



May 10, 2024

TO: CADA Board of Directors

SUBJECT: **May 17, 2024, Board Meeting**
AGENDA ITEM 8
CADA CONTRACT POLICY AMENDMENTS

CONTACT: Tara Gandara, Contracts and Office Manager/Board Secretary

RECOMMENDED ACTION:

Staff recommends that the Board, by resolution, adopt the CADA Contract Policy, as amended, including the following amendments to Executive Director contract authority and competitive bidding limits:

- Discretionary Purchase of Supplies or Services: Increase to \$15,000
- Informal Competitive Bidding Limits: Increase to \$15,000
- Formal Competitive Bidding and Executive Director Contract Authority Limits (supplies, maintenance, repair, new construction and rehabilitation, and non-professional services): Increase to \$100,000
- Executive Director Contract Authority Limits (consultant services): Increase to \$100,000

BACKGROUND

The CADA Contract Policy, last amended by the Board on February 22, 2019 for consultants and December 8, 2006 for other limits, is a statement of policy adopted by the Board of Directors for the award and approval of CADA contracts spanning from the purchase of supplies, maintenance, repair and non-professional services; to new construction and rehabilitation; and consultant services. This policy is amended as necessary to reflect changes in CADA operations and to stay current with applicable public contracting law and practices of the City of Sacramento, as its most-related "parent" agency.

The amendments proposed for adoption at the May 17, 2024, meeting would increase the limits at which competitive bidding is required to contracts over \$15,000 and expand the Executive Director's contract authority to \$100,000.

CADA's Contract Policy currently categorizes its contracts into the following three categories:

- Purchase of Supplies, Maintenance, Repair and Nonprofessional Services
- "Public Works": New Construction and Rehabilitation
- Consultant Services

Attachment 1 summarizes the current and proposed limits of authority and bidding requirements for each of these categories. As required by the joint-powers agreement between the City of Sacramento and the State of California, CADA patterns its contracting and bidding requirements after the City of Sacramento.

POLICY ISSUES

The amendments proposed for adoption are summarized as follows, and are presented in full with tracked changes in Attachment 2, Policy Statement – Contract and Bid Procedures for the Capitol Area Development Authority:

Discretionary Purchase of Supplies or Services: Given the rise in prices, which has occurred over the last seventeen years that CADA's discretionary purchase limits have been in effect and to align with City policy, staff recommends that the limits at which competitive bidding is not required be increased from its current level of \$5,000 to the City limit of \$15,000.

Informal Competitive Bidding Limits: Staff recommends that CADA increase the limits at which the purchase of all services without requiring informal bidding be increased from \$5,000 to \$15,000.

Formal Competitive Bidding and Executive Director Contract Authority Limits (supplies, maintenance, repair, new construction and rehabilitation, and non-professional services): Staff recommends that CADA increase the limits at which the purchase of all services can be affected by the Executive Director and before requiring formal bidding be increased from \$50,000 to \$100,000.

Executive Director Contract Authority Limits (consultant services): Staff recommends that CADA increase the limits at which the purchase of consultant services can be affected by the Executive Director be increased from \$50,000 to \$100,000.

Staff is finding these adjustments to be appropriate based on the changes in Consumer Price Index (CPI) over this same period from 2006 to 2024. During this period, CPI measured a 49% inflation rate. This aligns with staff recommendation to increase the thresholds on contract authority and bidding processes in City minimum thresholds and in alignment with inflation on the limits. Implementing these policy changes will also allow CADA to move faster on project design, building improvements, unit turnovers and all of the necessary steps to effectuate CADA's mission and strategic plan. Current policy results in a project or service delay of four to eight weeks and thirty to forty hours of additional staff time for contracts at or above \$50,000. The recommended policy changes will streamline essential work and reduce use of staff time and related costs on completing procedures and carrying out the necessary steps.

CONTRACT AWARD CONSIDERATIONS

CADA's Contract Policy already incorporates the City's language with regard to the participation of emerging and small businesses for its discretionary and informally bid contracts which do not require formal bidding. Staff is not recommending any further amendment to CADA's emerging and small business policies and procedures at this time.

FISCAL IMPACT

The recommended changes to this policy will streamline necessary work, reduce staff time on additional procedural steps (formal bidding, staff report writing and editing, Board packet preparation, etc.), and reduce the need for temporary responses to issues, like providing accommodations to residents or other short-term fixes when maintenance issues arise. While it is difficult to fully estimate all of the potential savings, it's approximately 30-40 hours of management staff time saved on each contract, in addition to direct financial savings on costs like hotel rooms or other short-term accommodations to tenants, and the reduction of time delay that results in less potential damage to a building and faster resolution to an issue, thereby reducing cost.

STRATEGIC PLAN

This action supports the fulfillment of our goal to maintain organizational excellence by allowing staff to operate more effectively. Following the formal bidding process and waiting until the next Board Meeting causes a delay of approximately four to eight weeks over the informal bidding process. In addition, this process takes an additional thirty to forty hours of management staff time to complete. In alignment with our organizational values, increasing these thresholds allows staff to be more customer service-oriented and maintains accountability to the Board through the monthly contract logs transmittal.

