



Chino Hills · Diamond Bar · Industry

**TRES HERMANOS CONSERVATION AUTHORITY
BOARD OF DIRECTORS MEETING**

**WEDNESDAY, NOVEMBER 8, 2023, AGENDA
6:00 P.M.**

**CITY OF CHINO HILLS - COUNCIL CHAMBERS
14000 CITY CENTER DRIVE
CHINO HILLS, CALIFORNIA**

**BOARD DIRECTORS
CHAIR, STAN LIU
VICE-CHAIR, PETER ROGERS
DIRECTOR, ANDREW CHOU
DIRECTOR, CATHY MARCUCCI
DIRECTOR, RAY MARQUEZ
DIRECTOR, CORY MOSS
DIRECTOR, MARK RADECKI**

This agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda unless the Board of Directors makes a determination that an emergency exists or that a need to take immediate action on the item came to the attention of the City subsequent to the posting of the agenda. The Secretary of the Board has on file copies of written documentation relating to each item of business on this Agenda available for public inspection in the Office of the Chino Hills City Clerk, in the public binder located at the entrance to the Council Chambers while the meeting is in session, and on the Authority's website at www.treshermanos.org. Materials related to an item on this Agenda submitted to the Directors after distribution of the agenda packet are available for public inspection in the Office of the Chino Hills City Clerk at 14000 City Center Drive, Chino Hills, CA during normal business hours.

Speaker Cards - Those persons wishing to address the Directors on any matter, whether or not it appears on the agenda, are requested to complete and submit to the Authority Secretary a "Request to Speak" card available at the entrance to the City Council Chambers. In accordance with the Public Records Act, any information you provide on this form is available to the public. **You are not required to provide personal information in order to speak, except to the extent necessary for the Secretary of the Board to call upon you.** Comments will be limited to five minutes per speaker.

Emails and documents submitted will be considered a public document subject to posting on the City's website and are subject to the Public Records Act.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in the Board meeting, please contact the Authority Secretary, (909) 364-2620, at least 48 hours prior to the meeting to enable the Authority to make reasonable arrangements. [Click here](#) to view the Reasonable Accommodations Policy for The Tres Hermanos Conservation Authority Brown Act Meetings or contact the City Clerk's office to obtain a copy.

PLEASE SILENCE ALL ELECTRONIC DEVICES WHILE BOARD IS IN SESSION. Thank you.

CALL TO ORDER / ROLL CALL

PLEDGE OF ALLEGIANCE

1. PUBLIC COMMENTS: At this time members of the public may address the Authority regarding any items within the subject matter jurisdiction of the Authority provided NO action or discussion may be taken on any item not appearing on the agenda, except the Authority may BRIEFLY respond to statements made or questions posed. **Comments are limited to five minutes per Speaker.**

CONSENT CALENDAR:

2. Approve September 13, 2023 Regular Meeting Minutes
3. Receive and file Payment Registers for months ended August 31, and September 30, 2023
4. Receive and file Treasurer's Reports for months ended August 31, and September 30, 2023

OLD BUSINESS:

5. Receive update on public access tour of Tres Hermanos Ranch

NEW BUSINESS:

6. Approve increase in monthly residential rental rate for Agreement No. THCA20-001 with Cherie Wood from \$742.50 to \$816.00 effective January 1, 2024 for dwelling located on Tres Hermanos property
7. Adopt resolutions increasing Executive Director's signing authority up to and including \$50,000 annually or per project; establishing uniform public construction cost accounting procedures; delegating authority to Executive Director to award informal public contracts in amount of \$200,000 or less and authority to negotiate contracts, award purchase orders or perform work by employees of member agencies by force account on public projects in amount of \$60,000 or less and adopting Procurement Manual

AUTHORITY DIRECTOR COMMENTS:

ADJOURNMENT: The next regular Tres Hermanos Conservation Authority meeting will be Wednesday, January 10, 2024 at 6:00 p.m.

TRES HERMANOS CONSERVATION AUTHORITY
REGULAR BOARD OF DIRECTORS MEETING MINUTES
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Date: 11-08-2023
Item No.: 02

CALL TO ORDER

The Regular Meeting of the Tres Hermanos Conservation Authority was called to order by Chair Liu at 6:00 p.m. in the City of Chino Hills Council Chambers, City Hall.

ROLL CALL:

Directors in attendance:

Stan Liu, Chair
Peter Rogers, Vice-Chair
Andrew Chou, Director
Cathy Marcucci, Director
Cory Moss, Director
Mark Radecki, Director

Directors absent:

Ray Marquez, Director

Staff in attendance:

Benjamin Montgomery, Executive Director
Dan Fox, Administrative Director
Sam Pedroza, Assistant City Manager (Industry)
Christa Buhagiar, Treasurer
Cheryl Balz, Authority Secretary
Jessica Contreras, Deputy City Clerk II

Staff absent:

Joshua Nelson, Deputy Executive Director

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Director Moss.

1. PUBLIC COMMENTS:

There were none.

CONSENT CALENDAR:

2. MINUTES OF JULY 12, 2023, REGULAR MEETING

RECOMMENDED ACTION: THAT THE AUTHORITY APPROVE THE JULY 12, 2023, REGULAR TRES HERMANOS CONSERVATION AUTHORITY MEETING MINUTES.

TRES HERMANOS CONSERVATION AUTHORITY
REGULAR BOARD OF DIRECTORS MEETING MINUTES
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3. PAYMENT REGISTER

RECOMMENDED ACTION: THAT THE AUTHORITY RECEIVE AND FILE THE PAYMENT REGISTERS FOR THE MONTHS ENDED JUNE 30, AND JULY 31, 2023.

4. TREASURER'S REPORT

RECOMMENDED ACTION: THAT THE AUTHORITY RECEIVE AND FILE THE TREASURER'S REPORTS FOR THE MONTHS ENDED JUNE 30, AND JULY 31, 2023.

A motion was made by Director Moss and seconded by Vice Chair Rogers to approve the Consent Calendar as presented.

Motion carried by electronic vote 6-0-1 as follows:

AYES:	DIRECTORS:	CHOU, MARCUCCI, MOSS, RADECKI, VICE-CHAIR ROGERS, CHAIR LIU
NOES:	DIRECTORS:	NONE
ABSENT:	DIRECTORS:	MARQUEZ
ABSTAIN:	DIRECTORS:	NONE

OLD BUSINESS:

5. UPDATES ON PUBLIC ACCESS TOUR OF TRES HERMANOS RANCH

RECOMMENDED ACTION: RECEIVE AND FILE.

Executive Director Montgomery briefed the Board on the staff report, which is on file at the City of Chino Hills City Clerk's office. He stated that the tour will begin on Saturday, September 23, 2023, and that there will be two tour buses with a total participation of 104 individuals and that he and Administrative Director Fox will serve as tour guides on the buses. He provided Board Members a sample of the goody bags that will be given to tour participants which include the bag, a Tres Hermanos Conservation Authority logo pin, and a draft of the event flyer. He noted the locations of the stops and stated that there will be presentations by docents at each stop: (1) the Arnold Reservoir by Deputy Executive Director Josh Nelson; (2) the Residence/Barn by local historian Paul Spitzzeri; and (3) the Majestic Oak by retired Cal Poly Pomona Professor Dan Hostetler. He stated that teams from each city will be supporting the events and there will be E-Z Up tents with tables and exhibits displayed at each of the three stops with docent support. Registration was opened on September 5th and there was a high level of interest with 104 individuals who signed up and 400 plus individuals on a waiting list and added that if there are any

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REGULAR BOARD OF DIRECTORS MEETING MINUTES
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cancellations, individuals will be pulled from the current waiting list. Lastly, he stated that the next meeting will include a full recap of how the tour went and the Board will discuss potential plans on hosting future tours based on the response from the community.

Jim Gallagher, Chino Hills resident, spoke about his registration process and success, and the overwhelming interest from the community for the tour. Lastly, he suggested collecting donations for future registrations.

NEW BUSINESS: There was none.

AUTHORITY STAFF AND AUTHORITY DIRECTOR COMMENTS:

Administrative Director Fox thanked staff for filtering through all the phone calls for the tour registration.

Director Chou relayed comments received from residents for future registrations (1) allowing registration for more than one person at a time to prevent children and parents from being split up; and (2) conducting the registration through a lottery system wherein names are collected over a three-day period and drawn from a hat.

Director Moss thanked staff for filtering through all the registration phone calls and is looking forward to feedback of the tour.

Vice-Chair Rogers thanked staff for filtering through all the registration phone calls as he witnessed firsthand the multitude of calls coming through and stated that with this much interest it makes us motivated to do more.

Chair Liu thanked staff, the Board and colleagues for making this happen and he is looking forward to hearing the experiences and feedback from the tour.

ADJOURNMENT: There being no further business, Chair Liu adjourned the Tres Hermanos Conservation Authority Regular Meeting at 6:19 p.m.

STAN LIU
CHAIR

CHERYL BALZ
AUTHORITY SECRETARY



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Date: November 8, 2023
To: Chair and Board of Directors
From: Benjamin Montgomery, Executive Director
Subject: Payment Register

Recommendation:

Receive and file the payment registers for the months ended August 31, 2023, and September 30, 2023.

Background/Analysis:

Pursuant to the Amended and Restated Tres Hermanos Conservation Authority Joint Powers Agreement Section 5.2 Disbursements, the warrants and wire transfers of the Authority should be periodically reviewed by the Board.

Attached for your review are the payment registers for the months ended August 31, 2023, and September 30, 2023. These payments may include the following types: automatic clearing house (ACH), electronic funds transfer (EFT), and paper check. ACH payments have a five-digit number starting with a "2", EFT payments have a five-digit number starting with a "1", and paper checks have a four-digit number.

Respectfully Submitted,

Recommended By:



Benjamin Montgomery
Executive Director



Christa Buhagiar
Treasurer

Attachments Payment Register - August 2023
Payment Register - September 2023

Tres Hermanos Conservation Authority

Payment Register

From 8/1/2023 to 8/31/2023

#	DATE	VENDOR NAME	CONTRACT/ PO#	DESCRIPTION	RETENTION	INVOICE AMT
5196	8/2/2023	ALLIANT INSURANCE SERVICES, INC.		FY23-24 CRIME INSURANCE POLICY		\$1,823.00
				TOTAL		\$1,823.00
5197	8/2/2023	C & C ENGINEERING, INC.	THCA20-002	CNC/SITE INSPECT/JUN23		\$4,877.50
				TOTAL		\$4,877.50
5198	8/2/2023	CITY OF CHINO HILLS		CH/STAFF TIME/APR-MAY23		\$1,346.84
				TOTAL		\$1,346.84
5199	8/2/2023	CITY OF INDUSTRY	THCA21-005	LA CNTY/PEST-WEED ABT/MAY23		\$18,540.87
				TOTAL		\$18,540.87
5200	8/2/2023	EGOSCUE LAW GROUP, INC.	THCA19-004	EGOSCUE/LEGAL/JUN23		\$437.50
				TOTAL		\$437.50
5201	8/2/2023	JANUS PEST MANAGEMENT, INC.	THCA22-006	JANUS/PEST/JUN23		\$75.00
				TOTAL		\$75.00
5202	8/9/2023	CITY OF CHINO HILLS		CH/WATER/06/16/23-07/17/23		\$409.20
				TOTAL		\$409.20
5203	8/9/2023	DIAMOND ENVIRONMENTAL SERVICES	THCA22-005	DIAMOND/RESTROOM RENT/06/19/23-07/16/23		\$103.42
	8/9/2023	DIAMOND ENVIRONMENTAL SERVICES	THCA22-005	DIAMOND/RESTROOM RENT/07/17/23-08/13/23		\$103.42
				TOTAL		\$206.84
5204	8/16/2023	CITY OF CHINO HILLS		CH/STAFF TIME/JUN23		\$703.80
				TOTAL		\$703.80
5205	8/23/2023	CITY OF INDUSTRY	THCA21-005	LA CNTY/PEST-WEED ABT/JUN23		\$23,188.44
				TOTAL		\$23,188.44
5206	8/23/2023	EGOSCUE LAW GROUP, INC.	THCA19-004	EGOSCUE/LEGAL/JUL23		\$1,050.00
				TOTAL		\$1,050.00
5207	8/23/2023	INDUSTRY SECURITY SERVICES, INC.		INDSTY/SECURITY SRVCS/JUL23		\$3,890.64
				TOTAL		\$3,890.64
5208	8/23/2023	JANUS PEST MANAGEMENT, INC.	THCA22-006	JANUS/PEST/JUL23		\$75.00
				TOTAL		\$75.00

Tres Hermanos Conservation Authority

Payment Register

From 8/1/2023 to 8/31/2023

#	DATE	VENDOR NAME	CONTRACT/ PO#	DESCRIPTION	RETENTION	INVOICE AMT
20006	8/9/2023	CITIZENS BUSINESS BANK (THCA CREDIT CARD)		THCA CREDIT CARD PURCHASE		\$8.13
					TOTAL	\$8.13
TOTAL						\$56,632.76

Note: The payments above may include the following types: automatic clearing house (ACH), electronic funds transfer (EFT), and paper check. ACH payments have a five-digit number starting with a "2", EFT payments have a five-digit number starting with a "1", and paper checks have a four-digit number.

Tres Hermanos Conservation Authority

Payment Register

From 9/1/2023 to 9/30/2023

#	DATE	VENDOR NAME	CONTRACT/ PO#	DESCRIPTION	RETENTION	INVOICE AMT
5209	9/20/2023	EGOSCUE LAW GROUP, INC.	THCA19-004	EGOSCUE/LEGAL/AUG23		\$962.50
					TOTAL	\$962.50
5210	9/20/2023	INDUSTRY SECURITY SERVICES, INC.		INDSTY/SECURITY SRVCS/AUG23		\$3,890.64
					TOTAL	\$3,890.64
5211	9/20/2023	TOWN WEB DESIGN LLC	THCA21-003	TOWNWEB/WEB-EMAIL/FY23/24		\$683.00
					TOTAL	\$683.00
5212	9/27/2023	C & C ENGINEERING, INC.	THCA20-002	CNC/SITE INSPECT/JUL23		\$3,945.00
					TOTAL	\$3,945.00
5213	9/27/2023	CITY OF CHINO HILLS		CH/WATER/07/17/23-08/16/23		\$459.36
					TOTAL	\$459.36
5214	9/27/2023	CITY OF INDUSTRY	THCA21-005	LA CNTY/PEST/JUN23		\$209.64
					TOTAL	\$209.64
5215	9/27/2023	DIAMOND ENVIRONMENTAL SERVICES	THCA22-005	DIAMOND/RESTROOM RENT/8/14/23-9/10/23		\$103.42
					TOTAL	\$103.42
TOTAL						\$10,253.56

Note: The payments above may include the following types: automatic clearing house (ACH), electronic funds transfer (EFT), and paper check. ACH payments have a five-digit number starting with a "2", EFT payments have a five-digit number starting with a "1", and paper checks have a four-digit number.



