitively bid so as to result in offers from three or more vendors including one small business, if available. If less than three offers are received, documentation of solicitation methods must be included with the contract documentation.
3. Three offers are not required for CMAS and State Master Agreements based on competition, such as Cal-Store, the Master Rental Agreement, Western States Contracting Alliance (WSCA), etc. Information on specific CMAS and State Master Agreements are available on DGS-PD's website at: www.dgs.ca.gov/pd.
4. Notwithstanding PUC section 130232(a), ~~Public Contract Code (PCC)~~ sections 10298(b) and 10299(a) provide authority for the Commission to use CMAS or State Master Agreements for acquiring supplies, equipment and materials that exceed \$25,000 without engaging in further competitive bidding.

7.0 RECURRING CONTRACTS

- A. ~~Each~~[The CommissionAgency](#) may, on an annual basis, evaluate existing contracts for professional services that are due to expire within the next fiscal year. While some of these contracts may be placed on the calendar for a new procurement solicitation or allowed to expire because they are no longer required, notwithstanding any other provision herein, some contracts may be included in an annual recurring contracts list that must be approved by the [applicable CommissionAgency](#). Most contracts for professional services should be subject to a competitive process; however, there may be limited circumstances in which staff believes it is more efficient and cost effective to retain such consultants on the recurring contracts list rather than rebidding the services. Those circumstances generally are due to the consultant's historical knowledge, unique experience, and understanding of the [applicable CommissionAgency](#) and/or specific [CommissionAgency](#) projects. Approval of the recurring contracts list allows ~~each~~[the CommissionAgency](#) to continue work on existing projects without interruptions and maintain consistency.
 1. State or federally-funded contracts may not be included in the annual recurring contracts list.

CHAPTER 2 – PROCUREMENT GENERALLY

1.0 IMPLEMENTATION BY EXECUTIVE DIRECTOR; COMMISSION CONTROLS AND LIMITATIONS

- A. Final authority for purchasing actions and decisions rests with ~~each~~ the Agency Commission, except as delegated by the Agency Commission to the Executive Director.
- B. ~~The Commission~~ Each Agency, respectively, authorizes the Executive Director to execute contracts approved by the Agency Commission. The Executive Director may designate the Deputy Executive Director, Chief Financial Officer or Directors to execute contracts under his or her signature authority on his/her behalf.
- C. The policies set forth herein will be implemented by the Chief Financial Officer. The Chief Financial Officer has primary responsibility for ensuring that ~~each~~ the Agency Commission's procurement process is in accordance with applicable laws and regulations, as interpreted by the General Counsel and Agency Commission policy.
- D. The Executive Director is authorized to approve and enter into contracts on behalf of the Agencies Commission under his/her single signature authority as follows:
1. For the Commission: When the expenditure is less than fifty thousand dollars (\$50,000) for the purchase of all supplies, equipment, materials and for the construction of all facilities and works in accordance with PUC § 130232; and
 2. For the Commission: When the expenditure is less than two hundred fifty thousand dollars (\$250,000) for the purchase of services; however, (i) the aggregate amount of contracts executed under the single signature authority shall not exceed ~~\$1,52,000,000~~ in any given fiscal year; (ii) the aggregate value of all contracts awarded to any one entity under the Executive Director's single signature authority shall not exceed \$250,000 in any fiscal year; and (iii) the Executive Director may execute contract amendments that do not exceed \$250,000 for existing contracts ~~that do not exceed \$250,000. Such authority however, may not be exercised more than once during the life of any contract and may not be used to amend contracts originally executed under the Executive Director's single signature authority.~~ The Commission's fiscal year is from July 1 to June 30.
 3. For Authority: When the expenditure is less than \$100,000; however, (i) the aggregate amount of contracts executed under the single signature authority shall not exceed \$300,000 in any given fiscal year; (ii) the aggregate value of all contracts awarded to any one entity under the Executive Director's single signature authority shall not exceed \$100,000 in any fiscal year; and (iii) the Executive Director may execute contract amendments that do not exceed \$100,000 for existing contracts that do not exceed \$100,000. The Authority's fiscal year is from July 1 to June 30.

- E. The powers of the Executive Director pursuant to Paragraph “D” above are subject to: (i) the existence and provisions of an ~~an-Commission~~ approved budget for the applicable Agency; and (ii) applicable laws and regulations.
- F. The Executive Director must provide each Agency ~~the Commission~~ with a quarterly regular report of all contracts entered into pursuant to the single signature authority provided in Paragraph “D” above by that Agency, and must report to the applicable Agency-Commission at its next regularly scheduled meeting each new contract awarded on an emergency basis or other contracts in excess of the Executive Director’s single signature authority.

G. Approval Limits and Solicitation Types

1. Commission- Supplies, Equipment, and Materials (PUC § 130232).

PURCHASE AMOUNT	SOLICITATION TYPE	SOLICITATION PROCESS	APPROVER
Less than \$1,000	Micro-purchase	<u>Informal</u> : Commercial availability, Rotate Vendors	Procurement Officer*
\$1,000 to \$25,000	Small Purchase	<u>Informal</u> : Three (3) Quotes	Procurement Officer*
\$25,001 to \$50,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Competitive Sealed Bids	Executive Director
Greater than \$50,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Competitive Sealed Bids	Commission

2. Commission Public Works (PUC § 130232).

PURCHASE AMOUNT	SOLICITATION TYPE	SOLICITATION PROCESS	APPROVER
Less than \$1,000	Micro-purchase	<u>Informal</u> : Commercial availability, Rotate Vendors, Non-Collusion Declaration, Insurance	Procurement Officer *
\$1,000 to \$25,000	Small Purchase	<u>Informal</u> : Three (3) Quotes, Prevailing Wage, Clauses, Insurance, License, Non-Collusion Declaration	Procurement Officer*
\$25,001 to \$50,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Prevailing Wage, Insurance, License, Competitive Sealed Bids, Payment Bond, Non-Collusion Declaration	Executive Director
Greater than \$50,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Prevailing Wage, Insurance, License, Competitive Sealed Bids, Payment Bond, Non-Collusion Declaration	Commission

* As delegated by the Executive Director

3. Commission Services.

PURCHASE AMOUNT	SOLICITATION TYPE	SOLICITATION PROCESS	APPROVER
Less than \$10,000	Micro-purchase	<u>Informal</u> : Commercial availability, Rotate Vendors, Insurance	Procurement Officer*
\$10,000 to \$50,000	Small Purchase	<u>Informal</u> : Three (3) Quotes, Clauses, Insurance	Procurement Officer*
\$50,001 to \$250,000	Small Purchase	<u>Informal</u> : Three (3) Quotes, Clauses, Insurance; <i>or</i> <u>Formal</u> : Advertisement, Clauses, Insurance, and Negotiated Agreement, or Competitive Sealed Bids, or A/E Contract procedures	Executive Director
Greater than \$250,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Insurance, Certifications, and Negotiated Agreement, or Competitive Sealed Bids, or A/E Contract procedures	Commission

4. Authority Public Projects (Public Contract Code PCC §20160, et. seq.).

<u>PURCHASE AMOUNT</u>	<u>SOLICITATION TYPE</u>	<u>SOLICITATION PROCESS</u>	<u>APPROVER</u>
<u>Less than \$1,000</u>	<u>Micro-purchase</u>	<u>Informal</u> : <u>Commercial availability, Rotate Vendors, Non-Collusion Declaration, Insurance</u>	<u>Procurement Officer *</u>
<u>\$1,000 to \$5,000</u>	<u>Small Purchase</u>	<u>Informal</u> : <u>Three (3) Quotes, Prevailing Wage, Clauses, Insurance, License, Non-Collusion Declaration</u>	<u>Procurement Officer*</u>
<u>\$5,001 to \$100,000</u>	<u>Formal Procurement</u>	<u>Formal</u> : <u>Advertisement, Clauses, Prevailing Wage, Insurance, License, Competitive Sealed Bids, Payment Bond, Non-Collusion Declaration</u>	<u>Executive Director</u>
<u>Greater than \$100,000</u>	<u>Formal Procurement</u>	<u>Formal</u> : <u>Advertisement, Clauses, Prevailing Wage, Insurance, License, Competitive Sealed Bids, Payment Bond, Non-Collusion Declaration</u>	<u>Authority</u>

5. Authority Supplies, Equipment, Materials and Services.

PURCHASE AMOUNT	SOLICITATION TYPE	SOLICITATION PROCESS	APPROVER
Less than \$10,000	Micro-purchase	<u>Informal</u> : Commercial availability, Rotate Vendors, Insurance	Procurement Officer*
\$10,000 to \$50,000	Small Purchase	<u>Informal</u> : Three (3) Quotes, Clauses, Insurance	Procurement Officer*
\$50,001 to \$250,000	Small Purchase	<u>Informal</u> : Three (3) Quotes, Clauses, Insurance; <i>or</i> <u>Formal</u> : Advertisement, Clauses, Insurance, and Negotiated Agreement, or Competitive Sealed Bids, or A/E Contract procedures	<u>Under \$100,000:</u> Executive Director <u>Over \$100,000:</u> <u>Authority</u>
Greater than \$250,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Insurance, Certifications, and Negotiated Agreement, or Competitive Sealed Bids, or A/E Contract procedures	<u>Authority Commission</u>

* As delegated by the Executive Director

H. In addition to the authority granted above, and except as otherwise prohibited by applicable state or federal law, the Executive Director is authorized to approve and enter into contracts on behalf of the Commission, where the relevant contract is directly related to and necessary to implement a project that has been approved by the Commission, the contract is within the approved project budget and, based on the circumstances, exercise of this authority is in the best interest of the Commission.

2.0 PROCUREMENT OFFICER—DESIGNATION AND DELEGATION

A. The Deputy Director of Financial Administration ~~Chief Financial Officer~~ is the designated “Procurement Officer” for the Agencies Commission. The Deputy Director of Financial Administration ~~Chief Financial Officer~~ may delegate all or part of the Procurement Officer duties described in this Manual.

3.0 PROCUREMENT OFFICER—DUTIES

A. The Procurement Officer has the duty to oversee all procurement activities of the Agencies Commission, and to implement the policies and standards set forth in this Manual, subject to the limitations of the authority that has been delegated to the Procurement Officer by the applicable Agency Commission or the Executive Director.

- B. The Procurement Officer may issue instructions for the implementation of each Agency's Commission procurement policies.
- C. The Procurement Officer has the duty to ensure each Agency's Commission contracts, purchase orders, modifications, and supplemental agreements are executed in accordance with established thresholds and delegated authority.
- D. The Procurement Officer, subject to the review of the Agency Commission's General Counsel, has the authority to draft and determine the final form of the contract to be used for each procurement.
- E. The Procurement Officer should ensure that a complete record of each procurement action is maintained in accordance with each Agency's the Commission's records retention policy by establishing files containing the records of all major procurements and contractual actions pertinent to that office's responsibilities.
 - 1. The Procurement Officer is responsible for maintaining the original contract file pursuant to applicable state and/or federal records retention policies.
 - 2. The documentation in each contract file maintained by the Procurement Officer should be sufficient to constitute a complete history of the transaction for the following purposes:
 - a. Providing a complete background as a basis for informed decisions at each step of the procurement process;
 - b. Supporting actions taken;
 - c. Providing information for reviews, audits, and investigations; and
 - d. Furnishing essential facts in the event of litigation.
- F. The Procurement Officer has the duty to ensure Commission staff engaged in procurement activities are trained in the procurement requirements set forth in this Manual.

4.0 IMPLEMENTATION OF PROCUREMENT PROCEDURES AND GUIDELINES

- A. The Procurement Officer, in his or her discretion and subject to the review and concurrence of Agency the Commission's General Counsel, may adopt procurement and materials management procedures and guidelines needed to implement and supplement the policies and standards set forth in this Manual. Any such procedures and guidelines shall:
 - 1. Provide for timely review and processing of all procurement actions;
 - 2. Ensure that procurements proceed timely, efficiently and economically;
 - 3. Ensure that procurements adhere to principles of good public policy practices and sound business judgment; and
 - 4. Prohibit arbitrary actions. An example of an arbitrary action is the award of a construction contract, using the competitive sealed bids method of procurement, to a bidder other than the lowest responsive, responsible bidder.

5.0 AUTHORIZED METHODS OF PROCUREMENT; SELECTION

A. Selection

As part of the procurement initiation process, the Procurement Officer will determine which method of procurement is appropriate.

B. Authorized Methods

The following methods of procurement may be used, as appropriate, in accordance with the policies and procedures included in the Procurement Manual for all federal and non-federal procurement actions contemplated under this Procurement Manual:

1. Micro Purchase Procedures, pursuant to Chapter 6 of this Manual;
2. Small Purchase Procedures, pursuant to Chapter 6 of this Manual;
3. Competitive Sealed Bid (“Low Bid”), pursuant to Chapter 3 of this Manual;
4. Competitively Negotiated Procurement, pursuant to Chapter 5 of this Manual;
5. Non-Competitive and Emergency Procurement, pursuant to Chapter 7 of this Manual; and
6. Alternate Delivery, pursuant to Chapter 4 of this Manual.

6.0 INDEPENDENT COST ESTIMATE

A. An independent cost estimate is a determination of price reasonableness. An estimate shall be completed prior to the receipt of bids or proposals. Key elements of the independent cost estimate include, but are not limited to:

1. Date of the independent cost estimate;
2. Basis for the independent cost estimate, including applicable supporting documentation; and
3. The value determined by the independent cost estimate.

B. The method and means of establishing the estimate may vary based on the circumstances and can range from checking historical records or published price guides to a detailed estimate in the same level of detail that is required for contractors submitting proposals. Estimates can be obtained from a design firm or in-house technical personnel for construction work or from independent third-party staff (not impacted by final procurement).

C. The estimate provides the Procurement Officer with essential input during the solicitation process. Independent cost estimates may be used by the [Agency Commission](#) to:

1. Provide a determination of value (i.e., do benefits warrant the cost);
2. Support procurement planning;
3. Determine the appropriate solicitation type and process based on the approval limits set forth in Chapter 2, 1.0(G);

4. Establish the competitive range and supplement the evaluation process;
5. Provide a basis for a price analysis, which may eliminate the need for a more burdensome cost analysis;
6. Provide a basis for development of a pre-negotiation objective;
7. Support ~~the Agency's~~the Commission's negotiation position with contractor; and/or
8. After contract award, provide essential input with respect to contract amendments, change orders and claims.

7.0 COST/PRICE ANALYSIS

- A. A cost/price analysis shall be performed in connection with every federally funded procurement action, including contract modifications, and should be conducted for non-federally funded procurements. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation.
- B. If the contract being awarded is a cost-reimbursement type, the cost/price analysis shall address the *realism* of the various cost elements proposed, and where the costs are unrealistically low, an adjustment shall be made to reflect what the ~~Agency~~Commission believes the effort will actually cost given that offeror's specific technical approach as well as its direct and indirect cost rates.
 1. The ~~Agency -Commission~~ shall, when applicable, or must, if required by law, utilize the guidelines provided in the FAR Part 31 to determine whether of the contractor's proposed costs are reasonable, allowable and allocable.
- C. As applicable, the ~~Agency~~Commission shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all applicable cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

8.0 VENDOR CONTACTS PRIOR TO ISSUANCE OF A SOLICITATION

- A. Informational and market research contacts with prospective contractors/vendors should be circumscribed based upon legitimate, identifiable business purposes and guided by the exercise of sound judgment. The primary pitfalls to be avoided are promises or implications from Commission staff of a future contract, development by a vendor of a specification or scope of services to be used as part of an ~~Agency~~Commission solicitation that vendor intends to participate in, requests from Commission staff for complimentary services or supplies, and other activities that may create a real or apparent conflict of interest or the impression of an obligation on the part of ~~either Agency.the Commission.~~

9.0 ADVERTISING/PUBLICIZING PROCUREMENTS

- A. The Procurement Officer should use the most efficient and effective means to publicize contract actions to increase competition in accordance with the requirements of the specific procurement.
- B. PUC § 130232, applicable to the purchase of all supplies, equipment, materials and for the construction of all facilities and works by the Commission when the expenditure exceeds twenty-five thousand dollars (\$25,000), requires that notice requesting bids shall be published at least once in a newspaper of general circulation. The publication must be made at least 10 days before the date for the receipt of the bids. The Commission, at its discretion, may reject any and all bids and re-advertise.
- C. PUC § 130238 for the purchase by the Commission of computers, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus that is not available in substantial quantities to the general public requires (i) the procurement be conducted through competitive negotiation, after a finding by the Commission by a two-thirds vote that this particular procurement qualifies under PUC § 130238, and (ii) notice of the request for proposals be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
- ~~C.D.~~ PCC § 20161 defines public projects of the Authority as (i) the erection, improvement, painting, or repair of public buildings and works; (ii) work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow; (iii) street or sewer work excluding maintenance or repair; or (iv) purchase of supplies or materials for any of the foregoing, as well as maintenance or repair of streets or sewers, when the expenditure exceeds five thousand dollars (\$5,000). PCC § 20164 requires that for Authority public projects, notice requesting bids shall be published at least twice in a newspaper of general circulation, not less than five days apart. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids.
- ~~D.E.~~ Federal Transit Administration
- Section 9.c of FTA Circular 4220.1F requires that invitations for bids are to be "publicly" advertised, and Section 9.d of FTA Circular 4220.1F requires that requests for proposals are to be publicized.
- ~~E.F.~~ Caltrans and Federal Highway Administration (FHWA)
- Chapter 15, paragraph 15.4 Project Advertisement, of the Caltrans Local Assistance Procedures Manual provides detailed guidance regarding advertising of FHWA- and/or Caltrans-funded projects.
- ~~E.G.~~ Pre-solicitation advertising prescribed in this section is not required for non-competitive, sole source, or emergency procurements processed in accordance with this Manual.