ENVIRONMENTAL REVIEW

Not applicable. The recommended action is not a project pursuant to the California Environmental Quality Act (CEQA) guidelines and does not require environmental review.

Attachments:

1. Contract Policy Summary
2. Draft CADA's Contract Policy
3. Resolution 24-23

CURRENT CADA CONTRACT AWARD REQUIREMENTS

CONTRACT TYPE	\$5,000 OR LESS	OVER \$5,000 BUT NOT OVER \$50,000	OVER \$50,000
PURCHASE OF SUPPLIES, MAINTENANCE, REPAIR AND NON-PROFESSIONAL SERVICES	Discretionary Purchases not requiring use of bidding process. Attempt to utilize and emerging or small business	Informal bid process not requiring public advertising. Price quotes from three vendors including one emerging or small business vendor.	Formal Bid process requiring public advertising and award of contract by the CADA Board of Directors.
"PUBLIC WORKS": NEW CONSTRUCTION AND REHABILITATION	Discretionary Purchases not requiring use of bidding process. Attempt to utilize and emerging or small business	Informal bid process not requiring public advertising. Price quotes from three vendors including one emerging or small business vendor.	Formal Bid process requiring public advertising and award of contract by the CADA Board of Directors. 100% Payment and Performance Bonds required.
CONSULTANT SERVICES	Negotiated Contracts awarded by the Executive Director.		Negotiated Contracts awarded by the CADA Board of Directors.

PROPOSED CADA CONTRACT AWARD REQUIREMENTS (CHANGES HIGHLIGHTED)

CONTRACT TYPE	\$15,000 OR LESS	OVER \$15,000 BUT NOT OVER \$100,000	OVER \$100,000
PURCHASE OF SUPPLIES, MAINTENANCE, REPAIR AND NON-PROFESSIONAL SERVICES	Discretionary Purchases with aggregated contract limit condition. Attempt to utilize and emerging or small business	Informal bid process not requiring public advertising. Price quotes from three vendors including one emerging or small business vendor.	Formal Bid process requiring public advertising and award of contract by the CADA Board of Directors.
"PUBLIC WORKS": NEW CONSTRUCTION AND REHABILITATION	Discretionary Purchases with aggregated contract limit condition. Attempt to utilize and emerging or small business	Informal bid process not requiring public advertising. 100% Payment Bonds required for contracts over \$25,000. Price quotes from three vendors including one emerging or small business vendor.	Formal Bid process requiring public advertising and award of contract by the CADA Board of Directors. 100% Performance and Payment Bonds required.
CONSULTANT SERVICES	Negotiated Contracts awarded by the Executive Director.		Negotiated Contracts awarded by the CADA Board of Directors.

POLICY STATEMENT
CONTRACT AND BID: PROCEDURES FOR THE
CAPITOL AREA DEVELOPMENT AUTHORITY

This document is a statement of policy adopted by the Capitol Area Development Authority ("CADA") Board of Directors for the awarding and approval of CADA contracts for the purchase of supplies, new construction, rehabilitation, repair and maintenance, and for consultant services.

Any of the above contracts involving an expenditure beyond a specified monetary threshold, as set forth in this policy, excepting contracts for consultant services, are subject to the bidding requirements as set forth in this policy. This policy is patterned after the provisions of Chapters 3.56, 3.60, and 3.64 of the Sacramento Municipal Code. CADA may also look to City of Sacramento's Fiscal Administrative Policy Instructions ("API's") as non-binding supplements to this policy and as guidance in the procedure for the award of CADA contracts, provided, however, that should there be a conflict between the provisions of this policy and the City of Sacramento API's, this policy shall prevail. In the absence of another provision in this policy or the City of Sacramento API's addressing a particular matter, CADA may also look to State administrative guidelines contained in the State Administrative Manual (SAM), provided, however, that should there be a conflict between the provisions of this policy and the SAM, this policy shall prevail.

It should further be noted that all contracts awarded under Articles I, II and III hereof are subject to the general provisions set forth in Article VI.

I. PURCHASE OF SUPPLIES, MAINTENANCE, REPAIR, AND NONPROFESSIONAL SERVICES.

A. Definitions.

1. "Supplies" shall mean and include supplies, goods, equipment, and materials.
2. "Purchase" shall mean and include rental or leasing of supplies, as well as purchase.
3. "Maintenance" shall mean recurrent, periodic or scheduled work required to preserve a facility as a result of wear and tear.
4. "Repair" shall mean the restoration of a facility or components to such condition that it may be used effectively for its designated purpose, by overhaul or replacement of constituent parts or materials that have deteriorated by action of the elements, vandalism, or wear and tear which cannot be corrected through maintenance.
5. "Nonprofessional services" shall mean and include services of a nonprofessional character of any type, description or variety, including but not limited to maintenance, tree trimming services, janitorial services, repair services for office machines and equipment, landscaping maintenance, security services, and other services not within the scope of the public works contracts in Article II hereof or the consultant services in Article III hereof.

