



MEETING AGENDA

Budget and Implementation Committee

Time: 9:30 a.m.
Date: August 26, 2019
Location: BOARD ROOM
County of Riverside Administration Center
4080 Lemon St, First Floor, Riverside CA 92501

COMMITTEE MEMBERS

Linda Krupa, **Chair** / Russ Brown, City of Hemet
Lloyd White, **Vice Chair** / Julio Martinez, City of Beaumont
Larry Smith / Linda Molina, City of Calimesa
Randall Bonner / Jeremy Smith, City of Canyon Lake
Raymond Gregory / Mark Carnevale, City of Cathedral City
Steven Hernandez / Megan Beaman Jacinto, City of Coachella
Scott Matas / Russell Betts, City of Desert Hot Springs

Bob Magee / Natasha Johnson, City of Lake Elsinore
Lisa Middleton / Jon R. Roberts, City of Palm Springs
Rusty Bailey, / Andy Melendrez, City of Riverside
Michael Naggar / Maryann Edwards, City of Temecula
Karen Spiegel, County of Riverside, District II
Chuck Washington, County of Riverside, District III

STAFF

Anne Mayer, Executive Director
Theresia Trevino, Chief Financial Officer

AREAS OF RESPONSIBILITY

Annual Budget Development and Oversight
Competitive Federal and State Grant Programs
Countywide Communications and Outreach Programs
Countywide Strategic Plan
Legislation
Public Communications and Outreach Programs
Short Range Transit Plans

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
BUDGET AND IMPLEMENTATION COMMITTEE**

www.rctc.org

AGENDA*

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

9:30 a.m.

Monday, August 26, 2019

BOARD ROOM

**County of Riverside Administrative Center
4080 Lemon Street, First Floor
Riverside, California**

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 at the Commission office, 4080 Lemon Street, Third Floor, Riverside, CA, and on the Commission's website, www.rctc.org.

In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, 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 Commission 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** – *Each individual speaker is limited to speak three (3) continuous minutes or less. The Committee may, either at the direction of the Chair or by majority vote of the Committee, waive this three minute time limitation. Depending on the number of items on the Agenda and the number of speakers, the Chair may, at his/her discretion, reduce the time of each speaker to two (2) continuous minutes. Also, the Committee may terminate public comments if such comments become repetitious. In addition, the maximum time for public comment for any individual item or topic is thirty (30) minutes. Speakers may not yield their time to others without the consent of the Chair. Any written documents to be distributed or presented to the Committee shall be submitted to the Clerk of the Board. This policy applies to Public Comments and comments on Agenda Items.*

Under the Brown Act, the Board should not take action on or discuss matters raised during public comment portion of the agenda which are not listed on the agenda. 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 Committee 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 Committee subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Committee. If there are less than 2/3 of the Committee 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. **APPROVAL OF MINUTES – JUNE 24, 2019**
7. **CONSENT CALENDAR** - *All matters on the Consent Calendar will be approved in a single motion unless a Commissioner(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.*

7A. SINGLE SIGNATURE AUTHORITY REPORT

Page 1

Overview

This item is for the Committee to:

- 1) Receive and file the Single Signature Authority report for the fourth quarter ended June 30, 2019; and
- 2) Forward to the Commission for final action.

8. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, APRIL – JUNE 2019

Page 3

Overview

This item is for the Committee to:

- 1) Receive and file the Quarterly Public Engagement Metrics Report for April – June 2019; and
- 2) Forward to the Commission for final action.

9. REVISIONS TO THE PROCUREMENT POLICY MANUAL

Page 68

Overview

This item is for the Committee to:

- 1) Approve the revised Riverside County Transportation Commission Procurement Policy Manual (PPM) for the procurement and contracting activities undertaken by the Commission, pursuant to legal counsel review as to conformance to state and federal law;
- 2) Adopt Resolution No. 19-008, "*Resolution of the Riverside County Transportation Commission Regarding the Revised Procurement Policy Manual*"; and
- 3) Forward to the Commission for final action.

10. STATE AND FEDERAL LEGISLATIVE UPDATE

Page 76

Overview

This item is for the Committee to:

- 1) Receive and file an update on state and federal legislation; and
- 2) Forward to the Commission for final action.

11. FISCAL YEAR 2019/20 ANNUAL LOCAL TRANSPORTATION FUND PLANNING ALLOCATIONS TO WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AND COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS

Page 87

Overview

This item is for the Committee to:

- 1) Approve an allocation of Local Transportation Fund (LTF) funds for planning in the amount of \$800,250 for Western Riverside Council of Governments (WRCOG) and \$436,500 for the Coachella Valley Association of Governments (CVAG) for efforts identified in each agency's Fiscal Year 2019/20 LTF Program Objectives/Work Plan (Work Plan) that supports transportation planning programs and functions consistent with regional and subregional plans, programs, and requirements; and
- 2) Forward to the Commission for final action.

12. FISCAL YEAR 2019/20 STATE OF GOOD REPAIR PROGRAM ALLOCATIONS

Page 98

Overview

This item is for the Committee to:

- 1) Approve Resolution No. 19-009, *“Resolution of the Riverside County Transportation Commission Approving the FY 2019/20 Project List for the California State of Good Repair Program”*;
- 2) Approve an allocation of \$3,910,756 related to Fiscal Year 2019/20 State of Good Repair (SGR) program funds to eligible Riverside County transit operators;
- 3) Authorize the Executive Director, or designee, to review, approve and submit projects to Caltrans which are consistent with SGR program guidelines and to execute and submit required documents for the SGR program, including the Authorized Agent Form;
- 4) Authorize the Executive Director, or designee, to approve administrative amendments to the FY 2019/20 Short Range Transit Plans for incorporation of the SGR funds, as necessary; and
- 5) Forward to the Commission for final action.

13. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

14. COMMISSIONERS / STAFF REPORT

Overview

This item provides the opportunity for the Commissioners and staff to report on attended and upcoming meeting/conferences and issues related to Commission activities.

15. ADJOURNMENT

The next Budget and Implementation Committee meeting is scheduled to be held at **9:30 a.m., Monday, September 23, 2019**, Board Chambers, First Floor, County Administrative Center, 4080 Lemon Street, Riverside.

AGENDA ITEM 6

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

BUDGET AND IMPLEMENTATION COMMITTEE

Monday, June 24, 2019

MINUTES

1. CALL TO ORDER

The meeting of the Budget and Implementation Committee was called to order by Chair Linda Krupa at 9:30 a.m., in the Board Room at the County of Riverside Administrative Center, 4080 Lemon Street, First Floor, Riverside, California, 92501.

2. ROLL CALL

Members/Alternates Present

Rusty Bailey
Randall Bonner
Raymond Gregory
Megan Beaman Jacinto
Linda Krupa
Bob Magee
Scott Matas
Michael Naggar
Karen Spiegel*
Chuck Washington
Lloyd White

*Arrived after the meeting was called to order

Members Absent

Lisa Middleton
Larry Smith

3. PLEDGE OF ALLEGIANCE

Commissioner Lloyd White led the Budget and Implementation Committee in a flag salute.

4. PUBLIC COMMENTS

There were no requests to speak from the public.

5. APPROVAL OF MINUTES – APRIL 22, 2019

M/S/C (Naggar/Bailey) to approve the minutes of April 22, 2019 meeting as submitted.

Abstain: Gregory and Washington

6. ADDITIONS / REVISIONS

There were no additions or revisions to the agenda.

7. CONSENT CALENDAR - *All matters on the Consent Calendar will be approved in a single motion unless a Commissioner(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.*

M/S/C (Bonner/Gregory) to approve the following Consent Calendar item(s):

7A. QUARTERLY SALES TAX ANALYSIS

- 1) Receive and file the sales tax analysis for Quarter 4, 2018; and
- 2) Forward to the Commission for final action.

At this time, Commissioner Karen Spiegel joined the meeting.

8. #REBOOT MY COMMUTE PUBLIC ENGAGEMENT PROGRAM SUMMARY

Cheryl Donahue, Public Affairs Manager, presented the Reboot My Commute Program, highlighting the following areas:

- Overview:
 - March 6 – June 3 = 90 days
 - Inform long-term transportation priorities
 - “We are listening” theme
 - Multiple tools for public to tell their stories, offer suggestions
- Information/engagement tools
- Website feedback, by the numbers – 22,061 number of sessions; 19,556 number of unique users; and 473 for submissions
- Community outreach – Tele-town Halls – 7,539 participants; 52 comments; and 9 voice messages
 - Community Booths – 6 events; 3,529 event attendance; 559 people engaged
- Social Media Engagement with Facebook, Twitter, Instagram, and YouTube

- Improving our profile – A graphic with social media public sentiment for March 1 – June 7, 2019
- We are listening – Reviewed every comment – 948 received; many comments addressed more than one topic; please with volume, constructive tone; and residents understand where investment is needed
- Comments by topic graphic and the most frequent topic of interest were the highways-traffic
- Comment summary by topic – Active Transportation; Economy & Jobs; Highways & Traffic; Streets & Local issues; Public Transportation; Safety; and Express Lanes
- Comments by Geography graphic
- Heat map displaying the origin of comments – Riverside County
- Zoomed in version of the heat map displaying the origin of comments – Western County and Eastern County
- Comment summary by Geographic area – Coachella Valley; Hemet/San Jacinto; I-215 Corridor; Northwestern Riverside County; Southwestern Riverside County; Riverside; San Geronio Pass; and other
- Next steps

M/S/C (Washington/Spiegel) to:

- 1) Receive and file an update about the Commission's #RebootMyCommute public engagement program in Riverside County; and**
- 2) Forward to the Commission for final action.**

9. STATE AND FEDERAL LEGISLATIVE UPDATE

Jillian Guizado, Legislative Affairs Manager, presented an update for the state and federal legislative activities, including one recommended bill position.

In response to Commissioner Chuck Washington's inquiry about HR. 2939 (Napolitano) for the aviation gas tax that is collected as a result of the Riverside County voters approval, which is the only portion of the taxes being discussed wanting to retain here, Jillian Guizado replied as far as the Commission goes yes. She stated for any cities that have passed their local taxes it applies to their taxes as well.

Commissioner Washington explained being a supporter of this Federal Aviation Administration (FAA) rule because the money collected locally should stay local. He stated the money collected at a particular airport should go back into that facility and in looking at economic development, airports play a crucial role for a Region or Subregion and any funds siphoned away from that harm that community. He requested clarification as to what HR. 2939 is going to do for the Commission and why the Commission is supporting it.

Anne Mayer, Executive Director, replied the challenge for the Commission as Jillian Guizado noted, in any city where the voters passed a general sales tax, voters approved a sales tax measure for a very specific purpose and it is clearly outlined how the money will be spent and who gets to make those decisions. She stated with this action, FAA is reaching into local funds overriding the intent of the voters to take the money for aviation purposes on premises. Anne Mayer discussed how other state and federal agencies could decide to take the money for their own purpose since the voters did not authorize a sales tax countywide, which the basic premise of these sales taxes is it cannot happen.

Commissioner Washington clarified he is not stating that the federal government should come in and take specifically approved sales tax dollars from the community. He clarified what it does this legislation achieve for the Commission and how much is the Commission fighting to keep what was approved.

Anne Mayer replied that is what the Commission is intending, fighting to protect the Commission's own funds.

Chair Krupa stated city of Hemet is one of the cities that has a sales tax and there is a county airport within their city limits whose aviation fuel is taxed by the cities' one-cent sales tax, and she asked is this money going back to the city of Hemet.

Jillian Guizado replied if HR. 2939 passed then the city would retain the right to collect that one-cent on gas. She explained currently with the rule making from 2014 states those local taxes and the district taxes the Commission administers need to go to the airports. The state of California that collects the sales taxes and redistributes them has not been following the rule making so the Commission and the cities have been receiving their taxes. She discussed the FAA May letter to the state of California about not complying with the 2014 rule making if the state were to decide to comply then those funds would stop coming to the city.