10.0 NON-DISCRIMINATION IN PROCUREMENT

A. All formal contracts entered into by the ~~Agency Commission~~ should contain appropriate clauses prohibiting discrimination by the contractor against any person or group of persons on account of race, color, religion, creed, national origin, ancestry, physical handicap, medical condition, age, marital status, sex or sexual orientation in the performance of the contract.

11.0 ORGANIZATIONAL CONFLICTS OF INTEREST

A. An unfair competitive advantage could result if a contractor were allowed to submit a bid or proposal for work described in a specification or statement of work that the contractor itself developed. For the purpose of eliminating a potential unfair competitive advantage, and in compliance with applicable state and federal laws and regulations, a contractor that develops or assists in developing specifications, requirements, statements of work, invitation for bids, and/or request for proposals for an ~~Agency Commission~~ procurement is excluded from competing for the resultant procurement, unless an appropriate waiver is issued by the ~~Agency Commission~~. All waivers will be assessed by the ~~Agency Commission~~ on a case-by-case basis.

12.0 DUTIES OF COMMISSION STAFF REGARDING PROCUREMENTS

A. General

Procuring goods, services, and contracts for the ~~Agencies Commission~~ must be a cooperative effort, and it will be the responsibility of all Commission staff involved in procurement to employ sound business judgment and appropriate standards of ethics and fairness to procure goods and services in a manner most advantageous to ~~each Agency the Commission~~. All employees and departments are instructed to follow the procedures set forth in the Manual, as well as any instructions issued by the Procurement Officer regarding procurements.

- 1. For FTA-funded procurements, the user department should consider use of the FTA checklists provided in FTA Circular 4220.1F, Appendix C, which address, among other things, undue restrictions on competition, when use of brand name or equal is permitted, and other FTA requirements and limitations.
- 2. For FHWA and Caltrans-funded procurements, the user department shall use the Caltrans' Local Assistance Procedures Manual for guidance and shall ensure that appropriate ~~Agency Commission~~ procurement and contract forms for the relevant funding source are used.
- B. In order to initiate a procurement action (including amendments, procurements, exercising of available options, etc.), the user department/project manager should, at a minimum, provide the Procurement Officer with the following items, as applicable:
 - 1. Specification, Scope of Services, or Statement of Work. For a new procurement, a complete and clearly written specification, purchase

description, or statement of work suitable for either competition or for negotiation with a sole source contractor, if justified.

For competitive procurements, the description must not (for federally funded procurements) and should not (for non-federally funded procurements) contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. For federally funded procurements, detailed product specifications should be avoided. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors must (for federally funded procurements) and should (for non-federally funded procurements) be clearly stated.

2. Changes. Changes to existing contracts, including amendments and construction change orders, must be documented pursuant to a written amendment or written construction change order, as applicable, executed by the appropriate parties, and should comply with the following.

- a. Amendments

If a contract amendment has been negotiated based upon an existing advanced pricing arrangement or labor rates/categories included in the underlying agreement, the user department/project manager should provide the Procurement Officer with a copy of the final negotiated scope of services for the extra work, associated pricing terms, and/or schedule.

- b. Construction Change Orders

Construction change orders should follow the procedures established by the Capital Projects Department, [including the Toll Program](#), and applicable contract specifications. Documentation of the change order does not need to be provided to the Procurement Officer, but should be maintained by the user department/project manager as specified herein. If a construction change order has been negotiated based upon an existing advanced pricing arrangement or labor rates/categories included in the underlying agreement, the user department/project manager should maintain a record of the change order and supporting documentation in the project files including an independent cost estimate and cost and/or price analysis, as applicable.

- i. Any change order must be administered in accordance with its terms, and appropriate documentation must be generated and

maintained supporting payment in accordance with state or federal requirements, as applicable.

- ii. All change orders must be signed by a Commission employee who is a registered civil engineer.
- iii. Any change order in excess of \$100,000 also requires approval as follows:
 - a) \$100,000 to \$250,000 by the Project Delivery Director or Toll Program Director; or by the
 - a)b) Greater than \$250,000 by the Executive Director.
- iv. Any change order that will increase the total contract value to an amount that exceeds the contractual authority approved by the applicable Agency Commission may not be executed until additional contractual authority has been obtained through the Agency Commission.
- v. The Capital—Projects Delivery Director and/or Toll Program Director, as applicable, is responsible for determining that change orders are processed and approved in accordance with departmental and contractual requirements.

c. Changes to Federally Funded Contracts

For federally funded contracts, findings must be included in the project file that the change is in the general scope of the original contract. A significant change in contract work that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect the contractor is required to perform very different work from that described in the original contract, is considered a “cardinal change” or “tag-on” contract, and is not permitted unless it meets the requirements of Chapter 8, Section 3.0.

3. Agreement Summary Sheet. The user department/project manager must provide a complete and executed Agreement Summary Sheet for all procurement actions, including applicable small purchases, formal procurements, MOUs, agreements, change order modifications and the like. The Agreement Summary Sheet identifies the nature of funding for the subject goods/services, provides a record that the requirement was budgeted and properly approved before the procurement process began, and ensures that the procurement action is assigned a unique agreement number for purposes of contract administration, payment, and recordkeeping.
4. Cost Estimate. The user department/project manager shall provide the Procurement Officer with a cost estimate for the anticipated procurement of goods/services. See paragraph 6.0 above for additional guidance regarding the development of an independent cost estimate.

5. Justification for Sole Source/Non-competitive Procurement (if applicable).
The user department/project manager must prepare and submit to the Procurement Officer a written statement recording all the facts that provide justification for avoiding mandated competitive procurement practices explicitly defined in this Manual and/or required by relevant state and federal law in favor of a non-competitive/sole source award. The Procurement Officer must approve the sole source procurement methodology before the procurement can proceed. If the procurement is funded with state or federal funds, the appropriate findings required by the applicable funding entity must be made. For Caltrans or FHWA funded contracts, a Public Interest Finding (PIF) must be approved by the appropriate funding entity.

13.0 INSURANCE

- A. Contractors providing goods and services should be required to carry sufficient insurance to protect the Agency-Commission from third party lawsuits for personal injury (including death) and property damage. Insurance may also be required for damage to the Agency's Commission property and for errors and omissions in the provision of professional services.
- B. The following types of procurement actions should be reviewed by the Procurement Officer for appropriate levels, types and limits of coverage on a case-by-case basis:
 1. All operations and non-operational construction contracts.
 2. All professional services contracts.
 3. All contracts where work will be performed within "50 feet" of railroad.
 4. All environmental contracts, including engineering services.
 5. All procurement contracts and/or purchase agreements where outside vendors will be conducting work or performing installation services on Agency Commission premises.
 6. All procurement contracts and/or purchase agreements where outside vendors will be delivering products to an Agency-Commission facility.
- C. The contract documents should ensure that the Agency's Commission contractors will be required to comply with insurance requirements imposed by state and local governments.
- D. At a minimum, the contract documents should require the contractor and subcontractor to carry general liability, workmen's compensation, and automobile insurance coverages for public works contracts.
- E. In certain limited cases, the Procurement Officer may permit the contractor to substitute an approved program of self-insurance in order to obtain such approval. The contractor will have to demonstrate that it can sustain the potential losses being self-insured.

- F. The Procurement Officer should include insurance and indemnification provisions in equipment, supply, and services contracts in accordance with [the Commission](#) policies described herein.

14.0 SUBCONTRACTING

- A. The [AgencyCommission](#) may consider requiring a prime contractor to perform certain tasks or a minimum percentage of the work, in order to ensure that the prime contractor maintains a specified degree of control over the project.
- B. Approval of contractor proposed subcontractors usually involves an evaluation of three primary areas:
 - 1. Assurance that the prime contractor has included the required “flow-down” provisions (clauses) from the prime contract in the subcontract.
 - 2. The prime contractor’s compliance with the Disadvantaged Business Enterprise (DBE) requirements in its prime contract.
 - 3. Assurance that the prime contractor has selected its critical subcontractors in a prudent fashion, so as to protect the [AgencyCommission](#)’s interests.

15.0. DETERMINATION OF FAIR AND REASONABLE PRICE

- A. The Procurement Officer should determine, in writing, that the price to be paid to the successful offeror is fair and reasonable. Typically, adequate price competition is sufficient to establish price reasonableness; however, price reasonableness may also be established through:
 - 1. Prices established by law or regulation;
 - 2. Published catalog or market price for commercial product sold to the public in substantial quantities;
 - 3. Previous or relevant historical pricing for same or similar terms;
 - 4. Valid cost estimate;
 - 5. Value analysis; or
 - 6. Cost/price analysis.
- B. Single Offer/Lack of Adequate Competition
 - 1. Upon receiving a single bid or single proposal in response to a solicitation, the Procurement Officer should determine if competition was adequate.
 - a. Such determination should include a review of the specifications for undue restrictiveness and may include a survey of potential sources that chose not to submit a bid or proposal.
 - b. If the results of the review are that the scope of work was so restrictive that only one firm could have responded, then there is a lack of competition. The Procurement Officer should (1) cancel and re-procure the solicitation or (2) treat the solicitation as a sole source procurement, if it meets the requirements of Chapter 7 of this Manual.

- c. If the results of the review are that the scope of work was not restrictive and more than one firm could have responded, then there is adequate competition. The Procurement Officer may recommend an award of the agreement to the single offeror, as determined by the [Agency Commission](#), in accordance with this Manual and in accordance with applicable legal requirements.
2. When the price variance between multiple responses reflects a lack of adequate competition, the Procurement Officer may re-solicit quotes or, if appropriate, recommend an award of the agreement to the lowest or best offeror, as determined by the [Agency Commission](#), in accordance with this Manual and in accordance with applicable legal requirements.
3. A recommendation for award under either of the above circumstances should include a statement in the contract file giving the basis for the determination (e.g., that there was adequate competition and/or the pricing terms are fair and reasonable).

16.0 CONTRACT APPROVAL, AWARD, AND EXECUTION

- A. Following authorization for contract award by the [Agency Commission](#), the following actions should be taken:
 1. The Procurement Officer requests all ~~Agency Commission~~ required documents and contract contingency requirement (e.g., bonds, proof of insurance) from the successful contractor.
 2. The Procurement Officer conforms and sends copies of the final contract or amendment to the contractor for signature, and obtains the appropriate [Agency Commission](#) authorization by ensuring full execution of the contract.
 3. The contract or amendment may be executed in one or more counterparts. The Procurement Officer may accept facsimile signatures, including signatures transmitted via electronic mail, as original signatures. ~~If the Agency Commission adopts an e~~Electronic signatures may be used, and ~~policy,~~ the Procurement Officer may accept electronic signatures in accordance with adopted Agency policy.
 4. After full execution of the contract and the contractor's submittal of the required contract contingency items, unless otherwise agreed, the Procurement Officer coordinates with the user department/project manager to prepare a "Notice to Proceed" letter, if required.
 5. The Procurement Officer transmits a fully executed contract to the contractor. Conformed copies should be sent to the project manager for use in the administration of the contract.
 6. Contract Administration Responsibilities

- a. The user department/project manager conducts all further coordination on technical issues between the contractor and the Agency Commission, subsequent to the issuance of the “Notice to Proceed” letter.
- b. Issues affecting the business or legal terms in the contract and/or requests for modification or supplemental agreements to the contract should immediately be brought to the attention of the Procurement Officer.
- c. The contract and all documents pertaining thereto should be maintained by the Procurement Officer, except for construction change orders which will be maintained by the project management team.

17.0 PROTEST PROCEDURES

- A. Under formal procurement processes described under this Manual, an interested party that has timely submitted a bid or proposal in response to any procurement of the Agency Commission may file a protest, to the applicable Agency, objecting to the award of a contract.
- B. In order for a protest to be considered properly and timely filed, the protest must:
 - 1. Be filed in writing with the Executive Director ~~of the Commission~~, within seven (7) calendar days after (i) all requests for clarifications and requests for approved equals have been answered by the Agency Commission or, if no requests for clarification or approved equals are received, after the period for requests for clarifications or approved equals has closed; (ii) after the Agency Commission takes action, or such other time period as may be specified in the solicitation document; or (iii) the date certain contained in the solicitation for any solicitation for which a contract award is not made by the Agency Commission.
 - 2. Be filed by an actual bidder or proposer responding to the procurement and signed by a properly authorized representative. No other party has standing to protest or is considered an interested party.
 - 3. Identify the specific procurement number involved.
 - 4. Identify the specific recommended action or decision being protested.
 - 5. Specify in detail the grounds for the protest, the facts supporting the protest and the status of the protester.
 - 6. Include all relevant supporting documentation with the protest at the time of submittal.
 - 7. Describe the resolution to the protest desired by the protesting party.

If a protest does not comply with each of the seven (7) requirements listed above, the protest will not be considered and will be returned to the protester.
- C. The Procurement Officer will attempt to resolve a properly filed protest or perform additional fact-finding, including establishing a protest evaluation team to evaluate the merits of the protest. The Procurement Officer, in consultation with Agency ~~the Commission's~~ General Counsel, will prepare a recommended resolution of the

protest for consideration by the Executive Director. The Executive Director will review the recommendation of the evaluation team and will render a determination to uphold or deny the protest.

- D. If the Executive Director's decision is to deny the protest, the solicitation may be continued without further delay or the contract will be recommended to the applicable Agency Commission for award, or executed, if previously awarded by the Agency Commission subject to resolution of the protest. If the Executive Director's decision is to uphold the protest, a recommendation will be made to the applicable Agency Commission to amend the solicitation and the date for receipt of proposals or bids, reject all proposals or bids, cancel the request for proposals or invitation for bids and solicit new proposals or bids, award the contract to another proposer, or other such actions as he/she deems appropriate.
- E. The Executive Director's decision shall be final, and there shall be no further administrative recourse at the local level, except for protests related to federally funded procurements.
- F. The procedures set forth in this Chapter 2, Section 17.0 are not intended to reduce or restrict protest rights specifically provided under applicable funding agreements, or state or federal laws authorizing the use of money funding applicable contracts.
 - 1. In any procurement involving FTA funds, the Procurement Officer shall, if required by FTA, disclose information regarding the protest to FTA and ~~shall~~ keep FTA informed about the status of the protest.
 - 2. An interested party that has filed a protest must exhaust all administrative remedies with the Agency Commission before pursuing a protest with FTA.
- G. A debrief will be available for proposers to whom award was not made, for a period of ten (10) days following award of the contract by the Agency Commission.

18.0 PUBLIC RECORDS REQUESTS

- A. All requests for procurement related records and/or information must be submitted to the Clerk of the Board for appropriate action. Procurement related records should not be disclosed as public information until staff recommendation for award has been forwarded to all interested parties or as otherwise appropriate under the California Public Records Act and applicable state and federal laws, guidelines and requirements.

CHAPTER 3 – COMPETITIVE SEALED BIDS (“LOW BID”)

- A. PUC § 130232, applicable to the Commission, requires that the purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds twenty-five thousand dollars (\$25,000), must be by competitive sealed bidding, also known as “low bid”, contracting, with the contract let to the lowest responsive, responsible bidder. Notice requesting bids must be published in at least one newspaper of general circulation. The publication must be made at least ten (10) days before the date for receipt of bids; ~~however, based on the nature of the procurement, a longer period of time shall be provided, as necessary, to ensure that bidders are allowed adequate and sufficient time to prepare bids before the date of bid opening. The resulting contract will be a fixed price contract.~~
- B. PCC § 20160, et. seq. requires that public projects of the Authority, as defined in PCC § 20161 and as set forth in Chapter 2, Section 9.D of this Manual, when the expenditure required exceeds five thousand dollars (\$5,000), must be by low bid, with the contract let to the lowest responsive, responsible bidder. PCC § 20164 requires that for Authority public projects, notice requesting bids shall be published at least twice in a newspaper of general circulation, not less than five days apart. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids.
- C. Notwithstanding the notice periods above, based on the nature of the procurement, a longer period of time shall be provided, as necessary, to ensure that bidders are allowed adequate and sufficient time to prepare bids before the date of bid opening. The resulting contract will be a fixed price contract.
- ~~B-D.~~ In order for competitive sealed bidding to be most effective, the following conditions should be present in the development of an Invitation for Bids (IFB):
1. A complete, adequate and sufficiently generic specification is developed;
 2. Adequate competition is available in the marketplace (two or more responsive and responsible bidders will compete); and
 3. The procurement lends itself to a firm-fixed price contract.
- ~~C-E.~~ Discussions and Communications
1. Bids shall be evaluated without discussions with bidders.
 2. Information concerning proposed procurements should not be released outside the Agency Commission before an IFB is released, except for pre-solicitation notices and publicly available general project information.
- ~~D-F.~~ Pre-Bid Conferences
1. The Contracting Officer may use pre-bid conferences to explain procurement requirements.
 2. If the Agency Commission requires any type of mandatory pre-bid conference, site visit, or meeting, the IFB should include the time, date, and

location of the mandatory pre-bid site visit, conference or meeting, and when and where project documents, including final plans and specifications are available. Any mandatory pre-bid site visit, conference or meeting should be no sooner than a minimum of five (5) calendar days following the publication of the IFB.