Chino Hills · Diamond Bar · Industry

Date: November 8, 2023
To: Chair and Board of Directors
From: Benjamin Montgomery, Executive Director
Subject: Treasurer's Reports

Recommendation:

Receive and file the Treasurer's Reports for the months ended August 31, 2023, and September 30, 2023.

Background/Analysis:

Pursuant to the Amended and Restated Tres Hermanos Conservation Authority Joint Powers Agreement Section 5.3 Accounts, the Treasurer must verify and report in writing, at least quarterly, the amount of money held for the Authority and the amount of interest earnings, revenues, and expenditures since the last report. Attached for your information are the Treasurer's Reports for the months ended August 31, 2023, and September 30, 2023.

Respectfully Submitted,

Recommended By:

Handwritten signature of Benjamin Montgomery in blue ink.

Benjamin Montgomery
Executive Director

Handwritten signature of Christa Buhagiar in blue ink.

Christa Buhagiar
Treasurer

Attachments Treasurer's Report - August 2023
Treasurer's Report - September 2023

**Tres Hermanos Conservation Authority
Treasurer's Report
For the Month Ended August 31, 2023**

Description	Cost Value	Market Value	Interest/ Book Yield	Maturity Date	% of Portfolio
Cash and Cash Equivalents					
Citizens Business Bank - Premium Money Market LAIF Account	\$ 64,397	\$ 64,397	0.02%	n/a	16.54%
	330,016	325,009	3.43%	n/a	83.46%
Total Investment Portfolio	\$ 394,413	\$ 389,406			100.00%

Blended Yield of Cash and Investments	2.87%
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Benchmarks:	
LAIF	3.43%
6mo U.S. Treasury	5.48%
2yr U.S. Treasury	4.85%
5yr U.S. Treasury	4.23%

I hereby certify that the investments are in compliance with the investment policy adopted by the the Board of Directors. The investment portfolio provides sufficient funds to meet the budgeted expenditures over the next six months. This report meets the requirements of Government Code Section 53646.



Christina Buhagiar
Treasurer

Tres Hermanos Conservation Authority
Statement of Revenues, Expenditures and Changes in Fund Balances
For the Month Ended August 31, 2023

	<u>Budget 2023/24</u>	<u>August 2023</u>	<u>Fiscal Year To Date 2023/24</u>	<u>% of Budget Used</u>
Revenues:				
Interest Income	\$ -	\$ 1	\$ 2	-
Fair Market Value Adjustment	-	-	1,731	-
Rental Income	15,474	1,088	5,334	34%
Reimbursements	85,293	409	449	1%
Contributions from Member Agencies	270,990	-	270,990	100%
Total Revenues	<u>371,757</u>	<u>1,498</u>	<u>278,506</u>	<u>75%</u>
Expenditures:				
Contractual Services	261,000	282	282	0%
Bank Charges	300	16	16	5%
Audit Services	2,082	-	-	0%
Legal Services	7,101	1,050	1,050	15%
Security Services	48,561	3,890	3,890	8%
Professional Services	15,000	-	-	0%
Liability Insurance	21,000	-	1,823	9%
Office Supplies	342	25	25	7%
Water	5,301	409	409	8%
Permits & Fees	5,775	-	-	0%
Total Expenditures	<u>366,462</u>	<u>5,672</u>	<u>7,495</u>	<u>2%</u>
Excess of Revenues Over/(Under) Expenditures	<u>\$ 5,295</u>	<u>\$ (4,174)</u>	<u>\$ 271,011</u>	
Fund Balances:				
Estimated Beginning of Fiscal Year *			\$ 97,398	
Excess of Revenues Over/(Under) Expenditures			271,011	
Estimated as of August 31, 2023			<u>\$ 368,409</u> A	
Estimated Fund Balances by City:				
Chino Hills			\$ 123,308	
Diamond Bar			118,413	
Industry			126,688	
Estimated Total Fund Balances by City			<u>\$ 368,409</u>	

A The ending fund balance in the amount of \$368,409 differs from the bank balance of \$394,413. The (\$26,004) difference is the net of \$1,075 in accounts receivable and (\$27,079) in outstanding checks.

* The Estimated Beginning Fiscal Year Fund Balance will continue to fluctuate until the FY 2022-23 audit is finalized at the end of January 2024.

**Tres Hermanos Conservation Authority
Treasurer's Report
For the Month Ended September 30, 2023**

Description	Cost Value	Market Value	Interest/ Book Yield	Maturity Date	% of Portfolio
Cash and Cash Equivalents					
Citizens Business Bank - Premium Money Market LAIF Account	\$ 34,034	\$ 34,034	0.02%	n/a	9.47%
	330,016	325,497	3.53%	n/a	90.53%
Total Investment Portfolio	\$ 364,050	\$ 359,531			100.00%

Blended Yield of Cash and Investments	3.20%
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Benchmarks:	
LAIF	3.53%
6mo U.S. Treasury	5.53%
2yr U.S. Treasury	5.03%
5yr U.S. Treasury	4.60%

I hereby certify that the investments are in compliance with the investment policy adopted by the the Board of Directors. The investment portfolio provides sufficient funds to meet the budgeted expenditures over the next six months. This report meets the requirements of Government Code Section 53646.



Christina Buhagiar
Treasurer

Tres Hermanos Conservation Authority
Statement of Revenues, Expenditures and Changes in Fund Balances
For the Month Ended September 30, 2023

	Budget 2023/24	September 2023	Fiscal Year To Date 2023/24	% of Budget Used
Revenues:				
Interest Income	\$ -	\$ 1	\$ 3	-
Fair Market Value Adjustment	-	-	1,731	-
Rental Income	15,474	1,088	6,422	42%
Reimbursements	85,293	459	908	1%
Contributions from Member Agencies	270,990	-	270,990	100%
Total Revenues	371,757	1,548	280,054	75%
Expenditures:				
Contractual Services	261,000	4,258	4,540	2%
Bank Charges	300	(14)	2	1%
Audit Services	2,082	-	-	0%
Legal Services	7,101	962	2,012	28%
Security Services	48,561	3,891	7,781	16%
Professional Services	15,000	-	-	0%
Liability Insurance	21,000	-	1,823	9%
Office Supplies	342	683	708	207%
Water	5,301	459	869	16%
Permits & Fees	5,775	-	-	0%
Total Expenditures	366,462	10,239	17,735	5%
Excess of Revenues Over/(Under) Expenditures	\$ 5,295	\$ (8,691)	\$ 262,319	
Fund Balances:				
Estimated Beginning of Fiscal Year *			\$ 97,398	
Excess of Revenues Over/(Under) Expenditures			262,319	
Estimated as of September 30, 2023			\$ 359,717	A
Estimated Fund Balances by City:				
Chino Hills			\$ 120,410	
Diamond Bar			115,516	
Industry			123,791	
Estimated Total Fund Balances by City			\$ 359,717	

A The ending fund balance in the amount of \$359,717 differs from the bank balance of \$364,050. The (\$4,333) difference is the net of \$1,570 in accounts receivable and (\$5,903) in outstanding checks.

* The Estimated Beginning Fiscal Year Fund Balance will continue to fluctuate until the FY 2022-23 audit is finalized at the end of January 2024.



Chino Hills · Diamond Bar · Industry

Date: November 8, 2023

To: Chair and Board of Directors

From: Benjamin Montgomery, Executive Director

Subject: Public Access Tour of Tres Hermanos Ranch Recap

Recommendation:

Receive an update on the public access tour of Tres Hermanos Ranch.

Background/Analysis:

On September 23, 2023, staff from the cities of Chino Hills, Diamond Bar and City of Industry conducted four chaperoned tours of the Tres Hermanos Ranch (Ranch). Participants from the general public were able to participate in the free tours after registering via the Tres Hermanos Conservation Authority (Authority) website or through direct interaction with staff from the Authority's member cities.

The Ranch tours originated at the Diamond Bar Center where registered participants checked in and boarded shuttles leaving hourly between 9:00 a.m. and 12:00 p.m. Each tour participant received a commemorative bag and pin imprinted with the Authority logo along with water and snacks. 104 individuals registered for the event and 98 participated in the tour.

The tour included three stops and lasted approximately 1.5 hours. At the first stop, tour participants visited the Arnold Reservoir, where City of Industry City Manager, Joshua Nelson informed visitors of the history and the operation of the reservoir and dam. At the second stop, tour participants visited the barn/residence where local historian Paul Spitzer shared the history of the people associated with the Ranch. And at the final stop, Retired Professor Dan Hostetler instructed the groups about the plants and animals located on the property. City of Chino Hills City Manager, Benjamin Montgomery and Diamond Bar City Manager, Dan Fox, chaperoned the tour, provided information about the property and the formation of the Authority, and answered general questions from tour participants.

Staff from the cities of Chino Hills, Diamond Bar, and City of Industry performed all of the essential support functions for the event. Support functions included: participant registration; securing shuttle contracts; preparation of the tour sites and route; supervised access to the property; participant check-in functions; assisting Docents; preparation of handouts and displays; controlling tour site area access; and performing clean-up duties after the event. Volunteers from the City of Chino Hills Citizens on Patrol program provided additional site security for the event. Authority Member cities performed these staffing services for this initial event as in-kind

support with no cost recovery from the Authority. Direct costs for the Ranch Tour included: shuttle service contract - \$2,199.75; commemorative bags and pins - \$747.67; and food items for participants, staff and docents - \$577.99. Total direct costs were \$3,545.41.

Fiscal Impact:

The Authority's Fiscal Year 2023-24 budget did not include specific funding for the Ranch Tour; however, sufficient funding exists in other program areas to absorb the \$3,545.41 cost to provide the event.

Respectfully Submitted,



Benjamin Montgomery
Executive Director



Chino Hills · Diamond Bar · Industry

Date: November 8, 2023

To: Chair and Board of Directors

From: Benjamin Montgomery, Executive Director

Subject: Adjust Residential Rental Rate Effective January 1, 2024

Recommendation:

Approve an increase in the monthly residential rental rate in Agreement No. THCA20-001 with Cherie Wood from \$742.50 to \$816.00 effective January 1, 2024, for the dwelling located on the Tres Hermanos property.

Background/Analysis:

On January 15, 2020, the Tres Hermanos Conservation Authority (Authority) Board of Directors (Board) approved a Residential Rental Agreement THCA20-001 (Agreement) for the dwelling located on the Tres Hermanos property. The term of the Agreement is month-to-month. At the October 12, 2022, meeting, the Board approved a rental rate increase of \$742.50 with an effective date of January 1, 2023.

Consistent with AB 1482, the Tenant Protection Act of 2019, Section 3.2 of the Agreement states:

Rent Increase. *"At the sole and absolute discretion of the Tres Hermanos Conservancy Authority Board of Directors, the rent amount may increase on an annual basis by 5 percent (5%) plus the percentage change in the cost of living or 10 percent (10%), whichever is lower."*

It is recommended that the Board consider increasing the monthly rental rate which would be effective January 1, 2024. The Consumer Price Index All Urban Consumers (CPI-U) for Riverside-San Bernardino-Ontario (September 2023) was 4.9%. An increase of 5% + CPI (5% + 4.9%) would be 9.9% or \$816.00/month. The 9.9% is below the maximum amount authorized under AB 1482, which is 10%. Therefore, it is recommended that the rental increase be based on the 9.9% increase which is consistent with AB 1482. This would result in a new monthly rental rate of \$816.00 which equates to a \$73.50/month increase.

Fiscal Impact:

The revenue generated from the rental income will increase from \$8,910 to \$9,792 on an annual basis.

Reviewed by Others:

This item has been reviewed by the Authority's General Counsel.

Respectfully Submitted,

Recommended By:


Benjamin Montgomery
Executive Director


Christa Buhagiar
Treasurer



Chino Hills · Diamond Bar · Industry

Date: November 8, 2023
To: Chair and Board of Directors
From: Benjamin Montgomery, Executive Director
Subject: Procurement Manual and Signing Authority

Recommendation:

Adopt the following resolutions entitled:

1. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY, ESTABLISHING THE EXECUTIVE DIRECTOR'S SIGNING AUTHORITY IN AN AMOUNT UP TO AND INCLUDING \$50,000 ANNUALLY OR PER PROJECT
2. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY, IN THE MATTER OF UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES
3. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY, DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO AWARD INFORMAL PUBLIC CONTRACTS IN AN AMOUNT OF \$200,000 OR LESS AND DELEGATING THE AUTHORITY TO NEGOTIATE CONTRACTS, AWARD PURCHASE ORDERS OR PERFORM WORK BY EMPLOYEES OF THE MEMBER AGENCIES BY FORCE ACCOUNT ON PUBLIC PROJECTS IN AN AMOUNT OF \$60,000 OR LESS
4. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY, ADOPTING THE PROCUREMENT MANUAL

Background/Analysis:

Pursuant to the Amended and Restated Tres Hermanos Conservation Authority (Authority) Joint Powers Agreement Section 4.5, Purchasing Policy, the Authority shall initially follow the purchasing policies of Chino Hills and applicable provisions of the Public Contract Code when procuring goods, services, and public works contracts. The Executive Director was also authorized to approve purchases and execute contracts authorized by the budget with a value of up to \$15,000 per fiscal year. Purchases and contracts with a value exceeding \$15,000 per fiscal year were to be approved by the Board of Directors (Board). The Board is able to alter such

authority by Resolution.

On October 25, 2021, the Board authorized the Executive Director to make purchases and enter into contracts authorized by the budget with a value up to and including \$25,000 per fiscal year. It is now recommended to increase the Executive Director's authority to \$50,000 annually or per project to more closely align to the member agency thresholds.

The California Uniform Public Construction Cost Accounting Act ("CUPCCA") provides for the following alternative bidding procedures when an agency performs public work by contract:

- Public projects of \$60,000 or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order;
- Public projects of \$200,000 or less may be let to contract by informal procedures; and
- Public projects of more than \$200,000 shall be let to contract by formal bidding procedure.

Staff recommends adopting the uniform public construction cost accounting (UPCCA) procedures in the performance of or in the contracting of public projects. A resolution is also being presented to delegate the Executive Director with the authority to award informal contracts in accordance with the Public Contract Code.

In addition, a Procurement Manual has been developed for the Authority which consists of separate policies for (1) Contract Compliance, (2) Purchasing, (3) Federal Purchasing, (4) Bid Protest Process, and (5) Credit Card. Some highlights from each policy are listed below:

1. Contract Compliance Policy

This policy was developed to ensure that contracts are being executed in a timely, efficient, and cost-effective manner and to implement the California Public Contract Code (PCC).

- Procurement Methods
 - For services over \$10,000 and up to \$50,000 annually or per project, the informal Request For Proposal (RFP) process must be followed whereby at least three written proposals must be obtained.
 - For services over \$50,000 annually or per project, the formal RFP process must be followed whereby a standard RFP form including a written description of the project or scope of work must be prepared. The formal RFP must be posted on the Authority's website.
- Exceptions to competitive bidding include the following:
 - Services \$10,000 or under
 - Sole Source
 - Emergency
 - Professional and Consultant Services - when waived by Executive Director
 - Urgent Services
 - Cooperative Services
 - Interagency Agreements
 - Combined Goods and Services
 - Waiver - all others by the Board

- **Competitive Bidding for Public Projects**
 - Projects \$60,000 or less - Projects may be performed by force account, by negotiated contract, or by purchase order.
 - Projects over \$60,000 and up to \$200,000 - Informal bidding process must be followed.
 - Projects over \$200,000 - Formal bidding process must be followed.