M/S/C (White/Bonner) to:

- 1) Adopt the following bill position:
 - a) HR. 2939 (Napolitano) – Support;****
- 2) Receive and file an update on state and federal legislation; and**
- 3) Forward to the Commission for final action.**

10. FISCAL YEARS 2019/20 – 2023/24 MEASURE A FIVE-YEAR CAPITAL IMPROVEMENT PLANS FOR THE LOCAL STREETS AND ROADS PROGRAM

Martha Masters, Senior Management Analyst, presented the Fiscal Years 2019/20 – 2023/24 Measure A Five-Year Capital Improvement Plans (CIPs) for the Local Streets and Roads (LSR) Program, highlighting the following areas:

- Measure A Ordinance: Western County LSR: 29%; Coachella Valley LSR: 35%; and Palo Verde Valley LSR: 100%
- Distribution of Measure A LSR funds:
 - Western County and Palo Verde Valley: 75% - Proportionate population and 25% - Sales tax revenues generated within each jurisdiction
 - Coachella Valley: 50% - Proportionate population and 50% Sales tax revenues generated within each jurisdiction
- LSR requirements:
 - Participate in the respective Council of Governments' Transportation Uniform Mitigation Fee (TUMF) Program
 - Western County agencies must also participate in the Multiple Species Habitat Conservation Plan (MSHCP)
 - Annually submit a Five-Year CIP certification of Maintenance of Effort (MOE) and project status report of the prior year CIP
- LSR participating agencies for Western County, Coachella Valley, and Palo Verde Valley

M/S/C (Bailey/Bonner) to:

- 1) Approve the Fiscal Years 2019/20 – 2023/24 Measure A Five-Year Capital Improvement Plan (CIP) for Local Streets and Roads (LSR) as submitted by the participating agencies; and**
- 2) Forward to the Commission for final action.**

11. RIVERSIDE COUNTY TRANSIT SERVICES FUNDING ALLOCATIONS FOR FISCAL YEAR 2019/20

Monica Morales, Management Analyst, presented the Riverside County Transit Services funding allocations for Fiscal Year 2019/20, highlighting the following:

- The Commission provides funding to seven transit bus operators and two rail programs within Riverside County
- Total funding request for FY 2019/20 is \$250.1 million, of that \$19.5 million is for operating and \$70.6 million is for capital costs
- Funding request comparison for FY 2020 vs FY 2019
- A graph summary for FY 2019/20 Transit funding by revenue source
- FY 2019/20 Transit Operator allocations

M/S/C (Gregory/Spiegel) to:

- 1) Conduct a public hearing at the July Commission meeting on the proposed Federal Transit Administration (FTA) Section 5307 Program of Projects (POP);**

- 2) **Approve Fiscal Year 2019/20 Transit Operator Funding Allocations for the cities of Banning, Beaumont, Corona and Riverside; Palo Verde Valley Transit Agency (PVVTA); Riverside Transit Agency (RTA); SunLine Transit Agency (SunLine); and the Commission's Rail Program;**
- 3) **Direct staff to add the federally funded and regionally significant projects into the Federal Transportation Improvement Program (FTIP);**
- 4) **Adopt Resolution No. 19-014, "*Resolution of the Riverside County Transportation Commission to Allocate Local Transit Assistance Funds and State Transit Assistance Funds*;"**
- 5) **Approve the FY 2019/20 FTA Sections 5307 and 5311 POP for Riverside County (County); and**
- 6) **Forward to the Commission for final action.**

12. 2019 TITLE VI PROGRAM REPORT UPDATE, INCLUDING PUBLIC PARTICIPATION PLAN AND LANGUAGE ASSISTANCE PLAN

Alfredo Machuca, Management Analyst Intern, presented the 2019 Title VI Program Report update, including Public Participation Plan and Language Assistance Plan, highlighting the following areas:

- Background: Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or federal financial assistance; and the Federal Transit Administration (FTA) requires that the Title VI Program Report be updated every three years
- Program objective:
 - Ensure that the level and quality of public transportation service is provided in a non-discriminatory manner
 - Promote full and fair participation in public transportation without regard to race, color, and national origin
 - Ensure meaningful access to programs by Limited English Proficiency (LEP) individuals
- FTA Title VI Requirements:
 - Title VI note to the public
 - Recipient's instructions regarding how to file a Title VI complaint and a copy of the complaint form
 - List any past transportation-related Title VI investigations, complaints, or lawsuits since the last report submission
 - Formulate a Public Participation Plan that includes an outreach plan to engage minority and LEP populations
 - Develop a Language Assistance Plan
 - A table depicting the membership on non-elected committees and councils, broken down by race, which is the Citizens Advisory Committee

- Subrecipient Title VI monitoring (not applicable)
- Title VI Equity Analysis for sites and location of facilities
- Documentation of governing board review and approval

M/S/C (Washington/Spiegel) to:

- 1) Approve the 2019 Title VI Program Report, including the Public Participation Plan and Language Assistance Plan in compliance with Federal Transit Administration (FTA) requirements; and**
- 2) Forward to the Commission for final action.**

13. 2020 STATE TRANSPORTATION IMPROVEMENT PROGRAM FUNDING DISTRIBUTION

Shirley Medina, Planning and Programming Director, presented the 2020 State Transportation Improvement Program (STIP) funding distribution, highlighting the following:

- 2020 STIP:
 - The 2020 STIP Fund Estimate (FE) will be released by the CTC in late June 2019
 - The FE will identify the amount of funding for each county share in the state for FYs 2020/21 – 2024/25
 - STIP Intracounty memorandum of understanding
- Measure A taxable sales for past STIP cycles and demonstrates the percentage split for each area and growth increase
- Upon release of the 2020 STIP FE still will:
 - Contact CVAG to review STIP submittal process and timeline
 - Develop project nominations for Western County
 - Present proposed 202 STIP projects to the Commission at its September or October meeting
 - Prepare submittal to CTC by December 15, 2019 deadline
 - Blythe STIP fund trade MOU approval will be initiated upon the 2020 STIP adoption by the CTC in March 2020

M/S/C (Bailey/Jacinto) to:

- 1) Approve the 2020 State Transportation Improvement Program (STIP) funding distribution among the three geographic areas in Riverside County per the adopted STIP Intracounty Memorandum of Understanding (MOU); and**
- 2) Forward to the Commission for final action.**

14. COACHELLA FESTIVAL SPECIAL EVENTS TRAIN PLATFORM DEVELOPMENT PROJECT

Sheldon Peterson, Rail Manager, presented the details for the Coachella Festival Special Events Train Platform Development Project, including the agreements with CalSTA and LOSSAN, and the resolutions for authorization and execution of the State Rail Assistance Project.

In response to Commissioner Spiegel's inquiry that this is for 10 cars and if staff is looking at future Commuter Rail stations, Sheldon Peterson replied it would be special for the Coachella Festival. He explained what LOSSAN and Amtrak has done for the Del Mar trains when they take people to races they run a special 10 car set, which can handle the most people for those trips.

Commissioner Jacinto expressed that this is an interesting project and in the Coachella Valley some of the communities have a love hate relationship with the music festivals as they bring a lot of opportunities, they elevate Coachella Valley and level of recognition around the country and the world. She expressed there is traffic congestion and other challenges to the neighboring communities so the optics are going to be complicated for several of their residents as was reflected in the Reboot My Commute effort there has been a long time desire to improve the rail connectivity between Coachella Valley and any other place. She suggested to work towards that longer-term connectivity between Coachella Valley and other parts of the state.

M/S/C (Gregory Bonner) to:

- 1) Approve Agreement No. 19-25-103-00 with the California State Transportation Agency (CalSTA) regarding a State Rail Assistance (SRA) grant to fund the Coachella Festival Special Event Train Platform Development Project (Platform Project) for an amount not to exceed \$5,942,510;**
- 2) Adopt Resolution No. 19-012, *"Resolution of the Riverside County Transportation Commission Regarding Authorization for the Execution of the Certifications and Assurances and Authorized Agent Forms for the State Rail Assistance"*;**
- 3) Adopt Resolution No. 19-013, *"Resolution of the Riverside County Transportation Commission Regarding Authorization for the Execution of the State Rail Assistance Project"*;**
- 4) Approve Memorandum of Understanding (MOU) Agreement No. 19-25-102-00 with Los Angeles – San Diego – San Luis Obispo Rail Corridor (LOSSAN) and Amtrak for the coordination and development of the Platform Project;**

- 5) **Authorize the Executive Director, pursuant to legal counsel review, to negotiate and execute the final CalSTA and MOU agreements on behalf of the Commission;**
- 6) **Authorize the Executive Director, pursuant to legal counsel review, to negotiate and execute a cooperative agreement with Amtrak for construction of the Platform Project based on estimated costs established by the Commission and within the Platform Project budget estimated at \$8,688,241;**
- 7) **Authorize the Executive Director, pursuant to legal counsel review, to negotiate and execute agreements with LOSSAN, the city of Indio (City), Goldenvoice, Valley Music Travel, and host railroads, as may be needed for the full implementation of the Platform Project, provided that all such agreements are within the Platform Project budget estimated at \$8,688,241; and**
- 8) **Forward to the Commission for final action.**

15. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

There were no items pulled from the consent calendar.

16. COMMISSIONERS / EXECUTIVE DIRECTOR REPORT

- 16A.** Chair Krupa welcomed Commissioner Meagan Beaman Jacinto as an alternate to this committee.
- 16B.** Anne Mayer announced June 28 at 10:00 a.m. the groundbreaking will be held for the State Route Truck Lane Project.

17. ADJOURNMENT

There being no further business for consideration by the Budget and Implementation Committee, the meeting was adjourned at 10:23 a.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Lisa Mobley', with a long horizontal flourish extending to the right.

Lisa Mobley
Clerk of the Board

AGENDA ITEM 7A

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	August 26, 2019
TO:	Budget and Implementation Committee
FROM:	Jose Mendoza, Senior Procurement Analyst Matt Wallace, Procurement Manager
THROUGH:	Theresia Trevino, Chief Financial Officer
SUBJECT:	Single Signature Authority Report

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file the Single Signature Authority report for the fourth quarter ended June 30, 2019; and
- 2) Forward to the Commission for final action.

BACKGROUND INFORMATION:

Certain contracts are executed under single signature authority as permitted in the Commission's Procurement Policy Manual adopted in June 2018. The Executive Director is authorized to sign services contracts that are less than \$150,000 individually and in an aggregate amount not to exceed \$1.5 million in any given fiscal year. Additionally, in accordance with Public Utilities Code Section 130323(c), the Executive Director is authorized to sign contracts for supplies, equipment, materials, and construction of all facilities and works under \$50,000 individually.

The attached report details all contracts that have been executed for the fourth quarter ended June 30, 2019 under the single signature authority granted to the Executive Director. The unused capacity of single signature authority for services at June 30, 2019 is \$362,119.

Attachment: Single Signature Authority Report as of June 30, 2019

**SINGLE SIGNATURE AUTHORITY
AS OF June 30, 2019**

CONTRACT #	CONSULTANT	DESCRIPTION OF SERVICES	ORIGINAL CONTRACT AMOUNT	PAID AMOUNT	REMAINING CONTRACT AMOUNT
AMOUNT AVAILABLE July 1, 2018			\$1,500,000.00		
19-12-006-00	NetFile	Form 700 E-filing and administration system	15,000.00	0.00	15,000.00
19-12-008-00	ECS Imaging, Inc.	Laserfiche document management services	44,794.00	41,738.00	3,056.00
16-24-080-01	S2 Engineering, Inc.	Construction Management Svcs. - La Sierra Parking Lot Expansion Project	150,000.00	144,069.06	5,930.94
19-31-023-00	Potter Handy DBA Center for Disability	Settlement agreement	12,000.00	12,000.00	0.00
15-19-043-04	Macias, Gini, O'Connell	State of Good Repair audited financial statements for FY18 and FY19	7,000.00	0.00	7,000.00
18-19-169-01	UCR School of Business	Sales tax analysis for two additional revenue scenarios and a modified demographic forecast	16,000.00	0.00	16,000.00
19-33-048-00	Department of Toxic Substances Control	Provide environmental hazard oversight and assessment for Downtown Riverside station platform expansion project	29,087.00	0.00	29,087.00
19-19-060-00	BCA Watson	Pre-award audit services	150,000.00	24,050.00	125,950.00
19-31-066-00	Glenn Lukos Associates	I-215/Central Project mitigation and monitoring services	150,000.00	0.00	150,000.00
18-12-137-01	Exigent	Information technology support services	150,000.00	38,408.28	111,591.72
19-12-084-00	Lora Hassani	Human resources consulting services	50,000.00	9,520.00	40,480.00
19-19-098-00	Keenan and Associates	Risk management assessment services	20,000.00	0.00	20,000.00
19-31-104-00	Cahuilla Band of Indians	MCP Mitigation - Native American Monitoring	52,800.00	0.00	52,800.00
19-31-105-00	Gabrielino Tongva Nation	MCP Mitigation - Native American Monitoring	52,800.00	0.00	52,800.00
19-31-106-00	Morongo Band of Mission Indians	MCP Mitigation - Native American Monitoring	52,800.00	0.00	52,800.00
19-31-107-00	Pechanga Indian Reservation	MCP Mitigation - Native American Monitoring	52,800.00	0.00	52,800.00
19-31-108-00	Soboba Band Luiseno Indians	MCP Mitigation - Native American Monitoring	52,800.00	0.00	52,800.00
18-31-153-01	Bechtel Infrastructure	Program and Construction Management Support Services	70,000.00	0.00	70,000.00
19-31-123-00	Fairbank, Maslin, Maullin, Metz & Associates (FM3)	Customer survey for 91 project	10,000.00	0.00	10,000.00
AMOUNT USED			1,137,881.00		
AMOUNT USED			1,137,881.00		
AMOUNT REMAINING through June 30, 2019			\$362,119.00		
<u>Agreements that fall under Public Utilities Code 130323 (C)</u>					
None	N/A		\$-	\$-	\$-
Jose Mendoza	Theresa Trevino				
Prepared by	Reviewed by				
Note: Shaded area represents new contracts listed in the fourth quarter.					

AGENDA ITEM 8

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	August 26, 2019
TO:	Budget and Implementation Committee
FROM:	Matt Wallace, Procurement Manager
THROUGH:	Theresa Trevino, Chief Financial Officer
SUBJECT:	Revisions to the Procurement Policy Manual

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve the revised Riverside County Transportation Commission Procurement Policy Manual (PPM) for the procurement and contracting activities undertaken by the Commission, pursuant to legal counsel review as to conformance to state and federal law;
- 2) Adopt Resolution No. 19-008, *“Resolution of the Riverside County Transportation Commission Regarding the Revised Procurement Policy Manual”*; and
- 3) Forward to the Commission for final action.