E.G. Bid Addenda

1. If it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, or other items, or to correct a defective or ambiguous IFB, the change should be accomplished by addendum of the IFB.
2. Addenda to an IFB should be identified as such and should require the bidder to acknowledge receipt of all addenda issued.

F.H. Time Of Bid Receipt

The IFB ~~must~~ should specify a time for receipt of bids. Bids must be received in the office designated in the IFB or be submitted electronically through the electronic bid management system used by the Agency for the applicable procurement not later than the time identified in the IFB. For electronically submitted bids, the Agency will only consider bids that have transmitted successfully and have been issued a confirmation number with a time stamp from the electronic bidding system indicating that the bid was submitted successfully.

G.I. Late Bids

Unless otherwise specified in a particular bid solicitation, bids are considered late based on the time clock at the 3rd floor Commission Receptionist Desk, located at 4080 Lemon Street, Riverside, CA 92501 or, as applicable, as determined by the electronic bid management system. Bids are considered late if the time stamped by the ~~Agency~~ Commission upon receipt of the bid is later than the deadline/time identified in the IFB. If the procurement is pursuant to an electronic bidding process, the electronic bid management system will not accept bids submitted later than the deadline/time identified in the IFB. Late bids will not be accepted by the ~~Agency~~ Commission, unless a bid is late owing solely to ~~Agency~~ Commission mishandling or some other legitimate extenuating factor, as determined in the ~~Agency~~ Commission's sole discretion.

H.J. Receipt Of Bids

As bids are received, the Procurement Officer should secure and safeguard the bids until the established time for bid opening. For electronic bids, the electronic bid management system ensures that the bids are not accessible until the time for bid opening.

I.K. Opening Of Bids

The Procurement Officer will coordinate the bid opening. Bids may be opened electronically through the electronic bid management system, or . ~~All bids over \$25,000 for supplies, equipment, and materials and the construction of all facilities~~

~~and works received prior to the bid submission deadline~~ will be publicly opened, read aloud to the persons present, and recorded. Bids may also be publicly opened via webconference or videoconference, as may be appropriate based on the circumstances. Bid opening documentation should include the date, time, and place of bid opening, if applicable, and a tabulation of bidder names and related bid amount. ~~Such bid opening documentation should include the signature of at least one witness.~~

J.L. Recording Of Bids

Construction bids over the small purchase threshold of \$25,000 for the Commission and \$5,000 for the Authority that are publicly opened will be recorded on a bid summary or bid tabulation sheet. The Procurement Officer should certify the accuracy of the bid summary sheet by placing his/her signature thereon. The ~~Commission's~~ Procurement Officer should ensure that these results are posted on the applicable Agency Commission internet site within a reasonable time after bid opening.

K.M. Tie Bids

If two or more responsible and responsive bids are received for the same total or unit price, quality and service being equal, the Agency Commission shall establish a date and time to draw lots, which shall be accomplished by tossing a coin or pulling bidder names out of a hat, to determine the winner. Using the lottery method, the Agency Commission shall:

1. Advise the tied bidders in writing that a tie has occurred, advise them a winner will be determined by drawing lots, and invite them to attend the drawing.
2. Conduct the drawing of lots on the date and time previously established with at least two individuals as witnesses. The procurement file should reflect the names, titles, and departments of the witnesses. If the witnesses are not Commission staff, the name, organization, address, and telephone number of the individuals should be listed.
3. Declare the winner of the drawing of lots as the apparent low bidder for bid evaluation and award purposes.

L.N. Alternative Sources of Procurement Authority

Notwithstanding the requirements of PUC § 130232 or PCC 20160, et. seq., and the provisions set forth in this Chapter, the Agencies Commission may use Cooperative Agreements (as described in Chapter 1, Section 6.0) where such use is otherwise permitted by law.

CHAPTER 4 – ALTERNATE DELIVERY CONTRACTS

1.0 PURPOSE

- A. For the purposes of this Chapter, “Design-Build” means a method of procuring design and construction from a single source. The selection of the single source occurs before the development of complete plans and specifications.

For the purposes of this Chapter, “CM/GC” means a project delivery method in which a construction manager is procured to provide preconstruction services during the design phase of the project and construction services during the construction phase of the project. The structure of the contract for such services is within the discretion of the [AgencyCommission](#).

For the purposes of this Chapter, “Alternate Delivery Method” means Design-Build, CM/GC or any other alternate method of project procurement or delivery which the [AgencyCommission](#) is authorized by law to utilize.

- B. As set forth in PCC Section 6820, et. seq., the Commission is authorized to utilize Design-Build for projects on or adjacent to the state highway system, including related non-highway portions of the project, based on either best value or lowest responsible bid.
- C. As set forth in PCC Section 6700, et. seq., the Commission is authorized to utilize the Construction Manager/General Contractor (CM/GC) method, contingent upon delegation of authority by Caltrans, for two highway projects in Riverside County.
- D. As set forth in AB 115 (Chapter 20, Statutes of 2017), the Commission is authorized to utilize CM/GC for the 91 Toll Connector to Interstate 15 North project.
- E. As set forth in PCC Section 6700, et. seq., the Commission is authorized to utilize CM/GC method for certain expressways that are not on the state highway system, provided that the required findings are made, consistent with PCC Section 6701, and the Commission adopts the CM/GC method.
- F. As set forth in AB 115 (Chapter 20, Statutes of 2017), the Commission is authorized to amend or change any existing contract for the Interstate 15 express lanes construction project or the State Highway Route 91 express lanes to include work or services on the 91 Toll Connector to Interstate 15 North project, if the Commission, with the concurrence of Caltrans, finds that to be a cost-effective method to accelerate the delivery of that project.

2.0 PROCEDURES FOR ALTERNATE DELIVERY CONTRACTS

- A. The Executive Director may adopt any lawful methods, procedures and criteria that he or she determines are in the best interest of [each Agencythe Commission](#).

- B. The Toll Program Director, through coordination with the Procurement Officer, will prepare documents for the solicitation of proposals for highway-related Alternate Delivery procurements by the Commission.
- C. Where an Alternate Delivery Method does not require a solicitation of proposals, the Toll Program Director shall, through coordination with the Procurement Officer, prepare the contract documents for such procurement by the Commission.
- D. Contract documents for an Alternate Delivery Method to be used by the Authority shall be prepared as directed by the Procurement Officer.
- E. The documents prepared for Alternate Delivery procurements shall control over any conflicting provisions contained herein.
- ~~FE.~~ The Commission shall use a procurement method permitted by law and appropriate for the elements of the services (design v. construction) representing the preponderance of work and having the greatest cost, even though other necessary services would not typically be procured by that method. For example, the construction costs of a Design-Build project are usually predominant, so the Commission would use competitive negotiations or sealed bids for the entire procurement rather than the qualification-based “Brooks Act” procurement procedures.
 1. The use of the Design-Build procurement method for FTA-funded projects shall comply with FTA Circular 4220.1F, Section VI.3.h.
 2. The use of the Design-Build procurement method for FHWA-funded projects shall comply, as applicable, with any requirements specified by Caltrans in the relevant project agreements.

CHAPTER 5 – COMPETITIVELY NEGOTIATED PROCUREMENTS

1.0 NEGOTIATED PROCUREMENTS—GENERAL

- A. This Chapter outlines the [Commission's](#) procedures for competitively negotiated procurements for contracts:
 - 1. Not legally required to be procured through the low-bid competitive procurement method pursuant to PUC §130232 [as applies to the Commission, or PCC § 20160, et. seq., as applies to the Authority](#); and
 - 2. Intended to be awarded on the basis of both price and non-price factors.
- B. A procurement is “negotiated” if discussions, negotiations, or other exchanges between the [AgencyCommission](#) and the offerors are anticipated and planned in order to maximize the [AgencyCommission](#)’s ability to communicate, understand, and obtain the best value for contract award.
 - 1. The exchanges involve bargaining, persuasion, alteration of assumptions and positions, and give-and-take applied to price, schedule, technical requirements, type of contract, and other proposed terms.
 - 2. The exchanges after establishment of the competitive range of price and terms are done with the intent of allowing the offeror to revise its proposal, once and potentially several times.
- C. Though not an all-inclusive listing, competitively negotiated procurements can be used for the following types of procurements:
 - 1. Professional services contracts for non-architect-engineer related services; miscellaneous service contracts;
 - 2. Architect-Engineer and related services contracts as further defined and subject to the limitations specified in Section 6.0 of this Chapter;
 - 3. Specialized equipment, computers, telecommunications equipment, microwave equipment and other related electronic equipment and apparatus; or
 - 4. Best Value, Alternate Delivery contracts described in Chapter 4.

2.0 SOURCE SELECTION TECHNIQUES

- A. The Procurement Officer can choose from a range of source selection techniques for the competitively negotiated process based on:
 - 1. What is suitable for the specific circumstances of a requirement, and
 - 2. Which technique provides the best opportunity to tradeoff price/cost and qualitative benefits in order to gain the best value for the [AgencyCommission](#).
- B. In acquisitions where the requirement is clearly definable and the risk of unsuccessful contract performance is minimal, and excluding contracts for

Architect-Engineer and related services, cost or price may play a dominant role as a significantly important evaluation factor for award.

- C. On the other hand, the less definitive the requirement, a requirement for technical superiority, more development work required, or the greater the performance risk, then the technical or past performance considerations play a more dominant role as significantly important evaluation factors for award.
- D. The ~~Agency Commission~~ obtains best value in negotiated acquisitions by using any one or a combination of selection approaches wherein the relative importance of cost or price may vary with other non-cost or price factor(s). The Procurement Officer and user department/project manager shall select an approach that will provide the ~~Agency Commission~~ with the best offer based on the requirements, and on applicable legal requirements.
- E. All evaluation factors associated with a particular proposal shall be identified along with their relative importance. The Procurement Officer, in cooperation with the user department/project manager, may utilize explicit factors, price performance trade off, technically qualified/lowest price or other reasonable and appropriate means of evaluating proposers.
- F. Proposals will be solicited from an adequate number of qualified sources. In determining sources to solicit, the Procurement Officer should use all reasonable means available to ensure that an adequate number of potential qualified proposers receive the solicitation in order to obtain maximum fair and open competition.

3.0 PROPOSAL EVALUATION

- A. The evaluation factors that will be considered in evaluating proposals shall be tailored to each procurement and shall include only those factors that will have an impact on the source selection decision. The evaluation factors that apply to a particular procurement and the relative importance of those factors are within the broad discretion of the Procurement Officer and/or the user department/project manager.
- B. The Procurement Officer shall establish a formal evaluation committee, of at least two persons, referred to as the "Evaluation Committee." The size of an evaluation committee should be (1) based on the size and complexity of the goods or services being procured and (2) well balanced and represented by individuals involved with the procurement and/or affected by the goods or services being procured. The Evaluation Committee will be charged with responsibility for evaluating proposals, short listing firms, establishing a competitive range, and/or recommending a firm or firms for contract award.
 - 1. Personnel engaged in the evaluation process shall not discuss or reveal information concerning the evaluations except to those individuals participating in the same proceedings and only to the extent that information is required in connection with such proceedings.

2. Divulging information during the evaluation, selection, and negotiation phases to offerors or to personnel not having a need to know is prohibited as it could jeopardize the evaluation process and resultant award.
- C. The Evaluation Committee will evaluate each proposal in accordance with the evaluation criteria in the solicitation. The Evaluation Committee's selection decision is subject to the final approval of the [applicable Agency Commission](#) or the Executive Director, as required under this Manual.

4.0 REJECTION OF PROPOSALS

- A. The Evaluation Committee may reject all proposals received that are determined not to be in the competitive range, including those proposals made by offerors who refuse to execute any reasonably required representations and/or certifications.
- B. The Executive Director may, in his or her discretion, do any of the following (i) reject any or all proposals received, (ii) cancel the procurement process, and/or (iii) direct commencement of a new procurement process for the same services because:
 1. All otherwise acceptable proposals received are at unreasonable prices;
 2. The proposals were not independently arrived at in open competition, were collusive or were submitted in bad faith; or
 3. For other reasons, rejection is clearly in the [Agency Commission](#)'s best interest.

5.0 NEGOTIATION; SELECTION

- A. The methods and procedures for selection and negotiation will be determined by the Procurement Officer, in coordination with the user department/project manager, and set forth in the request for proposals.

6.0 SPECIAL PROVISIONS APPLICABLE TO ARCHITECT-ENGINEER AND RELATED SERVICES

- A. This Section prescribes guidelines and requirements for the procurement of Architectural-Engineering ("A-E") and related services. A-E Services are defined as professional services of an architectural or engineering nature that are required by law to be performed by a registered or licensed architect or engineer. Related services include: land surveying and construction project management. For the procurement of A-E and related services, the Procurement Officer shall follow the procedures set forth in this Section 6.0, in addition to the pertinent procedures set forth elsewhere in this Chapter.
- B. If the procurement is for A-E and related services, the selection must be based on the demonstrated competence and qualifications of prospective contractors, and shall comply with Government Code 4525, et seq., and, when applicable, the laws and regulations that govern the procurement of design-related services with federal funds (see e.g., Title 23 U.S.C. 112, Letting of Contracts and 23 CFR 172, Administration of Engineering and Design Related Service Contracts). These services shall be acquired based on a two-step, sealed bidding procedure, whereby

qualifications are presented in a separate sealed envelope from a firm's price proposal. The proposals shall be evaluated based on qualifications only, and price negotiations shall then be commenced with the proposer determined by the Agency Commission to be most qualified. If the Agency Commission is unable to negotiate satisfactory terms, at a fair and reasonable price, with the proposer considered to be most qualified, then negotiations shall be terminated with that proposer and commenced with the next most qualified proposer. This process shall be continued with successive qualified proposers until agreement is reached that is determined to be fair and reasonable.

CHAPTER 6 – SIMPLIFIED PURCHASE PROCEDURES

1.0 GENERAL

- A. Procurement of materials, supplies, or services by each Agency ~~the Commission~~ should adhere to the procedures in this Manual, as described in Chapter 2, Section 1.G. The procedures ensure that the appropriate authorizations are secured for the type of procurement made, and that the minimum requirements associated with the materials, equipment, supplies or services requested are procured in a fair and open manner.
- B. This Chapter sets forth the procedures for small purchases and other simplified purchase procedures. These purchases should be made competitively except where it is in the best interests of the Agency ~~Commission~~ to accomplish such purchases non-competitively. Justification for such non-competitive procurement should be made, in writing, and maintained in the procurement record.

2.0 REQUIREMENTS FOR MICROPURCHASES

- A. If the purchase price for required supplies, equipment, services and/or materials is considered a micropurchase as defined in Chapter 2, Section 1.G, then multiple quotes are not required; however, such purchases should be fairly priced using a purchase technique that best serves the needs of the Agency ~~Commission~~, and rotated among commercial vendors offering competitive pricing.
- B. Micropurchases may be accomplished by securing one proposal or quotation from a commercial vendor offering supplies, equipment or materials to the public in substantial quantities and the price is deemed to be fair and reasonable.
 - a. For federally-funded procurements, the determination that the price is fair and reasonable and how the determination was derived must be included as documentation in the procurement file.
- C. If oral quotes are obtained, written record of the quotes should be retained. The record should include, at a minimum, vendor name, telephone number and address, name of person providing the quote, and terms.

3.0 USE OF SMALL PURCHASE PROCEDURES

- A. For small purchases as defined in Chapter 2, Section 1.G, staff should obtain a minimum of three (3) written quotations with reasonable efforts to include at least one Disadvantaged Business Enterprise (DBE) vendor if federally funds are utilized and, when practicable and appropriate, an award should be made on the basis of lowest price.
- B. For Commission public works projects (i.e., maintenance, repair or construction work), Authority public projects, –as defined in Chapter 2, Section 9.D of this Manual, and planned solicitations for services defined as small purchases in accordance with Chapter 2, Section 1.G, review by the Procurement Officer prior to the solicitation of quotes is required in order to ensure compliance with relevant insurance requirements, applicable legal mandates, e.g., insurance, bonding, prevailing wage, and payroll records.

- C. The Procurement Officer should use and/or authorize the Small Purchase Procedures that are most suitable, efficient, and economical based on the circumstances of each procurement and determine that the price is fair and reasonable.

4.0 PROHIBITED USE OF SMALL PURCHASE PROCEDURES

- A. The Procurement Officer and or Commission staff may not divide, split or fragment a procurement totaling more than the ~~Agency~~Commission's small purchase limitation into several purchases that are less than the limit in order to use the Small Purchase Procedures.