2. Purchasing Policy

To ensure that procurements are being accomplished in a timely, efficient manner at the most economical cost.

- **Procurement Methods**
 - Open Market - for purchases up to and including \$10,000
 - Informal Bidding - for purchases over \$10,000 and up to and including \$50,000, a reasonable attempt must be made to obtain three written competitive quotes
 - Formal Bidding - for purchases with an estimated value of over \$50,000
- **Exceptions to competitive bidding include the following:**
 - Under \$10,000
 - Sole Source
 - Brand Name
 - Less than three quotes obtained
 - Emergency
 - Urgent
 - Cooperative Purchasing
 - Interagency Purchases
 - Waiver by the Board

3. Federal Purchasing Policy

The purpose of this policy is to supplement the Purchasing Policy and outline the contract provision requirements for using federal funds to purchase materials, products, or services.

- **Procurement Methods**
 - Micro-Purchases: The acquisition of supplies, services, or equipment wherein the aggregate dollar amount does not exceed \$10,000. For purchases \$10,000 or less, use your own judgment in identifying potential suppliers. Purchase orders are required.
 - Simplified Acquisition: The acquisition of supplies, services, or equipment in the range of \$10,001 to \$250,000. Price or rate quotations must be obtained from an adequate number of qualified sources prior to making a purchase. For purchases between \$10,001 and \$250,000, the requestor will need to submit a purchase order documenting at least three price quotes and the basis for vendor selection prior to making a purchase.
 - Sealed Bids: For construction projects costing more than \$250,000, bids are publicly solicited and a firm fixed price contract is awarded to the responsible bidder whose bid is the lowest price.
 - Competitive Proposals: For fixed price or cost reimbursement contracts costing more than \$250,000, competitive proposals are normally conducted

with more than one source submitting an offer.

- Noncompetitive Proposals: Procurement through solicitation of a RFP from only one source. A waiver must be granted in writing by the Executive Director.

4. Bid Protest Process Policy

To formalize procedures when dealing with protests to proposed awards of public construction contracts.

5. Credit Card Policy

To establish policies and procedures for using credit cards for purchases of minor supplies and services on behalf of the Authority.

Fiscal Impact:

There is no fiscal impact with this item.

Reviewed by Others:

This item has been reviewed by the Authority's General Counsel.

Respectfully Submitted,

Recommended By:


Benjamin Montgomery
Executive Director


Christa Buhagiar
Treasurer

Attachments Resolution - Signing Authority
Resolution - Uniform Public Construction Cost
Resolution - Public Contracts Authority
Resolution - Procurement Manual
Exhibit A - Procurement Manual

RESOLUTION NO. THCA 2023-__

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE TRES HERMANOS CONSERVATION AUTHORITY,
ESTABLISHING THE EXECUTIVE DIRECTOR'S
SIGNING AUTHORITY IN AN AMOUNT UP TO AND
INCLUDING \$50,000 ANNUALLY OR PER PROJECT

WHEREAS, on October 25, 2021, the Tres Hermanos Conservation Authority (Authority) adopted Resolution No. THCA 2021-05 authorizing the Executive Director to make purchases and enter into contracts authorized by the budget with a value up to and including \$25,000 per fiscal year; and

WHEREAS, Section 4.5 of the Amended and Restated Tres Hermanos Conservation Authority Joint Powers Agreement (JPA) allows the Board of Directors to alter such authority by Resolution; and

WHEREAS, the Board of Directors desires to increase the Executive Director's level of authority to provide for the efficient procurement and delivery of services for the Authority.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The Executive Director is authorized to make purchases and enter into contracts authorized by the budget with a value up to and including \$50,000 annually or per project.

SECTION 2. The Amended signing authority limit adopted by this Resolution supersedes all Executive Director signing authority limits previously adopted by the Board of Directors and stated in the JPA.

SECTION 3. The Secretary shall certify as to the adoption of this Resolution.

SECTION 4. This Resolution shall become effective immediately.

PASSED, APPROVED, AND ADOPTED this 8th day of November 2023.

Stan Liu, Chair
Tres Hermanos Conservation Authority

Resolution No. THCA 2023-__

ATTEST:

I, Cheryl Balz, Secretary of the Tres Hermanos Conservation Authority, do hereby certify that the foregoing Resolution was duly and regularly passed, approved and adopted by the Board of Directors of the Tres Hermanos Conservation Authority, at its regular meeting held on the 8th day of November 2023, by the following Roll Call vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

Cheryl Balz, Secretary
Tres Hermanos Conservation Authority

RESOLUTION NO. THCA 2023-__

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE TRES HERMANOS CONSERVATION AUTHORITY,
IN THE MATTER OF UNIFORM PUBLIC
CONSTRUCTION COST ACCOUNTING PROCEDURES

WHEREAS, prior to the passage of Assembly Bill No. 1666, Chapter 1054, Statutes of 1983, which added Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the Public Contract Code, existing law did not provide a uniform cost accounting standard for construction work performed or contracted by local public agencies; and

WHEREAS, Public Contract Code Section 22000 et seq., the Uniform Public Construction Cost Accounting Act, establishes such a uniform cost accounting standard; and

WHEREAS, the Commission established under the Act has developed uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The Authority hereby elects under Public Contract Code Section 22030 to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission's policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directs that the Authority notify the State Controller forthwith of this election.

SECTION 2. The Secretary shall certify as to the adoption of this Resolution.

SECTION 3. This Resolution shall become effective immediately.

PASSED, APPROVED, AND ADOPTED this 8th day of November 2023.

Stan Liu, Chair
Tres Hermanos Conservation Authority

Resolution No. THCA 2023-__

ATTEST:

I, Cheryl Balz, Secretary of the Tres Hermanos Conservation Authority, do hereby certify that the foregoing Resolution was duly and regularly passed, approved and adopted by the Board of Directors of the Tres Hermanos Conservation Authority, at its regular meeting held on the 8th day of November 2023, by the following Roll Call vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

Cheryl Balz, Secretary
Tres Hermanos Conservation Authority

RESOLUTION NO. THCA 2023-__

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY, DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO AWARD INFORMAL PUBLIC CONTRACTS IN AN AMOUNT OF \$200,000 OR LESS AND DELEGATING THE AUTHORITY TO NEGOTIATE CONTRACTS, AWARD PURCHASE ORDERS OR PERFORM WORK BY EMPLOYEES OF THE MEMBER AGENCIES BY FORCE ACCOUNT ON PUBLIC PROJECTS IN AN AMOUNT OF \$60,000 OR LESS

WHEREAS, the Tres Hermanos Conservation Authority (Authority) declares that the public interest and necessity demand the prudent expenditure of public money; and

WHEREAS, the Public Contract Code Section 22032 allows for the delegation of authority to award informal contracts.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to Public Contract Code Section 22032, the Authority hereby delegates to the Executive Director, or designee, the authority to award public project contracts in an amount of \$200,000 or less.

SECTION 2. Pursuant to Public Contract Code Section 22032, the Authority hereby delegates to the Executive Director, or designee, the authority to negotiate contracts, award purchase orders or perform work by employees of the member agencies by force account on public projects the cost of which are \$60,000 or less.

SECTION 3. The Secretary shall certify as to the adoption of this Resolution.

SECTION 4. This Resolution shall become effective immediately.

PASSED, APPROVED, AND ADOPTED this 8th day of November 2023.

Stan Liu, Chair
Tres Hermanos Conservation Authority

Resolution No. THCA 2023-__

ATTEST:

I, Cheryl Balz, Secretary of the Tres Hermanos Conservation Authority, do hereby certify that the foregoing Resolution was duly and regularly passed, approved and adopted by the Board of Directors of the Tres Hermanos Conservation Authority, at its regular meeting held on the 8th day of November 2023, by the following Roll Call vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

Cheryl Balz, Secretary
Tres Hermanos Conservation Authority

RESOLUTION NO. THCA 2023-__

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE TRES HERMANOS CONSERVATION AUTHORITY,
ADOPTING THE PROCUREMENT MANUAL

WHEREAS, Section 4.5 of the Amended and Restated Tres Hermanos Conservation Authority Joint Powers Agreement (JPA) directed the Authority to initially follow the purchasing policies of Chino Hills and applicable provisions of the Public Contract Code when procuring services and public works contracts; and

WHEREAS, the proposed Procurement Manual includes various policies that affect the procurement of goods and services; and

WHEREAS, the Board of Directors desires to adopt the Authority's Procurement Manual to provide for the efficient procurement of goods and delivery of services for the Authority.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The Authority does hereby adopt the Procurement Manual as attached to this Resolution as Exhibit A.

SECTION 2. The Secretary shall certify as to the adoption of this Resolution.

SECTION 3. This Resolution shall become effective immediately.

PASSED, APPROVED, AND ADOPTED this 8th day of November 2023.

Stan Liu, Chair
Tres Hermanos Conservation Authority

Resolution No. THCA 2023-__

ATTEST:

I, Cheryl Balz, Secretary of the Tres Hermanos Conservation Authority, do hereby certify that the foregoing Resolution was duly and regularly passed, approved and adopted by the Board of Directors of the Tres Hermanos Conservation Authority, at its regular meeting held on the 8th day of November 2023, by the following Roll Call vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

Cheryl Balz, Secretary
Tres Hermanos Conservation Authority



Chino Hills · Diamond Bar · Industry

Procurement Manual

TRES HERMANOS CONSERVATION AUTHORITY PROCUREMENT MANUAL

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SECTION 1

CONTRACT COMPLIANCE POLICY

TRES HERMANOS CONSERVATION AUTHORITY

CONTRACT COMPLIANCE POLICY

Date Adopted: 11/8/23

Section: 1

1. PURPOSE

These policies and procedures were developed to ensure that contracts are being executed in a timely, efficient, and cost-effective manner and to implement the California Public Contract Code (PCC). This policy is not intended to address every issue, exception, or contingency that may arise in the course of contracting activities. The basic standard that must always prevail is to exercise good judgment in the use and stewardship of the Tres Hermanos Conservation Authority (Authority) resources.

2. DEFINITIONS

- 2.1. Addendum – A mutually agreed upon and appropriately authorized post-agreement attachment that modifies, alters, or totally changes some of the terms of a previously established contract. An addendum is used to clarify and add things that were not initially part of the original agreement, i.e., an addition.
- 2.2. Amendment – A mutually agreed upon and appropriately authorized change in terms of an existing contract. An amendment does not generally replace the whole original contract, just the part(s) that is (are) changed by the amendment, i.e., a modification. For example, the term of the contract, the amount of compensation, or additions or modifications to tasks consistent with the overall scope of services. There are amendments that create amended and restated agreements, but this is not the usual type of amendment. Consult the Authority General Counsel if there is a need for an amended and restated agreement.
- 2.3. Blanket Purchase Order (BPO) – A uniquely numbered purchase order generated by the Authority for stationary offsite services, with no single instance exceeding \$10,000.
- 2.4. Contract – A legally binding agreement between parties for services, supplies and/or equipment. The terms “agreement” and “contract” may be used interchangeably for the purpose of this policy.
- 2.5. Contract Compliance Officer – The individual, appointed in writing by the Executive Director, who has general supervision of all contracting functions.
- 2.6. Major Adjustment – Any changes to standard Authority contract templates that might significantly increase risk to the Authority including, but not limited

to, any revisions to the indemnity clause and any additional terms and conditions.

- 2.7. Minor Adjustment – Changes to standard Authority contract templates that are not likely to significantly increase risk to the Authority including, but not limited to, exception to minimum insurance ratings, acceptable minimum insurance limits, compensation, and term.
- 2.8. Non-Standard Agreement – An agreement provided by a contractor or vendor which is inconsistent with standard Authority templates.
- 2.9. Prevailing Wage – The California Department of Industrial Relations (DIR) defines the prevailing wage rate as the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area (if a majority of such workers are paid at a single rate). If there is no single rate paid to a majority, then the single or modal rate being paid to the greater number of workers is prevailing. All workers on public works projects over \$1,000 must receive not less than the prevailing wage. Federal prevailing wage law is similar but differs from state law. Construction work that is financed in whole or in part with federal funds must adhere to certain federal labor standards requirements, primarily the Davis-Bacon Act. For projects that use federal funds, DIR Prevailing Wages do not apply to these projects unless they are higher than the Davis-Bacon rates. In such cases, the higher rate must be paid.
- 2.10. Public Project – The term “public project” is defined by applicable statutory and case law and is defined differently in different contexts. In general, for the purpose of determining whether public contract competitive bidding is required, PCC Section 20161 defines a public project as a project for the erection, improvement, painting, or repair of public buildings and works; work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow; street or sewer work except maintenance or repair; or furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers. PCC § 1101 also defines “Public works contract,” to mean an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. Although not specifically listed in Section 20161 of the PCC, all construction and repair of water systems are subject to the bidding requirements of the PCC requirement. Under certain circumstances, leases of Authority property may be considered public project contracts subject to bidding requirements. (See *Boydston v. Napa Sanitation Dist.* (1990) 222 CA3d 1362.) Also, some projects will not be public projects for purposes of bidding requirements but are public projects that require payment of prevailing wages pursuant to the Labor Code. Consult with the Authority General Counsel if unsure about whether the

proposed project is a public project that must comply with the bidding and other procedures set forth in the PCC.

3. RESPONSIBILITY**3.1. Executive Director**

- 3.1.1. Appoints in writing the Contract Compliance Officer(s).
- 3.1.2. Approves contracts and other related documents, including any risk determinations, within signing authority or as otherwise authorized by the Board of Directors (Board).
- 3.1.3. Recommends policy changes to the Board.
- 3.1.4. Approves major adjustments from standard contract terms and conditions within signing authority, with “approved as to form” by the Authority General Counsel.
- 3.1.5. Approves minor adjustments from standard contract terms and conditions, within signing authority.
- 3.1.6. Provides general oversight of all contracting functions in accordance with policies and procedures and consistent with the PCC, as applicable.

3.2. Contract Compliance Officer

- 3.2.1. May delegate or assign functions or tasks listed within this section to other staff members, but the Contract Compliance Officer remains the responsible party.
- 3.2.2. Implements minor adjustments to standard terms and conditions as may be required through contract negotiations. Major deviations from standard requirements must be escalated to the Executive Director and “approved as to form” by the Authority General Counsel.
- 3.2.3. Recommends changes to the policy, procedures, contract template language, and risk assessment to the Office of Record (Chino Hills City Clerk, per the bylaws) and drafts language.
- 3.2.4. Discusses questions related to risk assessment with the Executive Director. The Authority General Counsel may also be consulted.
- 3.2.5. Must be familiar with the Contract Compliance Policy.
- 3.2.6. Assesses the terms and insurance risk requirements.