BACKGROUND INFORMATION:

The Commission’s initial PPM was adopted in April 2007, in response to the Federal Transit Administration’s (FTA) 2006 Triennial Review. Since then, the Commission adopted a comprehensive PPM in July 2012 and approved several revisions to the PPM through June 2018 to update and comply with FTA, Federal Highway Administration, Caltrans, other state and federal, and Commission regulations.

Staff updated the PPM as a result of the following:

- Additional changes to the Office of Management and Budget’s issuance of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), including increased thresholds for micro-purchases and small purchases for professional services; and
- Other best practices, including Executive Director’s single signature authority based on Uniform Guidance changes and contract execution.

The changes to the PPM consist of the following:

- **Chapter 2 Procurement Generally** revisions related to micro-purchase and small purchase authority, Executive Director’s single signature authority, and contract execution; and

- **Chapter 7 Non-Competitive and Emergency Procurements and Remedial Measures**
updates consistent with changes in Chapter 2.

Staff recommends approval of these revisions and to adopt Resolution No. 19-008 related to the revised PPM.

Attachments:

- 1) Resolution No. 19-008
- 2) Riverside County Transportation Commission Procurement Policy Manual
(Revision No. 5)

RESOLUTION NO. 19-008**RESOLUTION OF THE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
REGARDING THE
REVISED PROCUREMENT POLICY MANUAL**

WHEREAS, the Commission previously adopted Resolution No. 18-008, *“Resolution of the Riverside County Transportation Commission Regarding the Revised Procurement Policy Manual”*; and

WHEREAS, the Commission is required to comply with the Office of Management and Budget’s issuance of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Grant Guidance); and

WHEREAS, the Commission desires to update its procurement policies and procedures to continue to be a comprehensive, useful framework and incorporate best practices for the Commission’s procurements.

NOW, THEREFORE, the Riverside County Transportation Commission does hereby resolve as follows:

- Section 1. The Procurement Policy Manual previously adopted on June 13, 2018, is hereby replaced in its entirety by the revised Procurement Policy Manual, set forth in Attachment 1, attached hereto and incorporated herein.
- Section 2. The Riverside County Transportation Commission hereby approves and adopts the Procurement Policy Manual, as revised, to be effective immediately.

APPROVED AND ADOPTED this 11th day of September, 2019.

Chuck Washington, Chair
Riverside County Transportation Commission

ATTEST:

Lisa Mobley, Clerk of the Board
Riverside County Transportation Commission



Riverside County Transportation Commission

Procurement Policy Manual

(revised September 11, 2019)

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CHAPTER 1 – PROCUREMENT PROCESS

1.0 PURPOSE AND SCOPE

- A. The Riverside County Transportation Commission (hereinafter “RCTC” or “Commission”) procures goods and services using public funds. 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.
- B. This Procurement Policy Manual (Manual) sets forth a general procurement policy and set of standards that will govern the conduct of Commission 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 the Commission void or voidable. This manual is for Commission 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.
- C. This Manual is intended to supersede, in its entirety, the Commission’s *Procurement Policies Manual* which was adopted on December 13, 2017.
- D. 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. The Commission procurement policies establish the guidelines and policies for procuring the goods and services necessary for the Commission to carry out its responsibilities and duties. The policies are intended to maintain the integrity of the Commission’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 the Commission’s Procurement Policy Manual are to:
 - 1. Maximize the value received for the Commission’s expenditure of public funds;
 - 2. Protect assets and/or services purchased with public funds and ensure their application in the Commission’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 Commission, its officers, and its employees.
 - 5. Ensure compliance with state and federal funding requirements, as applicable.

3.0 PROCUREMENT STANDARDS

A. General

1. Contract Administration System. 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 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. 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.
- 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 Commission's best interests, the Commission 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. The Commission will make awards only to responsive and responsible contractors, as determined by the Commission, 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. Commission Rejection of Bids, Quotes, and/or Proposals. The 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. The Commission should ensure that such rights are clearly stated in all Commission bid documents.
- 7. Procurement Records. Records sufficient to document the significant history of each procurement activity should be maintained and retained by the Commission in accordance with the Commission'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 Commission 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 Commission 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 Commission’s ability to require a brand name when the procurement is not federally funded and is not a “public work” subject to the requirements contained in the California Public Utilities Code (PUC).
10. Audit Provisions. Every Commission contract wherein contractor or other entity is receiving Commission funds in excess of \$10,000 should include a provision allowing examination and audit of records related to the contract by the Commission’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 Commission’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 Commission 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 must conduct the procurement process so as to avoid conflicts of interest, real or apparent. To maintain full and open competition, no 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 Commission contract 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 the most current version of the “Conflict of Interest Code for the Riverside County Transportation Commission” adopted pursuant to the Political Reform Act of 1974 (as amended).
2. Lobbying and Gifts. Commission officers, employees, agents and Commission members 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, Commission officers, employees, agents or Commission members 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 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 the Commission that violate these Standards of Conduct as relates to federally-funded procurements may be prohibited from participation on behalf of the 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 or any Commission staff, other than the Procurement Officer, 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 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 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 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 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 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. A 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 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 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. Multiple year contracting is a method by which the Commission 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 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 Commission 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 Commission.
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 Commission, a contract option may be included providing the Commission 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:
 - a. That sufficient budget authority is available;
 - b. That the requirement covered by the option fulfills an existing Commission need; and

- c. That the exercise of the option will be the most advantageous method of fulfilling the 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 Commission may enter into state and local intergovernmental agreements or inter-entity agreements, where such agreements are in the best interest of the Commission 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 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 Commission.
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. The Commission 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 Commission. 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 Commission and/or specific Commission projects. Approval of the recurring contracts list allows the

Commission 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 the Commission, except as delegated by the Commission to the Executive Director.
- B. The Commission authorizes the Executive Director to execute contracts approved by the 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 the Commission's procurement process is in accordance with applicable laws and regulations, as interpreted by the General Counsel and Commission policy.
- D. The Executive Director is authorized to approve and enter into contracts on behalf of the Commission under his/her single signature authority as follows:
 - 1. 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. When the expenditure is less than ~~two~~one hundred fifty thousand dollars (\$~~250,000~~~~150,000~~) for the purchase of services; however, (i) the aggregate amount of contracts executed under the single signature authority shall not exceed \$1,500,000 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~~~~150,000~~ in any fiscal year; and (iii) the Executive Director may execute contract amendments for existing contracts that do not exceed \$~~250,000~~~~150,000~~. 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.
- E. The powers of the Executive Director pursuant to Paragraph "D" above are subject to: (i) the existence and provisions of a Commission approved budget; and (ii) applicable laws and regulations.
- F. The Executive Director must provide the Commission with a regular report of all contracts entered into pursuant to the single signature authority provided in Paragraph "D" above, and must report to the 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. 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. 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. Services.

PURCHASE AMOUNT	SOLICITATION TYPE	SOLICITATION PROCESS	APPROVER
Less than \$ 10,000 3,500	Micro-purchase	<u>Informal</u> : Commercial availability, Rotate Vendors, Insurance	Procurement Officer*
\$ 10,000 3,500 to \$50,000	Small Purchase	<u>Informal</u> : Three (3) Quotes, Clauses, Insurance	Procurement Officer*
\$50,001 to \$ 250,000 150,000	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 \$ 250,000 150,000	Formal Procurement	<u>Formal</u> : Advertisement, Clauses, Insurance, Certifications, and Negotiated Agreement, or Competitive Sealed Bids, or A/E Contract procedures	Commission

* 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 Chief Financial Officer is the designated “Procurement Officer” for the Commission. The 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 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 Commission or the Executive Director.
- B. The Procurement Officer may issue instructions for the implementation of Commission procurement policies.
- C. The Procurement Officer has the duty to ensure 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 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 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 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 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 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 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 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 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 a 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 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 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 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.
- D. 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. 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.
- F. 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 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 a Commission procurement is excluded from competing for the resultant procurement, unless an appropriate waiver is issued by the Commission. All waivers will be assessed by the Commission on a case-by-case basis.

12.0 DUTIES OF COMMISSION STAFF REGARDING PROCUREMENTS

- A. General

Procuring goods, services, and contracts for the 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 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 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 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 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 Commission may not be executed until additional contractual authority has been obtained through the Commission.
- v. The Capital Projects Director 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 Commission from third party lawsuits for personal injury (including death) and property damage. Insurance may also be required for damage to 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 Commission premises.
 6. All procurement contracts and/or purchase agreements where outside vendors will be delivering products to a Commission facility.

- C. The contract documents should ensure that 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 Commission policies described herein.

14.0 SUBCONTRACTING

- A. The Commission 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 Commission’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 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 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 Commission, the following actions should be taken:
 1. The Procurement Officer requests all 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 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 Commission adopts an electronic signature policy, the Procurement Officer may accept electronic signatures.
 - ~~3.4.~~ 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.

4.5. The Procurement Officer transmits a fully executed ~~original copy of the~~ contract to the contractor. Conformed copies should be sent to the project manager for use in the administration of the contract.

5.6. Contract Administration Responsibilities

- a. The user department/project manager conducts all further coordination on technical issues between the contractor and the 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 Commission may file a protest 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 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 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 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 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 Commission for award, or executed, if previously awarded by the 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 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 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 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 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 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. 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. Discussions and Communications
 - 1. Bids shall be evaluated without discussions with bidders.
 - 2. Information concerning proposed procurements should not be released outside the Commission before an IFB is released, except for pre-solicitation notices and publicly available general project information.
- D. Pre-Bid Conferences
 - 1. The Contracting Officer may use pre-bid conferences to explain procurement requirements.
 - 2. If the 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. 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. Time Of Bid Receipt

The IFB should specify a time for receipt of bids. Bids must be received in the office designated in the IFB not later than the time identified in the IFB.

G. 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. Bids are considered late if the time stamped by the Commission upon receipt of the bid is later than the deadline/time identified in the IFB. Late bids will not be accepted by the Commission, unless a bid is late owing solely to Commission mishandling or some other legitimate extenuating factor, as determined in the Commission's sole discretion.

H. Receipt Of Bids

As bids are received, the Procurement Officer should secure and safeguard the bids until the established time for bid opening.

I. Opening Of Bids

The Procurement Officer will coordinate the bid opening. 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. Bid opening documentation should include the date, time, and place of bid opening and a tabulation of bidder names and related bid amount. Such bid opening documentation should include the signature of at least one witness.

J. Recording Of Bids

Construction bids over the small purchase threshold of \$25,000 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 Commission internet site within a reasonable time after bid opening.

K. 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 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 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. Alternative Sources of Procurement Authority

Notwithstanding the requirements of PUC § 130232, and the provisions set forth in this Chapter, the 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 Commission.

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 Commission 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 the 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.

- 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.
- D. The documents prepared for Alternate Delivery procurements shall control over any conflicting provisions contained herein.
- E. 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; 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 Commission and the offerors are anticipated and planned in order to maximize the Commission’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 Commission.
- 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 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 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 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 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 Commission to be most qualified. If the 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 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 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 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 and, when practicable and appropriate, an award should be made on the basis of lowest price.
- B. For public works projects (i.e., maintenance, repair or construction work) 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 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 Commission vote required by applicable law:
1. The Commission 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 Commission 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 Commission contract is for the same material scope of work as the other contract; (b) the proposed Commission 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;
 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 Commission determines that a non-competitive procurement is in the public interest and in the best interest of the 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+50,000~~. Commission approval is required for contracts over ~~\$250,000+50,000~~. 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 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 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”. 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 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 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. 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.
- E. 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 Commission a procurement summary explaining the necessity for the expenditure.
- F. 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.
- G. The Procurement Officer should ensure that proper records of each non-competitive procurement are maintained in accordance with the requirements of this Manual.

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 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.

2.0 REFERENCES

- A. For the Commission's 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. iii. Provisions required by Caltrans Master Funding Agreement. Caltrans/FHWA 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 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

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
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
Public Contract Code	7100 - 7200	Contract Clauses, Non-Collusion Affidavit
Public Contract Code	9201 - 9204	Claims and Disputes

CA State Codes	Section(s)	Subject
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
Public Utilities Code	130221	Contracting With Other Government Agencies and Other Persons
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(c)	Authorization of Executive Director for Bid Expenditures <\$50,000.
Public Utilities Code	130232(d)	Bid Security for Construction Work >\$25,000

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).	
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 PROPERTY

1.0 DEFINITIONS

- A. “Surplus personal property” shall mean personal property of the 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.

3.0 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 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 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 Commission contracts exceeding \$25,000 should contain provisions enabling the Commission to terminate such contracts for the convenience of the Commission, 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 Commission

1. Commission contracts will be terminated for convenience only when this is determined to be in the best interests of the Commission. 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 Commission may take over and complete the work or cause it to be completed, and the contractor and his sureties, if any, shall be liable to the Commission for any increased costs caused thereby. The contractor and his 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 Commission although the contractor is in default, the Procurement Officer may permit the contractor to continue the work, and the contractor and his sureties shall be liable to

the Commission 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 Commission 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. Bids for construction of facilities where the work is anticipated to exceed \$25,000 require bid security as set forth in PUC § 130232.
- 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 Commission 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 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 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 COMMISSION PAYMENT PROCESS

- A. The Commission 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 Commission 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 Commission's estimate of work accomplished as defined in the contract.
 - 2. For federally funded procurements, the Commission 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 Commission 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 Commission fails to make timely payment, the Commission 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 Commission 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, Commission contracts 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 Commission, 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 Commission 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 Commission 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 Commission 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 Commission and the original contractor, the Commission 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>(anticipated)</u>

AGENDA ITEM 9

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	August 26, 2019
TO:	Riverside County Transportation Commission
FROM	Cheryl Donahue, Public Affairs Manager
THROUGH:	Aaron Hake, External Affairs Director
SUBJECT:	Quarterly Public Engagement Metrics Report, April – June 2019

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file the Quarterly Public Engagement Metrics Report for April – June 2019; and
- 2) Forward to the Commission for final action.