CHAPTER 7 – NON-COMPETITIVE AND EMERGENCY PROCUREMENTS AND REMEDIAL MEASURES

1.0 NON-COMPETITIVE PROCUREMENTS

- A. The non-competitive procurement of non-federally funded goods and services, which otherwise require competitive procurement may be authorized under one or more of the following circumstances, subject to any minimum AgencyCommission vote required by applicable law, or any other requirements of applicable law:
1. The AgencyCommission has advertised the contract as required by this Manual and has undertaken reasonable efforts to solicit potential contractors, but has determined that competition is inadequate;
 2. There is only a single source of supply available, or only one contractor is qualified to provide the service or product;
 3. The goods or services are to be provided by a government or other public entity;
 4. The goods or services are to be provided pursuant to an amendment of an existing contract that does not materially alter the terms and conditions of the contract (other than to extend the term and/or increase compensation to provide for the extended term or for additional goods/services to be provided under substantially the same terms of the original contract), provided that such renewal, extension or amendment is authorized or permitted by the contract;
 5. The equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts;
 6. The item to be purchased is a capital maintenance item that is available only from the original manufacturer or supplier or is required to maintain system operational compatibility and connectivity with the existing system(s);
 7. The contract is for employment services;
 8. The contract is one for which only per diem and travel expenses are paid and there is no payment for services rendered;
 9. The AgencyCommission is piggybacking on an existing agreement between a contractor and any public agency or entity within the County of Riverside and/or the County of San Bernardino, or other public entities if: (a) the proposed AgencyCommission contract is for the same material scope of work as the other contract; (b) the proposed AgencyCommission contract contains substantially the same terms as the other contract; ~~and~~ (c) the other contract was competitively procured in accordance with requirements applicable to such other agency's procurements; and (d) the procurement is otherwise in compliance with legal requirements applicable to Agency.

10. The provisions listed under Chapter 8, Section 3.0 regarding federally funded sole source, non-competitive, sole source procurements are applicable; or
 11. Except as may otherwise be limited by applicable law, the Agency Commission determines that a non-competitive procurement is in the public interest and in the best interest of the Agency Commission.
- B. Except as limited by applicable law, the Executive Director shall have authority to determine that non-competitive procurements are permitted under paragraph A, subparagraphs (1) through (11) for contracts for amounts less than or equal to \$250,000. Commission Approval of the applicable Agency is required for contracts over \$250,000. Each decision to proceed with a non-competitive procurement must be supported by a written justification that is approved by the Executive Director or Procurement Officer, as required under this Manual.
 - C. The Procurement Officer will take action, whenever possible and in coordination with the user department/project manager, to avoid the need to continue to procure the same supply, service, or construction without competition.
 - D. A non-competitive or sole source procurement, where competition is legally required, should not be justified on the basis of any of the following circumstances:
 1. The lack of adequate advance planning for the procurement of the required commodities, services, or other items;
 2. Delays in the procurement caused by administrative delays, lack of sufficient procurement personnel, or improper handling of procurement requests or competitive procedures; or
 3. Pending expiration of budget authority.
 - E. The Procurement Officer should ensure that each non-competitive contract contains all of the required clauses, representations, and certifications, in accordance with the applicable laws, regulations, or Agency Commission adopted policy.
 - F. The Procurement Officer should ensure that proper records of each non-competitive procurement are maintained.

2.0 EMERGENCY PROCUREMENTS; REMEDIAL MEASURES

- A. The Agency Commission may award a contract on an emergency basis if the requirement is essential to deal with an existing emergency condition, as defined below in Paragraph “B”, and the Executive Director may award a contract when necessary as a remedial measure as defined below in Paragraph “C” or when permitted under Paragraph “D”. Such award by the Commission shall be made in compliance with PUC § 130234, as applicable. The emergency procurement of supplies or services and procurements as a remedial measure should be limited to quantities and time periods sufficient to meet the immediate threat and should not be used to meet long-term requirements.
- B. For purposes of an emergency procurement under this Chapter, an “emergency condition” is a situation (such as a flood, epidemic, riot, equipment failure, or any

other reason declared by the [Agency Commission](#)) which creates an immediate threat to the public health, welfare, or safety. The existence of an emergency condition creates an immediate need for supplies, services, or construction which cannot be met through normal procurement methods, and the lack of which would seriously threaten one (1) or more of the following:

1. The health or safety of any person;
2. The preservation or protection of property;
3. The continuation of necessary [Agency Commission](#) functions; or
4. Contract delays that could result in an increase to the cost of the project.

In the case of contracts for services, the Executive Director may declare the emergency condition.

- C. The Executive Director may authorize the expenditure of funds previously appropriated by the Commission for the direct purchases of goods and services, without following bid requirements (i) when a finding is made that immediate remedial measures are necessary to avert or alleviate damage to property, or to replace, repair, or restore damaged or destroyed property, of the Commission and are necessary in order to ensure that the facilities of the Commission are available to serve the transportation needs of the general public, and upon determining that available remedial measures, including procurement or construction in compliance with PUC § 130232, 130233, and 130234, are inadequate.

D. In addition, for procurements that are not subject to the PUC for the Commission, or the PCC for the Authority, the Executive Director may authorize and complete Agency procurements on a noncompetitive, emergency basis as necessary to address emergency conditions, as described herein.

~~D.E.~~ A contract procured on an emergency basis or as a remedial measure should not be modified to expand the scope or extend the time of the procurement unless a limited number of additional commodities, services, or other items are needed to fill an ongoing emergency requirement until regular procurement action procedures initiated under other Chapters in this Manual can be completed.

~~FE.~~ The Executive Director must, after an emergency expenditure in excess of his/her delegated signature authority, and after an expenditure necessary as a remedial measure, submit to the [Agency Commission](#) a procurement summary explaining the necessity for the expenditure.

~~GF.~~ The Procurement Officer should ensure that each emergency procurement contract and/or contract entered into as a remedial measure contains the required clauses, representations, and certifications, in accordance with the requirements of this Manual.

H. The Procurement Officer should ensure that proper records of each non-competitive procurement are maintained in accordance with the requirements of this Manual.

H.I. For a public project of the Authority, as defined in Chapter 2, Section 9.D of this Manual, the provisions above shall not apply. In such case, the Authority shall

comply with the provisions set forth in PCC § 20168 applicable to emergencies requiring the immediate expenditure of public money to safeguard life, health, or property.

3.0 WRITTEN JUSTIFICATION FOR EMERGENCY AND OTHER NON-COMPETITIVE PROCUREMENTS

- A. In each instance where the non-competitive procurement procedures set forth in this Chapter are used, the user department/project manager is required to prepare a written statement recording all of the facts that provide justification for proceeding with the non-competitive or emergency procurement.
- B. The Procurement Officer must approve the justification for all non-competitive procurements described under this chapter before such a procurement can proceed.

CHAPTER 8 – REFERENCES TO APPLICABLE LAWS /REGULATIONS

1.0 GENERAL

- A. This Manual lists references to the various federal, state, and local regulations, to which the Manual was written to conform and/or comply.
- B. The Procurement Officer will be responsible, in cooperation with the Agency Commission's General Counsel, for reviewing these references from time to time in order to review new requirements and to note updates to the existing regulations. Notwithstanding any provision of this Manual, updates or changes to existing law shall apply regardless of whether the Manual has been changed.
- C. The majority of Chapter 8 of this Manual applies to FTA and FHWA funding. Since the Authority does not use these funding sources, these sections are applicable to the Commission only. The Procurement Officer, in cooperation with General Counsel, will ensure that the Authority complies with procurement funding requirements applicable to any state or federal grants received by the Authority.

2.0 REFERENCES

- A. For the Commission capital projects and contracts for goods and services utilizing FTA or FHWA funds, the provisions included in the Manual will apply only to the extent that they do not conflict with FTA or FHWA requirements, including the standards of FTA Circular 4220.1F, or the most current version thereof, entitled “Third Party Contracting Requirements” or FHWA Form FHWA-1273 entitled “Required Contract Provisions Federal-Aid Construction Contracts.” In case of any conflict, the applicable federal standards shall govern. The foregoing documents, though not all-inclusive, set forth requirements that the Commission must comply with in the solicitation, selection and administration of contracts funded by the FTA and FHWA, respectively.
- B. For projects funded by Caltrans and/or FHWA, the selection process shall be in accordance with Caltrans’ Local Assistance Procedures Manual.
- C. FTA Circular 4220.1F (or the most current version thereof) sets forth the requirements the Commission must adhere to in the solicitation, award, and administration of its third party contracts. FTA Circular 4220.1F applies to all FTA grantees and subrecipients that contract with third parties under FTA assistance programs.
 - a. In addition to the requirements set forth in this Chapter 8, the FTA standards for competition are set forth generally in Chapter 1 hereof and the FTA procedures for competitive sealed bid (“low bid”) procurements and competitively negotiated procurements are set forth in Chapters 3 and 5 hereof, respectively.
- D. Some of the requirements include the following:
 - 1. Pre-Award Audits. A pre-award (pre-negotiation) audit shall be completed, as required based on the participating state or federal funds, for each consultant contract.

2. Brooks Act Provisions. The provisions of the Brooks Act (40 U.S.C. 544) require local agencies to award federally funded engineering and design contracts on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 CFR, Section 172).
3. Required Contract Provisions/Forms.
 - a. Disadvantaged Business Enterprise
 - i. Notice to Proposers Disadvantaged Business Enterprise Information
 - ii. Standard Agreement for Subcontractor/DBE Participation
 - iii. Local Agency Proposer DBE Commitment (Consultant Contracts)
 - iv. Local Agency Proposer DBE Information (Consultant Contract)
 - v. Final Report-Utilization of DBE, First-Tier
 - vi. Subcontractor Listing
 - b. Federal Lobbying Restrictions, Title 31 U.S.C. Section 1352
 - i. Non-lobbying Certification for Federal-aid Contracts
 - ii. Disclosure of Lobbying
 - c. Financial Provisions.
 - i. Compliance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
 - ii. Compliance with 48 CFR, Chp. 1, Part 31, Contract Cost Principles and Procedures.
4. Provisions required by Caltrans Master Funding Agreement. Caltrans/FWHA Authorization to Proceed. FHWA or Caltrans acting in FHWA’s behalf must give the local agency an “Authorization to Proceed” with a project prior to the performance of any work for which federal reimbursement is to be requested, including the pre-award audit. Copies of the “Authorization to Proceed” and the consultant contract must be retained in the project files for future audit purposes.
5. Veterans Employment. Pursuant to 49 U.S.C. 5325(k), the Commission shall ensure that contractors working on an FTA-funded capital project give a hiring preference, to the extent practicable, to veterans (as defined in Section 2108 of Title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an

individual with a disability, or former employee. For FHWA-funded capital projects, the Commission shall comply with the veteran’s preference requirement, as set forth in 23 U.S.C. 114.

- E. Though not an all-inclusive listing, the following laws, regulations and code sections are applicable to Agency contracts funded with federal or state funds, dependent on the specific funding source: ~~Commission contracts:~~

Federal Statute, Regulations, Policies, and Agreements	Subject
2CFR Part 200	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
49 CFR Part 26	Participation by Minority Business Enterprises; DBE Program
FAR Part 31	Contract Cost Principles and Procedures
FTA Circular 4220.1x	Third Party Contracting Requirements
FTA Circular 5010.1x	Grant Management Guidelines
FTA Master Agreement	Terms & Conditions of Grantee Administration of Projects Supported & Funded by the FTA
Caltrans Local Assistance Master Agreement	Terms & Conditions of Grantee Administration of Projects Supported & Funded by the FHWA or Caltrans
23 U.S.C. 114 / 23 CFR 633 23 U.S.C. 315 / 49 CFR 1.48	Form FHWA-1273 entitled “Required Contract Provisions Federal-Aid Construction Contracts.”
23 CFR 172	Procurement, Management, and Administration of Engineering and Design Related Services

Though not an all-inclusive listing, the following laws, regulations and code sections are applicable to both Agencies.

CA State Codes	Section(s)	Subject
Civil Code	9550-9566	Payment Bond
Civil Code	3320	Payments to Prime Design Professionals
Code of Civil Procedure	995.311	Bond Issuer Requirements
Government Code	4525 et seq.	Architect & Engineering Services
Government Code	6250 - 6270	Public Records Disclosure
Government Code	5956 et seq.	Infrastructure Projects
Labor Code	1777.1	Debarment by California Labor Commissioner
Labor Code	1770-1780	Prevailing Wage, Work Hours, Certified Payroll Records, Apprentices
Public Contract Code	1103	Responsibility on Public Works Contracts
Public Contract Code	1104	Plans and Specifications
Public Contract Code	3300	Contractor’s License
Public Contract Code	3400	Brand Name OR Equal; Restrictive Clauses

CA State Codes	Section(s)	Subject
Public Contract Code	4100 - 4114	Subcontracting
Public Contract Code	5100 - 5107	Relief of Bidders
Public Contract Code	6100 - 6610	Awarding of Contracts
Public Contract Code	6700 et. seq.	Construction Manager/General Contractor Authority
Public Contract Code	6820 et seq.	Design/Build Authority (applicable to Commission)
Public Contract Code	7100 - 7200	Contract Clauses, Non-Collusion Affidavit
Public Contract Code	9201 - 9204	Claims and Disputes
Public Contract Code	10335 et seq.	Service Contracts
Public Contract Code	20101	Prequalification
Public Contract Code	20103.6	Limitation on Architect's Indemnity Obligation
Public Contract Code	20103.8	Alternative Bids
Public Contract Code	20104-20104.6	Resolution of Construction Claims
Public Contract Code	20104.50	Progress Payments on Public Works
Public Contract Code	22300	Substitution of Securities
CA State Codes	Section(s)	Subject
Public Utilities Code	130232 - 130239	Award of Contracts Based On Price or Price and Other Factors; Bid Security; Emergency Procurements; Advertising; Immediate Remedial Measures; Rejecting Bids
Public Utilities Code	130232(e)	Authorization of Executive Director for Bid Expenditures <\$50,000.
Public Utilities Code	130232(d)	Bid Security for Construction Work >\$25,000

Though not an all-inclusive listing, the following laws, regulations and code sections are applicable to the Commission only.

CA State Codes	Section(s)	Subject
<u>Public Contract Code</u>	<u>6820 et seq.</u>	<u>Design/Build Authority</u>
<u>Public Utilities Code</u>	<u>130232 - 130239</u>	<u>Award of Contracts Based On Price or Price and Other Factors; Bid Security; Emergency Procurements; Advertising; Immediate Remedial Measures; Rejecting Bids</u>
<u>Public Utilities Code</u>	<u>130232(c)</u>	<u>Authorization of Executive Director for Bid Expenditures <\$50,000.</u>
<u>Public Utilities Code</u>	<u>130232(d)</u>	<u>Bid Security for Construction Work >\$25,000</u>

Though not an all-inclusive listing, the following laws, regulations and code sections are applicable to the Authority only.

CA State Codes	Section(s)	Subject
Public Contract Code	20160, et. seq.	Low Bid Procurement of Public Projects; Bid Security; Emergency Procurements; Advertising; Rejecting Bids
Public Contract Code	22050	Emergency Contracting Procedures

3.0 FTA/FHWA-FUNDED PROCUREMENT BY NON-COMPETITIVE (SOLE SOURCE) PROPOSALS

- A. Notwithstanding any other provision herein, federally funded contracts must comply with the federal requirements for non-competitive or sole source procurements. Non-competitive or sole source procurements are accomplished through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract change that amounts to a “cardinal change” or a “tag-on” as defined in FTA Circular 4220.1f that involves a major deviation from the original purpose is considered a sole source procurement on a federally funded contract that must comply with this paragraph.
1. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, competitive sealed bids, or competitive proposals and at least one of the following circumstances applies:
 - a. The item is available only from a single source;
 - b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - c. FTA/FHWA, as applicable, authorizes noncompetitive negotiations—e.g., if FTA/FHWA, as applicable, provides a joint procurement grant or a research project grant with a particular firm or combination of firms, the grant agreement is the sole source approval;
 - d. After solicitation of a number of sources, competition is determined inadequate;
 - e. The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA:
 - i. that such manufacturer or supplier is the only source for such item; and
 - ii. that the price of such item is no higher than the price paid for such item by like customers; or
 - f. Any other circumstance justifying sole source procurement set forth in the applicable federal rules and regulations.

2. For Caltrans or FHWA funded procurements, a PIF has been approved by the applicable funding entity.
3. A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

4.0 DISADVANTAGED BUSINESS ENTERPRISE AND OTHER REQUIREMENTS

- A. In order to ensure the Commission's compliance with the federal DBE Program on all applicable procurements funded with United States Department of Transportation (DOT) dollars, the Commission will make reasonable efforts to utilize disadvantaged business enterprises in compliance with applicable federal regulations.
- B. The Commission's procurement process is structured to ensure that its DBE Program supports the Commission's commitment to promote, foster and utilize disadvantaged business enterprises as required and defined by applicable federal regulations.
- C. As a condition of funding assistance, and in accordance with DOT DBE regulations published in applicable federal regulations, the Commission is required to submit for approval a DBE Program and regular DBE goals, which it will make good faith efforts to achieve through procurement actions carried out under this Manual.
- D. Pursuant to 2 CFR Part 200.321, the Commission shall also take affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible on federally funded projects.

5.0 GEOGRAPHICAL PREFERENCES

- A. For any federally-funded contracts, except when procuring A-E services, the Commission is prohibited from using statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals unless federal statutes expressly mandate or encourage geographic preference.