- 3.2.7. Determines if prevailing wages are required.
- 3.2.8. Negotiates contract terms.
- 3.3. Treasurer (City of Chino Hills, per the bylaws)
 - 3.3.1. Reviews changes to contract template language relating to compensation or term of contract.
 - 3.3.2. Submits necessary documentation as required by the Office of Record for final execution of the contract.
 - 3.3.3. Monitors contracts and insurance compliance.
 - 3.3.4. May delegate or assign functions or tasks to other staff members but the Treasurer remains the responsible party.
- 3.4. Office of Record (Chino Hills City Clerk, per the bylaws)
 - 3.4.1. Oversees the Contract Compliance Policy.
 - 3.4.2. Maintains agreement templates.
 - 3.4.3. Provides final attestation on all contracts.
 - 3.4.4. Serves as the custodian of record for all contracts.
 - 3.4.5. Reviews changes to agreement template language whether permanent or project specific, if needed, with the Authority General Counsel.
 - 3.4.6. May delegate or assign functions or tasks to other staff members in their respective department, but the Chino Hills City Clerk remains the responsible party.
- 3.5. Authority General Counsel
 - 3.5.1. Reviews and approves standard Authority agreement templates and all modifications to the templates.
 - 3.5.2. Reviews and “approves as to form” contracts that are subject to Board approval, non-standard contracts, and any contracts that have major adjustments to standard Authority contract templates.
 - 3.5.3. May delegate or assign functions or tasks to other staff members in the Authority General Counsel’s Office, but the Authority General Counsel remains the responsible party.

4. POLICY

- 4.1. All contracts must be in writing, except as set forth in section 4.5 of this policy, and in compliance with the PCC, as applicable. Unless an exception set forth in Section 4.5 of this policy applies, no representative of the Authority shall enter into a verbal agreement or make any arrangements until a written contract is fully executed and attested.
- 4.2. One of the Authority's standard contract templates must generally be used when entering into an agreement with a vendor, consultant, or contractor to provide services to the Authority. Examples of exceptions to the use of Authority contract templates are other public agency contracts, certain office equipment lease/purchase agreements, software licensing and renewals, maintenance, and technical consulting agreements.
- 4.3. Standard contract templates include:
- 4.3.1. Professional Services: An agreement for services provided to the Authority by consultants that are predominately intellectual and varied. Examples of professional services may include the services for financial, economic, accounting, engineering, legal, environmental, or administrative matters, provided the persons providing such services are specially trained and experienced and competent to perform the special services. Some of these designated professions are listed in Government Code §53060.
- 4.3.2. Professional Services for Design Professional: An agreement for services provided to the Authority by design consultants that are professionally licensed such as architects, landscape architects, engineers, and land surveyors. Specifically tailored indemnification language is required (Civil Code §2782.8). Some of these designated professions are listed in Government Code §4526.
- 4.3.3. Professional Services for Transportation Services: An agreement for transportation services.
- 4.3.4. Public Construction: An agreement for supplies, equipment, and contractual services for construction of public projects. Consult with the Authority General Counsel if unsure whether the proposed project is a public project that must comply with the bidding and other procedures set forth in the PCC.
- 4.3.5. Consultant Services: An agreement for specialized administrative services delivered by a service provider as permitted by Government Code §53060. Such services are considered temporary or short-term in nature, normally in areas that

supplement the expertise of the Authority for management and other similar services. For example, specialized legal counsel.

- 4.3.6. Maintenance Services General: An agreement for maintenance services that does not require payment of prevailing wages, such as landscape maintenance, street light maintenance, and custodial services.
- 4.3.7. Maintenance Services Prevailing Wage: An agreement for maintenance services that meets the definition of a "public project" pursuant to Labor Code §1720, which requires payment of prevailing wage. Seek guidance from the Authority General Counsel if unsure whether prevailing wages are required to be paid.
- 4.3.8. License: An agreement for use of Authority property by outside user groups such as cell towers and signage.
- 4.3.9. Property Leases: An agreement for use of Authority property by outside parties for services such as cattle and equine grazing.
- 4.3.10. Residential Rental: A tenant agreement for rental of Authority property.
- 4.3.11. Services: An agreement for services not included in the above categories. Generally, this type of agreement is used for businesses providing services with or without goods to the Authority that are routine in nature, such as pest control services.

4.4. Non-standard types of agreements

The Contract Compliance Officer must seek advice from the Executive Director if the use of a non-standard contract developed by a third party is proposed. Non-standard contracts must be "approved as to form" by the Authority General Counsel. Examples include, but are not limited to, the following:

- 4.4.1. Grant: An agreement for when a grant is awarded by a federal, state, county, local or other public agency and/or a private agency. Contract provisions for federal grants are addressed in the Authority's "Federal Purchasing" policy. For all other grants, Contract Compliance Officers should refer to the awarding agency requirements. It is the responsibility of the Contract Compliance Officer to ensure compliance with requirements of the granting agency. If specific grant requirements are not provided, then this policy shall govern.

- 4.4.2. Cooperative Services: An agreement when the Authority awards a contract based on a substantially similar contract, which was awarded by another federal, state, county, local or other public agency through a competitive bidding process.
- 4.4.3. Combined Goods with Services: An agreement when professional services are specifically retained to advise the Authority on the selection of goods or equipment, and the professional services utilized also include designing, retrofitting, or modifying the goods or equipment to meet the particular needs of the Authority.
- 4.4.4. Inter-Agency: An agreement between government agencies to share resources and/or do work for each other.
- 4.5. Exceptions to obtaining an agreement

4.5.1. Stationary Offsite Services (excluding explosives)

Stationary offsite services are provided at a contractor's place of business and generally do not involve the elevated risk of bodily injury and property damage associated with services that require driving a vehicle or coming to an Authority site entail. Examples of such services include express mail delivery service, oil changes, repair of tools such as "weed eaters" and tire repair.

- Services up to and including \$10,000 – A request for a blanket purchase order may be submitted instead of a standard services agreement.
- Services over \$10,000 – Three quotes should be solicited and then a request for a purchase order may be submitted instead of a standard services agreement. Board approval is required if over \$50,000.

4.5.2. Type of Services

Due to the routine and repetitive nature of some services, an agreement may not be needed. Examples include, but are not limited to:

- Postage
- Publications
- Utility Services
- Banking Services

4.6. Amendments/Change Order

Any change to an approved contract which results in a cost in excess of the award amount may be approved by those authorized in the contract, provided that the total of all amendments, plus the original amount of the contract does not exceed their respective authority limits. If a contract was approved by the Board, all amendments must go back to the Board for approval, unless the Board provided amendment authority when the contract was approved.

5. COMPETITIVE BIDDING FOR NON-PUBLIC PROJECTS

The contracting process begins during the competitive bidding process as part of the definition of contract terms and conditions, specifications, and scope of work. Agreements shall be competitively bid by the issuance of Requests for Qualifications (RFQ) or Requests for Proposals (RFP), with some exceptions.

Notwithstanding the below, if an RFQ or RFP is for professional services of architects, engineers, environmental consultants, land surveyors and construction management vendors, then selection must be on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required (see Gov. Code, § 4526.) This means that the selection criteria cannot include cost, however, when negotiating the contract, if the vendor does not agree to a fair and reasonable price, the Authority can refuse to contract and instead contract with the next most competent consultant that will agree to a fair and reasonable price.

5.1. RFQ Process

The RFQ process is used to develop a list of pre-approved qualified vendors (i.e., architects, engineers, environmental, and other similar consultants). An RFQ typically requests vendors to provide their professional qualifications in response to a general scope of services. The list of qualified vendors must be submitted for Board approval. The list may be updated as needed but shall not be valid for more than five years. After Board approval, proposals may be solicited from any of the vendors on the approved lists. When selecting consultants from an approved RFQ list, the Contract Compliance Officer may, but is not required to, choose to follow an additional informal RFP process.

5.2. RFP Process

The RFP process is used to obtain an understanding of a service provider's qualifications, methodology, and anticipated cost with regard to a specific scope of services. An RFP and RFQ may contain many of the same elements. However, an RFP typically has a more detailed scope and requires a more thorough response to a specific need. Contracts for

services in areas that require a substantial amount of expertise and judgement should be based on a vendor's demonstrated competence and professional qualifications as well as price. Selection criteria may be weighed more heavily on a vendor's competence and qualifications rather than price.

5.2.1. For services over \$10,000 and up to \$50,000 annually or per project, the informal RFP process must be followed whereby at least three written proposals must be obtained.

5.2.2. For services over \$50,000 annually or per project, the formal RFP process must be followed whereby a standard RFP form including a written description of the project or scope of work must be prepared. The formal RFP must be posted on the Authority's website.

5.3. Exceptions to Competitive Bidding for Non-Public Projects

5.3.1. Certain services are not readily adaptable to the informal or formal bidding process. Examples include, but are not limited to:

- Postage
- Publications
- Utility Services
- Banking Services

5.3.2. Exceptions to competitive bidding include the following:

- Services \$10,000 or under: When the estimated amount involves \$10,000 or less annually or per project.
- Sole Source: When the service can be obtained from only one provider and that appropriate written justification is approved by the Executive Director or Board, according to applicable signing authority limits in Section 8.
- Emergency: The Executive Director may authorize an agreement for services when an emergency is deemed to exist, and it is determined that service involving public health, safety, or welfare would be interrupted if the normal procedure were followed. A declaration of emergency from Chino Hills or Diamond Bar is conclusive evidence of such an event, as the municipal jurisdictions where the Authority property is located. All emergency services which would otherwise require formal bidding procedures made pursuant to this policy shall be submitted to the Board for ratification at the next regular Board meeting after the agreement is authorized for which legally required meeting notice can be provided.

- Professional and Consultant Services: Agreements for professional and consultant services, and for other, non-public projects and contractual services may be executed without observing the bidding procedures provided in this chapter if the Executive Director determines that the RFP process is unnecessary because a professional services provider is the best provider for a particular agreement based on some or all of these factors: demonstrated competence, qualifications for the types of services to be performed, experience, knowledge of the Authority due to a long-standing relationship or other similar relevant criteria.
- Urgent Services: Services may be contracted for without competitive bidding when time is of the essence to avoid interruption of an Authority event. For urgent services, written approval shall be obtained prior to contracting from the Executive Director. Such written approval can be obtained through email or other means of electronic communication that can be printed for record. Notwithstanding the above, if every reasonable attempt to obtain written approval from the officials above prior to service has been unsuccessful, then work can proceed on oral approval, but such oral approval must be memorialized in writing to the official providing such oral approval, documenting the time and date of such approval, as soon as practicable. All urgent services which would otherwise require formal bidding procedures made pursuant to this section shall be submitted to the Board for ratification at the next regular Board meeting after the urgent service is authorized for which legally required meeting notice can be provided.
- Cooperative Services: Competitive procedures need not be followed where the Executive Director identifies a cooperative competitive bidding procedure, being prepared by and processed through a federal, state, county, local or other public agency, or a cooperative purchasing entity set up by or utilized by such governments or public agencies. Under such circumstances, the Authority may join into an existing written service agreement obtained within the last 60 months through competitive bidding process prepared by and awarded by another federal, state, county, local or other public agency, or a cooperative purchasing entity. Board consent is required for such arrangements where the estimated value of the service agreement is more than \$50,000 annually or per project.
- Interagency Agreements: Any agreement entered into with another governmental entity.
- Combined Goods and Services: Any agreement which combines professional services and the acquisition of goods or equipment

where the professional services are specifically retained to advise the Authority on the selection of the goods or equipment and the professional services utilized under the contract also include designing, retrofitting, or modifying the goods or equipment to meet the particular needs of the Authority. This exemption shall also include the acquisition by the Authority of "intellectual property." In utilizing this exemption, a request for qualifications, (RFQ), shall be used.

- Waiver: When the Board determines the waiver of competitive procedures is required or desirable and in conformance with state law.

6. COMPETITIVE BIDDING FOR PUBLIC PROJECTS

The bidding process for public construction contracts with formal bidding is detailed in the PCC and for informally bid agreements in the California Uniform Public Construction Cost Accounting Act (Section 22000, et seq. of the PCC and UPCCAA).

- 6.1. The dollar threshold amount that determines whether public construction contracts are formally or informally bid is set by Authority Resolution to be consistent with amendments to UPCCAA (Section 22000, et seq. of the PCC.) The dollar threshold amounts are subject to change by the State Legislature.
 - 6.1.1. Projects \$60,000 or less – Projects may be performed by force account, by negotiated contract, or by purchase order. Although the UPCCAA allows for small dollar amount projects to be awarded without bidding, best practices for awarding projects should be followed. This may include negotiating with current Authority vendors for a fair and reasonable price or seeking quotes from other vendors for a fair and reasonable price.
 - 6.1.2. Projects over \$60,000 and up to \$200,000 – Informal bidding process must be followed.
 - 6.1.3. Projects over \$200,000 – Formal bidding process must be followed.
- 6.2. In case of emergency as defined in the PCC, the Executive Director is authorized to repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts pursuant to the procedures set forth in the PCC, §22050. All emergency services which would otherwise require formal bidding procedures made pursuant to this policy shall be submitted to the

Board for ratification at the next regular Board meeting after the agreement is authorized for which legally required meeting notice can be provided.

- 6.3. Specialized Contracting Procedures. Nothing in this policy shall prohibit the Authority from using specialized contracting procedures when authorized by state law. If state law authorizes such procedures, this policy need not specifically authorize them. Such specialized procedures may include, without limitation, prequalification of contractors or subcontractors and design-build contracting procedures. For example, the Authority may elect to use the Design-Build procurement process authorized by Public Contract Code Section 22160. *et. seq.* as an alternative contracting method for public construction projects. The Executive Director is authorized to determine whether or not the needs of any particular project warrant the use of legally available specialized contracting procedures.
- 6.4. A bidder may protest an award of a public construction contract, and the Authority may determine that the bidder is not responsible pursuant to the “Bid Protest Process for Public Construction Contracts” policy which sets forth the applicable procedures.

7. VENDOR REQUIREMENTS

It is the responsibility of the Contract Compliance Officer to ensure the vendor is in compliance with all applicable federal, state, and local license and registration requirements before submittal of the contract for execution. Types of license and registration requirements may include, but are not limited to:

7.1. Business License and Exemptions

All persons or vendors engaging in business with the Authority must have a valid business license from the municipality in which the work will be performed. Certain businesses specifically listed in that City’s municipal code are exempt from paying fees but must still register with the municipality. The Executive Director has the authority to exempt certain businesses working under a contract from obtaining a business license. These exemptions are listed below:

- Government Agencies
- “No Nexus” Business – Businesses whose physical presence in the Authority is limited to five days or less per calendar year.
- School Clubs and Organizations – School clubs and organizations affiliated with a public or private school in the United States.
- Transportation Companies – Carrier must be licensed/registered with the California Public Utilities Commission.

- Information Technology (IT) Services – Any hardware or software purchased by the IT division that has no professional services component.