BACKGROUND INFORMATION:

Staff has been monitoring public engagement activities since January 2018 and preparing Quarterly Public Engagement Metrics Reports for the Commission. This report covers the second quarter of 2019, from April to June. These quarterly reports are a data-driven approach to measuring progress toward public engagement goals, allow staff to assess the effectiveness of its efforts on an ongoing basis, and provide transparency into how the Commission is using its resources to engage and educate the public.

This quarterly report includes four sets of data:

- 1) Metrics for RCTC’s overall public engagement activities, including website use and access; website top pages visited; email notifications; social media likes, engagement and reach; and public sentiment
- 2) Metrics for RCTC’s Interstate 15 Express Lanes Project public engagement activities, including email activity, website sessions, and social media
- 3) Metrics for RCTC’s #RebootMyCommute public engagement program, which took place from March 6 to June 3
- 4) New for this quarter are metrics for the State Route 60 Truck Lanes Project. Note that these numbers are small, due to the start of communications for this project in late May.

The quarterly report will continue to evolve as staff refines its approaches to measuring public engagement activities and in response to any feedback from Commissioners. Staff will continue to add new project-related metrics as other projects begin.

Report highlights for this quarter follow and are included in a graphical format with this agenda item. It is important to note that most of the social media metrics show a decline this quarter, due to a planned decrease in digital advertising expenditures.

RCTC Overall Public Engagement

1) Website

- a. For the quarter, there were 27,950 website sessions, a 17 percent increase from last quarter's 23,818 sessions. There also were 16,107 unique users, also an increase of 17 percent compared to the previous quarter's 13,774 unique users.
- b. More than one-third of the visitors accessed the website using a direct search (keying in rctc.org). Another 45 percent used organic searches, such as Google. Others used social media (10 percent), and website referrals (10 percent).
- c. Website access via desktop versus mobile changed slightly. The second quarter showed 57 percent accessing the website through a desktop computer and 43 percent using mobile devices. During the first quarter of 2019, the ratio was 54 percent to 46 percent.
- d. The homepage continues to be the most frequently visited page within the website, followed by the "Employment" page, likely due to the high volume of employee recruitment that took place this spring. The "Meetings and Agendas" page and "Route 60 Truck Lanes" page ranked third and fourth.

2) Social Media

- a. **Facebook:** At the end of the quarter, the Facebook page had 9,265 likes, a 10 percent increase over last quarter's 8,412 likes. The page also had 27,584 forms of engagement, such as likes, comments and shares, a 36 percent reduction from last quarter's record-breaking 43,322 forms of engagement. Facebook also had 3.1 million impressions, which is the number of times that RCTC's content was displayed in news feeds. This was a large decrease – 41 percent – from last quarter's largest-ever 5.3 million impressions. This decrease was due to the decrease in digital advertising, compared to the first quarter.
- b. **Twitter:** RCTC's Twitter page showed a 3 percent increase in followers, from 1,117 to 1,154. Engagement, however, declined 96 percent, from 5,321 forms of engagement to just 218. Impressions also showed a large drop of 92 percent – from 783,246 to 60,296. Similar to Facebook, these decreases are the result of a decline in digital advertising compared to the first quarter.
- c. **Instagram:** The Instagram page followers grew 20 percent, from 372 to 448 followers. Engagement decreased 34 percent, from 465 forms of engagement to 309. Impressions, however, grew 34 percent to a total of 11,311, compared to last quarter's 8,417 impressions.
- d. Overall, public sentiment was positive, with the most positive comments related to the tribute of fallen CHP Sergeant Licon, the upcoming construction of the Route 60 Truck Lanes, and a construction update about the I-15 Express Lanes Santa Ana River Bridge.

- 3) **RCTC's The Point:** RCTC continues to produce content for its online blog, *The Point*, and distributes this information and other news via email to subscribers. RCTC's subscriber rate grew 13 percent, from 2,884 to 3,260. Thirty-five percent of subscribers opened *The Point*, and 11 percent clicked on links to learn more.

Interstate 15 Express Lanes Construction Public Engagement

- 1) **Emails:** Total email list sign-ups since the project began grew to 2,577. This is a 2 percent increase over the 2,522 inquiries received through the end of the first quarter. There also have been a total of 137 email inquiries, a 4 percent increase over the 132 inquiries through the end of the first quarter.
- 2) **Website:** Total website visits since project inception grew to 49,590, a 17 percent climb from the 42,208 visits through the end of Q1.
- 3) **Social Media:** The project's Facebook, Twitter and Instagram accounts all showed small gains. The Facebook page grew to 2,219 likes from 2,030 likes last quarter, a 9 percent increase. Twitter increased from 220 followers to 235, a 7 percent increase. Instagram followers increased 6 percent from 384 to 407.

#RebootMy Commute Public Engagement

- 1) **Tele-Townhall Meetings:** The Commission hosted Tele-town Hall meetings on March 19 and 20. These attracted 7,539 participants, 52 phone discussions, and nine follow-up voice messages.
- 2) **Community Booths:** The Commission staffed booths at six community events throughout Riverside County and engaged with 559 residents at these events.
- 3) **News Media:** Ten news stories featured the "Reboot" program. Advertisements were placed in *The Press-Enterprise* and *The Desert Sun*, with a combined print ad circulation of 461,702 and digital ad circulation of 156,250. The video ad aired 16 times on television station KESQ. Commissioners and staff also took part in various video and podcast series.
- 4) **Website:** The RebootMyCommute.org website had 22,061 sessions with 19,556 unique visitors. The Commission received 473 comment forms via the site.
- 5) **The Point Subscriptions:** The Commission publishes a monthly newsletter, *The Point*, which the Commission emails to subscribers. As part of the #RebootMyCommute program, residents were encouraged to register to receive the newsletter; 1,315 new subscribers registered during the program.
- 6) **Text Messaging:** A text-messaging feature was available for those who wished to provide input via text. The Commission received 81 text messages. However, the texts received were limited to those who registered to receive *The Point*.
- 7) **Brochures and Postcards:** The Commission produced and distributed more than 5,500 brochures – printed in English and Spanish – to city halls, community centers, libraries, senior centers, transportation groups, chambers of commerce, and elected

officials' offices across Riverside County. The brochures also were available at community booths and presentations.

- 8) **Social Media:** The Commission placed a series of targeted social media ads with videos related to #RebootMyCommute.
 - a. On **Facebook**, 596,316 people viewed the videos in their entirety and 31,736 clicked to learn more. There were 2,098 direct engagements with viewers, 3.9 million impressions, and a reach of 630,409.
 - b. On **Twitter**, there were 7,613 full video views, 1,989 click-throughs, 54 direct engagements, and 368,225 impressions.
 - c. On **Instagram**, 30,820 people watched the full video, and 4,448 clicked to learn more. There were 1,830 direct engagements, 2.2 million impressions, and a reach of 629,129.
 - d. On **YouTube**, there were 803,978 full video views, 13,584 click-throughs, and 3.5 million impressions.
- 9) **Helpline:** A toll-free helpline was available for those who preferred to express their views by telephone. The Commission received 56 calls through the helpline.
- 10) **Presentations:** The Commission made several presentations, including multiple chapters of Riverside Transit Agency's Transportation Now, the Greater Riverside Chamber of Commerce, the March Joint Powers Authority, the Temescal Valley Municipal Advisory Council, the Riverside Bike Club, the Riverside City Council, and the Norco City Council.

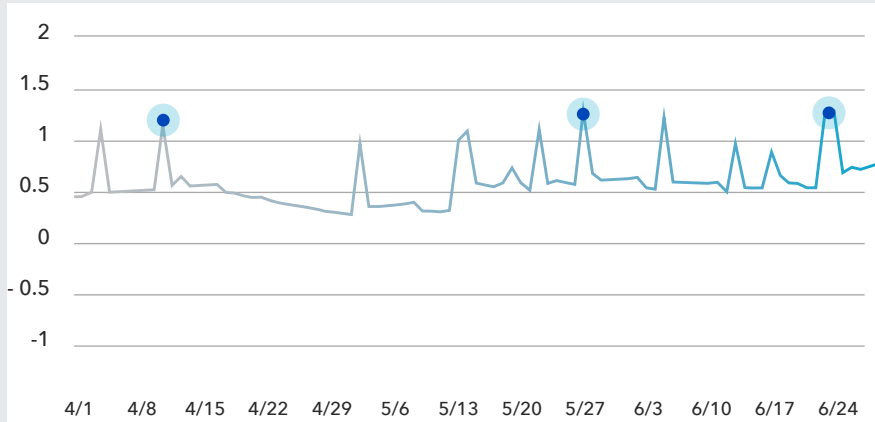
State Route 60 Truck Lanes Construction Public Engagement

- 1) **Emails:** Email and text sign-ups during the first month totaled 61, and emails to the project team totaled 67.
- 2) **Webpage:** Visits to the rctc.org/60trucklanes webpage totaled 1,414 during the quarter.
- 3) **Social Media:** The project's Facebook, Twitter and Instagram accounts launched in late May. Facebook likes totaled 115, Twitter followers totaled 13, and Instagram followers totaled 36 at the end of this quarter.

Attachments:

- 1) RCTC Overall Public Engagement Metrics
- 2) Interstate 15 Express Lanes Construction Public Engagement Metrics
- 3) #RebootMyCommute Public Engagement Metrics
- 4) State Route 60 Truck Lanes Construction Public Engagement Metrics

Overall Social Media Sentiment



- 4/11 (+)** Community response to tribute for Sergeant Steve Licon
- 5/28 (+)** Route 60 Truck Lanes Project announcements
- 6/24 (+)** Positive response to The Press-Enterprise story on I-15 Santa Ana River Bridge construction

Eblasts



Subscribers
3,260

Average Open
35%

Average Click
11%

Web

27,950

Number of Sessions

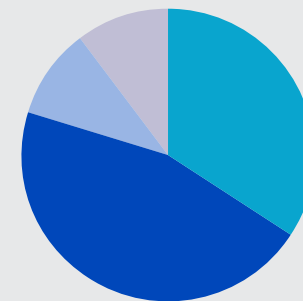
+17%

16,107

Number of Unique Users

+17%

Top Channels



- Direct (34.4%) – 5,738
- Organic (45.5%) – 7,594
- Social (9.8%) – 1,641
- Referral (10.2%) – 1,701

Differences

Paid advertising decreased in Q2.

Social Media



Page Likes

8,447

+0.4%

Engagement

27,584

-36%

Impressions

3,138,105

-41%



Followers

1,154

+3%

Engagement

218

-96%

Impressions

60,296

-92%



Followers

448

+20%

Engagement

309

-34%

Impressions

11,311

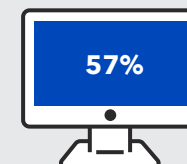
+34%

Top Pages Visited

Homepage is **#1** most visited page

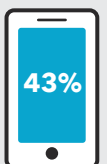
- Employment
- Meetings and Agendas
- Route 60 Truck Lanes