6.0 REVENUE CONTRACTS

- A. The Commission may enter into revenue contracts with a third party whereby the primary purpose is to either generate revenues in connection with a transit-related activity or create business opportunities utilizing an FTA-funded asset. The FTA requires such third party revenue contracts to be awarded utilizing competitive selection procedures and principles. The extent of and type of competition required is within the discretionary judgment of the Commission.

7.0 STATUTORY AND REGULATORY REQUIREMENTS

- A. The Commission shall comply with applicable federal statutory and regulatory requirements (such as Davis-Bacon Act, DBE, Debarment and Suspension, Clean Air, Environmental and Conservation Requirements, Buy America and Cargo Preference) in carrying out federally-funded procurement actions under this

Manual. Below is a contract clause matrix that is applicable to third-party contract provisions for federally funded contracts, excluding micropurchases and except for Davis-Bacon requirements which apply to construction contracts exceeding \$2,000. The matrix should be reviewed at least annually for any regulatory changes.

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling - Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 2 CFR Part 200 applies.	>\$10,000 if 2 CFR Part 200 applies.	>\$10,000 if 2 CFR Part 200 applies.	>\$10,000 if 2 CFR Part 200 applies.	>\$10,000 if 2 CFR Part 200 applies.
Civil Rights (Title VI, ADA, EEO except Special DOL EEO clause for construction projects)	All	All	All>\$10,000	All	All
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
* Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials & Supplies
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Clean Water	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Cargo Preference			Transport by ocean vessel.	Transport by ocean vessel.	Transport by ocean vessel.
Fly America	Foreign air transp./travel.	Foreign air transp./travel.	Foreign air transp./travel.	Foreign air transp./travel.	Foreign air transp./travel.
Veterans Hiring Preference				All	

Davis-Bacon Act				>\$2,000 (also ferries).	
Contract Work Hours and Safety Standards Act		>\$100,000 (transportation services excepted).	>\$100,000	>\$100,000 (also ferries).	
<u>TYPE OF PROCUREMENT</u>					
<u>Professional Services/A&E</u>	<u>Operations/Management</u>	<u>Rolling Stock Purchase</u>	<u>Construction</u>	<u>Materials & Supplies</u>	
Copeland Anti-Kickback Act Section 1 Section 2				All > \$2,000 (also ferries).	
Bonding				\$100,000	
Seismic Safety	A&E for new buildings & additions.			New buildings & additions.	
*Transit Employee Protective Arrangements		Transit operations.			
* Charter Service Operations		All			
* School Bus Operations		All			
* Drug Use and Testing		Transit operations.			
* Alcohol Misuse and Testing		Transit operations.			
Patent Rights	R & D				
Rights in Data and Copyrights	R & D				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA-selected items \$10,000 or more annually.		EPA-selected items \$10,000 or more annually.	EPA-selected items \$10,000 or more annually.
Conformance with ITS National Architecture	ITS projects.	ITS projects.	ITS projects.	ITS projects.	ITS projects.
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States.	Limited to States.	Limited to States.	Limited to States.	Limited to States.

* Applies only to FTA funding

Caltrans Fiscal Provisions Checklist

All contract fiscal provisions must utilize the language specified by Caltrans and set forth in the LAPM sample contract language form. The clauses that must be used verbatim are for the items specified below (except as otherwise noted). Consult the LAPM form, and the latest RCTC model contract for Caltrans/FHWA funded projects.

Performance Period: Beginning date cannot be prior to the date Caltrans issues the conformance letter, if applicable.

Allowable Costs and Payments: The contract method of payment must be one of the four methods required as listed in Section 10.2 of the LAPM.

Termination: The provision must contain language regarding termination for cause and convenience Per 23 CFR 172.9 (c)(1)(xii).

Cost Principles and Administrative Requirements.

* Travel and subsistence in accordance with DPA regulations

* Maintain an accounting system that accumulates and segregates project costs

* Accounting system must conform to GAAP

Retention of Records/Audit.

Audit Review Procedures, including the Audit Clause. Ensure use of appropriate clauses for (i) contracts \$150,000 or greater; or (ii) contracts \$3,500,000 or greater.

Subcontracting

Equipment Purchase

State Prevailing Wage Rates.

Conflict of Interest.

Rebates, Kickbacks, or other Unlawful Considerations.

Prohibition of Expending State or Federal Funds for Lobbying.

* Specific provisions addressing these items are not included in LAPM form, but are required and are included in the RCTC model contract.

CHAPTER 9 – DISPOSAL OF SURPLUS PERSONAL PROPERTY

1.0 DEFINITIONS

- A. “Surplus personal property” shall mean personal property of the Agency Commission which is no longer needed or fit for its intended purpose or has exceeded its useful life.
- ~~B. “Surplus real property” shall mean real property of the Commission which is no longer needed for a specified project.~~

~~2.0 DISPOSAL OF SURPLUS REAL PROPERTY~~

- ~~A. Upon recommendation by the Executive Director, designated Commission staff may dispose of surplus real property in accordance with the RCTC Right of Way Policies and Procedures Manual.~~

23.0 DISPOSAL OF PERSONAL PROPERTY

- A. Upon recommendation by the Executive Director and in accordance with applicable state or federal funding requirements, designated Commission staff may dispose of all surplus and obsolete personal property by donation, bid, auction, negotiated sale or exchange. If the disposal of such items is conducted by bid, the sale shall be conducted in accordance with generally accepted best practices and applicable laws and regulations. The Commission staff shall attempt to obtain the best value for the property that can reasonably be obtained.

CHAPTER 10 – OTHER PROCUREMENT MATTERS

1.0 DISPUTES, CLAIMS, AND CHANGES—DEFINITIONS

- A. Change Orders – the commercial and technical resolution of a contract modification. The change order document can be unilateral or bilateral in execution.
- B. Potential Claim – written notice provided to the [Agency Commission](#) by the contractor when the:
 - 1. Parties are unable to reach bilateral agreement on a change and the contractor is provided a unilateral change order (“protest”); or,
 - 2. Contractor perceives that it is entitled to additional compensation (time or money) for something it believes to constitute extra work performed or to be performed.
- C. Claim – differences that have developed during the contract, under protest or under notice of potential claim, which are not resolved at the time the contractor returns the proposed final pay estimate.
- D. Dispute – a disagreement between the parties as to the merits, amount or remedy arising out of an issue in controversy, including a disagreement regarding a Claim or asserted default.
- E. Amendment – a modification considered outside the original contract scope or terms and formalized with a written agreement signed by both parties.

2.0 DISPUTES, CLAIMS, AND CHANGES—GENERAL

- A. The Procurement Officer is responsible for documenting negotiation activities for the record, and should be present at all professional services and construction contract negotiations.
- B. The Procurement Officer or project manager, as required, prepares the appropriate documentation (e.g., change order forms) for review and approval by the [Commission’s](#) Executive Director or [Agency Commission](#), prior to issuance to the consultant/contractor for signature. This document includes full definition of work scope, impact on DBE goals, definition of time and schedule impacts, and price. The change order language stipulates that the agreed-upon terms are all inclusive, and no other relief will be available regarding this work.
 - 1. For federally-funded contracts, any damages recovered must be credited to the project involved unless the FTA/FHWA, as applicable, permits otherwise.
 - 2. For federally-funded contracts, change orders that amount to cardinal changes or tag-ons shall comply with Chapter 8, Section 3.0(A).

3.0 TERMINATION

- A. All [Agency Commission](#) contracts exceeding \$25,000 should contain provisions enabling the [Agency Commission](#) to terminate such contracts for the convenience

of the [AgencyCommission](#), and all federally funded contracts must contain such provisions. These provisions should specify the manner in which such termination will be effected and the basis for settlement. There should also be included in such contracts appropriate provisions specifying causes for which the contracts may be terminated for default.

B. Terminations for Convenience of the [AgencyCommission](#)

1. [AgencyCommission](#) –contracts will be terminated for convenience only when this is determined to be in the best interests of the [AgencyCommission](#). In lieu of issuing a notice of termination for convenience, the Procurement Officer will effect a no-cost settlement agreement where possible and appropriate.
2. Formal written notice to the contractor is necessary to terminate a contract for convenience. Such notice will state that the contract is being terminated pursuant to the termination for convenience provision of the contract, the effective date, the extent of termination and instructions to the contractor to cease performance under the contract.
3. The Procurement Officer will negotiate a no-cost settlement with the contractor if possible. Otherwise, the Procurement Officer will negotiate an appropriate settlement agreement with the contractor pursuant to the provisions of the termination for convenience clause of the contract.

C. Terminations For Default

1. If a contractor's right to proceed is terminated for default, the [AgencyCommission](#) may take over and complete the work or cause it to be completed, and the contractor and ~~his-its~~ sureties, if any, shall be liable to the [AgencyCommission](#) for any increased costs caused thereby. The contractor and ~~itshis~~ sureties should, in addition to increased costs in completing the work, be liable for liquidated damages, if liquidated damages are provided in the contract, or for actual damages, if liquidated damages are not so provided.
2. If the Procurement Officer determines that the contractor's failure to perform arises from causes which are excusable under the terms of the contract, the Procurement Officer shall not terminate the contractor's right to proceed, nor shall he/she charge the contractor with liquidated damages (or if no liquidated damages, then actual damages) because of any delays occasioned by such causes.
3. Where the surety does not complete performance of the contract, the Procurement Officer normally will complete the performance of work by awarding a new contract based on the same plans and specifications. Such award may be the result of competitive bidding or negotiation; whichever procedure is most appropriate under the circumstances. The Procurement Officer must use reasonable diligence to obtain the lowest price available for completion.

4. If, after due consideration, the Procurement Officer determines that termination is not in the best interest of the AgencyCommission although the contractor is in default, the Procurement Officer may permit the contractor to continue the work, and the contractor and ~~his-its~~ sureties shall be liable to the AgencyCommission for liquidated damages, as specified in the contract, or if liquidated damages are not so specified, for any actual damages occasioned by the failure of the contractor to complete the work in accordance with the terms of the contract.
5. Any provision for a liquidated damages assessment must be at a specific rate per day for each day of overrun and must be specified in the contract.
 - a. For FTA-funded contracts, any damages recovered must be credited to the project involved unless the FTA permits otherwise.

4.0 BONDS, OTHER SECURITIES AND INSURANCE

- A. The AgencyCommission should specify bonding, in compliance with applicable federal and state requirements for all public works contracts.
 1. In general, all construction contracts over \$25,000 require a payment bond in the amount of 100% of the contract value.
 2. All FTA-funded construction contracts over \$100,000 require a performance bond in the amount of 100% of the contract value and a bid guarantee in the amount of no less than 5% of the contract value.
 3. ~~B~~For Commission, bids for construction of facilities where the work is anticipated to exceed \$25,000 require bid security as set forth in PUC § 130232.
 4. For Authority, bids for public projects where the work is anticipated to exceed \$5,000 require security as set forth in PCC § 20171.
- B. The Procurement Officer may require any of the following types of security for any solicitation or contract subject to this Manual, other than a small purchase, regardless of the estimated amount of the contract:
 1. Bid bonds;
 2. Other bid or proposal security;
 3. Construction performance and payment bonds; and
 4. Performance or payment bonds or other security on non-construction contracts.
- C. Requirement for Bonds To Be Executed By An Admitted Surety Insurer
 1. California Code of Civil Procedure § 995.311 calls for any bond required on a public works contract to be executed by an admitted surety insurer.
 2. The AgencyCommission has a duty to verify that an admitted surety insurer executes the bond. The Procurement Officer should print out information from the website of the California Department of Insurance

(<http://www.insurance.ca.gov/docs/FS-CompanyProfiles.htm>) confirming that the surety is an admitted surety insurer and attach it to the bond.

- D. For federally funded procurements, the ~~Agency Commission~~ shall not require unnecessary experience or excessive bonding.

5.0 CONTRACT CLOSEOUT

- A. A completed contract is one which is both physically and administratively complete and in which all aspects of contractual performance have been accomplished, terminated, or otherwise disposed of by contract modification. A contract is physically complete only after all articles and services called for under the contract, including such related items as reports, spare parts, and exhibits, have been delivered to and accepted by the ~~Agency Commission~~, including those articles and services for which no specific compensation may have been stipulated. A contract is administratively complete when all payments have been made and administrative actions accomplished.
- B. The project manager, in cooperation with the Procurement Officer, is responsible for review of the contract file and obtaining all necessary documentation to ensure that: (1) all deliverables and/or services (including any reports) required under the contract have been received and accepted; (2) the terms and conditions of the contract have been complied with; (3) disposition of accountable property under the contract has been accomplished; all necessary actions including final payment and releases required to close the contract are completed and documented.
- C. Small purchase files should be considered closed when the Procurement Officer receives evidence of receipt of property and final payment.
- D. A contract file should not be closed in any of the following situations:
 - 1. If the contract is the subject of a claim or dispute;
 - 2. If the contract is in litigation or under appeal;
 - 3. In the case of a termination, if all termination actions have not been completed;
or
 - 4. If state or federal approval is required and has not been received.

CHAPTER 11 – PAYMENT

1.0 AGENCYCOMMISSION PAYMENT PROCESS

- A. The AgencyCommission will promptly process all contract payments with necessary controls to assure compliance with all contract terms and conditions in accordance with internal procedures recommended by the Chief Financial Officer and authorized by the Executive Director.
- B. The Procurement Officer should clearly specify in solicitations and contracts the form and content of an acceptable invoice, including a requirement that invoices be sequentially numbered, that they contain a date and contract number and the services for which they are invoicing, the period of performance being invoiced, and to whom invoices are to be sent.

2.0 PROGRESS PAYMENTS

- A. The AgencyCommission may provide for progress payments under contracts that require long time periods to complete contract performance or if the use of progress payments contributes to the effective and efficient administration of consultant/contractor work. Progress payments will be made on the basis of allowable costs incurred by the consultant/contractor, and the stage of completion of the contract.
 - 1. Criteria. Contract clauses providing for progress payments should be used when the investment in work and progress is expected to be great enough to add substantial costs to the contract or strain the consultant/contractor's cash flow or ability to obtain financing. Under no circumstances should payments exceed the consultant/contractor's physical completion of the Work, nor should they amount to advance payments. Progress payments can be based on a periodic voucher for expenditures, a milestone, or the CommissionAgency's estimate of work accomplished as defined in the contract.
 - 2. For federally funded procurements, the AgencyCommission must obtain adequate security (i.e., title to work in progress; letter of credit) for any progress payments made.
 - 3. For FTA-funded procurements, advance payments are prohibited unless prior written concurrence is obtained from the FTA.
- B. Progress Payments on Public Works

In accordance with PCC § 20104.50, the AgencyCommission must make progress payments within 30 days after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract. If the Agency Commission fails to make timely payment, the AgencyCommission may be required to pay interest to the contractor equivalent to the legal rate set forth in subdivision (s) of Section 685.010 of the Code of Civil Procedure.
- C. Progress Payments and Retentions on Architect, Engineer, and Land Surveyor Contracts

Pursuant to California Civil Code §3320, for any contract for public works or improvement, the AgencyCommission shall pay to the prime design professional any progress payment within 30 days of receipt of a written demand for payment in accordance with the contract, and the final retention payment, if applicable, within 45 days of receipt of a written demand for payment in accordance with the contract. If any amount is wrongfully withheld or is not timely paid, the prime design professional should be entitled to a penalty of 1½ percent for the improperly withheld amount, in lieu of any interest otherwise due, per month for every month that payment is not made.

3.0 PROMPT PAYMENT TO SUBCONTRACTORS—FEDERALLY FUNDED AGREEMENTS

- A. In accordance with 49 CFR Part 26, AgencyCommission contracts funded by the Department of Transportation above the small purchase threshold must require that the prime contractor or subcontractor shall pay to any subcontractor, not later than 7 days of receipt of each progress payment from the AgencyCommission, unless otherwise agreed to in writing, the respective amounts paid to the contractor on account for the work performed by the subcontractors, to the extent of each subcontractor's interest therein. The AgencyCommission contract may provide that, in the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, then the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.
- B. The AgencyCommission must also require the prompt return of retainage payments from the prime contractor to the subcontractor within 7 days after the subcontractor's work is satisfactorily completed.

4.0 PAYMENT OF RETENTION ON PUBLIC WORKS CONTRACTS

- A. Pursuant to PCC § 7107, within 60 days after the date of completion of the work of improvement, the AgencyCommission must release any retention withheld except funds withheld to satisfy outstanding stop notices or otherwise properly withheld. In the event of a dispute between the AgencyCommission and the original contractor, the AgencyCommission may withhold from the final payment an amount not to exceed 150 percent of the disputed amount.

5.0 REQUEST FOR PAYMENT CERTIFICATION

- A. All contracts above the small purchase threshold may contain a clause, which requires the contractor to submit with each request for payment, a certification that the claim for payment is true, correct, and for services rendered and/or supplies delivered in accordance with the contract.
- B. The user department/project manager will disapprove and Accounts Payable will return unpaid any request for payment which does not contain the certification when required.