7.2. Secretary of State Registration

State law requires corporations and limited liability companies to file a complete Statement of Information with the California Secretary of State. Vendors must be in compliance with the Secretary of State filing requirements.

In certain circumstances, some out of state businesses may not be required to register with the California Secretary of State. In these instances, verification with the appropriate state of incorporation is required.

7.3. Contractor License

All contractors must have a valid California Contractor's License and be in good standing with the Contractors State License Board throughout the term of the contract.

7.4. California Department of Industrial Relations (DIR) Registration

For up-to-date DIR vendor and Authority reporting and registration requirements go to <https://www.dir.ca.gov/>.

Each Contract Compliance Officer is responsible for determining if a project is subject to the DIR registration and reporting requirements. Contractors and subcontractors are required to be registered prior to bidding on a prevailing wage project. Some projects will not be public projects for purposes of bidding requirements but are public projects that require payment of prevailing wage pursuant to the Labor Code. Consult with the Authority General Counsel when in doubt. Additionally, the Authority is required to register qualified projects within 30 days of contract award, or prior to the first workday for projects lasting less than 30 days.

8. SIGNING AUTHORITY AMOUNTS

- 8.1. The following officers are authorized to sign agreements pursuant to this chapter on the Authority's behalf:
 - a. The Chair.
 - b. The Executive Director, Deputy Executive Director and Administrative Director when directed to do so by the Board of Directors or resolution.

c. The Executive Director for agreements up to and including fifty thousand dollars (\$50,000) annually or per project. Notwithstanding the foregoing, public construction contracts may be signed by the Executive Director in an amount not to exceed two hundred thousand dollars (\$200,000).

8.2. Notwithstanding any other provision in this policy, Public Construction Contract Authority Limits have been set by Board Resolution. The Board also delegated the signing authority to award informally bid contracts via Resolution and pursuant to the Joint Powers Agreement. UPCCAA (Section 22000, et seq. of the PCC) establishes threshold limits that are subject to change by the State Legislature.

9. CONTRACT REQUIREMENTS

9.1. Scope of Services

The scope of services must detail the work to be performed under the contract, typically broken out into specific tasks with deadlines.

9.2. Compensation/Payment Terms

The contract must state the unit pricing and/or total cost of services to be rendered for the entire term of the contract. If applicable, it should also outline the timing and amount of installment payments based on project milestones.

9.3. Term

A contract can be executed for any period, not to exceed five years, including any option periods. A five-year contract with no options is encouraged, but options can be included at the Executive Director's discretion. The Board or Executive Director may determine that a longer contract will more effectively and efficiently serve the Authority and therefore authorize the execution of a contract that exceeds five years. Executed contracts that may need to be extended beyond the five-year term may be requested on a case-by-case basis, and only if the contract language allows for it. If approved, an amendment to the contract must be executed for the change in terms.

9.4. Risk Assessment

The level of potential risk to the Authority will determine the insurance requirements.

9.4.1. Insurance: A risk assessment is required to determine the type of insurance necessary for the contract. The risk assessment should determine the types of activities that will be taking place, what entities

and individuals could be harmed by the activity, what property could be damaged, and the potential severity of the damage.

Contract specifications shall require evidence of coverage in the form of a certificate of insurance. Coverage shall include a provision that covers the Authority as an additional insured. The vendor shall maintain the required insurance coverage for the duration of the contract, except as otherwise required. The minimum AM Best rating for insurers providing coverage is A:VII, unless waived by written approval by the Executive Director.

The Contract Compliance Officer must seek advice from the Executive Director if a change is needed to the standard insurance requirements. If needed, the Contract Compliance Officer can seek guidance from the Authority General Counsel.

- 9.4.2. Surety Bonds: A surety bond may be required to guarantee that the principal will act in accordance with certain laws and perform the “obligation” stated in the bond. If the principal fails to perform in this manner, the bond will cover resulting damages or losses.

Surety bonds are mandatory for any public construction contract valued over \$25,000. Other statutory provisions regarding bonds can be found in the California Code of Civil Procedure, Title 14, Chapter 2. There may be instances in which a Contract Compliance Officer may require a surety bond(s) at their discretion for projects that do not require it by statute. Surety Bonds include:

- Bid Bond – A bid bond states that the contractor will enter into a contract when one is offered and will provide bonding as required. A bid bond in an amount equal to ten percent of the contract price and is required for any public project contract above \$60,000. A bid bond must be submitted with the bid.
- Labor and Material Payment Bond – Labor and Material Payment bonds are required for public works contracts in California Civil Code Section 9550. The contractor shall furnish a payment bond in an amount equal to 100% of the contract price within ten working days from the contract date. Upon filing of the Notice of Completion, contractor shall be required to maintain a payment bond for a period of seven months.
- Performance Bond – The contractor shall furnish a performance bond in an amount equal to 100% of the contract price within ten working days from the contract date. Upon filing of the Notice of Completion, the performance bond will be reduced to fifteen 15% of the contract amount for warranty purposes for a period of one year.

- Security Deposits for Development Projects – A security deposit may be required for performance of required work on private projects or construction of infrastructure improvements for a subdivision. The deposit may be in the form of a cash deposit, surety bond, or letter of credit.

9.5. Signature Block

All standard contract templates have two signature lines for the vendor. Generally, when the vendor, consultant, or contractor is a California corporation or limited liability company, two officers must sign the contract, regardless of the dollar amount of the contract. One signer must be the chairperson of the board, the president, or the vice president and the second signer must be the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer of the corporation. If the vendor, consultant, or contractor wishes to have only one person from a corporation sign the agreement, or is out-of-state, then a resolution of the corporation's board authorizing the signatory must be attached. Alternatives may be available for limited liability corporations, depending on how they are managed. The signature of a general partner is sufficient to bind a partnership. Sole proprietorships are effectively individuals and the sole proprietor signs on behalf of him/herself. See the "Vendor Signature Requirements for Authority Contracts" for additional guidance.

9.5.1. Electronic Signatures - In any document accepted by the Authority in which a signature is required or used, the Authority may authorize the use of an electronic signature utilizing technology which conforms to the requirements in both Government Code Section 16.5 and 2 California Code of Regulations Section 22003 shall legally bind the parties to the same extent as original documents.

10. ETHICAL STANDARDS AND CONFLICT OF INTEREST

The Authority expects all involved in the contracting process to follow high standards of conduct. Contract Compliance Officers are expected to discharge their duties impartially so as to assure fair, competitive access to contracting opportunities by responsible contractors, and to foster public confidence in the integrity of the Authority's contracting policies and procedures.

10.1. Conflict of Interest

Contract Compliance Officers must act in compliance with the Political Reform Act, Government Code Section 87100 et. seq. Government Code Section 1090 et. seq., the Authority's Conflict of Interest Code, as applicable, and all other applicable law.

10.2. Ethical Standards

Contract Compliance Officers shall not solicit or accept gratuities, gifts, favors, discounts, or anything of monetary value from contractors, potential contractors, or parties to subcontractors. A gift is defined as anything of economic value regardless of form. Acceptable courtesies include a meal or floral offerings to commemorate events such as illness, death, birth, or promotions, provided that such are not exorbitant.

SECTION 2

PURCHASING POLICY

TRES HERMANOS CONSERVATION AUTHORITY

PURCHASING POLICY

Date Adopted: 11/8/23

Section: 2

1. PURPOSE

This policy was developed to ensure that procurements are being accomplished in a timely, efficient manner at the most economical cost. This policy is not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of Tres Hermanos Conservation Authority (Authority) resources including keeping within the budget authorized by the Board of Directors (Board).

Excluded from this policy are Public Works construction projects which are subject to the Public Contract Code and/or the California Uniform Public Construction Cost Accounting Act of the Public Contract Code. Also excluded is the award of any and all services agreements which are regulated by the Authority's "Contract Compliance" policy.

2. DEFINITIONS

- 2.1. Appropriated Funds – Budgeted funds that have been allocated for the procurement of materials, supplies and equipment.
- 2.2. Blanket Purchase Order (BPO) – A uniquely numbered purchase order for vendors that require a purchase order for materials, supplies or equipment where no single purchase exceeds \$10,000.
- 2.3. Change Order – An agreed upon addition to, deletion from, correction or modification to a Purchase Order or BPO.
- 2.4. Direct Negotiated Purchase – A non-competitive purchasing method that refers to the negotiation of an agreement for the purchase of goods where there is no open competition among or between vendors. This occurs when the anticipated dollar amount of the purchase is below the three quotes threshold.
- 2.5. Encumbrance – Appropriated funds that have been committed prior to receiving materials, supplies and equipment.
- 2.6. Munis – Pursuant to the bylaws, the City of Chino Hills' financial software system utilized by the Authority.

- 2.7. Procurement – The process by which the Authority acquires goods by purchasing from commercial businesses.
- 2.8. Purchase Order (PO) – A document generated by the Authority committing to pay the vendor for the sale of specific products to be delivered in the future. It gives the Authority the ability to place an order without immediate payment. Each PO is assigned a unique number that helps both the Authority and vendor track delivery and payment.
- 2.9. Requisition – A financial system process required to request a PO by providing the description, quantity of goods, funding source, quote(s), and any other relevant information.
- 2.10. Responsive Bidder – A bidder who submits a bid that complies with the terms and conditions of the notice inviting bids.
- 2.11. Sole Source – A non-competitive procurement decision whereby acceptable justification is provided in writing that goods can only be obtained from one source.
- 2.12. Split or Splitting – A purchase divided into two or more parts in order to avoid the provisions of this policy requiring competitive bidding.

3. RESPONSIBILITY

3.1 Executive Director

- 3.1.1 Appoints in writing the Purchasing Agent(s).
- 3.1.2 Approves POs and other related documents within the designated signing authority.
- 3.1.3 Recommends policy changes to the Board.
- 3.1.4 Provides general oversight of all purchasing functions in accordance with policies and procedures.
- 3.1.5 Approves POs and other related documents within the designated signing authority.
- 3.1.6 Authorizes exceptions to competitive bidding pursuant to Section 4.6 of this policy and according to the applicable authority limits in section 4.1 of this policy.
- 3.1.7 May delegate or assign functions or tasks, except for the tasks in this section, but the Executive Director remains the responsible party.

3.2 Purchasing Agent

- 3.2.1 Recommends revisions to purchasing procedures, when necessary, and stays informed of current developments in the field of public purchasing.
- 3.2.2 Anticipates purchasing requirements sufficiently in advance to allow adequate time to obtain goods in accordance with the best purchasing practices.
- 3.2.3 Ensures orders are not “split” for the purpose of avoiding procurement requirements.
- 3.2.4 Reviews all bids received to ensure compliance with specifications.
- 3.2.5 Provides written justification for sole source purchases when applicable.
- 3.2.6 Procures materials, supplies, and equipment in accordance with this policy.
- 3.2.7 Identifies potential vendors, coordinates vendor relations, and evaluates vendor performance.
- 3.2.8 Provides detailed, accurate specifications to ensure goods obtained are consistent with requirements and expectations.
- 3.2.9 Considers the use of recycled products when practical and economically feasible.
- 3.2.10 Refers to the Authority’s “Federal Purchasing” policy for purchases utilizing federal funds.
- 3.2.11 Verifies that appropriated funds are available for the purchase.
- 3.2.12 Prepares requisitions in accordance with instructions to minimize the processing effort.
- 3.2.13 Notifies vendors of the purchase award.
- 3.2.14 Manages vendor relation problems, shipping problems (e.g., damaged goods, late delivery, wrong items delivered, incorrect quantity delivered, etc.) and any situations which could affect the purchasing function.
- 3.2.15 Ensures that sales tax is paid with the purchase of goods.

3.3 Treasurer

- 3.3.1 Oversees the Purchasing Policy.
- 3.3.2 May delegate or assign functions or tasks, but the Treasurer remains the responsible party.
- 3.3.3 Recommends and maintains all forms and records necessary for the efficient operation of the purchasing function.
- 3.3.4 Serves as a resource regarding the policy and day to day processing of requisitions.
- 3.3.5 Reviews requisitions to ensure compliance with the Purchasing Policy and issues POs.
- 3.3.6 Maintains a record of all that are authorized to procure goods up to and including \$10,000.

3.4 Authority General Counsel

- 3.4.1 Reviews and approves standard purchasing terms and conditions templates.
- 3.4.2 Advises as needed on legal purchasing requirements.

4. POLICY**4.1. Authority Limits**

- 4.1.1 The following are authorized to award a PO on the Authority's behalf:
 - a. The Board; and
 - b. The Executive Director up to and including \$50,000.
- 4.1.2 Upon written approval by the Executive Director, Purchasing Agents are authorized to procure goods up to and including \$10,000.

4.2 Purchase Orders

Purchases of materials, supplies, and equipment shall be made only by PO except for purchases up to and including \$10,000, provided there is adequate unencumbered appropriations against which such purchase is to be charged.

4.3. Encumbrance of Funds

Except in cases of emergency or an urgent event, a PO shall not be issued, nor shall a change order be processed for materials, supplies, or equipment unless there exists an unencumbered appropriation against which such purchase is to be charged or the most recent budget resolution otherwise authorizes such appropriation.

4.4. Procurement Methods**4.4.1 Open Market**

For purchases up to and including \$10,000, the Executive Director has the authority to award a PO, and competitive bidding is not required but shall be used when prudent and practical. Prudent judgment shall be used at all times.

4.4.2 Informal Bidding

- a. For purchases over \$10,000 and up to and including \$50,000, a reasonable attempt must be made to obtain three written competitive quotes prior to submitting a requisition for a purchase.

4.4.3 Formal Bidding

Purchases with an estimated value of over \$50,000 require the following:

- a. A notice inviting formal bids is prepared by the Purchasing Agent and issued to prospective bidders, with the goal of obtaining competitive responses for items costing more than \$50,000.
- b. Notices inviting formal bids must be mailed and/or transmitted electronically at least ten (10) working days before the deadline for submitting bids to known vendors for the category the materials, supplies, or equipment is being sought. The notice will also be posted on the Authority's website, at least ten (10) working days prior to the date of the bid opening.
- c. The notice must describe the materials, supplies, or equipment needed in general and generic terms, identify security required for the bid, if applicable, how bid specifications can be obtained, and designate the deadline and place for submitting formal bids. If items are ordered by brand name, the words "or equal" should follow the description.

- d. The Purchasing Agent may require bidders to secure bids in a form approved by the Authority General Counsel. Unsuccessful bidders are entitled to the return of bid security within sixty (60) days after the date of the award.
- e. Formal bids must be submitted to the Office of Record (Chino Hills City Clerk, pursuant to the bylaws) in a sealed envelope and be clearly marked as a bid along with the bidder's name and bid title written on the outside of the envelope. The Office of Record will open properly submitted bids at the time and place stated in the notice inviting bids. A written record and tabulation must be made at the time all bids are received and then opened.
- f. Bids may be evaluated based upon the lowest bid amount, compliance with bid specifications, responsibility of the bidder, and any other reasonable matter identified in the notice soliciting bids.
- g. The Purchasing Agent seeking the material, supplies, or equipment will make a recommendation to the Executive Director, who will make a recommendation to the Board, regarding the award of a PO. The Purchasing Agent will prepare a staff report with a recommendation for the Board.
- h. If the Authority does not receive any bids, the Board may:
 - 1. Abandon the purchase;
 - 2. Authorize rebidding on an informal basis; or
 - 3. Authorize purchasing the materials, supplies, or equipment on a direct negotiated purchase.
- i. If the Board determines the bids received are unacceptably high, or specifications were misleading, the Board may reject any bids presented and the item may be rebid.
- j. The Board may reject all bids or award the PO to the best qualified bidder whose bid fulfills the purpose intended according to criteria designated in the solicitation, provided that the PO amount is within the unencumbered appropriation for that item. The Board may also waive any minor bid irregularities.