Desktop vs Mobile Users

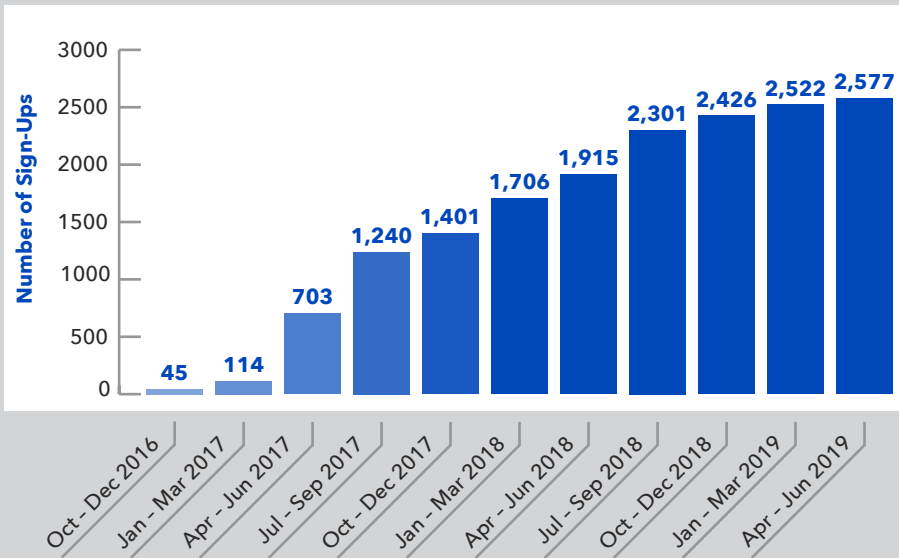


Desktop

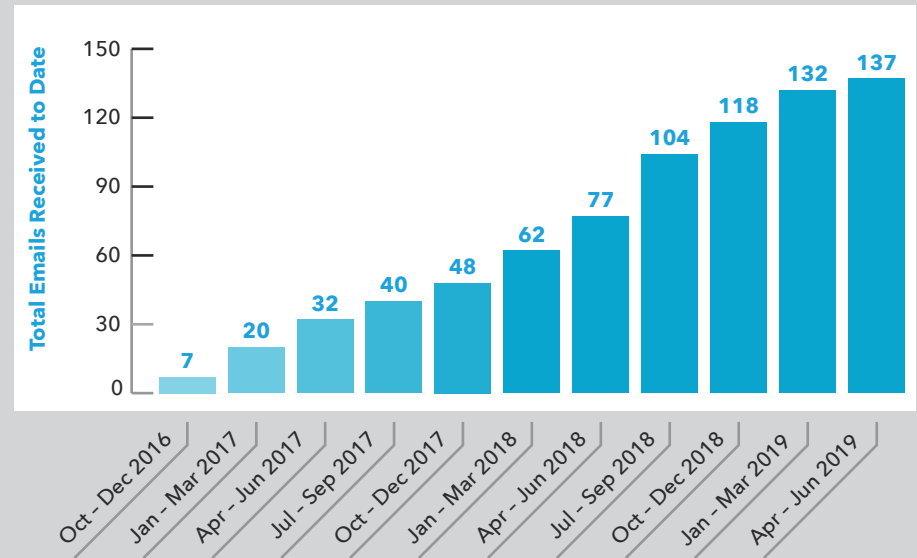
Mobile



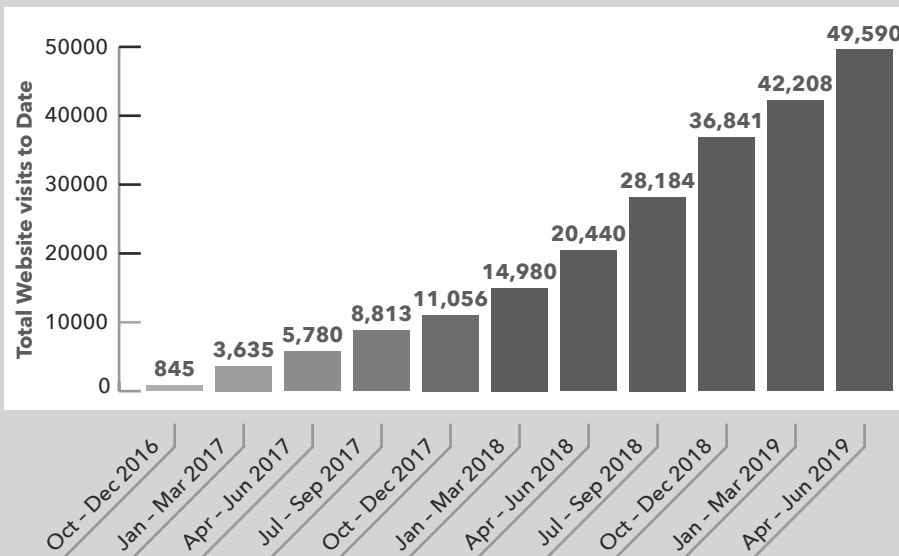
Email List Sign-Ups



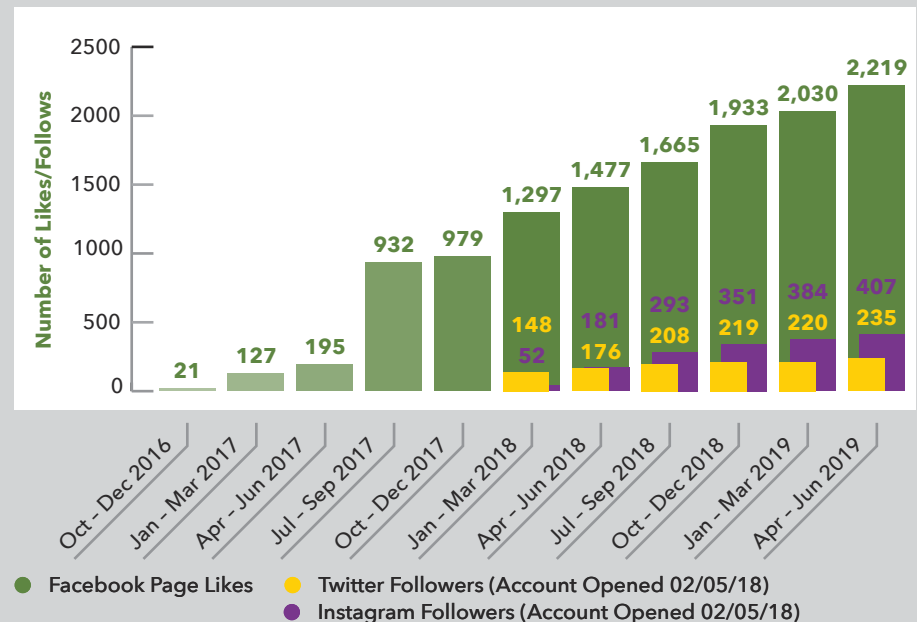
Emails Received



Website Visits



Social Media Likes/Follows



Community Outreach

Tele-town Halls

7,539

Participants

52

Comments

9

Voice Messages

Community Booths

6

Events

3,529

Event Attendance

559

People Engaged

Media

Publications

10

Media Stories

461,702

Print Ad Circulation

156,250

Digital Ad Circulation

Television

16

Video Ad Airs

Website

22,061

Number of Sessions

19,556

Number of Unique Users

473

Form Submissions

Messages

Email

1,315

Subscribers

Text

81

Subscribers

Print Piece

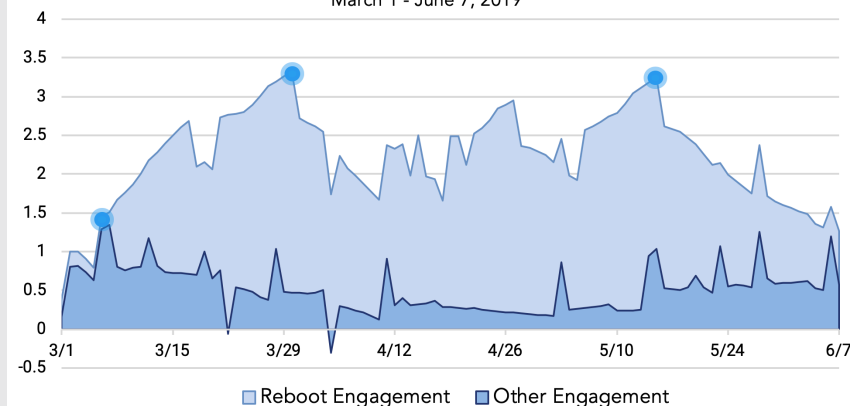
5,205

Delivered

Online Sentiment

Social Media Public Sentiment

March 1 - June 7, 2019

**3/6 (+)** #RebootMyCommute campaign launches.**3/30 (+)** Round 2 ends. Ad data is used to optimize targeting and messaging.**5/21 (+)** #RebootMyCommute digital advertising ramps down.

Social Media Ads



Facebook

Video Views (100%)
596,316Clicks
31,736Direct Engagements
2,098Impressions
3,927,342Reach
630,409

Twitter

Video Views (100%)
7,613Clicks
1,989Direct Engagements
54Impressions
368,225

Instagram

Video Views (100%)
30,820Clicks
4,448Direct Engagements
1,830Impressions
2,898,023Reach
629,129

YouTube

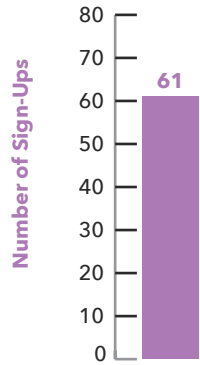
Video Views (100%)
803,978Clicks
13,584Impressions
3,495,097



State Route 60 Truck Lanes Project Monthly "At-a-Glance" Metrics Report

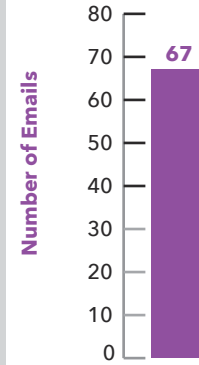
May - June 30, 2019

Email & Text Sign-Ups



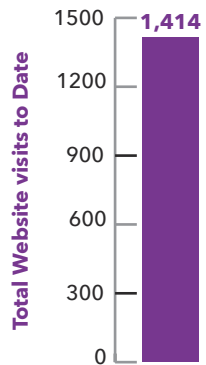
May - Jun 2019

Emails to Project Team



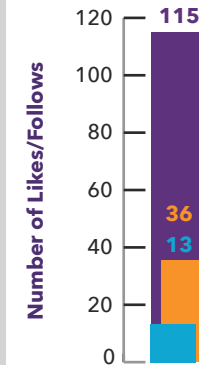
May - Jun 2019

Website Sessions



May - Jun 2019

Social Media Likes/Follows



May - Jun 2019

● Facebook Page Likes ● Twitter Followers
● Instagram Followers

AGENDA ITEM 10

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	August 26, 2019
TO:	Budget and Implementation Committee
FROM:	Jillian Guizado, Legislative Affairs Manager
THROUGH:	Aaron Hake, External Affairs Director
SUBJECT:	State and Federal Legislative Update

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file an update on state and federal legislation; and
- 2) Forward to the Commission for final action.

BACKGROUND INFORMATION:

State Update

On August 12, 2019, the State Legislature reconvened following its summer recess. Bills that made it through their house of origin and through policy committee in the other house are either waiting to be heard on the floor of the other house or being scheduled for a hearing in Appropriations Committee. It is likely to be an intense last month of the first year of the current two-year legislative session in California. Staff will provide a verbal update on notable bills as necessary or applicable at the August 26 Budget and Implementation Committee meeting.

Federal Update

Congress went on recess at the end of July and will not come back until the second week of September.

Appropriations

Despite preliminary work being done on a Fiscal Year 2020 appropriations bill, the current federal fiscal year ends on September 30, which gives the Senate only three weeks upon returning from recess to pass a bill, reconcile it with the House-passed bill, and hope the President will sign it. News outlets are already beginning to report on a likely full or partial government shutdown as a result of this tight timeline. Staff will continue to monitor and report on Congress' progress on funding the federal government in FY 2020.

FAST Act Reauthorization

Before the recess, the Senate Committee on Environment and Public Works (EPW) introduced a reauthorization of the current transportation authorization bill, the Fixing American's Surface Transportation (FAST) Act. As a reminder, the FAST Act expires on September 30, 2020. A long-term transportation authorization bill is critically important for the ongoing and long-term planning of transportation projects with federal funding sources such as Congestion Mitigation Air Quality (CMAQ) and Surface Transportation Block Grant (STBG), in addition to discretionary programs the Commission has been pursuing lately like Better Utilizing Investments to Leverage Development (BUILD) and Infrastructure for Rebuilding America (INFRA). The Senate EPW bill would authorize funding for transportation programs over five years (like the FAST Act does) and increases proposed funding levels by 27 percent. While funding and duration in the proposal are both positive, there is yet to be a proposal for how to pay for the \$287 billion bill. A considerable amount of additional work is ahead of Congress to reauthorize federal transportation programs beyond 2020 which, notably, is a presidential election year. Staff remains observant and engaged in the reauthorization process through the Commission's federal advocates and various coalitions and will continue to report on progress being made in the coming months.

INFRA

On August 7, 2019, staff participated in a debrief with the United State Department of Transportation (USDOT) on the Commission's State Route 91 Workforce to Workplace Vitality Network INFRA grant application submitted on March 4, 2019. As a reminder, the Commission's application requested \$75 million in federal funding for the SR-91 Corridor Operations Project, SR-71/SR-91 Interchange Improvement Project, and Interstate 15/SR-91 Express Lanes Connector Project. USDOT indicated that the Commission's grant application received medium and high marks, which gave it a spot on USDOT Secretary of Transportation Elaine Chao's desk. The Commission's application was one of 40 large project applications Secretary Chao considered; eight of which were from California. Ultimately, USDOT staff providing the debrief indicated our application was strong and to the extent there continues to be a funding need on the projects in our application, we should continue to pursue federal discretionary grant opportunities.

Table 1. Summary of 2019 INFRA Applications Submitted to USDOT

OVERALL		
193 applications submitted	\$9.8 billion requested	\$856 million available
40 applications funded		
31 applications from California		
LARGE* PROJECTS		
98 large project applications submitted	\$8 billion requested	\$770 million large project money available
23 (of 98) large project applications from California		

40 large project applications on recommended list to Secretary		
8 large project applications on recommended list to Secretary from California		
10 large project applications selected by Secretary		
SMALL PROJECTS		
95 small project applications submitted	\$1.8 billion requested	\$86 million small project money available
8 (of 95) small project applications from California		
58 small project applications on recommended list to Secretary		
10 small project applications selected by Secretary		

*Large project: cost in excess of \$100 million

The Safer Affordable Fuel Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks

On August 24, 2018, the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) issued a joint proposed rule, “The Safer Affordable Fuel Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.” The SAFE Vehicles Rule, as it is referred to, would amend federal fuel efficiency standards for passenger vehicles for model years 2021 to 2026. In 2012, the NHTSA and EPA issued proposed tailpipe emissions standards that would increase each year through model year 2025. The Trump Administration conducted a review and found the 2012 standards are not feasible, initiating the rulemaking process. The SAFE Vehicles Rule would freeze fuel economy standards for new cars at 2020 levels through model year 2026 rather than continuing the proposed annual increases. NHTSA and EPA contend higher fuel economy standards have diminishing returns, unnecessarily increasing the cost of vehicles.