REVISION HISTORY:

Revision No.	Revisions	Adopted
0	Adopted by the Commission	7/11/12
1	Adopted by the Commission	12/12/12
2	Adopted by the Commission	9/9/15
3	Adopted by the Commission	12/13/17
4	Adopted by the Commission	6/13/18
<u>5</u>	<u>Adopted by the Commission</u>	<u>9/11/19</u>
<u>6</u>	<u>Adopted by the Commission</u> <u>Adopted by the Authority</u>	<u>2/ /21</u> <u>2/ /21</u>

RESOLUTION NO. 2021-005**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY ADOPTING THE ELECTRONIC SIGNATURE USE POLICY**

WHEREAS, the use of electronic signatures has become increasingly common in public and private transactions; and

WHEREAS, electronic signatures have been incorporated into federal law by the Electronic Signatures in Global and National Commerce Act and into California law by the Uniform Electronic Transactions Act ("UETA") (Civil Code section 1633.1 et seq.) and Government Code section 16.5; and

WHEREAS, under California law, the use of electronic signatures is at the option of the parties, including the public agencies, involved in a transaction; and

WHEREAS, using electronic signature technology where appropriate and desired by the Western Riverside County Regional Conservation Authority ("RCA") will allow the RCA to collect and preserve signatures on documents quickly, securely, and efficiently; and

WHEREAS, the conditions under which the RCA will accept electronic signatures on RCA records or documents are an administrative affair for the RCA to determine and for which the RCA may set policy; and

WHEREAS, the RCA has a vital interest in reducing the waste of paper, increasing the efficient use of resources, and ensuring the security and authenticity of electronic records, including electronic signatures; and

WHEREAS, the RCA wishes to allow for the electronic transaction of business, when practicable, and to maintain electronically signed records, to the greatest extent practicable; and

WHEREAS, the RCA desires to adopt a policy that will mitigate potential risks associated with conducting transactions, transmitting information, and maintaining records that use electronic signatures.

NOW, THEREFORE, the Board of Directors of the Western Riverside County Regional Conservation Authority does hereby resolve as follows:

SECTION 1. The above recitals are incorporated into this section by reference, as though fully set forth herein.

SECTION 2. In addition to the general purposes identified in the above recitals, the RCA desires to adopt the attached Electronic Signature Use Policy to achieve the following objectives: (1) to create and maintain documentation of the systems used to create electronically signed records

and the electronic signatures they contain; (2) to ensure that records that include electronic signatures are created and maintained in a secure environment that protects the records from unauthorized alteration or destruction; (3) to implement standard operating procedures for the creation, use, and management of electronic signatures and electronically signed records, and to maintain adequate written documentation of those procedures; (4) to create and maintain electronic signatures and electronically signed records according to the documented standard operating procedures; and (5) to inform RCA staff as to the standard operating procedures for electronic signatures and electronically signed records.

SECTION 3. The Board of Directors of the Western Riverside County Regional Conservation Authority hereby adopts the Electronic Signature Use Policy attached hereto as Exhibit "A" and incorporated herein.

SECTION 4. This Resolution shall become effective upon its adoption.

Natasha Johnson, Chairperson
Western Riverside County Regional
Conservation Authority

ATTEST:

Lisa Mobley, Clerk of the Board
Western Riverside County
Regional Conservation Authority

EXHIBIT "A"
ELECTRONIC SIGNATURE USE POLICY

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
ELECTRONIC SIGNATURE USE POLICY**

I. **Purpose**

The Riverside County Transportation Commission (“Commission”) and the Western Riverside County Regional Conservation Authority (“Authority”) seek in this Electronic Signature Use Policy (“Policy”) to implement guidelines for the use and acceptance of electronic signatures used to conduct their official business. This Policy allows the use of electronic signatures in lieu of manual signatures, when permitted by law, and establishes when an electronic signature may replace a manual signature.

As used in this Policy, the term “Agency” is intended to refer individually, and interchangeably, to the Commission or the Authority, as applicable. Employees of the Commission conduct the operations of both the Commission and the Authority.

II. **Legal Background**

California has adopted statutes regulating the use of electronic signatures including California Civil Code section 1633.1 et seq., otherwise known as the “Uniform Electronic Transactions Act” (“UETA”) and California Government Code section 16.5. This Policy and the guidelines and procedures included hereunder are intended to comply entirely with all applicable laws and regulations including, without limitation, the aforementioned statutes. To the extent that any procedure, policy, or guideline contained herein conflicts with applicable law, Agency officials and agents, Commission staff, and all other persons subject to this Policy are required and expected to comply with the requirements of the applicable law(s).

III. **Findings and Declarations**

A. The use of electronic signature technology will allow the Agency to collect and preserve signatures on documents quickly, securely, and efficiently.

B. The conditions under which the Agency will accept electronic signatures on Agency records or documents are a local affair for the Agency to determine and for which the Agency may set policy.

C. The Agency has a vital interest in reducing the waste of paper, increasing the efficient use of public resources, and ensuring the security and authenticity of electronic records, including electronic signatures.

D. This Policy seeks to mitigate the risks associated with conducting transactions, transmitting information, and maintaining public records that use electronic signatures.

IV. **Definitions.**

A. “Approved List of Digital Signature Certification Authorities” means the list of Certification Authorities approved by the California Secretary of State to issue certification for digital signature transactions involving public entities in California. The current Approved List of Digital Signature Certification Authorities can be found at the following address:

<https://www.sos.ca.gov/administration/regulations/current-regulations/technology/digital-signatures/approved-certification-authorities/>.

B. “Certification Authority” means a person or entity that issues certification for a digital signature transaction.

C. “Digital signature” means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. A digital signature is a type of “electronic signature.”

D. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

E. “Electronic record” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means. An electronic record generally contains information or a data file that was created and stored in digitized form through the use of computers, machines, and software applications.

F. “Electronic signature” means an electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. For purposes of this Policy, a digital signature is a type of electronic signature.

G. “External document” means any document generated by or required to be signed by persons other than the Agency. Examples of external documents include contracts to which the Agency is a party that must be signed by a non-Agency party or applications completed by the members of the public and submitted to the Agency.

H. “Internal document” means a form or document created by the Agency and for use exclusively by the Agency in which a signature is required or used.

I. “Manual signature” means an original wet signature applied to a document.

J. “Transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

V. **General Policy Rules.**

The Agency encourages the use and acceptance of electronic signatures in internal and external activities, documents, and transactions when it is operationally feasible, where technology permits, and permitted by law.

A. Compliance with Law, Policy. To the extent permitted by law and this Policy, the Agency accepts electronic signatures as legally binding.

B. Use Optional. The use or acceptance of electronic signatures shall be at the option of the non-Agency signatories. Nothing in this Policy shall require the Agency to use or permit the use of electronic signatures.

C. Consent. All parties that wish to use electronic signatures shall provide written or electronic consent as to the use of electronic signatures, which may be evidenced by a statement that the document has been signed electronically.

D. Signature Use. The Executive Director or designee, may require the use of manual, electronic, or digital signatures at his or her discretion.

E. Internal Agency Business

1. The Agency requires that various internal documents be approved by an employee, supervisor, department head, or other Commission staff and approvals for internal documents may be signified by electronic means as a replacement for a manual signature.

2. Internal documents that create or impose a legal or fiduciary duty may require a digital signature, as determined by the Executive Director, or designee.

3. The use of electronic records, electronic signatures, and digital signatures by the Agency for internal Agency business and internal documents shall be in accordance with administrative procedures as designated and amended from time to time by the Executive Director or designee.

F. External Documents and Transactions

1. If an electronic signature is used for an external document involving a transaction with the Agency which creates or imposes a legal duty, the Executive Director may require a digital signature.

2. Design professionals, such as architects and engineers, who wish to use an electronic signature and whose manual signature is required for submittal of hard copy plans, will be required to obtain and use a digital signature key for electronically submitted plans. Non-design professionals may sign plans via use of any valid electronic signature technology that complies with the requirements of this Policy including, but not limited to, a digital signature.

3. For any Agency business involving a non-Agency party, including without limitation external documents, the use and acceptance of electronic records, electronic signatures, and digital signatures by the Agency shall be in accordance with administrative procedures as designated and amended from time to time by the Executive Director or designee.

G. Documents for Which Electronic Signatures are Prohibited

1. Civil Code section 1633.3 contains a list of transactions for which electronic signatures are unavailable.

2. Signatures that must be made in the presence of a notary public.

3. Unless otherwise allowed, documents that are recorded with the County of Riverside.

H. Valid Electronic Signatures. When a signature is required, the parties may agree that an electronic signature satisfies that requirement if:

1. The signature is in accordance with the requirements of the UETA;

2. The signature is created using an electronic signature technology that has been approved by the Executive Director, or designee, in accordance with the provisions of this Policy; and

3. The signature is in accordance with any and all other applicable laws and regulations.

I. Valid Digital Signatures.

1. Digital signatures used in compliance with this Policy shall have the same force and effect as the use of a manual signature provided that the digital signature has all of the following attributes:

a. It is unique to the person using it;

b. It is capable of verification;

c. It is under the sole control of the person using it;

d. It is linked to data in such a manner that if the data is changed, the digital signature is invalidated; and

e. It conforms to the regulations adopted by the California Secretary of State including, but not limited to, the acceptable technology requirements set forth under the California Code of Regulations, title 2, section 22003.

2. The Certification Authority issuing the certification for the digital signature transaction must appear on the "Approved List of Digital Signature Certification Authorities" authorized by the California Secretary of State.

3. Prior to accepting a digital signature, Commission staff shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted, that the level of security used to transmit the signature is sufficient for the transaction being conducted, and that the certificate format used by the signer is sufficient for the security and interoperability needs of the Agency.

J. Minimum Standards. These are minimum standards. Any transaction must be analyzed under the facts and circumstances existing at the time a transaction has been executed. Depending upon the circumstances, the Agency may require a higher level of signature verification (i.e. out-of-state signatory). Nothing in this Policy prohibits an Agency official or employee, with the consent from the Executive Director, from requiring a wet signature or higher form of secure electronic signature if he or she believes it is prudent or necessary.

K. Acceptable Electronic Signature Technologies. The Executive Director or designee, shall identify the level of security procedures required for particular documents. The Executive Director or designee, shall also identify vendors and technology to execute those security procedures using industry best practices.

L. Further Acts. Nothing in this Policy shall prevent the Executive Director or designee, from adopting additional guidelines or taking further actions to implement this Policy or to add other permissible forms of electronic signatures to this Policy.

VI. Sanctions.

A. Any person that makes inappropriate, illegal, or fraudulent use of electronic signatures, digital signatures, or electronic records in violation of this Policy or of any applicable law or regulation is subject to sanctions up to and including dismissal, suspension, and criminal prosecution as specified in published Agency policies, and State and federal law, regardless of whether such sanctions are directly referenced in this Policy. All inappropriate, illegal, or fraudulent uses of any electronic means of transmission shall be prosecuted to the fullest extent permitted by law, including the recovery of attorneys' fees and administrative costs.

DRAFT

Administrative Procedures for Acceptance of External Documents and/or
Transactions With Electronic Signatures

I. PURPOSE

The purpose of these procedures is to document and implement the acceptance of external documents and/or transactions with electronic signatures in compliance with the Agency's Electronic Signature Use Policy.

II. CLASSES OF DOCUMENTS PERMITTED BY THE EXECUTIVE DIRECTOR FOR ELECTRONIC SIGNATURE

The security requirements for electronic signatures range from simple to the more complex, depending upon the level of transaction. The following are the classes of documents permitted for electronic signature. It is not intended to be an exhaustive list, nor does it impose electronic signature as a requirement for any particular transaction.

- A. Contracts and Amendments
- B. Grant Documents
- C. Applications
- D. Invoices
- E. Certificates and Permits, as allowed by law
- F. Correspondence

Approved
Executive Director

AGENDA ITEM 9

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Matt Wallace, Deputy Director of Financial Administration Jennifer Fuller, Financial Administration Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Introduction of Resolution No. 2021-006 to Amend Bylaws with Regard to the Executive Director's Purchasing Authority and Other Administrative Changes

EXECUTIVE DIRECTOR AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Approve the proposed amendments to the Western Riverside County Regional Conservation Authority (RCA) Bylaws, subject to the four-week noticing period required in Article XIII(B) of the RCA Bylaws; and
- 2) Introduce Resolution No. 2021-006, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Amending Its Bylaws with Regard to the Executive Director’s Purchasing Authority and Other Administrative Changes”*.

BACKGROUND INFORMATION:

RCTC Management Transition

The Riverside County Transportation Commission (RCTC) and the Western Riverside County Regional Conservation Authority (RCA) entered into an Implementation and Management Services Agreement (Agreement) effective January 1, 2021. Under the Agreement, RCTC shall administer, coordinate, and supervise the activities of the RCA as set forth in the RCA Joint Exercise of Powers Agreement (JPA) and shall act for RCA in accomplishing its purposes. The County of Riverside provided management services for RCA under a prior agreement.

Among the reasons stated by the RCA Board for the management transition were management efficiencies, consolidation of administrative functions, and adding some of the professional practices of RCTC to the administration of RCA and the MSHCP. As stated in the staff report for the Agreement, “RCTC general administrative policies and processes, including procurement of consultant and vendor contracts, will be utilized.”

Staff has identified procurement policies as an immediate policy that is necessary to conduct business pursuant to the Board’s mandate. Doing so will enable streamlined administration while

maintaining accountability for expenditure of public funds. In many ways, bringing the RCTC Procurement Policy Manual to RCA will strengthen preexisting RCA procurement policies. However, in order for the new RCTC/RCA Procurement Policy Manual to be implemented, revisions to the RCA Bylaws are necessary.

Additionally, staff identified that the RCA Bylaws direct several instances of member agency communications to the Chair or Vice-Chair of the Board, including appointment of Board members and filling of vacancies. In practice, these notifications from member agencies have been sent directly to the Clerk of the Board, who coordinates Board administration matters with the Chair, Vice-Chair and Executive Director. RCTC has a robust and professional Clerk of the Board department. The bylaw provisions proposed for revision in this item reflect this RCTC management competency as well as the reality of how business is conducted.

RCA Bylaws

Pursuant to Section 17 of the JPA, the RCA has the power to adopt such rules and regulations as the RCA's Board of Directors may deem necessary for the conduct of the RCA's affairs. Pursuant to Article XIII of the RCA Bylaws, the RCA may amend its bylaws as necessary.

The revisions proposed to the RCA Bylaws are intended to be administrative in nature and fulfill two primary purposes:

- Enabling implementation of the RCTC/RCA Procurement Policy Manual;
- Centralizing member agency communications and Board administration matters through the Clerk of the Board; and
- Cleaning up and modernizing outdated language or references without making substantive changes to their meanings or effect.

Summary of Proposed Revisions

The RCA Bylaws delegate procurement authority to the Executive Director in Article VII, Section C. Staff proposes updating that section to state that the Executive Director will authorize contracts in compliance with the RCTC/RCA Procurement Policy Manual and to remove the references to specific procurement authority levels from the bylaws.

Under the Agreement, staff performing work on behalf of the RCA are RCTC employees serving under the exclusive direction of RCTC. As such, Article IX, Section A.3. related to the authority of the Executive Committee has been amended to remove references to staffing.

The bylaws have also been amended for other administrative items as listed below:

- All references to Authority have been updated to RCA;
- All references to Chairman, Chairperson, Vice-Chairman, and Vice-Chairperson have been updated to Chair and Vice-Chair, respectively;

- All references to the California Department of Fish and Game (CDFG) have been updated to the California Department of Fish and Wildlife (CDGW) to correctly state the department’s name;
- The Clerk of the Board has been designated as the focal point for correspondence concerning changes in Member Agency appointments and vacancies and member reporting of expenses to reflect current the practice;
- Article I, Section B has been updated to note the dates on which the JPA was updated for the inclusion of additional Member Agencies;
- Article V, Section B.3. has been updated to the most recent number of acres currently within the Criteria Cells in the incorporated areas;
- Article VIII references to time periods have been updated to be compliant with the Brown Act;
- Article X, Section D removes the statement “All ordinances shall take effect upon their adoption” to comply with California Government Code; and
- Other minor clarifications were made and typos were corrected as needed.

Notice Period and Vote to Approve

Article XIII(B) of the RCA Bylaws states: “All regular members shall receive at least four (4) weeks notice of any amendments to these Bylaws. Notice may be provided on a Board Meeting Agenda of the Board or by separate notice delivered by mail, e-mail, or facsimile to the regular member.”

Therefore, this item represents the notice required in Article XIII(B). The Board may approve the proposed bylaw revisions at its March 1, 2021 meeting.

FISCAL IMPACT:

There is no fiscal impact from amending the RCA bylaws.

Attachments:

- 1) Resolution No. 2021-003
- 2) Redline Bylaws

<i>Approved by the Executive Committee on January 20, 2021</i>					
In Favor:	6	Abstain:	0	No:	0

RESOLUTION NO. 2021-006

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
AMENDING ITS BYLAWS WITH REGARD TO EXECUTIVE DIRECTOR'S
PURCHASING AUTHORITY AND OTHER ADMINISTRATIVE CHANGES**

WHEREAS, the Western Riverside County Regional Conservation Authority ("RCA") is a public agency of the State of California formed by a Joint Exercise of Powers Agreement ("JPA");

WHEREAS, pursuant to Section 17 of the JPA, the RCA has the power to adopt such rules and regulations as the RCA's Board of Directors ("Board") may deem necessary for the conduct of the RCA's affairs;

WHEREAS, pursuant to Article XIII of the RCA Bylaws, the RCA has presented to its members an amendment to the RCA Bylaws which amends the provisions regarding the election of RCA officers;

WHEREAS, the Board has determined that it is necessary at this time to revise the RCA's Bylaws with regard to the Executive Director's purchasing authority and other administrative changes, as set forth herein, as a result of the Board entering into an Implementation and Management Services Agreement with the Riverside County Transportation Commission (RCTC) on November 2, 2020; and

WHEREAS, notice of this change to the Bylaws has been provided as required in the Bylaws.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that the Western Riverside County Regional Conservation Authority hereby resolves to amend its Bylaws as noted in the redline version attached here to as Exhibit "A."