4.5. Change Orders

Any change to an approved purchase which results in a cost in excess of the award amount may be approved by those authorized in Section 4.1,

Authority Limits, provided that the total of all change orders, and the original amount of the PO does not cumulatively exceed their respective authority limits set forth in Section 4.1.

Notwithstanding the above, if a PO was approved by the Board, all change orders must go back to the Board for approval, unless the Board provided change order authority to the Executive Director when the purchase order was approved.

4.6. Exceptions to Competitive Bidding Requirement

4.6.1 Under \$10,000

When the amount involved is \$10,000 or less.

4.6.2 Sole Source

When the commodity can be obtained from only one vendor, appropriate written justification shall be provided to and approved by the Executive Director or Board, according to the applicable authority limits in section 4.1 Authority Limits.

4.6.3 Brand name

When the Executive Director or Board, according to the applicable authority limits in Section 4.1 Authority Limits, finds that the purchase of a specific brand name, make or model is necessary to match existing Authority equipment.

4.6.4 Less than three quotes obtained

After a reasonable attempt has been made to obtain bids, the Purchasing Agent must submit a memo to the Executive Director for approval explaining that the three responsive bids cannot be obtained from responsible bidders.

4.6.5 Emergency

- a. The Executive Director may authorize the purchase of materials, supplies, and equipment, when an emergency is deemed to exist and it is determined that service involving the public health, safety, or welfare would be interrupted if the normal procedure were followed. A declaration of emergency from Chino Hills or Diamond Bar as the municipal jurisdictions where the Authority's property is located is conclusive evidence of such an event. All purchases which would otherwise require formal bidding procedures made pursuant to this policy shall be submitted to the

Board for ratification at the next regular Board meeting after the purchase is authorized for which legally required meeting notice can be provided.

- b. The Purchasing Agent will make every effort to contact the Executive Director to receive written or oral approval for the emergency purchase prior to taking action.
- c. The Purchasing Agent will be responsible for verifying appropriations are sufficient to cover the purchase and/or taking the appropriate budget action.
- d. An Executive Director approved memorandum explaining and justifying the need and/or circumstances for the emergency purchase must accompany all emergency requisitions. Emergency requisitions not accompanied by a memorandum justifying the emergency purchase will be returned to the Purchasing Agent and not be processed.

4.6.6 Urgent

- a. Purchases may be made without competitive bidding when time is of the essence to avoid interruption of an Authority event.
- b. Written approval shall be obtained prior to purchase from the Executive Director. Such written approval can be obtained through email or other means of electronic communication that can be printed for record. Notwithstanding the above, if every reasonable attempt to obtain written approval from the Executive Director to purchase has been unsuccessful, then the Purchasing Agent can proceed on oral approval, but such oral approval must be memorialized in writing to the official providing such oral approval, documenting the time and date of such approval, as soon as practicable.
- c. The Purchasing Agent will be responsible for verifying appropriations are sufficient to cover the purchase and/or taking the appropriate budget action.
- d. All urgent purchases which would otherwise require formal bidding procedures, shall be submitted to the Board for the ratification at the next regular Board meeting after the urgent purchase is authorized for which legally required meeting notice can be provided.

4.6.7 Cooperative Purchasing

- a. Competitive procedures need not be followed where the Board or Executive Director (depending on which has the authority to award the purchase) identifies a cooperative competitive bidding procedure, being prepared by and processed through a federal, state, county, local or other public agency, or a cooperative purchasing entity set up by or utilized by such governments or public agencies, and finds that the procurement process utilized by the entity is substantially similar to the provisions of this policy and achieves the objectives of this policy.
- b. Under such circumstances, the Authority may join into an existing written purchase contract obtained within the last sixty (60) months through competitive bidding process prepared by and awarded by a federal, state, county, local or other public agency, or a cooperative purchasing entity.
- c. Board consent is required for such arrangements where the estimated value of the materials, supplies, or equipment is more than \$50,000.

4.6.8 Interagency Purchases

Any agreement involving acquisition of materials, supplies, or equipment entered into with another governmental entity.

4.6.9 Waiver

When the Board determines a waiver of bidding procedures is required or desirable and in conformance with state law.

4.7 Ethical Standards and Conflict of Interest

The Authority expects all involved in the purchasing process to follow high standards of conduct. Purchasing Agents are expected to discharge their duties impartially so as to assure fair, competitive access to purchasing opportunities by responsible contractors, and to foster public confidence in the integrity of the Authority's purchasing policies and procedures.

4.7.1 Conflict of Interest

Purchasing Agents must act in compliance with the Political Reform Act, Government Code section 87100 et. seq., Government Code Section 1090 et. seq., the Authority's Conflict of Interest Code, as applicable, and all other applicable law.

4.7.2 Ethical Standards

Purchasing Agents shall not solicit or accept gratuities, gifts, favors, discounts, or anything of monetary value from contractors, potential contractors, or parties to subcontractors. A gift is defined as anything of economic value regardless of form. Acceptable courtesies include a meal or floral offerings to commemorate events such as illness, death, birth, or promotions, provided that such are not exorbitant.

4.8 Tips or Gratuities

A tip is intended to reward good customer service. The following are guidelines for tips and gratuities related to food and meals:

- Meal order pickup – no more than 5%
- Delivery of meals – no more than 10%.
- Catering orders – no more than 20%.
- Dine-in meals – no more than 20%.
- Gratuities established by a restaurant for parties over a certain number of persons are allowable and will be reimbursed in full providing that the request for reimbursement accompany documents and or receipts that substantiates the business meeting.

Amounts that significantly deviate from these guidelines require written authorization from the Executive Director.

5. **PROCEDURES**

5.1 New/Revised Vendor Information Form

The purpose of the form is to prevent vendor fraud. The form requests general information about the vendor and the types of materials, supplies and equipment to be provided to the Authority. Supporting documentation from the Secretary of State and a completed W-9 must be attached to the form.

The completed form must be signed by two “Approvers”. The person preparing the form may be one of the “Approvers”. The Executive Director is not required to sign the form, however; the “Approvers” must be individuals that can confirm the vendor is not fictitious.

5.2 Purchase Order Process

POs represent a commitment between the Authority and the Vendor. A PO may be requested if required by the vendor.

If an available budget does not exist, the Purchasing Agent can request an appropriation from the Executive Director, up to the amount provided in the Budget Resolution, or from the Board.

If items are ordered by brand name, the words “or equal” should follow the description. When three (3) written quotes are not possible, documentation of the non-responsive quotes is required.

A requisition should be initiated in Munis for the recommended vendor and all supporting documentation should be uploaded.

POs will be issued only after a requisition is approved in Munis. All appropriate backup must be attached in Munis, when applicable, and must include the following:

- If \$10,000 or less – a quote to support the amount being requested.
- If over \$10,000 – three (3) written quotes or approved bid summary.
- Executive Director approved memos regarding the purchase (i.e., sole source, emergency, urgent, etc.).
- Staff report and copy of approved minutes or proof of approval from the Authority Secretary.

An approved Requisition will result in the issuance of a PO. An encumbrance will be established for POs only, not BPOs.

5.3 Blanket Purchase Order Process

BPOs represent a commitment between the Authority and the Vendor. They are annual POs that have a “Not to Exceed” amount but they are not assigned account numbers and the funds are not encumbered. BPOs can be used repeatedly within the fiscal year until the maximum dollar amount is reached.

BPOs are meant to facilitate the acquisition of smaller dollar (\$10,000 or less per transaction) materials, supplies or equipment needed for day-to-day operations. A BPO may be requested if required by the vendor and the Authority does not want to encumber funds. BPOs are not to be used as a method to circumvent competitive bids or standard POs.

BPOs will be issued only after a contract is approved in the Contracts module in Munis. All appropriate backup must be attached in Munis, when applicable, and must include the following:

- a. Executive Director approved memos regarding the purchase (i.e., sole source, emergency, urgent, etc.).
- b. If over \$50,000, the staff report and copy of approved minutes or proof of approval from the Authority Secretary.

5.4 Change Orders

Any change to a PO or BPO must be processed as a change order in Munis and approved by an authorized signor. PO change orders must also have an available budget that it can be charged against.

A Change Order is not required to pay freight and/or sales tax on an invoice, or if the total purchase price exceeds the PO amount by 10% or a maximum of \$100, but the Purchasing Agent must acknowledge the overage on the invoice and indicate the full amount being authorized for payment.

5.5 Delivery of Materials, Supplies and Equipment

The Purchasing Agent receiving the goods must inspect all received goods to verify that quantity and quality are “as specified” on the PO. The Purchasing Agent must remedy any discrepancy found and report it to the vendor. All orders shall be inspected within three (3) business days of receipt.

Receiving reports/packing slips must be completed and submitted along with invoices to the Treasurer. If no receiving reports/packing slips are received, then note on the invoice “No packing slip enclosed”.

5.6 Payment Process

Payment processing of an invoice against a PO or BPO requires the invoice be date stamped and have at least the following information:

- PO Number or BPO Number.
- Project Number – if applicable.
- Backup Documentation – Receipts, packing slips, and any other pertinent information that supports the invoice.
- Request for Payment Form – Can be used when the information on the invoice is not enough to submit for payment.

Payment processing of an invoice of \$10,000 or less and not against a PO or BPO requires the invoice be date stamped and have the account number the purchase should be charged to.

The Authority makes every effort to pay vendors within forty-five (45) days after it receives an invoice. It is the Purchasing Agent's responsibility to ensure that vendors understand this policy.

Invoices can be addressed to Accounts Payable (AP) who will forward to the Treasurer.

5.7 Signature Authorization Form

At the start of every fiscal year, a Signature Authorization Form is filled out to assign the names and titles of who the Executive Director would like to designate as having signing authority in relation to purchasing, payment of invoices, and petty cash. Executive Director approval of these designations is required. Without this form only the Board and Executive Director have purchasing authority to financially obligate the Authority.

6. UNAUTHORIZED PURCHASES/VIOLATIONS

Except for open market, emergencies, urgencies, and credit card purchases stated in this policy, no purchase of materials, supplies or equipment over \$10,000 shall be made without an authorized PO. POs shall be issued prior to ordering materials, supplies or equipment and not "after the fact".

- 6.1. Under no circumstance shall a purchase be considered approved or final until the PO has been issued (if over \$10,000). No representative of the Authority shall enter into a verbal agreement or make any arrangements until the final approval is granted.
- 6.2. In the event that an unauthorized purchase is made, the following may apply:
 - a. Such purchases are void and not considered an obligation of the Authority.
 - b. Invoices without an authorized PO or BPO may be returned to the vendor unpaid.
 - c. The person ordering the unauthorized purchase may be subject to disciplinary action including being held personally liable for the costs of the purchase.
 - d. Prosecution for misuse of public resources, gift of public funds, etc.

SECTION 3

FEDERAL PURCHASING POLICY

TRES HERMANOS CONSERVATION AUTHORITY

FEDERAL PURCHASING POLICY

Date Adopted: 11/8/23

Section: 3

1. PURPOSE

Federal law imposes particular requirements on the use of federal funds. The purpose of this Federal Purchasing Policy is to supplement the Tres Hermanos Conservation Authority's (Authority) existing Purchasing Policy and outline the contract provision requirements for using federal funds to purchase materials, products, or services. The requirements governing the purchasing process are designed to ensure that the Authority:

- Follow a free and open competitive process in securing those products for services.
- Properly document purchasing activities and decisions.
- Observe the special rules for particular kinds of purchases (simplified acquisitions, competitive sealed bids, competitive proposals, and sole source procurements).
- Use local businesses and contract with small, minority and/or women-owned businesses to the maximum extent feasible.
- Include the required contract provisions on new contracts.
- Properly bond and insure work involving large construction contracts and/or subcontracts.

2. RESPONSIBILITY

2.1 Executive Director

- 2.1.1 Appoints in writing the Purchasing Agent(s).
- 2.1.2 Recommends policy changes to the Board.
- 2.1.3 Provides general oversight of all purchasing functions in accordance with policies and procedures.

3. POLICY

This Federal Purchasing policy applies to all Authority expenditures of monies received through a federal agency, whether those monies come directly from a federal agency or through an intermediary known as a “pass-through entity.” The Authority has existing rules for purchasing services and products as defined in the Purchasing Policy. To the extent that this federal policy conflicts with the Authority’s regular procurement policies, these federal policies preempt the Authority’s standard policies when federal funds are involved.

The Authority is required to ensure the integrity of its purchasing decisions; to document the history, results, and decisions behind its purchases; to follow the rules for certain kinds of transactions; and to offer opportunities to local and disadvantaged firms to respond to its purchasing needs. By observing these basic rules, the purchasing decisions can be more efficient and follow the requirements for fair, competitive purchasing. In addition, when the Authority uses federal funds to purchase materials or services, it is not sufficient simply to state that the Authority received the lowest possible price and followed the rules. Therefore, to avoid disallowed costs and/or recapture of payments, it is necessary that there is proper documentation of the background, need, and details of every purchasing decision, regardless of the magnitude or nature of the item purchased.

Staff must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

This policy has been developed in accordance with federal guidelines in the Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR §200).

3.1 Conflict of Interest

No officer or agent of the Authority may participate in the selection, award, or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. Such a conflict would arise when the officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers and agents of the Authority may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The applicable member city may take appropriate disciplinary actions for violations of such standards by officers or agents of the Authority.

All officers and agents of the Authority involved in the selection, award, or administration of a contract supported by federal funds must avoid any

actual or apparent conflict of interest. Such individuals may not derive any personal financial or other benefit from any contract or transaction supported by federal funds. This prohibition includes parents, children (biological, foster, and/or adopted) and siblings, as such close relationships could give rise to an appearance of conflict. To avoid conflicts and the appearance of conflicts, contractors and consultants that prepare specifications, statements of work or other material portions of requests for proposal are excluded from bidding on the underlying work.

3.2 Methods of Procurement

Federal regulations place great emphasis on securing the best value for each federal dollar and on promoting free and open competition. Consequently, all purchases using federal funds require a cost/price analysis and documentation showing that more than one vendor was considered.

Price analysis is a comparison of prices offered by qualified vendors competing in the open market. Price analysis may be as simple as “comparison shopping” prices for standard goods published by a number of vendors or as complicated as written bids submitted in response to a detailed request for proposal.

All procurement transactions must be conducted in a manner providing full and open competition. Requirements or practices that impede or obstruct such competition are not permitted and may result in disciplinary action, including termination of employment by the applicable member city.