As applicable to the Commission, the Southern California Association of Governments (SCAG) region, and the entire state of California, the SAFE Vehicles Rule would rescind California’s ability to set its own more stringent fuel standards. The Clean Air Act generally preempts the state regulation of motor vehicles, but given California’s unique air quality challenges, the state has been granted a preemption waiver since 1967. The SAFE Vehicles Rule argues the waiver should not be allowed because the higher fuel economy standards push the rest of the country to adopt standards above and beyond what is required by federal law. If California’s waiver is rescinded, the state will be unable to enforce its more stringent vehicle emissions standards, which would result in challenges achieving federal air quality standards, state greenhouse gas emission reduction requirements, and zero-emission vehicle targets.

Rescinding California's waiver threatens over 2,000 transportation projects, totaling more than \$130 billion in investment, with project delivery delays or loss of funding. This is primarily due to the fact that the air quality emissions model which is developed by the California Air Resources Board (CARB) would be invalidated. CARB estimates it will take at least two years to update the model using the new, lower emissions standards. Until the model can be updated and then validated by EPA, the Commission would not be able to amend the Federal Transportation Improvement Program (FTIP) to make project changes or process federal grants. Without the ability to amend the FTIP, which is necessary to do frequently as projects evolve, the Commission will be challenged to deliver many of its projects. It is believed the rulemaking may be finalized in September 2019.

The California Association of Councils of Governments (CALCOG), of which the Commission is a member, is heavily engaged with state and federal agencies regarding the SAFE Vehicles Rule. In addition, SCAG and its member agencies submitted a letter to the Southern California Congressional Delegation noting our opposition to the finalization of the SAFE Vehicles Rule. The latest update from CALCOG and a copy of the letter sent by SCAG is attached. Staff continues to be engaged with CALCOG and other Regional Transportation Planning Agencies throughout the state.

Attachments:

- 1) Legislative Matrix – September 2019
- 2) CALCOG Proposed Safe Vehicles Rule Update – July 2019
- 3) SCAG SAFE Vehicles Rule Letter – July 2019

RIVERSIDE COUNTY TRANSPORTATION COMMISSION - POSITIONS ON STATE AND FEDERAL LEGISLATION – SEPTEMBER 2019

Legislation/ Author	Description	Bill Status	Position	Date of Board Adoption
AB 252 (Daly, Frazier)	Removes the sunset date from the NEPA Reciprocity program.	Passed Senate Transportation Committee; referred to Senate Appropriations Committee. (June 11, 2019)	<i>SUPPORT</i>	3/13/19
AB 1402 (Petrie-Norris)	Makes substantive changes to the Active Transportation Program administered by the State, allocating 75% of funds to be distributed by large MPOs.	Referred to Committee on Transportation. (March 27, 2019)	<i>SUPPORT</i>	4/1/19
SB 152 (Beall)	Makes substantive changes to the Active Transportation Program administered by the State, allocating 75% of funds to be distributed by large MPOs.	Held in Senate Appropriations Committee under submission. (May 16, 2019)	<i>SUPPORT</i>	4/1/19
AB 626 (Quirk-Silva)	Seeks to dictate that professionals who provide professional services on one phase of a project be deemed not to have a conflict of interest in subsequent project phases, disregarding the Commission's adopted Procurement Policy.	Ordered to inactive file at request of member. (May 30, 2019)	<i>OPPOSE UNLESS AMENDED</i>	4/10/19
AB 456 (Chiu, Bonta, Low)	Removes the January 1, 2020 sunset provision on claims resolution processes.	Passed Senate Judiciary; referred to Senate Appropriations Committee. (June 11, 2019)	<i>OPPOSE</i>	5/8/19
SB 498 (Hurtado)	Takes funds dedicated in the Trade Corridors Improvement Fund and repurposes them for a new short-line railroad project grant program.	Passed Senate floor. (May 28, 2019)	<i>OPPOSE</i> Staff action based on platform	5/30/19
SR 742 (Allen)	Authorizes existing state funds for Amtrak to be used on intercity passenger bus transportation, regardless of whether the passenger is connecting to or from intercity rail service.	Passed Senate floor; referred to Assembly Transportation Committee. (May 30, 2019)	<i>SUPPORT</i>	6/12/19
AB 1149 (Fong)	Eliminates the ability of petitioners to opt to prepare the record of proceedings and would place that responsibility solely on the lead agency.	Re-referred to Assembly Natural Resources. (April 24, 2019)	<i>SUPPORT</i>	6/12/19

Legislation/ Author	Description	Bill Status	Position	Date of Board Adoption
SB 664 (Allen)	Revises existing statute in the Streets and Highways Code and the Vehicle Code to allow for improved operations of toll facilities in California.	Referred to Assembly Appropriations. (August 13, 2019)	<i>SUPPORT</i> <i>Staff action based on platform</i>	6/17/19
SB 277 (Beall)	Changes the SB 1-created Local Partnership Program to be administered at 85% formula, rather than 50% formula as is currently in adopted guidelines.	Referred to Assembly Appropriations; on suspense. (August 14, 2019)	<i>SUPPORT</i> <i>Staff action based on platform</i>	7/1/19
HR 2939 (Napolitano)	Protects state and local general sales tax revenues from being directed to airports.	Introduced. (May 23, 2019)	<i>SUPPORT</i>	7/10/19



PROPOSED SAFE VEHICLES RULE UPDATE

JULY 2019

Trump Administration Slows, But Doesn't Stop.

Initial sources indicated the Trump administration was rushing to finalize the proposed rule in early summer 2019. Finalization in early summer would have allowed the administration to defend the rule during President Trump's current term. Recent updates from three anonymous federal sources, indicate the proposed SAFE Vehicles Rule is anticipated to be finalized after Labor Day 2019.

California's AG's office and a host of environmental groups have already indicated their intent to sue if the rule is finalized. It is anticipated this legal battle will reach the U.S. Supreme Court. Delaying the final rule until September, increases the likelihood that the case won't be litigated until after the November 2020 elections. Under this scenario, the next president is anticipated to be largely influential in determining the SAFE Vehicles Rule's outcome. If President Trump is re-elected; it is assumed the administration will continue the legal battle through the Supreme Court. If a democrat is elected, perhaps, like the early years of the Obama Administration, the administration will withdraw the rule, or refuse to litigate the issue further.

In response, we turn our eyes to the nation, and the 2020 presidential election.

Four Automakers Strike Emissions Deal with California.

In June 2019, seventeen automakers sent a [letter](#) to President Trump expressing the auto industry's opposition to the proposed SAFE Vehicles Rule. The carmakers called on U.S. EPA and U.S. DOT to jointly promulgate a final rule that results in broad support, arguing it would provide stability and increased affordability by allowing the industry to proceed without fear of litigation. The letter urged President Trump to resume negotiations with the California Air Resources Board. A similar [letter](#) was sent to Governor Newsom as well. The Trump administration rejected the automakers pleas and to date, has not returned to the negotiating table.

July 25, 2019 - Ford, BMW, Volkswagen, and Honda struck a voluntary deal with California on a framework for annual reductions of greenhouse gas emissions for light-duty vehicles that they will incorporate throughout the entire country and that could be incorporated into a final federal rule. This framework was deemed acceptable by California as a reasonable compromise in the face of the Trump Administration's planned rollback.

While the framework would provide additional flexibilities to the carmakers to meet the current emission standards, it delivers the same GHG reductions in five years as the original Obama standards would have achieved in four years. This framework also commits the auto



companies to accelerate their transition to electric vehicles. Finally, it recognizes and preserves California's authority to regulate greenhouse gas emissions.

The Trump administration is not a party to the agreement. "Today's announcement from CARB has no impact on EPA's regulation of greenhouse gas emissions under the Clean Air Act. This voluntary framework is a PR stunt that does nothing to further the one national standard that will provide certainty and relief for American consumers. As the Administration stated earlier this year, despite our best efforts to reach a common-sense solution with CARB, they continually refused to produce reasonable and responsible proposals," Michael Abboud, an EPA spokesman, said in email.

Odds Slim for House Appropriations Language Preventing Rule Implementation.

Appropriations bill, HR 3055 section 145 prohibits funding from being used to finalize or enforce the proposed rule. In early July, labor and industry representatives met with Senate Appropriations Committee staff to discuss the prospects of the House appropriations bill language defunding enforcement of a final SAFE Vehicles Rule, surviving in the Senate. Senate staff acknowledged the SAFE Vehicles Rule was an administration priority and very political. The prospects of the House language surviving, as is, are slim.

House Energy & Commerce Subcommittees Provide Bipartisan Letter Requesting Trump Administration and California to Return to Negotiating Table.

On June 20, 2019, the House Energy and Commerce Subcommittees on Energy and Commerce and Environment and Climate Change held a joint hearing Driving in Reverse the Administrations Rollback of Fuel Economy and Clean Car Standards. On June 25, 2019, the chairs and ranking subcommittee members sent a bi-partisan letter to EPA Administrator Wheeler and DOT Secretary Chao. The letter called for all interested parties to return to the negotiating table while acknowledging there were differing views about the Constitution (mainly, state's rights and the role of the interstate commerce clause), the importance of climate change, and how best to make sure the economies of the auto sector are strong along with the traditional and vital questions of safety. At the time of this staff report, the Trump administration has not returned to the negotiating table with California and other interested parties.

SAFE Vehicles Rule Architect, EPA Air Chief Wehrum Resigns Abruptly.

EPA Air Chief, Bill Wehrum, thought to be the architect of the SAFE Vehicles Rule, abruptly resigned at the end of June. In April, House Democrats launched an investigation into whether Wehrum violated ethics rules by launching the rollback of air pollution regulations that benefited his former lobbying clients in the electric utility sector. Democrats are seeking



communications between the companies, Wehrum and other EPA regulators. "These allegations have raised substantial questions regarding whether Mr. Wehrum and Mr. Harlow are properly carrying out the [Clean Air Act] as directed by Congress or instead changing Agency policies and programs to benefit former clients, who are also clients of your law firm," the lawmakers wrote to Hunton Andrew Kurth managing partner Wendell Taylor – Mr. Wehrum's prior employer. To date, his resignation has had no noticeable impact on the proposed finalization of the rule.

What Next?

In June, CALCOG reported the proposed SAFE Vehicles Rule had been submitted to the federal Office of Management and Budget (OMB) in May 2019. This was incorrect. To date, the rule **has not** been submitted to OMB. As a refresher, OMB review is one of the last steps in the federal rule making process. OMB is the agency responsible for regulatory policy, including coordination and review of all significant Federal regulations by executive agencies. As part of that review process, OMB will grant meetings with interested parties. We encourage agencies to schedule individual meetings with OMB (note – meetings can be held via conference call) to discuss concerns. A template outlining how to request a meeting with OMB can be found [here](#) or on the CALCOG Policy Tracker website.

CALCOG website provides continuing updates.

Please visit the CALCOG Policy Tracker (www.calcog.org/policytracker) for up to date information regarding the Proposed SAFE Vehicles Rule.



July 9, 2019

Southern California Congressional Delegation
U.S. House of Representatives
Washington, DC 20515

Re: Negative Impacts to Transportation Funding and Projects from the Proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule

Dear Members:

On behalf of the undersigned transportation agencies in Southern California, we write to convey our opposition to the proposed Safer Affordable Fuel Efficient (SAFE) Vehicles Rule, which would weaken national fuel-efficiency standards and result in a wide variety of negative impacts in California and across the nation. The proposed rule would also eliminate the waiver that allows California to set its own stricter emissions standards, which gets special treatment under the Clean Air Act due to our historic smog problems.

The change in standards would have significant impacts on transportation plans and projects throughout California. Specifically, in Southern California, the proposed rule would put 443 transportation infrastructure improvement projects totaling \$53 billion at risk of project delivery delays or loss of funding and would severely impact well-paying construction jobs. This is in addition to the more obvious environmental and public health impacts. An expected increase in ozone-forming nitrogen oxides emissions from less fuel-efficient vehicles of 15 million metric tons by 2030 will make our air dirtier and reduce the quality of life for the 19 million residents we serve in Southern California.

Last August, the U.S. Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) proposed the SAFE Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks to amend existing Corporate Average Fuel Economy (CAFE) standards and establish new standards for model years 2021 through 2026. If finalized, by changing the fundamental assumptions of vehicle fuel-efficiency, the SAFE Vehicles Rule would invalidate California's air quality emissions model (EMFAC), which is used to meet the Federal Highway Administration's transportation planning requirements. Without a valid air quality conformity model, state and regional transportation planning agencies in non-attainment areas would be unable to obtain federal approval or make modifications to specified transportation projects in the pipeline (see attached map and list of projects). While the California Air Resources Board (CARB) would endeavor to update the EMFAC model, the process would take a minimum of one year and would need another one to two years to obtain EPA approval before transportation projects could resume.