B. Expenditures of \$15,000 or less for supplies.

The Executive Director shall establish procedures for expenditures for supplies of ~~FIVE FIFTEEN~~ THOUSAND DOLLARS (\$15,000) or less, which procedures are not required to include the use of a bidding process. Such procedures shall include attempting to utilize emerging or small businesses, as defined by the City of Sacramento's Emerging and Small Business Development Program, when available for purchases in this range.

When the cumulative dollar value of individual contract awards of ~~Five-Fifteen~~ Thousand Dollars (\$15,000) or less to one vendor or contractor for supplies, maintenance, repair, nonprofessional services contracts exceeds ~~TWENTY-FIVEONE HUNDRED~~ THOUSAND DOLLARS (\$25100,000) for a given one year period, subsequent such contract awards to that vendor or contractor may only be made following the informal competitive bidding procedures set forth in Article I(C) of this Policy, for the remainder of the year in which the cumulative dollar value of such contract awards to that vendor or contractor exceeded ~~TWENTY-FIVEONE HUNDRED~~ THOUSAND DOLLARS (\$25100,000). For purposes of this section, the cumulative dollar value of contracts shall be calculated between July 1st and June 30th (fiscal year).

C. Expenditures Over \$15,000 But Not Over \$5100,000.

The Executive Director is authorized to bind CADA by contract or purchase order for supplies, repairs, maintenance or nonprofessional services for any expenditure not exceeding ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS (\$5100,000) without first obtaining specific authorization from the Board of Directors, publicly advertising therefore, or otherwise employing formal bidding procedures. Informal competitive bidding must be conducted, usually from at least three (3) vendors providing price quotes and at least one of the vendors contacted must be an emerging or small business as defined by the City of Sacramento's Emerging and Small Business Development Program.

D. Expenditures Over \$5100,000.

All contracts or purchase orders for supplies, repairs, maintenance, or nonprofessional services for any expenditure exceeding ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS (\$50100,000) shall be awarded by the Board of Directors pursuant to the formal bidding procedures set forth in Article IV herein. Prior to signing, any such contract or purchase order must be approved as to form by legal counsel for CADA.

E. Execution of Contracts.

All contracts or purchase orders entered into under Part C or D of this Article I must be formal written agreements executed by the Executive Director or designee on behalf of CADA. The signature by the Executive Director or designee shall constitute his or her verification that there remain unexpended and unapplied balances of appropriations or funds applicable thereto sufficient to make all payments for which CADA is obligated under such contract or purchase order.

II. "PUBLIC WORKS": NEW CONSTRUCTION AND REHABILITATION.

A. Scope.

1. "New construction or rehabilitation" contracts shall be contracts for specified individual projects of new construction or rehabilitation of real property.
2. This Article II is intended to apply to all contracts for "public works."

B. Expenditures of \$15,000 or Less.

The Executive Director shall establish procedures for expenditures of ~~FIVE-FIFTEEN~~ THOUSAND DOLLARS (\$15,000) or less, which procedures are not required to include the use of a bidding process. Such procedures shall include attempting to utilize an emerging or small business, as defined by the City of Sacramento's Emerging and Small Business Development Program, when available for such work.

When the cumulative dollar value of individual contract awards of ~~Five-Fifteen~~ Thousand Dollars (\$15,000) or less to one vendor or contractor for public works contracts exceeds TWENTY-FIVE THOUSAND DOLLARS (\$25,000), for a given one year period, subsequent such contract awards to that vendor or contractor may only be made following the informal competitive bidding procedures set forth in Article II(C) of this Policy, for the remainder of the year in which the cumulative dollar value of such contracts awarded to that contractor or vendor exceeded TWENTY-FIVE THOUSAND DOLLARS (\$25,000). For purposes of this section, the cumulative dollar value of contracts shall be calculated between July 1s and June 30th (fiscal year).

C. Expenditures over \$15,000 but less than \$5100,000.

The Executive Director is authorized to bind CADA by contract relating to public works projects for new construction or rehabilitation requiring an expenditure less than ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS (~~\$5100,000~~) without first obtaining specific authorization from the Board of Directors, publicly advertising therefore, or employing formal bidding procedures. The Executive Director may impose such requirements for bid security, faithful performance bonds and payment bonds as he or she deems necessary and shall require payment bonds, as provided in Article IV herein, for any such contract in excess of ~~TWENTY-FIVE~~ ~~ONE HUNDRED~~ THOUSAND DOLLARS (~~\$25100,000~~). Informal competitive bidding must be conducted, usually from three (3) vendors providing price quotes and at least one (1) of the three (3) vendors contacted must be an emerging or small business, as defined by the City of Sacramento's Emerging and Small Business Development Program.

D. Expenditures of \$5100,000 or more.

All public works contracts, for new construction or rehabilitation requiring an expenditure of ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS (~~\$5100,000~~) or more shall be awarded by the Board of Directors pursuant to the formal bidding procedures set forth in Article IV herein.