Procurement transactions must be conducted in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Federal preemption does not apply, however, to state licensing laws.

3.2.1 Micro-Purchases: The acquisition of supplies, services, or equipment wherein the aggregate dollar amount does not exceed \$10,000. For purchases \$10,000 or less, use your own judgment in identifying potential suppliers. Purchase orders are required.

Purchases for \$10,000 or less are typically standardized goods or services available from many sources. Such purchases do not require competitive bidding or detailed documentation; however, pricing should be obtained from more than one supplier and this research should be documented in the file. Whenever practicable, micro-purchases should be distributed equitably among qualified suppliers.

- 3.2.2 **Simplified Acquisition:** The acquisition of supplies, services, or equipment in the range of \$10,001 to \$250,000. Price or rate quotations must be obtained from an adequate number of qualified sources prior to making a purchase. For purchases between \$10,001 and \$250,000, the requestor will need to submit a purchase order documenting at least three price quotes and the basis for vendor selection prior to making a purchase.

Minimum acceptable documentation consists of requests for proposal issued, responses received and criteria used for final selection. There is no requirement that contracts be awarded solely on the basis of price (i.e., to the lowest bidder). Other considerations, such as vendor's experience in the field or quality of products or services offered, may justify a higher price. Those reasons must be documented in the transaction file.

Documentation in writing is required and can include screen shots from websites, copies of published price lists and advertised pricing in established magazines or journals. This documentation should be attached to the purchase order prior to routing for workflow and the requestor should not make the purchase until the purchase order has been fully approved. If a purchase order is not received and approved prior to receiving an invoice, the Treasurer will have the authority to reject the invoice from being paid against federal funds. If you require assistance in obtaining three quotes, please contact the Treasurer.

If you are uncertain as to whether or not a purchase qualifies as a micro-purchase or a simplified acquisition, please contact the Treasurer prior to making the purchase.

- 3.2.3 **Sealed Bids:** For construction projects costing more than \$250,000, bids are publicly solicited and a firm fixed price contract is awarded to the responsible bidder whose bid is the lowest price. Sealed bids are the preferred method for procuring construction contracts. If needed, work collaboratively with the Authority General Counsel and the requestor to facilitate this process and to ensure all federal requirements are met. It is important that the requestor communicate his/her plans for major purchases as early as possible so there is reasonable time to accomplish the bidding procedure.

If sealed bids are used, the following requirements apply:

- a. The invitation for bids shall be publicly advertised.

- b. Bids must be solicited from an adequate number of known suppliers, providing them sufficient time to respond.
- c. The invitation for bids must fully describe the items or services sought, so that the bidder may properly respond.
- d. All bids will be publicly opened at the time and place prescribed in the invitation for bids.
- e. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder.
- f. Any or all bids may be rejected if there is a sound, documented reason.

3.2.4 **Competitive Proposals:** For fixed price or cost reimbursement contracts costing more than \$250,000, competitive proposals are normally conducted with more than one source submitting an offer. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered.

3.2.5 **Noncompetitive Proposals:** Procurement through solicitation of a Request for Proposal from only one source. A waiver must be granted in writing by the Executive Director.

“Sole source” or non-competitive procurement may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source.
- b. Public exigency or emergency will not permit a delay resulting from competitive solicitation.
- c. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals.
- d. After solicitation of a number of sources, competition is determined to be inadequate.

3.3 Small, Minority-Owned and Women-Owned Businesses

The Authority must take all necessary affirmative steps to assure that small businesses, minority businesses, and women's business enterprises are used when possible.

Affirmative steps include, at minimum:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- f. Requiring the prime contractor, if subcontracts are to be allowed, to observe the foregoing requirements.

Contracts funded with federal grant monies may not be awarded to contractors that have been debarred or suspended from receiving federal monies pursuant to the Federal Excluded Parties List System.

3.4 Contract Cost and Price

3.4.1 The Authority must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the procurement situation, but as a starting point, the Authority must make independent estimates before receiving bids or proposals.

- 3.4.2 The Authority must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all 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.
- 3.4.3 Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-federal entity under Title 2, Part 200, Subpart E—Cost Principles. The Authority may reference its own cost principles that comply with the federal cost principles.
- 3.4.4 The cost plus a percentage of cost and percentage of construction cost methods of contracting may not be used.

3.5 Contract Provisions Required

All contracts, awarded by a recipient including simplified acquisitions, shall contain the following provisions as applicable:

- 3.5.1 **Equal Employment Opportunity** – All contracts are required to comply with E.O. 11246, “Equal Employment Opportunity” (30 FR 12319, 12953, 3 CFR, 1964-1965 Comp., p.330), as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- 3.5.2 **Copeland “Anti-Kickback” Act** (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and sub grants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the federal awarding agency.

- 3.5.3 **Davis-Bacon Act**, as amended (40 U.S.C. 276a to a-7)—When required by federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the federal awarding agency.
- 3.5.4 **Contract Work Hours and Safety Standards Act** (40 U.S.C. 327–333)—Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1^{1/2} times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- 3.5.5 **Rights to Inventions Made Under a Contract or Agreement**—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- 3.5.6 **Clean Air Act** (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C.1251–1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 3.5.7 Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
- 3.5.8 **Debarment and Suspension** (Executive Orders 12549 and 12689)—A contract award (see 2CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Department staff should print a screen shot of the SAM website showing the outcome of the lookup and keep it in the project file.
- 3.5.9 **Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

3.6 Bonding

The requirements for bonding in procurement are as follows:

- 3.6.1 For construction or facility improvement (sub) contracts exceeding \$100,000, the following minimum federal requirements (2 CFR section 200.325) for bid guarantees, performance bonds, and payment bonds must be met. These include:
- a. A bid guarantee from each bidder equivalent to 5 percent of the bid price. The “bid guarantee” must be a firm commitment in the form of a bid bond, certified check, or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount.
 - b. A performance bond from the (sub) contractor for 100 percent of the contract price to secure the (sub) contractor’s fulfillment of all obligations under the contract.
 - c. A payment bond from the (sub) contractor for 100 percent of the contract price to assure payment of all persons supplying labor and material under the contract.

SECTION 4

BID PROTEST PROCESS FOR PUBLIC CONSTRUCTION CONTRACTS POLICY

TRES HERMANOS CONSERVATION AUTHORITY

BID PROTEST PROCESS FOR PUBLIC CONSTRUCTION CONTRACTS

Date Adopted: 11/8/23

Section: 4

1. PURPOSE

To formalize procedures when dealing with protests to proposed awards of public construction contracts.

2. DEFINITIONS

2.1 Bid - Bidder's Qualification Form and Contractor's Project Listing certifying that the bidder has met the minimum acceptable experience for performing the necessary work. Includes, but is not limited to, the following forms:

2.1.1 Bid Schedule(s)

2.1.2 List of Subcontractors

2.1.3 Anti-Trust Claim

2.1.4 Non-Collusion Declaration

2.1.5 Bid Bond

2.1.6 Bidder's General Information

2.2 Bidder - One who submits a bid directly to the Tres Hermanos Conservation Authority (Authority).

2.3 Bid Protest - Written challenge to awards of public construction contracts.

2.4 Non-Responsible – A bidder that is non-responsible is a bidder who has failed to demonstrate the attributes of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract (See Public Contract Code section 1103). A range of factors may be used to determine bidder responsibility, including performance history, reliable financial information, bonding and insurance capacity, public works experience, personnel, litigation history, and others.

2.5 Non-Responsive - A non-responsive bid is a bid that does not comply with the instructions in the notice inviting bids. A bid shall be considered non-responsive for the reasons including, but not limited to, the following:

- 2.5.1 The amount indicated for a unit price bid item does not equal the product of the unit price and the quantity listed.
- 2.5.2 If there are individual items in a bid schedule and the total bid does not equal the sum of the prices bid on the individual items.
- 2.5.3 The contractor fails to list the percentage of work to be performed by subcontractors.
- 2.5.4 The percentage of work to be performed by subcontractors exceeds 50% of the total contract amount.
- 2.5.5 Other reasons as provided by applicable law.
- 2.6 Protested Bidder - The bidder that is the object of the protest, generally the apparent lowest responsive bidder.
- 2.7 Protesting Bidder – The bidder that files a protest.
- 2.8 Responsible - Refers to the bidder and means demonstrating the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract. (See Pub Contract Code §1103.)
- 2.9 Responsiveness - Refers to the bid itself and is a bid that complies with the instructions in the notice inviting bids.
- 2.10 Working Day - means a day that the Authority is open for normal business, and excludes weekends and holidays observed.

3. RESPONSIBILITY

3.1 Bidder

- 3.1.1 Ensures that the bid protest is submitted in writing and received by the Authority before the deadline in the notice inviting bids.

3.2 Authority Secretary

- 3.2.1 Notifies the Contract Compliance Officer, or designee, that the bid protest has been received.
- 3.2.2 Transmits by email to the protested bidder a copy of the protest and supporting documents to the apparent low bidder and any other bidder who has a reasonable prospect of receiving an award.

3.2.3 Transmits by email to the protesting bidder a copy of the protest response and all supporting documents to the apparent low bidder and any other bidder who has a reasonable prospect of receiving an award.

3.3 Contract Compliance Officer

3.3.1 Provides the Authority Secretary with the name and email addresses for the apparent low bidder and any other bidder who has a reasonable prospect of receiving an award.

3.3.2 Evaluates whether responsibility is at issue in consultation with the Authority General Counsel and provides a recommendation to the Executive Director.

3.4 Board of Directors

3.4.1 For protests where responsibility is not at issue, decides the protest at a public meeting following the procedures set forth in Section 4.6 below.

3.4.2 For protests where responsibility is at issue, decides the appeal of a protest at a public meeting following the procedures set forth in Section 4.7 below.

3.5 Executive Director

3.5.1 Determines, in consultation with the Authority General Counsel, upon the recommendation of the Contract Compliance Officer, if responsibility is or is not at issue.

3.5.2 Submits notice to the bidder in writing that the Executive Director intends to recommend that the bidder be found non-responsible following the procedures set forth in Section 4.7 below.

3.6 Authority General Counsel

3.6.1 Advises Authority regarding non-responsibility finding.

3.6.2 When hearing officer's non-responsibility decision is considered by the Board of Directors (Board), the Authority General Counsel will provide an attorney to advise the Board either within the Authority General Counsel's office, separated by a "due process wall", or will recommend contracting for outside counsel. (See *Nightlife Partners, Ltd. v City of Beverly Hills* (2003) 108 CA4th 81, 93.)

3.6.3 Provide additional advice as requested.

4. POLICY

4.1 **Bid Protest.** Any bid protest must be in writing and received by the Authority Secretary before 5:00 p.m. no later than five working days following the bid opening (the “Bid Protest Deadline”) and must comply with the following requirements:

4.1.1 **General.** Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder but must timely pursue its own protest. Only the following bidders have standing to protest a bid:

- a. A potential bidder who demonstrates it did not submit a bid because of an error in the procurement process; and
- b. A bidder who demonstrates it would have a reasonable possibility of being awarded the contract if the Authority were to sustain its protest.

4.1.2 **Protest Contents.** The bid protest must contain a complete statement of the basis for the protest and basis for standing to submit a protest and all supporting documentation. The protest must refer to the specific portion or portions of the contract documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder. If the bidder is protesting a proposed determination that it is not a responsible bidder, then the bid protest must contain a request for a responsibility hearing in accordance with Section 4.7 below. The bid protest cannot be supplemented after submittal without the Executive Director's written approval.

4.2 **Copy to Protested Bidder.** Within five working days of receiving the protest, the Authority Secretary must concurrently transmit by email a copy of the protest and all supporting documents to the apparent low bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest. The Authority Secretary must include a letter of transmittal with the protest which contains substantially the following information:

4.2.1 Notice that the protest (and supporting documents, if any) was filed with the Authority Secretary.

- 4.2.2 A statement that a written response to the protest may be submitted in accordance with these protest procedures by 5:00 pm within five working days after the date the Authority Secretary transmits a copy of the bid protest (the “Response Deadline”).
- 4.2.3 A copy of these protest procedures shall be attached to the letter of transmittal.
- 4.2.4 The Authority Secretary submits a copy of the email to the Executive Director, and Authority General Counsel.
- 4.3 **Response to Protest.** The protested bidder may submit a written response to the protest, provided the response is received by the Authority by the “Response Deadline”. The response must include all supporting documentation. The response must be in writing and cannot be supplemented after submittal without the Executive Director's written approval. The response must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.
- 4.4 **Copy to Protesting Bidder.** Within five working days of receiving the protest response, the Authority Secretary must concurrently transmit by email a copy of the protest and all supporting documents to the protesting bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.
- 4.5 **Exclusive Remedy.** The procedure and time limits set forth in this section are mandatory and are the bidder’s sole and exclusive remedy in the event of bid protest. A bidder’s failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.
- 4.6 **Decision if Responsibility Not at Issue.** For bid protests not involving the responsibility of a bidder, the Board will decide the protest at a public meeting after reviewing the Executive Director’s recommendation in a Board agenda item that is made available to the bidders and the public at least 72 hours before the Board meeting and after public comment, including any comments from bidders.
- 4.7 **Decision if Responsibility at Issue.** For bid protests in which the Executive Director makes a recommendation of non-responsibility, the following procedures shall apply:
- 4.7.1 Prior to initiating a hearing on a bidder's non-responsibility, the Executive Director shall prepare a written notice to the bidder stating that the Executive Director intends to recommend that the bidder be

found non-responsible. Such notice must be sent by a manner reasonably calculated to provide adequate notice to the bidder alleged to be non-responsible and must include:

- a. The date, time, and location of the hearing;
- b. The basis for the proposed recommendation of non-responsibility;
- c. A summary of any evidence to support such recommendation; and
- d. A notice that the bidder may appear at the meeting and rebut the protest including, without limitation, the ability to present evidence that the bidder is qualified to perform the work and is the lowest responsible bidder on the project.

4.7.2 If the protesting bidder or the Executive Director has alleged that the bidder submitting the lowest responsible bid is not responsible, then:

- a. The Executive Director shall designate in writing an impartial hearing officer by appointment or contract to conduct an evidentiary hearing.
- b. On the date, time and location specified in the written notice of the hearing, the hearing officer shall conduct a hearing where the evidence on the proposed non-responsibility determination is presented, cross-examination and rebuttal are permitted; and the burden of proof is on the protestor (or Executive Director, if initiated by Executive Director) to show by a preponderance of the evidence that a finding of non-responsibility is appropriate.
- c. The hearing before the hearing officer shall be recorded by any method deemed appropriate by the hearing officer (audio tape, video tape, reporter/transcriber) and a copy of the record of the proceeding shall be made available to the bidder at the appropriate cost, upon request.
- d. After the hearing, the hearing officer shall prepare a written proposed decision, which shall contain a recommendation regarding whether or not the bidder should be found non-responsible regarding the contract(s) at issue. The hearing officer's proposed decision and recommendation regarding whether the bidder be found non-responsible shall be based on the record of the hearing.