Page 1 of 2

Although NHTSA and EPA officials have touted the proposed rule as a savings to consumers, it would put \$130 billion in transportation funding at-risk in California alone. Furthermore, the Administration and leaders of both parties in Congress have indicated that increased funding for infrastructure is a priority. Action to finalize the proposed SAFE Vehicles Rule would be inconsistent with statements of support for investing in the nation's vital infrastructure.

We respectfully oppose the proposed SAFE Vehicles Rule and ask that the Southern California Congressional Delegation work together to ensure the Administration fully considers these impacts, specifically of rescinding California's waiver, and withholds from moving forward with the proposed rule. If you have questions, I am always available at (213) 236-1835 or via email at Ajise@scag.ca.gov.

Sincerely,



Kome Ajise
Executive Director
Southern California Association of Governments



Mark Baza
Executive Director
Imperial County Transportation Commission



Darrell E. Johnson
Chief Executive Officer
Orange County Transportation Authority



Darren M. Kettle
Executive Director
Ventura County Transportation Commission



Anne E. Mayer
Executive Director
Riverside County Transportation Commission



Phillip A. Washington
Chief Executive Officer
Los Angeles County Metropolitan
Transportation Authority



Ray Wolfe
Executive Director
San Bernardino County Transportation Authority

cc: Mick Mulvaney, Director of the Office of Management and Budget
Elaine L. Chao, Secretary of Transportation
Heidi King, Deputy Administrator of the National Highway Traffic Safety Administration
Andrew Wheeler, Administrator of the Environmental Protection Agency

AGENDA ITEM 11

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	August 26, 2019
TO:	Budget and Implementation Committee
FROM:	Martha Masters, Senior Management Analyst
THROUGH:	Shirley Medina, Planning and Programming Director
SUBJECT:	Fiscal Year 2019/20 Annual Local Transportation Fund Planning Allocations to Western Riverside Council of Governments and Coachella Valley Association of Governments

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve an allocation of Local Transportation Fund (LTF) funds for planning in the amount of \$800,250 for Western Riverside Council of Governments (WRCOG) and \$436,500 for the Coachella Valley Association of Governments (CVAG) for efforts identified in each agency's Fiscal Year 2019/20 LTF Program Objectives/Work Plan (Work Plan) that supports transportation planning programs and functions consistent with regional and subregional plans, programs, and requirements; and
- 2) Forward to the Commission for final action.

BACKGROUND INFORMATION:

The LTF established in state law by the Transportation Development Act (TDA) is funded through a one-quarter of one cent of the state's 7.25 percent sales tax (based on point of sale and returned to source). LTF funds are used to fund transportation planning, operations, and capital projects. The action requested at this time is specifically to allocate the planning funds to the two councils of governments, WRCOG and CVAG. Other LTF allocations such as those for transit and rail operations and capital projects were approved by the Commission in July 2019 following approval of the annual Short Range Transit Plans in June. Bicycle and pedestrian facilities are also funded by LTF and are part of the biennial SB 821 Call for Projects.

The LTF funding is distributed by the State Board of Equalization to the counties on a pro rata basis, pursuant to Section 99233.2 of the TDA, providing up to 3 percent of annual revenues to fund transportation planning and programming efforts. The Commission, as the regional transportation planning agency, is legally responsible for apportioning the LTF funds. Based on the projected FY 2019/20 revenues of \$97 million, 3 percent of the projected revenue, or \$2.91 million, is for planning and programming. By statute, the TDA also requires one half of these LTF funds, or \$1.45 million, be allocated for planning activities within the Western Riverside

County and the Coachella Valley areas, as determined by the Commission. Distribution of the funding, as confirmed by the Commission in October 2014, is as follows:

Planning Agency	Percentage	Apportionment/Allocation
RCTC	15	\$218,250
WRCOG	55	800,250
CVAG	30	436,500
Total	100	\$1,455,000

WRCOG and CVAG submitted their respective FY 2019/20 Work Plans in accordance with existing guidelines.

WRCOG's Work Plan is divided into two program areas and includes the following activities:

- 1) Planning Programs – including, but not limited, to:
 - Riverside County Traffic Analysis Model (RIVTAM) Update
 - 2020 Southern California Association of Government's (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)
 - SB 743 Implementation Study
 - Framework development of a long-term cybersecurity/transportation systems strategy for the WRCOG subregion
 - Research on the effects of automated vehicles on the WRCOG subregion
 - Transportation related climate change and climate adaptation analyses and planning for the WRCOG subregion
 - Smart Cities and Alternative Fuel Vehicle Development and Air Quality
- 2) Regional Transportation Programs
 - Transportation Uniform Mitigation Fee (TUMF) Program
 - Riverside County Transportation Commission Programs

CVAG's Work Plan consists of nine main program areas:

- 1) Transportation Department Operations;
- 2) Project Management and Contract Administration;
- 3) CV Link Project Development;
- 4) Riverside County Transportation Commission Programs;
- 5) Planning, Programming, and Monitoring Program;
- 6) Miscellaneous Programs including GIS Information Services, support for the RIVTAM model and Regional Arterial Traffic Count Program;
- 7) Congestion Management/Air Quality Programs;
- 8) TUMF Program; and
- 9) Governmental and Special Projects.

Staff reviewed the Work Plans and found them to be consistent with the Commission's overall transportation programming and planning objectives and recommends approval. The Work Plans also benefit the respective geographic regions and are consistent with subregional and regional plans including SCAG's RTP/SCS. WRCOG and CVAG, in conjunction with SCAG, are responsible for subregional planning efforts that implement and are in conformance with the RTP/SCS.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2019/20	Amount:	\$1,236,750
Source of Funds:	LTF			Budget Adjustment:	No
GL/Project Accounting No.:	106 65 86205				
Fiscal Procedures Approved:	<i>Theresa Navarro</i>			Date:	08/15/2019

Attachments:

- 1) WRCOG FY 2019/20 LTF Program Objectives/Work Plan
- 2) CVAG FY 2019/20 LTF Program Objectives/Work Plan

Western Riverside Council of Governments (WRCOG)

Fiscal Year 2019/2020 Local Transportation Funds Program Objectives

The Work Plan for FY 2019/2020 is divided into two Program areas: 1) Planning Programs and 2) Regional Transportation Programs.

1. Planning Programs

California Air Resources Board
South Coast Air Quality Management District (SCAQMD)
Southern California Associations of Governments (SCAG)
California Association of Councils of Governments (CALCOG)
Local Jurisdictions within WRCOG subregion

Planning:

This program includes staff time to develop and work on ten main projects/program areas. These are listed below and include a brief description.

A. Continued development of the new Riverside County Traffic Analysis Model (RIVCOM)

The RIVCOM Update will provide updates on socio-economic forecasts to reflect SCAG's recently adopted growth forecasts, updates to the roadway network, utilize data from SCAG's most recent Regional Travel Model to ensure consistency, and correct any significant structural issues related to RIVCOM.

B. Support local jurisdictions on 2020 Connect SoCal Plan (SCAG Regional Transportation Plan/Sustainable Communities Strategy)

Staff will continue to provide support to local jurisdictions as SCAG refines socio-economic data (SED) forecasts to incorporate into the Connect SoCal Plan. The assistance provided will be to ensure that input from the WRCOG subregion will be included in the long-range vision plan that aims to balance future mobility and housing needs with economic, environmental and public health goals. The Plan is vital for the subregion as it allows RCTC and its jurisdictions to qualify for federal funding towards transportation projects. Connect SoCal is supported by a combination of transportation and land use strategies that help the region achieve state greenhouse gas emission reduction goals and federal Clean Air Act requirements, preserve open space areas, improve public health and roadway safety, support our vital goods movement industry and utilize resources more efficiently.

C. Continue to assist jurisdictions with Senate Bill (SB) 743 Implementation

The SB 743 Implementation Study will assist stakeholders with transition from utilizing a vehicle miles traveled methodology for mitigation impacts to level of service. WRCOG will continue to assist jurisdictions in identifying the necessary steps to implementing SB 743 and create template ordinances for jurisdictions to utilize when adopting ordinances becomes necessary.

D. Research, agenda preparation, and staffing for WRCOG Planning Directors Committee

The research, agenda preparation, and staffing for the WRCOG Planning Directors Committee will support WRCOG member agencies to obtain information, access to research, and awareness of applicable grant opportunities, as well as foster discussions between WRCOG member jurisdictions regarding the latest challenges and opportunities facing the WRCOG subregion, in order to achieve more cost effective and efficient solutions to planning-related matters on a monthly basis.

E. Research, agenda preparation, and staffing for WRCOG Public Works Committee

The research, agenda preparation, and staffing for the WRCOG Public Works Committee will support WRCOG member agencies to obtain information, access to research, and awareness of applicable grant opportunities, as well as foster discussions between WRCOG member jurisdictions regarding the latest challenges and opportunities facing the WRCOG subregion, in order to achieve more cost effective and efficient solutions to public works or engineering-related matters on a monthly basis.

F. Research framework on the development of a long-term cybersecurity strategy for the WRCOG subregion

WRCOG will continue to conduct research into a possible framework of a cybersecurity strategy that will focus on a large-scale plan to provide direction for future research and regional policy development on cybersecurity and transportation systems for the subregion as the system increases the level of connectivity with traffic signals and cameras, and transportation management centers regularly communicate with each other and the outside world. Staff will also continue to identify possible funding mechanisms to develop a Plan and develop applications if feasible.

G. Follow-up research and outreach on the effects of automation on the WRCOG subregion

WRCOG will conduct follow-up research and outreach on the effects of automation on the subregion that will continue to analyze the subregion's current economic structure, strategic positioning, and risks as reference points. The research will also analyze the expected future economic structure and opportunities for strategic positioning, and discuss future risks based on the technical automation potential of industry sectors. WRCOG will

work to ensure this information is disseminated to jurisdictions through its Committee structure and is presented at forums, conferences, and panels where suitable.

H. Outreach for WRCOG Programs and activities and engagement with WRCOG members, partner agencies, and stakeholders

The outreach for WRCOG Programs and activities and partner agencies will include assisting local jurisdictions and education institutions on the various WRCOG Programs and subregional challenges faced. Outreach will continue on the WRCOG Public Service Fellowship, which encourages students to seek careers in public policy and local government by gaining meaningful, hands-on experience at WRCOG member agencies. Staff will continue to provide content for educational outreach on issues faced in the WRCOG subregion and WRCOG Programs through the “WRCOGCAST”. In addition, staff will continue to promote and attend member jurisdiction/agency events throughout the year. Lastly, staff will conduct outreach to the subregion’s legislatures and their staff to provide updates on issues local jurisdictions and agencies are facing, such as housing.

I. Staff time for climate change and climate adaptation analyses and planning for the WRCOG subregion.

The staff time for climate change and climate adaptation efforts for the WRCOG subregion will be to continue overseeing studies and planning efforts to identify effects of climate change to the subregion and opportunities to mitigate these effects, particularly as it relates to transportation infrastructure. One specific effort that will be supported by LTF will be the development of design guidelines to create climate reliant transportation infrastructure. These funds will be used as matching funds to support the development of this guidebook, as funded through SB 1 Planning Funds.

J. Smart Cities and Alternative Fuel Vehicle Development, and Air Quality:

Activities include:

- a) Research and implementation of Smart Cities technologies for local transportation infrastructure including the possible development of a regional ITS program for Western Riverside County.
- b) Provide outreach to the jurisdictions regarding air quality issues and funding opportunities.
- c) Support WRCOG Clean Cities and Programs that WRCOG has developed to assist jurisdictions in the purchase of alternative fuel vehicles and the development of the supporting infrastructure.
- d) Continued staff participation in SCAQMD activities, rule-making, funding opportunities, and the SCAQMD Air Quality Management Plan Advisory Group that will review and make recommendations regarding the development of the 2022 Air Quality Management Plan (AQMP).

2. Regional Transportation Programs

Riverside County Transportation Commission (RCTC)
Riverside Transit Agency
Caltrans
SCAG
CALCOG

This program includes staff time to develop and work on two main projects/program areas. These are listed below and include a brief description.

TUMF:

This Program includes staff time to administer the TUMF Program, which includes but is not limited to the following:

A. Program contract/agreement administration:

Review, coordinate, and finalize Reimbursement Agreements with member agencies for funding allocations based on five-year Zone Transportation Improvement Program (TIP).

B. Public outreach/information:

Prepare the TUMF Annual Report detailing collections for fiscal year and projects being funded with collections. Develop Press Releases for the TUMF Program highlighting major milestones, groundbreakings, ribbon cuttings. Filming of groundbreakings and ribbon cuttings for TUMF funded projects. Develop and purchase of signage for TUMF funded projects.

C. TUMF Zone Transportation Improvement Program (TIP):

Preparation and approval of five-year Zone TIPs with programmed funding for delivery of TUMF projects. Convene meetings of the Zone at the request of member agencies for funding additions and adjustments. Review funding requests to ensure that allocations are within limits of the Nexus Study.

D. Preparation of annual adjustment for construction costs:

Per the TUMF Administrative Plan, annual review of the construction cost index adjustment to the TUMF for consideration by the WRCOG Executive Committee. Preparation of the adjustment to the TUMF Network and develop documents for review by the WRCOG Committee structure. If approved by the WRCOG Executive Committee, prepare TUMF Ordinance/Resolution for member agency approval.