E. Execution of Contracts.

All contracts entered into under Parts C and/or D of this Article II must be formal written agreements executed by the Executive Director or designee on behalf of CADA. The Executive Director may waive the requirement for a formal written agreement as to any contract under Part

C hereof when essential to protect public health, safety or welfare, or in cases of public emergency or necessity. The signature by the Executive Director or designee shall constitute his or her certification that there remain unexpended and unapplied balances of the appropriations or funds applicable thereto sufficient to make all payments for which CADA is obligated under such contract. Prior to signing, any such contract must be approved as to form by legal counsel for CADA.

F. Contract Extensions.

No public works contract for new construction or rehabilitation shall extend, either by original contract, renewal or amendment, for a total period of more than sixty (60) months.

III. CONTRACTS FOR CONSULTANT SERVICES.

A. "Consultant Services" Defined.

For purposes of this policy statement, "consultant services" shall mean and include professional services determined by CADA to require significant exercise of discretion on the part of the contractor. Consultant services shall include, but not be limited to, services rendered by engineers, architects, auditors, consultants, actuaries, attorneys and other individuals or organizations.

B. Contracts of ~~over \$5,000~~ but less than \$5100,000.

The Executive Director is authorized to bind CADA by written contract for consultant services for any expenditure of ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS (\$5100,000) or less without first publicly advertising therefore or obtaining specific authorization from the Board of Directors.

C. Contracts of \$5100,000 or more.

All contracts for consultant services for any expenditure of ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS (\$5100,000) or more shall be awarded by the Board of Directors.

D. Execution of Contracts.

All contracts entered into under this Article III must be formal written agreements, executed by the Executive Director or designee on behalf of CADA. The signature by the Executive Director or designee shall constitute his or her certification that there remain unexpended and unapplied balances of the appropriations or funds applicable thereto sufficient to make all payments for which CADA is obligated under such contract. Prior to signing, any such contract must be approved as to form by legal counsel for CADA.

E. Bidding Procedures.

No consultant services contract shall require the use of any bidding procedures, excepting such procedures as the Executive Director or the Board may establish in the Director's or the Board's discretion.

IV. FORMAL BIDDING PROCEDURES.

Whenever formal bidding procedures are called for under this policy statement, the following procedures shall apply:

A. Advertising.

Where the cost of a public work required by CADA equals or exceeds the sum of ~~fifty-one hundred~~ thousand dollars (\$~~5100~~,000), the Board of Directors shall require CADA staff in accordance with the applicable section of the City of Sacramento Municipal Code, to call for formal bids by advertising at least once not less than fifteen (15) calendar days before the date bids are opened, in one or more daily or weekly newspapers, trade association publications, trade journals, minority or trade oriented publications, or other media available to minority or women's business enterprises that are interested in participating in the project. The Board of Directors, when it deems it to be advisable, may require more than one advertising of the call for bids. The call for bids shall include a general description of the supplies or work to be provided, and shall state where bid forms and specifications may be secured, and the time and place for opening bids.

B. Bid Forms.

All bids shall be made upon forms to be prepared by CADA and furnished upon application. The preparation of such forms by bidders shall be subject to procedures formulated by the Executive Director and shall include controls over erasures, corrections and interlineations.

C. Independent Price Determination.

No person, company, firm or corporation submitting any bid or proposal hereunder shall:

1. propose or bid prices which have not been arrived at independently without consultation, communication, or agreement with any other bidder, offeror or competitor for the purpose of restricting competition as to any matter relating to the prices bid or proposed;
2. unless otherwise required by law, prior to opening of the bids or proposals, knowingly disclose any price bid or proposed to any other bidder, offeror or to any competitor;
3. make any attempt to induce any other person, firm or other entity or association to submit or not to submit a bid or proposal for the purpose of restricting competition;
4. make or be interested in more than one bid per contract hereunder; provided, however, that nothing herein shall limit the right of any person or entity to deal independently with the same subcontractor or supplier as other persons or entities in the preparation of a bid, or to limit the right of any person or entity dealing in any name brand supplies required by CADA to bid independently of any other person or entity dealing in the same supplies;

In the case of joint venture bids, the joint venture and each and every member of the joint venture shall for purposes of the foregoing be construed to be the person submitting the bid or proposal.

Any bid received or contract awarded in violation hereof shall be a nullity, and the Board of Directors shall in such case dispose of the matter in the same manner as if the person or entity involved had failed to enter into the contract afterward thereof, as provided herein.

D. Bid Security.

Whenever, upon the call for bids for any purchase or contract, the Executive Director deems it to be advisable, each bidder shall be required to submit, with the bid security, either in cash, by cashier's check or certified check in favor of and payable at sight to CADA, or by surety bond, an amount determined to be sufficient, but not to exceed ten percent (10%) of the aggregate amount of the bid. If the bidder to whom the contract is awarded shall, for twenty (20) calendar days after receipt of such award, fail or neglect to enter into the contract and file the required bonds, the bid security shall be forfeited and the Executive Director shall draw the money due on such bid security and pay the same, or any cash deposited, into the CADA treasury. The bid security shall not be returned to the defaulting bidder in such case unless the Board approves the return thereof in whole or in part. Upon good cause being shown, the Executive Director may, and to the extent CADA is responsible for any delay, shall extend the time for the bidder to enter into the contract for a period not to exceed thirty (30) calendar days.