This Amendment shall be effective upon the approval of this Resolution by the Board of Directors.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Western Riverside County Regional Conservation Authority on this 1st day of March, 2021.

By: _____
Natasha Johnson, Chair
Western Riverside County
Regional Conservation Authority

ATTEST:

By: _____
Lisa Mobley, Clerk of the Board
Western Riverside County
Regional Conservation Authority

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

BYLAWS

ARTICLE I – NAME AND AUTHORIZATION

- A. NAME. The name of this agency shall be the Western Riverside County Regional Conservation Authority, hereinafter known as the RCA Authority.
- B. AUTHORIZATION. The County of Riverside (“County”) and the Cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Temecula, by that Joint Exercise of Powers Agreement dated as of January 27, 2004 (“Agreement”) created the RCA Authority for the purpose of acquiring, administering, operating, and maintaining land and facilities for ecosystem conservation and habitat reserves for certain rare, threatened, and endangered species covered by the Western Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”). The Agreement was amended on April 7, 2009, to add the Cities of Menifee and Wildomar, on May 5, 2011, to add the City of Eastvale, and on December 5, 2011, to add the City of Jurupa Valley.

ARTICLE II – PURPOSE, DUTIES & POWERS

- A. PURPOSE. The RCA Authority shall acquire, administer, operate, and maintain land and facilities to establish habitat reserves for the conservation and protection of species covered by the MSHCP and to implement the MSHCP after the MSHCP is approved by the County and Cities and appropriate permits are issued by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife Game.
- B. DUTIES AND POWERS. Duties and Powers of the RCA is Authority are set forth in local, state, and federal law and the Agreement, as may be amended from time to time. These duties and authorization include, but are not limited to, the following:
1. To make and enter into contracts;
 2. To employ agents, consultants, attorneys, and employees;
 3. 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;

4. To conduct and direct studies and to develop and implement plans to complement, modify, or supplement the MSHCP;
5. To incur debts, liabilities, and obligations;
6. To sue and be sued in its own name;
7. To employ reserve managers and other personnel to operate, maintain, and administer the habitat reserves established through implementation of the MSHCP;
8. To be an applicant, make applications for, and receive grants from governmental and private entities and to participate in State bond issues;
9. To prepare project reports and applications, to qualify for grants, and to enter into grant contracts and to do all other things necessary to comply with State and Federal laws and regulations with respect to grants;
10. To borrow or receive advances of funds from its members or from such other sources as may be permitted by law;
11. To contract with its members and other entities who operate or will operate the habitat reserves established through implementation of the MSHCP;
12. To issue bonds, notes, warrants, and other evidences of indebtedness to finance costs and expenses to carry out the powers of the RCA Authority;
13. To acquire, hold, and dispose of equipment;
14. To lobby state and federal governments and their officials as well as private entities to obtain funding for implementation of the MSHCP and employ individuals or entities to conduct such lobbying activities on its behalf; and
15. To exercise all other powers common to the members not specifically mentioned above which may be necessary to carry out the purposes of this Agreement.

ARTICLE III – MEMBERSHIP

- A. **REGULAR MEMBERS.** The regular members of the Board shall be the five members of the Riverside County Board of Supervisors and one member from each incorporated city who is signatory to the Agreement. Written

notification of the appointment of a City representative shall be provided to the ClerkChairperson of the Board.

B. ALTERNATE MEMBERS:

1. Each member of the Riverside County Board of Supervisors may appoint an alternate member to the RCA Board of Directorsthe Authority and each City may appoint one alternate member to the RCA Board of Directorsthe Authority.
2. Each regular member and alternate member of a City must hold an elective office on the respective governing body appointing the regular or alternate member.
3. The Board of Supervisors ("BOS") may appoint a city council member of a member city to represent the member as an alternate at meetings of the RCA Board or committees. Notice of the alternate appointment shall be made in writing to the ClerkoftheBoardchairpersonoftheRCABoard. In no event shall the same person serve as a city representative and alternate for a BOS member at the same meeting.
4. In the absence of a regular member, the alternate member shall, if present, participate in a meeting of the Board or committee the same as if the alternate member were the regular member.

ARTICLE IV – TERM, VACANCIES AND COMPENSATION

- A. TERM. Regular members and alternate members shall serve on the Board during the term for which they were appointed or until their successor has been appointed or their appointment has been revoked, whichever is earlier. However, a regular or alternate member's position on the Board shall automatically terminate if and when the term of the elected public office of such regular or alternate member is terminated.
- B. VACANCIES. Any vacancy in the office of regular or alternate member, whether because of death, incapacity, resignation, loss of underlying office, removal or otherwise, shall be filled by the appointing authority for such member. When a vacancy occurs, it shall be the duty of the respective Party having the vacancy to promptly inform the Clerk of the
Board of the -name of the replacement regular or alternate member.
- C. RESIGNATION. Any regular or alternate member may resign at any time by giving written notice of such resignation to the ClerkoftheBoardAuthority'sExecutiveDirector. Such resignation shall be effective at the time specified; acceptance of such resignation shall not be necessary to make it effective.

- D. REMOVAL. Any regular or alternate member may be removed, with or without cause stated, by the authority responsible for his or her appointment.
- E. COMPENSATION. Unless prohibited by law from accepting compensation, each regular and alternate member (when performing the duties of a regular member) of the RCA Authority shall be compensated at the rate of One Hundred Dollars (\$100) for any day attending to the business of the RCA Authority, but not to exceed Four Hundred Dollars (\$400) in any month, along with necessary traveling and personal expenses incurred in the performance of his or her duties as authorized by the RCA Authority.

ARTICLE V – VOTING

- A. QUORUM. A majority of the members of the Board shall constitute a quorum for the transaction of business and all official acts of the Board shall require the affirmative vote of a majority of the members of the Board. Each regular member or alternate member acting in the place of a regular member shall have one vote at meetings of the Board. However, any member of the Board, immediately after a vote of the Board and prior to the start of the next item on the agenda may call for a weighted vote.
- B. WEIGHTED VOTING. For an item to be passed by weighted vote, all of the following requirements shall be met:
 1. the item shall be approved by a majority of the Board members present at the meeting who represent the Riverside County Board of Supervisors, who each shall have one vote;
 2. the item shall be approved by a majority of the Board members present at the meeting who represent Cities, who each shall have one vote; and
 3. the item shall be approved by Board members present at the meeting who represent Cities representing a majority of an equal combination of 1) the population of the county living in incorporated areas within the boundaries of the MSHCP Plan area, and 2) the number of acres currently within the Criteria Cells in the incorporated areas as follows: *Banning – 78 acres; Beaumont – ~~10,10840,098~~ acres; Calimesa – ~~3,3733,380~~ acres; Canyon Lake – 303 acres; Corona – 2,315 acres; Eastvale – 1,024 acres; Hemet – ~~1,3721,158~~ acres; Jurupa Valley – 5,039 acres; Lake Elsinore – ~~14,57144,336~~ acres; Menifee – 249 acres; Moreno Valley – 2,325 acres; Murrieta – 8,726 acres; Norco – 733 acres; Perris – 3,181 acres; Riverside – ~~1,2171,201~~ acres; San Jacinto – ~~4,5814,580~~ acres; and Temecula – ~~3,9233,917~~ acres; and*

Wildomar – 4,151 acres. Population data shall be determined through California Department of Finance estimates, adjusted annually.

In addition, the Board may, through resolution, revise the above-referenced number of acres due to the addition of a new member entity or other appropriate adjustments as the Board deems necessary.

ARTICLE VI – NOMINATION AND ELECTION OF OFFICERS

- A. ELECTIONS. -The Board shall elect a Chairperson and a Vice Chairperson at its meeting every December, or as soon thereafter as practical. At least once every three years, the Chairperson or Vice Chairperson shall be a regular member of the Board who is a member of the Board of Supervisors. The term of the Chairperson and Vice Chairperson shall commence on the first day of the month following the selection, unless otherwise determined by the Board.
- B. NOMINATIONS. Any member of the RCA Authority may nominate any regular member for an office contemplated in Section A. An individual receiving the majority of the votes for any of the offices shall be deemed to have been elected. Different procedures and requirements apply to the office of treasurer and controller, pursuant to Section E. and the Agreement.
- C. RESIGNATIONS. In the event an officer resigns or ceases to be an officer, the Board shall select a replacement therefore at the next regular meeting of the Board, or as soon thereafter as practical.
- D. ABSENCES. In the absence or inability of the Chairperson to act, the Vice Chairperson shall act as Chairperson.
- E. APPOINTMENTS. The Board shall appoint the treasurer of a member agency to serve as the Treasurer. The Board shall also appoint the finance director of a member agency to serve as the Controller.

ARTICLE VII – DUTIES OF OFFICERS

- A. CHAIRPERSON. The duties of the Chairperson shall be to:
 - 1. Preside at all meetings of the RCA Authority, provided that the Board, by a majority vote of the members present, may overrule any decision under this Section A.1 by the Chairperson at or during the meeting;
 - 2. Call special meetings of the RCA Authority when necessary;

3. Appoint ad hoc committees, when necessary, including, without limitation, an Elected Officials Ad Hoc Committee described in the MSHCP.
- B. VICE CHAIR~~PERSON~~. The duties of the Vice Chair~~person~~ shall be to perform the duties and exercise the power of the Chair~~person~~ during the absence of the Chair~~person~~.
 - C. EXECUTIVE DIRECTOR. The duties of the Executive Director shall be to administer the MSHCP, as defined above, in compliance with the duties and responsibilities set forth in Sections 5.0 and 6.0 of the MSHCP, and such other duties as may be prescribed by the Board, from time to time. The Executive Director shall perform such duties as prescribed by the Board including, without limitation, the administration of agency contracts. The Executive Director will authorize contracts in compliance with the RCTC/RCA Procurement Policy Manual~~may, after consultation with the Chairperson, authorize contracts in an amount up to \$50,000 without prior Board approval. All such contracts shall be reviewed by legal counsel and shall be reported to the Board after execution. The Executive Director may not issue such contracts totaling more than \$50,000 1) to any one entity in any calendar year, or 2) to a group of entities working on a single project for the Authority. The Executive Director's authority for the purchase of supplies, materials, or equipment is limited to \$25,000.~~

ARTICLE VIII – MEETINGS

- A. AGENDA. Matters to be placed on the Agenda for any regular meeting or Committee meeting may be filed with the Executive Director of the RCA Authority by any member of the RCA Authority by the Thursday before such regular meeting or special meeting. The Agenda for each regular or special meeting shall be prepared under the control and direction of the Executive Director after consultation and concurrence by the Board Chair~~man~~ or Vice Chair~~man~~, if the Chair~~man~~ is not available. The Executive Director shall cause copies of the Agenda to be ~~mailed or~~ delivered to each regular and alternate member in compliance with the Brown Act at least three (3) working days prior to the regular meeting date. During a Board or Committee meeting, any member may bring to the Board's attention any item of new business or request for action. Action on any matter of business not listed Agenda shall be deferred until properly listed on the Agenda for a subsequent meeting unless properly added to the Agenda as an item of subsequent need in accordance with Government Code, Section 54954.2. Notwithstanding, the provisions of this section, individual members of the Board may provide a reference to staff or other resources for factual information, request staff to report back to the RCA Authority at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

- B. REGULAR MEETING. A schedule of regular meetings of the RCA Authority will be adopted by the Board annually. Regular meetings shall be held, to the extent feasible, at the County Administrative Center, 4080 Lemon Street, First Floor, Riverside, California, or at such other location set by the RCA Authority. Regular meetings may be canceled by majority vote of the RCA Authority at a regular or special meeting prior to the meeting to be canceled. A regular meeting may also be canceled by the Chairperson for lack of a quorum or substantive agenda items. The Executive Director shall endeavor ~~to mail or~~ deliver notice of such cancellation to each regular member and alternate member at least twenty-four (24) hours prior to the time of the meeting.
- C. SPECIAL MEETINGS. A special meeting of the RCA Authority may be called at any time by the Chairperson, or in his or her absence by the Vice Chairperson, or by any four (4) regular members by delivering ~~personally or by mail~~ written notice to the Executive Director and each regular and alternate member. Such notice shall be so delivered at least twenty-four (24) hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be transacted at such meeting. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Executive Director a written waiver of notice. ~~Such waiver may be given by telegram or telecopier.~~ Such written notice may also be dispensed with as to any regular or alternate member who is actually present at the meeting at the time it convenes.
- D. POSTING OF AGENDAS. The RCA Authority shall post agendas of all regular meetings, containing a brief general description of each item of business to be transacted or discussed at the meeting, in accordance with the Brown Act at least seventy-two (72) hours before such regular meeting. The agenda shall specify the time and location of the meeting and shall be posted at the County Administration Center, 4080 Lemon Street, Riverside, or at another location specified by the Chairperson that is freely accessible to members of the public and on the RCA website. No action shall be taken on any item not appearing on such posted agendas, except as permitted by state law.
- E. RALPH M. BROWN ACT. All meetings of the Board, including without limitation, regular, special and adjourned meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code).
- F. ADDRESSING the RCA AUTHORITY ON AGENDA ITEMS. No person shall address the RCA Authority at any meeting until he or she has first been recognized by the Chairperson. The decision of the Chairperson to

recognize a person may be changed by vote of a majority of the members of the RCAAuthority present at the meeting. When addressing the RCAAuthority, each individual speaker will be limited to three minutes or less of public testimony on each agenda item. The RCAAuthority may, either at the direction of the Chairperson or by a majority vote of the RCAAuthority, waive this three (3) minute time limitation.

ARTICLE IX – STANDING COMMITTEES

A. FORMATION. The following Standing Committees of the RCAAuthority are hereby created:

1. The Funding Coordination Committee. This Committee shall provide recommendations to the Board on funding priorities and MSHCP Conservation Area acquisitions. Additionally, this Committee shall provide a forum to discuss land acquisition priorities of the U.S. Fish and Wildlife Service (“USFWS”) and California Department of Fish and WildlifeGame (“CDFWG”) and acquisitions by other entities using non-local sources of revenue. It is envisioned that this Committee will meet at least twice annually. The Committee is not intended to address the acquisition of specific properties. The Board shall establish policies under which the Funding Coordination Committee shall make recommendations to the Board. Such policies shall include conflict of interest guidelines for the Committee members. Members of this committee shall consist of the Executive Committee Members, and representatives of the USFWS, and the CDFWG. Member Agency Planning Directors shall be invited to participate in the meeting.
2. Reserve Management Oversight Committee. The Reserve Management Oversight Committee (RMOC) shall serve as the intermediary between the Reserve Managers and the decision makingdecision-making function of the RCAAuthority. The Executive Director or designee shall serve as Chairperson of the RMOC. The RMOC shall be composed of, at a minimum, one representative appointed by each of the following entities: USFWS, CDFWG, Riverside County Regional Parks and Open Space District, Bureau of Land Management, U.S. Forest Service, California Department of Parks and Recreation, the RCAAuthority, and up to five (5) other private or public agencies or entities that own or manage land within the MSHCP Conservation Area.
3. Executive Committee. The Executive Committee shall be composed of seven (7) members, and have at least two (2) and no more than three (3) representatives representing the County. The Board Chairperson, Vice Chairperson, and past Chairperson, if any, of the

RCA Authority shall be members of the Committee. Two members of the Executive Committee shall be selected by the Board at its first meeting in December, or as soon thereafter as practical. The remaining members shall be appointed by the Chairperson and ratified by the Board. The Executive Committee shall oversee RCA Authority administrative functions, ~~staff functions, recommend staff positions, job descriptions and salaries,~~ and consider such other matters as delegated to it by the Board. In the event of a vacancy in the Committee, the Chairperson shall appoint a replacement, and said appointment shall be ratified by the Board.

4. Stakeholders Committee. The Stakeholders Committee shall be appointed by the Chairperson and ratified by the Board. The Committee shall be composed of up to sixteen (16) members, whose members shall be drawn from the following:

- a. groups representing property owners affected by the MSHCP;
- b. groups representing environmental interests implicated by the MSHCP; and
- c. groups representing the building industry within the area affected by the MSHCP.
- d. Committee members shall not be permitted to appoint alternates. The Committee shall meet when requested to do so by the Chairperson or Board. The Committee shall meet as often as necessary; however, reasonable efforts shall be made to hold committee meetings at least twice yearly. The Executive Director shall chair the meetings and facilitate discussion. The Stakeholders Committee shall review implementation plans from a stakeholder perspective and perform such other duties as directed by the Board.

B. CONTROL AND SUPERVISION. In the performance of their duties and responsibilities, all Committees of the RCA Authority shall submit all policy matters coming before them to the RCA Board Authority for final consideration, unless otherwise specified by the Board. Committee members shall be appointed on an annual basis.