E. Develop TUMF payment portal:

WRCOG is collecting TUMF on behalf of agencies that have approved a TUMF Ordinance Amendment with the option to delegate fee collection

responsibility to WRCOG. To provide efficient and effective calculation and collection of TUMF, WRCOG will develop a portal for member agency staff to submit calculation requests and for developers to make payments.

F. Work with developers on credit and reimbursement agreements:

Coordinate with member agencies Credit Agreements with developers to ensure that all policies and procedures are in place prior to execution of agreements. If necessary, convene meetings with applicable stakeholders to memorialize eligible expenses, maximum allocations of the Nexus Study and reconciliation of projects costs.

G. Review available data for request made by stakeholders regarding TUMF calculations:

At the request of a stakeholder, review available data specific to land uses that may generate trips that don't typically fall within the standard TUMF land uses.

Riverside County Transportation Commission Programs:

This Program includes staff time to administer assist RCTC as it relates transportation planning and air quality programs, which includes but is not limited to the following:

- a) Participation in TUMF Program tasks as needed to assist RCTC in the implementation of the Regional TUMF Program.
- b) Participate in evaluation committees as requested; outreach assisting with RCTC's Programs and goals, and other planning related tasks as determined in consultation with the RCTC Executive Director.

TRANSPORTATION DEPARTMENT PROGRAM GOALS AND OBJECTIVES FISCAL YEAR 2019/20

The Work Plan for 2019/20 is separated into nine main program areas:

1) **Transportation Department Operations**

- Transportation Program Administration
- Implementation of Transportation Project Prioritization Study (TPPS), Regional Arterial Cost Estimate (RACE) and Active Transportation Program (ATP)
- Capital Improvement Program (CIP) Update
- Other Transportation Planning
- Operations Management and Administration

This program area performs primarily administrative functions which consist of general transportation program administrative activities and various transportation planning duties in support of the Transportation Department. Continued implementation of the 2016 TPPS, RACE and ATP Program and implementation of the Valley-wide Signal Synchronization program are primary consideration this fiscal year.

(Funded from Measure A, TUMF and Active Transportation Program Funds)

2) **Project Management and Contract Administration**

- Financial Cash Flow
- Project Status Tracking
- Preparation and Monitoring of Reimbursement Agreements

Includes staff time to conduct project oversight (design, environmental, construction and close-out), preparation of reimbursement agreements for regional arterial projects, review and approval of project billings in accordance with project scope of work and participation in project development team meetings and associated staff reports.

(Funded from Measure A, TUMF, LTF and Special Program Funds)

3) **CV Link Project Development (Phased)**

- Project Development and Monitoring
- Cash Flow Tracking
- Grant Condition Monitoring

Includes staff time to conduct project oversight of consultant services (environmental compliance and phased construction plans); review of project billings; participation in project development team meetings and preparation of associated reports. Finalizing construction plans, specifications and cost estimates and starting construction of the CV Link Project is a primary consideration this fiscal year.

(Funded from Riverside County Regional Park and Open Space District Grant, Caltrans Environmental Justice Grant, California Strategic Growth Council Grant, PP&M, LTF, Sentinel Project AQMD Grant, CMAQ, STIP, ATP and Measure A)

4) **Riverside County Transportation Commission (RCTC) Programs**

- Congestion Management Program/System (CMP/CMS)
- RCTC Technical Advisory Committee
- SB 821
- Coachella Valley Rail Program

Includes staff time to support the Riverside County Congestion Management Program; analysis of traffic patterns through the traffic count program; provide RCTC staff regional transportation project information for the State Regional Transportation Improvement Program (RTIP); support the RCTC Technical Advisory Committee; support efforts for County-wide SB 821 funding; Coachella Valley Passenger Rail Service Development Plan.

(Funded from LTF, STA, Proposition 1B [one-time funds] and TUMF)

5) **Planning, Programming and Monitoring Program**

- Regional Transportation Improvement Program/State Transportation Improvement Program (RTIP/STIP)

This area includes staff time in support of the State Transportation Improvement Program (STIP) and Regional Transportation Improvement Program (RTIP), support in implementation of the CVAG Transportation Project Prioritization Study (TPPS), coordination of updates to the Capital Improvement Plan (CIP), and monitoring and examining impacts of implementing SB 45. TPPS activities support the regional project construction program which includes staff time to develop an annual prioritized list of construction projects and required financial resources.

(Funded from PP&M, LTF and Measure A)

6) **Miscellaneous Programs**

- GIS Information Services
- Maintain Transportation Model
- Regional Arterial Traffic Count Program

This area involves support to multiple programs with a focus on key project areas. These areas include staff time and project management to maintain and provide input for GIS Information Services, the countywide transportation demand model, the regional arterial traffic count program, and transportation legislation review and analysis. GIS Information Services includes staff time to provide regional land use information to CVAG jurisdictions, developers, SCAG and Caltrans. The countywide transportation model involves support for the RIVTAM transportation model for forecasting projected transportation system needs to the year 2039.

(Funded from Measure A, TUMF, and Special Program Funds)

7) **Congestion Management /Air Quality Programs**

- CM/AQ Programs
- Conformance with SIP requirements

Involves Transportation Department staff support to CMAQ program areas. Also includes implementation of State Implementation Plan (SIP) conformance to CVAG regional projects.

(Funded from CMAQ and Measure A)

8) **Transportation Uniform Mitigation Fee (TUMF) Program**

- TUMF Program Administration
- TUMF/GIS Interface
- TUMF Audits

Includes staff time in support of the TUMF program and TUMF/GIS Interface program. TUMF program activities include staff time to update the program, monitor the implementation of the TUMF program in member jurisdictions, to perform annual fiscal reviews of building permits and monthly TUMF collections, to research, analyze and prepare reports for TUMF appeals, to enter TUMF collections in the TUMF data base, to meet with developers on request to review potential TUMF assessments, and to perform special TUMF analysis on request. The TUMF/GIS Interface program requires support for continuing the development of integrating the TUMF collection process with electronic transmission of new development information for land use coverages. The TUMF program is a primary consideration this fiscal year.

(Funded from TUMF)

9) **Governmental and Special Projects**

- Southern California Association of Governments (SCAG)

The SCAG program includes staff time to coordinate the CVAG sub-region SCAG Program needs, develop annual growth projections, provide input to the Federal and Regional Transportation Improvement Plans (FTIP and RTIP), and assist SCAG with transportation modeling refinements. Additionally, staff performs specific transportation project work for SCAG.

(Funded from Special Program Funds)

- Special Projects

Some proposed projects may involve general fund money or special grants. Any project not already a part of the regular work programs, will be brought through the committee process for approval of the proposed work.

(Funded from Special Grant funds)

AGENDA ITEM 12

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	August 26, 2019
TO:	Budget and Implementation Committee
FROM:	Monica Morales, Management Analyst
THROUGH:	Lorelle Moe-Luna, Multimodal Services Director
SUBJECT:	Fiscal Year 2019/20 State of Good Repair Program Allocations

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve Resolution No. 19-009, *“Resolution of the Riverside County Transportation Commission Approving the FY 2019/20 Project List for the California State of Good Repair Program”*;
- 2) Approve an allocation of \$3,910,756 related to Fiscal Year 2019/20 State of Good Repair (SGR) program funds to eligible Riverside County transit operators;
- 3) Authorize the Executive Director, or designee, to review, approve and submit projects to Caltrans which are consistent with SGR program guidelines and to execute and submit required documents for the SGR program, including the Authorized Agent Form;
- 4) Authorize the Executive Director, or designee, to approve administrative amendments to the FY 2019/20 Short Range Transit Plans for incorporation of the SGR funds, as necessary; and
- 5) Forward to the Commission for final action.

BACKGROUND INFORMATION:

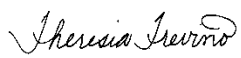
The SGR program was established through SB 1 in April 2017 and is funded from a portion of the new Transportation Improvement Fee on vehicle registrations. SGR provides approximately \$105 million annually to transit operators in California for eligible transit maintenance, rehabilitation, and capital projects. Funds are apportioned similar to the State Transit Assistance (STA) program formula, utilizing two categories for funding. The first category of funds is apportioned by population; these are discretionary and fall under Public Utilities Code (PUC) 99313. The second category of funds is calculated based on transit operator revenues; these are non-discretionary and fall under PUC 99314. Apportionments for both PUC 99313 and 99314 are determined by the State Controller’s Office (SCO). The total estimated amount of SGR funds available to Riverside County for FY 2019/20 is \$3,910,756. Of this amount, \$3,288,705 is apportioned by population under PUC 99313, and will be sub-allocated by the Commission. PUC 99314 provides \$622,051 directly to the transit operators as determined by the SCO.

As the Regional Transportation Planning Agency for Riverside County, the Commission has the following responsibilities:

- Receive and allocate SGR funds to transit operators based on local needs (PUC 99313) and based on formula amounts published by the SCO (PUC 99314);
- Via board resolution, approve the annual list of SGR projects submitted by the public transit operators and ensure funds are expended on SGR-eligible activities;
- Complete an updated authorized agent form; and
- Comply with all relevant federal and state laws, regulations, and policies for funding.

In order to receive funding for FY 2019/20, by September 1, the Commission is required to submit to Caltrans a resolution, which confirms the Commission is an eligible project sponsor and may receive, distribute, concur and approve the list of projects, which are to be funded under the SGR program. Revised SGR funding amounts were released on August 1. Due to the board meeting schedule, Caltrans approved the Commission's request to submit an approved resolution and project list by September 30. Moving forward, staff will incorporate the SGR funding allocations concurrently with the annual Short Range Transit Plan allocation process to ensure that the annual September 1 project and document submittal deadline is met.

Staff recommends approval of Resolution No. 19-009. Due to the timing of this staff report for the committee agenda, a final project list by transit operator is not available; however, it will be included in the Commission agenda. Attachment 1 of this report represents amounts allocated to each transit operator for project allocation. Sub-allocations for PUC 99313 were based on a population distribution by subregion and a distribution of 78 percent to bus and 22 percent to rail in Western County. Staff reviewed the current distribution methodology and recommends a formal policy be adopted before the FY 2020/21 SGR funds are sub-allocated. It is important to note that the funding allocation is an estimate provided by the SCO. Actual funds received are based on the Transportation Improvement Fee collected on vehicle registrations.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2019/2020	Amount:	\$ 3,910,756
Source of Funds:	SB1 State of Good Repair			Budget Adjustment:	No
GL/Project Accounting No.:	00222X 401 4230X 0000 242 62 4230X (SGR revenues by various geographic area/project numbers)				
Fiscal Procedures Approved:				Date:	08/19/2019

Attachments:

- 1) Resolution No 19-009
- 2) SGR FY 2019/20 Allocations by Operator

RESOLUTION NO. 19-009
RESOLUTION OF THE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
APPROVING THE FY 2019-20 PROJECT LIST
FOR THE CALIFORNIA STATE OF GOOD REPAIR PROGRAM

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act 2017, established the State of Good Repair (SGR) program to fund eligible transit maintenance, rehabilitation and capital project activities that maintain the public transit system in a state of good repair; and

WHEREAS, the Riverside County Transportation Commission is an eligible project sponsor and may receive and distribute State Transit Assistance – SGR funds to eligible project sponsors (local agencies) for eligible transit capital projects;

WHEREAS, the Riverside County Transportation Commission distributes SGR funds to eligible project sponsors (local agencies) under its regional jurisdiction; and

WHEREAS, the Riverside County Transportation Commission concurs with and approves the attached project list for the SGR Program funds; and

NOW, THEREFORE, BE IT RESOLVED, that the Riverside County Transportation Commission hereby approves the SB 1 SGR Project List for FY 2019-20; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Riverside County Transportation Commission that the fund recipient agrees to comply with all conditions and requirements set forth in the Certification and Assurances document and applicable statutes, regulations and guidelines for all SGR funded transit capital projects.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to submit a request for Scheduled Allocation of the SB 1 SGR funds and to execute the related grant applications, forms and agreements, including the Authorized Agent Form.

APPROVED AND ADOPTED this 11th day of September, 2019.

 Chuck Washington, Chair
 Riverside County Transportation Commission

ATTEST:

 Lisa Mobley, Clerk of the Board
 Riverside County Transportation Commission



FY 2019/20 State of Good Repair (SGR) Funding Allocation

State Controller's Office

Transmittal Letter of August 1, 2019 (Estimate)

	Western Riverside*		Coachella Valley		Palo Verde Valley	Total
	Bus	Rail	Bus	Rail		
PUC 99313 Discretionary	2,042,355	576,049	634,736	0	35,565	3,288,705
City of Banning	37,375					
City of Beaumont	49,221					
City of Corona	96,808					
City of Riverside	96,399					
Riverside Transit Agency	1,762,552					
PUC 99314 Non-Discretionary	201,425	274,776	144,460	0	1,390	622,051
City of Banning	2,503					
City of Beaumont	2,778					
City of Corona	4,322					
City of Riverside	5,140					
Riverside Transit Agency	186,682					
Total FY 19/20 SGR Funding	2,243,780	850,825	779,196	0	36,955	3,910,756

Population Source: California Department of Finance, Demographic Research Unit (1/1/17) (Commission 1/9/19)

Area	Population	%
Western Riverside	1,898,719	79.62%
Coachella Valley	460,275	19.30%
Palo Verde Valley	25,790	1.08%
Total	2,384,784	100.00%

* For Western Riverside: Bus Services (78%), Rail Services (22%)

Rev. 8/7/19