E. Disposition of Bid Security.

All bid securities and bid bonds shall be returned to the unsuccessful bidders after award of the contract to the successful bidder. The bid security and bid bond of the successful bidder shall be returned after execution of the contract and deposit of the necessary bonds.

F. Opening of Bids; Awards.

All bids shall be sealed, identified as bids on the envelope and submitted to the Executive Director or designee at the place and time specified in the public notice inviting bids. Bids shall be opened by the Executive Director or designee, in public, at the time and place designated in the notice inviting bids. Bids received after the specified time shall not be accepted and shall be returned to the bidder unopened. Within the time set forth in the specifications, the contract shall be awarded by the Board of Directors to the lowest responsible bidder, as defined herein. The Board may reject any and all bids, and/or waive any informalities or minor irregularities in the bids. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

G. Alternative Award Upon Failure of Bidder to Enter Into Contract.

If the bidder to whom the contract is awarded shall fail to enter into the contract as required, the Board of Directors may declare the award to that bidder a nullity, and award the contract to the next lowest responsible bidder, or it may re-advertise for bids or dispense with competitive bidding, as hereinafter provided.

H. Re-advertisement.

In the event the Board of Directors rejects any and all bids, or in the event the bidder to whom a contract award is made fails to enter into the contract as required and the Board does not make an award to the next lowest responsible bidder, the Board may re-advertise for bids, or may dispense with competitive bidding, as hereinafter provided.

I. Faithful Performance Bonds.

For each contract for public works: a performance bond to guarantee the faithful performance of the contract shall be given on the contract in the amount of one hundred percent (100%) of the contract price, except that a lesser amount may be approved by the Board of Directors. Such bond shall be approved as to form by the CADA attorney.

J. Payment Bond.

For each contract for public works: a payment bond to secure payment of the claims of subcontractors and employees shall be given on the contract in the amount of one hundred percent (100%) of the contract price. Such bond shall be approved as to form by the CADA general counsel.

K. Time of Completion.

The contract shall specify the time within which the supplies or work shall be furnished to CADA and may provide for liquidated damages for failure to comply. The Executive Director may extend such time for acts of CADA, acts of God, weather, strikes or other circumstances over which the contractor had no control. The Board may extend such time for causes other than those for which the Executive Director may grant an extension of time, but in no event shall the time-for the performance of any contract be extended by the Board more than ninety (90) days in addition to extensions as authorized by the Executive Director.

L. Failure of Completion.

In case of failure on the part of the contractor to complete performance under the contract within the time specified in the contract or within the extension of such time as herein provided, the contract may be terminated and the contractor shall not be paid or allowed any further compensation for any further work done under such contract. The Board of Directors may proceed to complete such contract either by re-letting or otherwise, and the contractor and his or her surety, if any, shall be liable to CADA for all loss or damage that CADA may suffer on account of the failure to complete the contract on time.

V. EXCEPTIONS TO FORMAL BIDDING REQUIREMENTS.

A. Generally.

The restrictions and provisions of this policy statement requiring the award of contracts by competitive bidding shall not apply:

1. Under any transaction where the work is to be performed by CADA employees.
2. When, after advertising for bids as required herein, no valid bids are received.
3. When, after receiving bids, the Board of Directors rejects any and all such bids, or when the bidder to whom the award is made fails to enter into the contract as required and the Board does not make an award to the next lowest bidder as provided herein.
4. When, upon a two-thirds (2/3) vote of the Board of Directors, it is determined that it is in the best interests of CADA and the Capitol Area Plan to suspend formal bidding for any contract.

5. When any contract is entered into pursuant to or under any special assessment proceedings wherein formal or competitive bidding procedures are specified by laws of the State of California.
6. Where the Executive Director determines that the suspension of bidding is essential to protect public health, safety or welfare, and that a public emergency or necessity exists.

B. Cooperative Purchasing Agreements.

When it is advantageous to CADA, the Executive Director, by cooperative purchasing agreements approved by the Board of Directors, may purchase supplies through legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by CADA.

C. Surplus Supplies.

When it is advantageous to CADA, the Executive Director, on approval of the Board of Directors, may direct the purchase of surplus supplies from the United States Government, or any agency thereof, or from the State of California, or any agency thereof, or any public body, without compliance with the competitive bidding requirements of CADA.

VI. GENERAL PROVISIONS.

The provisions of this Article VI shall apply to all contracts for supplies; new construction, rehabilitation, repair and maintenance (hereinafter collectively referred to as "work"); and consultant services.