- e. If the bidder is found non-responsible by the hearing officer, the Executive Director shall present to the Board the proposed decision, a recommendation on a finding of non-responsibility and a record of the hearing before the hearing officer. The hearing officer shall give notice to the bidder and/or protester of the proposed decision and recommendation. The notice shall include the proposed decision and recommendation and specify the date, time, and location of the hearing before the Board. Delivery of the notice must be by certified mail to the bidder and/or protestor and/or other authorized representative of same.
 - f. **Board's Decision.** The Board may, in its discretion, limit any further hearing to the presentation of evidence previously presented. The Board shall have the right to modify, deny or adopt the proposed decision and recommendation of the hearing officer. A non-responsibility finding shall become final upon approval of the Board; if non-responsibility is determined, the bidder is ineligible for the award of the contract(s) at issue.
- 4.8 **Right to Award.** The Board reserves the right to award the contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a notice to proceed with the work notwithstanding any pending or continuing challenge to its determination. The Board also reserves the right to reject all bids.

SECTION 5

CREDIT CARD POLICY

TRES HERMANOS CONSERVATION AUTHORITY

CREDIT CARD POLICY

Date Adopted: 11/8/23

Section: 5

1. PURPOSE

To establish the Tres Hermanos Conservation Authority's (Authority) policies and procedures for using credit cards for purchases of minor supplies and services on behalf of the Authority; and making small purchases as authorized in the Purchasing Policy. In addition, these credit cards will enable the Authority to take advantage of cost-reduction opportunities through internet and catalog purchasing which require the use of a credit card.

2. RESPONSIBILITY

2.1 Named Cardholder

2.1.1 Complete the Credit Card User Agreement Form.

2.1.2 Ensure that the credit card is used appropriately and that all purchases are in compliance with the Authority's Purchasing Policy.

2.1.3 Ensure all supporting documentation is retained and reconciled to monthly statements.

2.1.4 Initiate and resolve all credit card charge disputes.

2.2 Executive Director

2.2.1 Authorize the issuance of credit cards.

2.2.2 Set the credit limit and single transaction limit for each Named Cardholder.

2.3 Treasurer

2.3.1 Establish the "master account" relationship with the issuing bank.

2.3.2 Issue credit cards as approved by the Executive Director in accordance with these guidelines.

2.3.3 Ensure that the monthly "master account" is paid in full and posted to the general ledger on a timely basis.

2.3.4 Assist in the resolution of billing disputes.

2.3.5 Authorize form updates and day-to-day procedures, as needed.

2.3.6 Retrieve credit cards from employees separating from one of the member cities.

3. POLICY

3.1 The primary responsibility for ensuring the appropriate use of credit cards lies with the Named Cardholder. The credit card that is issued to each Named Cardholder is embossed with the employee's full name and the words "THCA Use Only". No member of the Named Cardholder's family may use the credit card. The Named Cardholder may designate use of the card.

3.2 Credit cards are to be used when conducting authorized Authority business. Credit cards must not be used for any personal expenses even if the intent is to reimburse the Authority at a later date. Charging personal expenses on Authority credit cards is a misuse of Authority funds and a serious breach of the Authority's Purchasing Policy. Doing so—even if the intent is to reimburse the Authority later—may result in disciplinary action, up to and including termination by the applicable member city. The Named Cardholder will be held personally liable to the Authority for the amount of the purchase. Seeking reimbursement of costs incurred on a personal credit card is reasonable and may prevent misuse of the Authority's credit card.

3.3 All purchases by a credit card shall be subject to all other purchasing policies. Credit cards should never be used to circumvent established competitive purchasing procedures. If you have questions about procurement policies, please contact the Treasurer.

4. PROCEDURE

4.1 To request a new credit card, the New Credit Card Request Form must be completed and approved. In addition, the Credit Card User Agreement Form must be completed and approved.

4.2 Before receiving a credit card, Named Cardholders must sign the Credit Card User Agreement Form to acknowledge that they are familiar with, and will adhere to, the Authority's policies and procurement guidelines.

4.3 To activate the credit card, call the number provided on the card and follow the instructions on the sticker located on the front of the card to activate the credit card. An automated system will ask for the credit card number for verification purposes. Please follow all instructions.

4.4 Reconciliation Process:

4.4.1 Named Cardholders are responsible for reconciling their credit card activities on a monthly basis. The monthly cardholder statement received from the issuing bank will detail charges made during the previous billing cycle.

- a. The Named Cardholder is required to reconcile each charge on the credit card statement to the corresponding original itemized receipt (and packing slips, when applicable) each month after receipt of the credit card statement.
- b. It is the responsibility of the Named Cardholder to ensure that there is a receipt for each and every purchase. It is understood that, on rare occasions, a receipt might be misplaced or damaged so that it cannot be included with the statement. The Named Cardholder should make a diligent effort to obtain a duplicate receipt from the vendor if the original receipt is lost or damaged. If a duplicate receipt cannot be obtained, the Named Cardholder should attach any available support (i.e., a menu) to show what was purchased and submit the Credit Card Lost Receipt Form with the credit card statement.
- c. The recipient of the goods should sign the receipt, packing slip, or other documentation confirming that they received and checked the order.
- d. The business purpose of each expense must be noted in the space provided for each individual transaction.
- e. The credit card statement requires the approval of the Named Cardholder, Executive Director and Treasurer, or designee.

4.5 When making purchases by telephone, fax, or over the internet, request that a packing slip or receipt be sent to the Named Cardholder and print the confirmation information. The final invoice and packing slip should be attached to the credit card statement and signed by the individual that received and verified the order.

5. RESTRICTED USES

5.1 The following should not be considered a complete list, but provides examples of prohibited uses:

- Cash advances
- Personal/Non-business items
- Balance transfers
- Alcoholic beverages
- Tobacco products
- Charitable contributions
- Firearms
- Furniture (\$10,000 or more)
- Political/Religious contributions
- Prescription drugs
- Renovation/Construction service
- Donations

6. DISCIPLINE FOR IMPROPER USE

6.1 Use of the credit card is a privilege and not a right. Named Cardholders are expected to maintain the highest standards of ethics when using the credit card. Depending on the severity of the violation, the “Three-Strike Rule” is in effect:

6.1.1 The first improper use of the credit card will result in a review of the policy and procedures with the Named Cardholder by the Treasurer or Executive Director.

6.1.2 The second improper use of the credit card will require a written memo to the Treasurer or Executive Director explaining the reason and corrective action being taken.

6.1.3 The third instance of improper use will result in suspension of the card use or termination of the card use. Gross negligence or fraud by the Named Cardholder may result in additional discipline up to and including termination of employment by the applicable member City.

7. DISPUTING A CHARGE

7.1 Disputed billing can result from failure to receive goods or services, incorrect accounts, duplicate charges, etc. The Named Cardholder should contact the vendor first and attempt to resolve any outstanding issues. If unable to resolve an issue with the vendor, the Named Cardholder must

contact the issuing bank regarding unresolved disputes and notify the Treasurer.

8. FRAUDULENT ACTIVITY

8.1 The issuing bank monitors accounts and transactions to prevent and halt fraudulent activity. If fraudulent activity is suspected, the issuing bank may contact the Named Cardholders by telephone to verify transactions or inform about the use (or attempted use) of their credit card in a fraudulent manner. **Use caution when receiving calls from the issuing bank.**

8.2 Named Cardholders can prevent fraud by promptly responding to the issuing bank and by carefully reviewing their statement. If the Named Cardholder discovers a fraudulent transaction, the Named Cardholder should report it to the issuing bank immediately. An affidavit may be mailed to the Named Cardholder if the issuing bank deems it necessary. It may be necessary to close the current account to prevent additional fraud activity.

9. RETURNING ITEM(S)

9.1 It is essential that the vendor be contacted to return the item(s). Items should be returned directly to the vendor by whichever means they require. The Named Cardholder is responsible for retaining supporting documentation on file and is responsible for ensuring that a proper credit is posted for any returned item(s).

10. TERMINATION/CANCELLATION OF THE CREDIT CARD

10.1 Credit cards may be revoked at any time for any reason if an individual does not comply with policies and procedures stated in this document.

11. LOST OR STOLEN CREDIT CARDS

11.1 Should the Named Cardholder lose or have a credit card stolen, it is the Named Cardholder's responsibility to immediately notify the issuing bank. Failure to do so may result in the Named Cardholder being responsible for any fraudulent use of the card. Also, the Named Cardholder must notify the Treasurer within one working day after discovery.

11.2 Contact the Treasurer to obtain the issuing bank's contact information.

12. PAYMENT TO ISSUING BANK

12.1 The issuing bank will do an automatic draft from the Authority's main checking account. This draft will correspond to the charges that were made during the last billing cycle. This draft will be completed approximately fifteen (15) days after the statement is created.

13. REQUEST FOR SINGLE TRANSACTION LIMIT INCREASE

- 13.1 From time to time it may be necessary to increase a single transaction purchase limit on a temporary basis or increase the billing cycle transaction limit. If the need arises, the Named Cardholder will need to complete the Credit Card Increase Request Form and route for approval.
- 13.2 Once the final approval has been received, the Treasurer will contact the issuing bank and increase the specified limit. For single transaction limits, a temporary timeframe should be set for a specific defined purchase that is clearly explained on the Credit Card Increase Request Form.

SECTION 6

SIGNATURE REQUIREMENTS FOR CONTRACTS

TRES HERMANOS CONSERVATION AUTHORITY VENDOR SIGNATURE REQUIREMENTS FOR CONTRACTS

Signature requirements for contracts vary depending on whether a vendor conducts business in the capacity of a corporation, limited liability company, general partnership, limited partnership, or as an individual.

CORPORATIONS

Domestic (California) Corporations—Safe Harbor. For California corporations (those that are organized and existing under California law), unless the Tres Hermanos Conservation Authority (Authority) has actual knowledge that the signator(s) lacks the authority to bind the corporation, a contract with a corporation will not be invalidated by reason of any lack of authority of the signing officers if it is signed by: (a) one officer from the corporation’s “operational group” consisting of the chairman of the board, the president, or any vice president; and (b) one officer from the corporation’s “financial group” consisting of the secretary, or assistant secretary, or the chief financial officer or any assistant treasurer. (Corp. Code §§ 162, 313.)

Bottom Line: Require either (1) one signature from an officer from the “operational group” (defined above) and one signature from an officer in the “financial group;” OR (2) a resolution of the board of directors delegating signature authority to the individual, or corporate bylaws giving similar authorization.

Foreign (Outside of California) Corporations. The best evidence of an individual’s authority to sign on behalf of a corporation is a resolution of the board of directors delegating signature authority to the individual or corporate bylaws giving similar authorization.

Bottom Line: Require a resolution of the board of directors delegating signature authority to the individual, or corporate bylaws giving similar authorization. (Corp. Code § 208(b).)

LIMITED LIABILITY COMPANIES

Domestic (California), Member-Managed. For member-managed California LLCs, every member is an agent of the LLC and has the authority to execute contracts on its behalf unless the member, in fact, has no authority to act for the LLC in the particular matter and the Authority has actual knowledge of the fact that the member has no such

authority. (Corp. Code § 17703.01(a).) The Authority would need a copy of the articles of organization to know whether the LLC is member managed or manager managed.

Domestic (California), Manager-Managed. For manager-managed California LLCs, every manager is an agent of the LLC and has the authority to execute contracts on its behalf unless the manager, in fact, has no authority to act for the LLC in the particular matter and the Authority has actual knowledge of the fact that the manager has no such authority. (Corp. Code § 17703.01(b)(2).) The Authority would need a copy of the articles of organization to know whether the LLC is member managed or manager managed.

There are two different “safe harbor” provisions regarding signature authority for signatories of domestic (California) limited liability companies:

Domestic (California) LLCs—Safe Harbor 1. The first safe harbor rule for California limited liability companies is very similar to that for California corporations. For California limited liability companies (those that are organized and existing under California law), unless the Authority has actual knowledge that the signator(s) lacks the authority to bind the company, a contract with the company will not be invalidated by reason of any lack of authority of the signing officers if it is signed by: (a) one officer from the company’s “operational group” consisting of the chairman of the board, the president, or any vice president; and (b) one officer from the company’s “financial group” consisting of the secretary, or assistant secretary, or the chief financial officer or any assistant treasurer. (Corp. Code § 17704.07(w).) However, this provision is expressly made “subject to the provisions of the [company’s] articles of organization.” (*Id.*) For that reason, when relying on section 17704.07(w), a copy of the company’s articles of organization should also be provided.

Bottom Line: (1) obtain a copy of the LLC’s articles of organization for the Authority General Counsel to review; (2) if the articles of organization do not contain any contrary provision, require one signature from an officer from the “operational group” and one signature from an officer in the “financial group.”

Domestic (California) LLCs—Safe Harbor 2. The second safe harbor applies when the instrument is signed by at least two managers, or by one manager in the case of an LLC whose articles of organization state that it is managed by only one manager. In such a case, the instrument will not be invalidated in the absence of actual knowledge on the part of the Authority that the signing managers or manager had no authority. (Corp. Code § 17703.01(d).) Reliance on this safe harbor provision requires the Authority to be provided with a copy of the LLC’s articles of organization.

Bottom Line: If the articles of organization show that the LLC is manager managed, obtain signatures from at least two managers, or by one manager in the case of an LLC whose articles of organization state that it is managed by only one manager.

Foreign (Outside of California) LLCs. The provisions outlined above apply only to California LLCs. (Corp. Code § 17701.02(k).) When dealing with foreign (out-of-state) LLCs, evidence of signature authority is required. That evidence can come in the form of the articles of organization or the operating agreement, as applicable.

Bottom Line: Request a copy of all LLC documents demonstrating that the proposed signatory is authorized to bind the company and forward those documents to the Authority General Counsel for review.

GENERAL PARTNERSHIPS

A general partnership is not a separate legal entity and does not confer limited liability on any partner. For that reason, they have become extremely rare. In a general partnership, all partners are jointly and severally liable for all obligations of the partnership and all partners generally have the authority to bind the partnership.

Bottom Line: Obtain a copy of the partnership agreement to verify the authority of the proposed signatory. The partnership agreement may be redacted to conceal those portions that are not relevant to signature authority.

LIMITED PARTNERSHIPS

A limited partnership must have at least one general partner that acts as the controlling partner. The general partner is the person normally authorized to execute contracts on behalf of a limited partnership. (Corp. Code § 15904.02.) However, because there can be more than one general partner with varying degrees of authority, a copy of the partnership agreement should be requested to verify that the proposed signatory has the authority to act on behalf of the partnership with respect to the particular matter.

Bottom Line: Obtain a copy of the partnership agreement to verify the authority of the proposed signatory. The partnership agreement may be redacted to conceal those portions that are not relevant to signature authority.

SOLE PROPRIETORS (AN INDIVIDUAL USING A FICTITIOUS BUSINESS NAME)

When the contract is with an individual doing business as an unregistered entity (a fictitious business that is not a legal entity), that individual must sign the contract “[Name of person], an individual dba [fictitious business name].”