ARTICLE X – CORPORATE POWERS

A. SUCCESSION. The RCA Authority has perpetual succession and may adopt a seal and alter it at its pleasure.

- B. LITIGATION. The RCAAuthority may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.
- C. CLAIMS. All claims for money or damages against the RCAAuthority are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.
- D. MOTIONS, RESOLUTIONSREGULATIONS, AND ORDINANCES. The acts of the RCAAuthority shall be expressed by motion, resolution, or ordinance. ~~All ordinances shall take effect upon their adoption.~~ The enacting clause of all ordinances shall be as follows: "The Western Riverside County Regional Conservation Authority hereby ordains as follows: "All ordinances shall be signed by the Chairperson or by the Vice Chairperson of the RCAAuthority.

ARTICLE XI – CONTRACTS

The RCAAuthority may make contracts and enter into stipulations of any nature whatsoever either in connection with eminent domain proceedings or otherwise, including but not limited to, contracts and stipulations to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers authorized by law. The RCAAuthority may contract with any Department or Agency of the United States of America, with any public agency (including, but not limited to, the County, WRCOG, CDFWG or USFWS), or with any person upon such terms and conditions as the RCAAuthority finds is in its best interest.

ARTICLE XII – REIMBURSEMENTS

- A. PERSONS SUBJECT TO REIMBURSEMENT PROVISIONS. These Reimbursement Provisions ("Provisions") shall be applicable to all members of the RCAAuthority's legislative bodies, as defined in Government Code section 54952, provided such persons receive compensation for actual and necessary RCAAuthority expenses ("Official"). Legislative Bodies include, but are not limited, to the Board of Directors, the Funding Coordination Committee, the Reserve Management Oversight Committee, the Executive Committee, and the Stakeholders Committee.
- B. PURPOSE. The purpose of these Provisions is to provide guidelines for the reimbursement of any Official for actual and necessary expenses incurred in the performance of their duties. Whenever issues of reimbursement arise, the RCAAuthority shall adhere to Government Code sections 53232.2 and 53232.3.

C. TRANSPORTATION

1. Use of Personal Vehicle. The RCA Authority shall reimburse for mileage incurred when personal vehicles are used to attend Board and Committee meetings and conferences or other meetings approved by the Board or Executive Director and in furtherance of the RCA Authority's affairs. RCA Authority will reimburse mileage for travel to and from the destination based upon the approved Internal Revenue Service rate in effect at the time of travel.
2. Rentals. The RCA Authority shall reimburse for actual and necessary vehicle rental expenses. The RCA Authority shall only reimburse economy or compact rate vehicles unless (i) such class of vehicle is unavailable; or (ii) such class of vehicles do not accommodate a disability. When an Official rents a vehicle, he or she shall obtain insurance for the vehicle at the RCA Authority's expense.
3. Shuttle, Bus, Taxi, and Public Transportation. Shuttle, bus, taxi, and public transportation may be used between an airport, hotel and conference site whenever it is available. Officials are encouraged to use the most efficient mode of transportation available.
4. Air Travel or Other Common Carrier Transportation. As necessary for the performance of their official duties, Officials may use air travel or other mode of common carrier transportation to and from the destination.

D. LODGING. Lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available. If a group rate is not available, the government rate of the provider of lodging shall be used. If neither the group nor government rates are available, the RCA Authority shall reimburse lodging at a rate not exceeding \$300.00 per night without Board approval. For lodging in high costs cities (e.g., San Francisco, New York, Washington., D.C.), the RCA Authority will reimburse at a rate not exceeding \$490.00 per night without Board approval. Lodging reimbursement rates will be adjusted annually according to the CPI in the applicable metropolitan statistical area.

E. MEALS. The actual costs of meals incurred while attending conferences or other meetings in furtherance of the RCA Authority's affairs are reimbursable provided the RCA Authority's staff is given a receipt. Meal costs shall be reimbursed at an amount not exceeding the greater of one hundred fifty dollars (\$150.00) per day or the applicable Internal Revenue Service rate.

F. PERSONAL EXPENSES AND OTHER EXPENSES NOT REIMBURSABLE. The RCA Authority shall not reimburse the cost of

transportation, lodging, meals, or other costs of travel when such costs are of a personal nature incurred in conjunction with the performance of official duties. Personal costs, not reimbursable by the RCA Authority, shall include, but not be limited, to the following: (i) alcoholic beverages; (ii) parking and traffic violations; (iii) entertainment; (iv) services provided by the provider of lodging; and (v) expenses incurred on behalf of a spouse, dependent, or traveling companion.

- G. CONFERENCES AND OTHER MEETINGS. Officials shall only receive reimbursement of travel, lodging, and meals for conferences or other meetings in furtherance of the RCA Authority's affairs. No other occurrences will be reimbursed.
- H. EXPENSES NOT INCLUDED WITHIN THESE PROVISIONS. Occurrences or expenses which do not fall within these Provisions or the Internal Revenue Service reimbursable rates must be approved by the Board in a public meeting before the expense is incurred.
- I. EXPENSE REPORTS. The RCA Authority shall not reimburse any expenses until an expense form is submitted to the Clerk of the Board Authority's administrative office no later than 45 days of the expenditure. Expense forms shall be accompanied by receipts documenting each expense. Furthermore, Officials will be required to provide a brief report on the conference or meeting attended at the next regular meeting of his or her respective legislative body.
- J. CPI INCREASE. The dollar limits referenced herein shall be automatically updated annually pursuant to reflect increases in the Consumer Price Index.

ARTICLE XIII – AMENDMENTS

- A. ADOPTION. These Bylaws may be amended at any meeting of the RCA Authority by a majority vote.
- B. PROPOSAL. Any RCA Authority member may propose a Bylaw amendment. Such proposal shall be in writing and shall be referred to the Chairperson who shall report the proposed amendment with recommendation to the RCA Authority. All regular members shall receive at least four (4) weeks notice of any amendments to these Bylaws. Notice may be provided on a Board Meeting Agenda of the Board or by separate notice delivered by mail, e-mail, or facsimile to the regular member.

Approved 06/07/04
Updated 03/07/05; Resolution No. 05-01
Updated 09/12/05; Resolution No. 05-07
Updated 12/05/05; Resolution No. 05-10
Updated 03/06/06; Resolution No. 06-01

Updated 04/03/06; Resolution No. 06-02
Updated 05/01/06; Resolution No. 06-03
Updated 09/10/07; Resolution No. 07-06
Updated 12/03/07; Resolution No. 07-11
Updated 10/06/08; Resolution No. 08-015
Updated 03/02/09; Resolution No. 09-001
Updated 03/07/11; Resolution No. 11-002
Updated 01/09/12; Resolution No. 11-008
Updated 06/02/14; Resolution No. 14-004
Updated 11/07/16; Resolution No. 2016-016
Updated 03/01/21; Resolution No. 2021-006

AGENDA ITEM 10

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY	
DATE:	February 1, 2021
TO:	Board of Directors
FROM:	Executive Committee Tricia Campbell, Reserve Management/Monitoring Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Adopt Resolution No. 2021-004 Related to a Super Bloom Policy

EXECUTIVE COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Board of Directors to:

- 1) Approve a super bloom policy; and
- 2) Adopt Resolution No. 2021-004, *“Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Super Bloom Policy”*.

BACKGROUND INFORMATION:

The open space lands along the Interstate 15 Corridor from the city of Lake Elsinore north to the city of Corona can support a California poppy (*Eschscholzia californica*) super bloom of huge proportions. Super blooms do not occur every year, but when rainfall levels and timing along with temperatures are just right, these open space lands can support a magnificent bloom of California poppies that bring people from all over the country and world to view the amazing orange hills. Most of the properties in this area are privately owned but there are several properties that are publicly owned. The public looks for quick access from the I-15 to the hills of blooming California poppies with the I-15/Lake Street interchange a highly prized access point. From this interchange, the public heads east to Walker Canyon Road. Refer to the attached Figure 1 for an illustration of the land ownership along Walker Canyon Road.

Based on experience from the 2019 super bloom, the enormous amount of public visitation to these lands as well as others in the area can cause road safety hazards and traffic jams on I-15 and local roads. The tremendous public interest provides a welcome education opportunity but also brings hazards to the sensitive species that rely on these lands and for which the Multiple Species Habitat Conservation Plan serves to protect. Finally, the 2019 super bloom triggered unanticipated costs to the RCA and other public agencies, making it necessary for the RCA to provide clarification on reimbursement for costs incurred by other public agencies related to the super bloom.

The policy presented in this staff report clarifies the responsibility of the RCA during super blooms.

In summary, the policy:

- Identifies what properties RCA has control over in the area of the super bloom;
- Identifies public uses on RCA lands;
- Provides commitment to coordinate and collaborate with RCA partners; and
- Presents non-reimbursement of costs to Permittees, other individuals, or entities for their costs related to a super bloom.

FISCAL IMPACT:

The policy does not cause a fiscal impact.

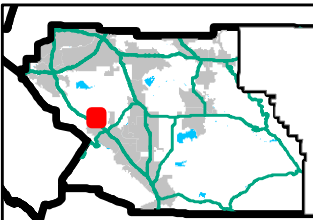
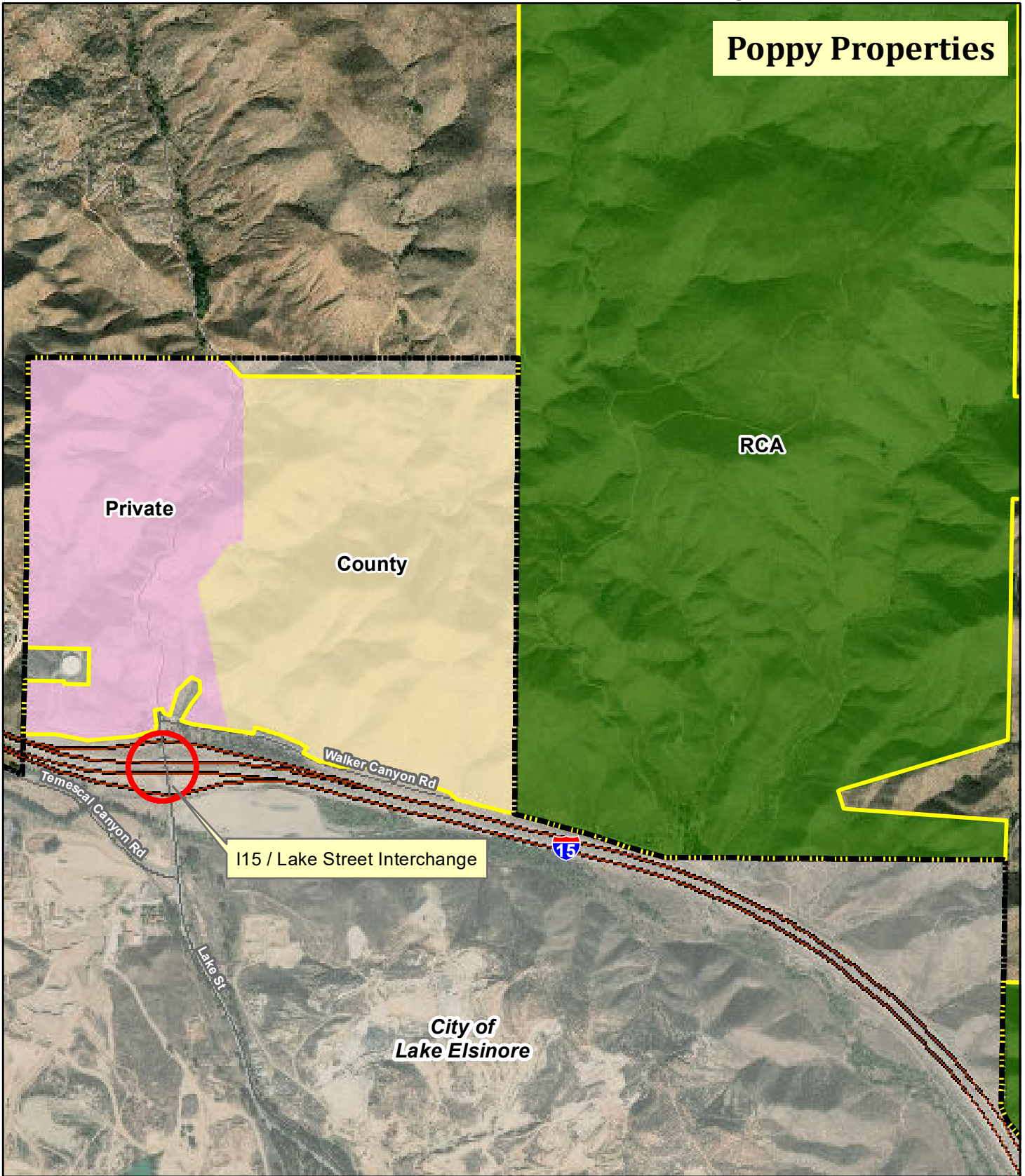
Attachments:



- 1) Figure 1
- 2) Resolution No. 2021-004, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Super Bloom Policy

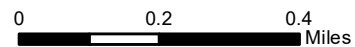
Approved by the Executive Committee on January 20, 2021

In Favor: 6 Abstain: 0 No: 0

Poppy Properties



-  Poppy Property
-  City Boundary



RESOLUTION NO. 2021-004**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
ADOPTING A SUPER BLOOM POLICY**

WHEREAS, the Western Riverside County Regional Conservation Authority (“RCA”) is a public agency of the State of California formed by a Joint Exercise of Powers Agreement (“JPA”); and

WHEREAS, pursuant to Section 19 of the JPA, the RCA has the power to adopt such rules and regulations as the Board may deem necessary for the conduct of the RCA and its members; and

WHEREAS, the open space lands along the Interstate 15 corridor from the City of Lake Elsinore north to the City of Corona can support a California poppy (*Eschscholzia californica*) super bloom of huge proportions; and

WHEREAS, super blooms do not occur every year but when rainfall levels and timing along with temperatures are just right, these open space lands can support a magnificent bloom of California poppies that bring people from all over the country and world to view the amazing orange hills; and

WHEREAS, in the Spring of 2019 this area experienced a Super Bloom event; and

WHEREAS, most of the properties in this area are privately owned but there are several properties that are publicly owned, including by the RCA; and

WHEREAS, the public looks for quick access from the I-15 to the hills of blooming California poppies with the I-15/Lake Street interchange a highly prized access point; and

WHEREAS, from this interchange, the public heads east to Walker Canyon Road; and

WHEREAS, the enormous amount of public visitation to these lands as well as others in the area cause road safety hazards and traffic jams on the Interstate and the local roads; and

WHEREAS, the Super Bloom Policy attached to this Resolution in Exhibit “A” is meant to clarify the responsibility of the RCA during super blooms.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the Western Riverside County Regional Conservation Authority Board of Directors to adopt the Super Bloom Policy as described in Exhibit “A” to this Resolution.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Western Riverside County Regional Conservation Authority this 1st day of February 2021.

By: _____
Natasha Johnson, Chair
Western Riverside County
Regional Conservation Authority

ATTEST:

By: _____
Lisa Mobley, Clerk
Western Riverside County
Regional Conservation Authority

EXHIBIT “A” TO RESOLUTION 2021-004

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

SUPER BLOOM POLICY

1. Purpose. The purpose of this Policy is to provide clarity to the role of the Western Riverside County Regional Conservation Authority (“RCA”) when a super bloom event occurs.
2. Responsibilities. The RCA is responsible for the management of RCA-controlled Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) reserve lands. Control is defined here as owned in fee-title or as a conservation easement holder.
 - 2.1. RCA Super Bloom Properties
 - 2.1.1. The RCA owns lands along Walker Canyon Road as depicted in Figure 1. Other landowners include the County of Riverside and private property owners.
 - 2.2. Public Use
 - 2.2.1. The RCA-managed lands along Walker Canyon Road are open to the public for passive recreation on existing open trails. Passive recreation is limited to walking, hiking, bird watching, mountain biking, or other like-kind activities. Motorized vehicles are prohibited.
 - 2.2.1.1. Because these lands are managed expressly for MSHCP Covered Species, the RCA reserves the discretion to close its properties to the public if such use causes undue impact to MSHCP Covered Species.
 - 2.2.2. During super bloom events the RCA will coordinate and collaborate with the Cities, County of Riverside, any other MSHCP Permittees, law enforcement, and state and federal agencies, as appropriate.
 - 2.2.2.1. RCA staff will make all reasonable efforts to attend meetings and events.
 - 2.2.2.2. RCA will make all reasonable efforts to provide personnel on RCA-managed lands to help ensure the public stays on trails and for educational purposes.
 - 2.2.2.3. RCA will send personnel to RCA lands to assess super bloom potential as well as duration, with communication back to

Permittees via email. NOTE: There is no way to predict with certainty whether a super bloom will occur. The RCA will do what it can by using past data but will not be able to definitively predict a super bloom.

3. Super Bloom Reimbursement. The RCA is not responsible for costs incurred by Permittees or other individuals or entities because of a super bloom. RCA will not reimburse Permittees, other individuals, or entities for their costs related to a super bloom.

AGENDA ITEM 12

PRESENTATION

AGENDA ITEM 13

PRESENTATION