A. Purpose.

The provisions of this policy statement and all other statements of CADA contract policy or procedure are set forth for the use of the CADA Board of Directors and CADA staff, and shall not be construed to create or recognize any procedural or other right in any person, including but not limited to, any bidder, prospective bidder, or party to a contract with CADA.

B. Determination of Lowest Responsible Bidder.

In determining the lowest responsible bidder under the provisions of this policy statement, consideration shall be given not only to price, but to (i) the quality of the supplies or work to be provided by the bidder; (ii) the ability, capacity and skill of the bidder to perform the contract; (iii) the ability of the bidder to perform the contract within the time specified, without delay; (iv) the character, integrity, reputation, judgment, experience and efficiency of the bidder; (v) the quality of the bidder's performance on previous contracts with CADA; and (vi), as to purchases for supplies or nonprofessional services only, the ability of the bidder to provide future maintenance, repair parts, and service supplies provided.

C. Contract Splitting Prohibited.

No officer or employee of CADA shall split or separate into smaller units any requirement for supplies, work or professional services for the purpose of evading the provisions of this policy statement. Splitting or separating a transaction shall mean and include reducing the amount of any supplies, or the size of any project for work or professional services, to be furnished to CADA

under circumstances where there is a reasonable knowledge that the remaining supplies or work or professional services after such reduction will be additionally required within the same budgetary term, that there are funds available for the remaining supplies, work or services, and the sole purpose is to knowingly avoid formally calling for bids.

D. Collusion with Bidder.

No officer or employee of CADA shall:

1. Aid or assist a bidder in securing a contract at a higher price than that proposed by any other bidder;
2. Favor one bidder over another by giving or withholding information;
3. Willfully mislead any bidder in regard to the character of the supplies, work, or professional services called for;
4. Knowingly accept supplies, work, or professional services of a quality inferior to that called for by the contract;
5. Knowingly represent to CADA the receipt of a greater amount or different kind of supplies, work, or professional services that has been actually received; or
6. Draft any invitation to bid, or cause to be drafted, in such a manner as to limit the bidding directly or indirectly to any one bidder.

E. Unauthorized Contracts: Exceptions.

No officer or employee of CADA shall contract for supplies, work or services on behalf of CADA, other than as herein prescribed, excepting an emergency contract or other agreement made in conformance with procedures established by the Executive Director. Any contracts or obligations to pay made contrary to the provisions of this policy statement shall be null and void.

F. Declaration of Contractor as Irresponsible.

1. The Executive Director may declare a bidder or contractor irresponsible, and bar the bidder or contractor from being awarded any contract or agreement with CADA, or from being a subcontractor or supplier at any tier upon any such contract or agreement.
2. The grounds for finding that a contractor or bidder is irresponsible shall be any of the following:
 - a. Commission of fraud, bribery, collusion, bid rigging, embezzlement, theft, forgery or perjury.
 - b. Submission of a bid, proposal or other document pertaining to a CADA contract which is known by the bidder or contractor to be false or to contain false information.
 - c. Knowingly doing business with a third person declared to be irresponsible by CADA in the performance of any CADA contract or agreement awarded after the declaration of irresponsibility of such third person.

- d. More than one occurrence of substandard performance by such person on any CADA contract or agreement, including but not limited to material breach, failure to complete work on time or within budget, substandard quality of work or any negligent or wrongful failure to cooperate with CADA which threatened the timely or satisfactory completion of the work.
 - e. Any violation, during the performance of any CADA contract or agreement, of any federal, state or local labor or safety standards, hazardous waste or solid waste regulations or statutes, or conflict of interest regulations.
- 3. The initial term of any such determination of irresponsibility shall be as determined by the Executive Director, but shall not exceed three (3) years. The Executive Director may extend the determination of irresponsibility for additional periods of up to two (2) years each, if the Executive Director determines that is necessary to protect CADA's interests.
 - 4. The decision of the Executive Director may be appealed in writing to the Board of Directors within five (5) days by any aggrieved person. The decision of the Board shall be final.

G. Reporting to Board.

Not less than once a month at a regular meeting of the Board of Directors, the Executive Director shall furnish the Board with a written list of all agreements and contracts, excepting contracts for the purchases of supplies, entered into on behalf of CADA.

VII. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS.

A. Scope of Article.

The provisions of this Article VII shall apply to all contracts for new construction, rehabilitation, repair or maintenance, and consultant services for which specific authorization is required from the Board of Directors under this policy statement.

B. Definitions.

- 1. As used in this article, "change order" shall mean a unilateral order to change the amount of work to be done on a contract which is anticipated to result in an increase in contract price.
- 2. As used in this article, "supplemental agreement" shall mean a bilateral agreement executed by CADA and a contractor on a contract which results in an increase in contract price.
- 3. The foregoing definitions shall not be construed to affect the authority of the Executive Director to issue change orders or to negotiate supplemental agreements to delete work or to order changes in the work at a decreased price or no change of price.

C. Authority of Executive Director.

The Executive Director is authorized to issue change orders and to negotiate supplemental agreements as follows:

1. a) The Executive Director shall have authority to issue change orders and to negotiate supplemental agreements not to exceed:
 - (i) For individual amendments, the greater of TWENTY -FIVE THOUSAND DOLLARS (\$25,000) or ten percent (10%) of the original contract amount;
 - (ii) For all amendments to any such contract, the greater of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) or twenty percent (20%) of the original contract amount.
- b) Any change orders or supplemental agreements authorized by the Executive Director pursuant to this section shall be reported to the Board of Directors at its next meeting.
- c) Notwithstanding the foregoing, no change orders or supplemental agreements shall be approved by the Executive Director which exceed amounts set forth in the appropriate budget.
2. Notwithstanding the foregoing, any single change order or supplemental agreement that increases the total contract amount to ~~FIFTY-ONE~~ HUNDRED THOUSAND DOLLARS (\$~~5100~~,000) or more shall require approval by the Board of Directors.
3. Notwithstanding the foregoing, in the event that it becomes necessary in the discretion of the Executive Director to issue a change order or negotiate a supplemental agreement in order to:
 - a) prevent interruption of the work which would result in substantial increase in cost to CADA.
 - b) protect the work or equipment or materials to be used in the work, or human safety or the environment at or near the site of the work from substantial and immediate danger or injury; or,
 - c) protect, where damage or injury has occurred, the work, or equipment or materials to be used in the work, or human safety or the environment at or near the site of the work from further or additional damage or injury or deterioration caused by man, nature or other source;

then, the Executive Director shall have authority to issue change orders or to negotiate supplemental agreements in such sums as may reasonably be necessary for such purposes; provided, however, in the event any such action exceeds the specific authority set forth in the foregoing, the Executive Director shall report to the Board of Directors regarding any such action as soon as reasonably possible but in no more than thirty (30) days.
4. The authority of the Executive Director specified above in this Section shall be restored to the extent that prior change orders and supplemental agreements have been approved by the Board of Directors.

D. Limitation.

Notwithstanding anything to the contrary in the foregoing, the authority of the Executive Director to issue change orders and to negotiate supplemental agreements shall be limited to the scope of the original contract or to protect the safety of human life and the environment at or near the site of the work.

VIII. STANDARD SPECIFICATIONS.

The Board of Directors shall, from time to time, adopt standard specifications setting forth procedures and controls for contracts and the bidding and award thereof, to modify or supplement the procedures and controls set forth herein. Such specifications shall conform to the purposes and intent of this policy statement, and may include the following:

- A. Bid forms and procedures governing the proper completion thereof by the bidder;
- B. Bid security forms and procedures for the use thereof, the forfeiture of same in certain cases, and the return thereof to the unsuccessful bidder;
- C. Faithful performance bond forms and procedures for the use thereof;
- D. Payment bond forms and procedures for the use thereof;
- E. Labor and material bond forms and procedures for the use thereof, and;
- F. Procedures governing the time of completion of the contract, for the extension of such time in certain cases, and for the use of liquidated damages.

IX. CONTRACTS FOR OFFICIAL ADVERTISING.

A. Annual Contracts.

CADA shall annually let a contract for the official advertising in the ensuing fiscal year pursuant to the non-professional services procedures set forth in Article I herein.

RESOLUTION NO. 24 – 23

Adopted by the Capitol Area Development Authority

May 17, 2024

**RESOLUTION APPROVING THE CADA CONTRACT POLICY,
AS AMENDED, INCLUDING AMENDMENTS TO THE EXECUTIVE
DIRECTOR CONTRACT AUTHORITY AND COMPETITIVE BIDDING LIMITS**

WHEREAS, by Resolution No. 19-09, the CADA Board of Directors last amended the CADA Contract Policy in part on February 22, 2019 and the Board last updated the policy more comprehensively on December 8, 2006; and

WHEREAS, staff recommends that the Board amend the CADA Contract Policy with regard to Executive Director authority and its competitive bidding limits.

NOW, THEREFORE BE IT RESOLVED, that the CADA Board of Directors does hereby amend the CADA Contract Policy in accordance with recommendations contained in Attachment 2 of the staff report presented to the Board at its May 17, 2024 meeting, as summarized below:

- Revise Article I Sections B, C, and D to read as follows:

- B. Expenditures of \$15,000 or less for supplies.

The Executive Director shall establish procedures for expenditures for supplies of FIFTEEN THOUSAND DOLLARS (\$15,000) or less, which procedures are not required to include the use of a bidding process. Such procedures shall include attempting to utilize emerging or small businesses, as defined by the City of Sacramento's Emerging and Small Business Development Program, when available for purchases in this range.

When the cumulative dollar value of individual contract awards of Fifteen Thousand Dollars (\$15,000) or less to one vendor or contractor for supplies, maintenance, repair, nonprofessional services contracts exceeds ONE HUNDRED THOUSAND DOLLARS (\$100,000) for a given one year period, subsequent such contract awards to that vendor or contractor may only be made following the informal competitive bidding procedures set forth in Article I(C) of this Policy, for the remainder of the year in which the cumulative dollar value of such contract awards to that vendor or contractor exceeded ONE HUNDRED THOUSAND DOLLARS (\$100,000). For purposes of this section, the cumulative dollar value of contracts shall be calculated between July 1st and June 30th (fiscal year)

- C. Expenditures Over \$15,000 But Not Over \$100,000.

The Executive Director is authorized to bind CADA by contract or purchase order for supplies, repairs, maintenance or nonprofessional services for any expenditure not exceeding ONE HUNDRED THOUSAND DOLLARS (\$100,000) without first obtaining specific authorization from the Board of Directors, publicly advertising therefore, or otherwise employing formal bidding procedures. Informal competitive bidding must be conducted, usually from at least

three (3) vendors providing price quotes and at least one of the vendors contacted must be an emerging or small business as defined by the City of Sacramento's Emerging and Small Business Development Program.

- D. Expenditures Over \$100,000.
All contracts or purchase orders for supplies, repairs, maintenance, or nonprofessional services for any expenditure exceeding ONE HUNDRED THOUSAND DOLLARS (\$100,000) shall be awarded by the Board of Directors pursuant to the formal bidding procedures set forth in Article IV herein. Prior to signing, any such contract or purchase order must be approved as to form by legal counsel for CADA.
- Revise Article II Sections B, C, and D to read as follows:

- B. Expenditures of \$15,000 or Less.
The Executive Director shall establish procedures for expenditures of FIFTEEN THOUSAND DOLLARS (\$15,000) or less, which procedures are not required to include the use of a bidding process. Such procedures shall include attempting to utilize an emerging or small business, as defined by the City of Sacramento's Emerging and Small Business Development Program, when available for such work.

When the cumulative dollar value of individual contract awards of Fifteen Thousand Dollars (\$15,000) or less to one vendor or contractor for public works contracts exceeds TWENTY-FIVE THOUSAND DOLLARS (\$25,000), for a given one year period, subsequent such contract awards to that vendor or contractor may only be made following the informal competitive bidding procedures set forth in Article II(C) of this Policy, for the remainder of the year in which the cumulative dollar value of such contracts awarded to that contractor or vendor exceeded TWENTY-FIVE THOUSAND DOLLARS (\$25,000). For purposes of this section, the cumulative dollar value of contracts shall be calculated between July 1s and June 30th (fiscal year).

- C. Expenditures over \$15,000 but less than \$100,000.
The Executive Director is authorized to bind CADA by contract relating to public works projects for new construction or rehabilitation requiring an expenditure less than ONE HUNDRED THOUSAND DOLLARS (\$100,000) without first obtaining specific authorization from the Board of Directors, publicly advertising therefore, or employing formal bidding procedures. The Executive Director may impose such requirements for bid security, faithful performance bonds and payment bonds as he or she deems necessary and shall require payment bonds, as provided in Article IV herein, for any such contract in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000). Informal competitive bidding must be conducted, usually from three (3) vendors providing price quotes and at least one (1) of the three (3) vendors contacted must be an emerging or small business, as defined by the City of Sacramento's Emerging and Small Business Development Program.

- D. Expenditures of \$100,000 or more.
All public works contracts, for new construction or rehabilitation requiring an expenditure of ONE HUNDRED THOUSAND DOLLARS (\$100,000) or more shall be awarded by the Board of Directors pursuant to the formal bidding procedures set forth in Article IV herein.
- Revise Article III Sections B and C to read as follows:
 - B. Contracts of over \$5,000 but less than \$100,000.
The Executive Director is authorized to bind CADA by written contract for consultant services for any expenditure of ONE HUNDRED THOUSAND DOLLARS (\$100,000) or less without first publicly advertising therefore or obtaining specific authorization from the Board of Directors.
 - C. Contracts of \$100,000 or more.
All contracts for consultant services for any expenditure of ONE HUNDRED THOUSAND DOLLARS (\$100,000) or more shall be awarded by the Board of Directors.
- Revise Article IV Section A to read as follows:
 - A. Advertising.
Where the cost of a public work required by CADA equals or exceeds the sum of one hundred thousand dollars (\$100,000), the Board of Directors shall require CADA staff in accordance with the applicable section of the City of Sacramento Municipal Code, to call for formal bids by advertising at least once not less than fifteen (15) calendar days before the date bids are opened, in one or more daily or weekly newspapers, trade association publications, trade journals, minority or trade oriented publications, or other media available to minority or women's business enterprises that are interested in participating in the project. The Board of Directors, when it deems it to be advisable, may require more than one advertising of the call for bids. The call for bids shall include a general description of the supplies or work to be provided, and shall state where bid forms and specifications may be secured, and the time and place for opening bids.
- Revise Article VII Section C. 2. to read as follows:
 - C. Authority of Executive Director.
2. Notwithstanding the foregoing, any single change order or supplemental agreement that increases the total contract amount to ONE HUNDRED THOUSAND DOLLARS (\$100,000) or more shall require approval by the Board of Directors.

Ann Bailey, Chair

ATTEST:

Tara Gandara, Secretary to the Board of Directors