

AGENDA

ORANGE COUNTY POWER AUTHORITY MEETING OF THE BOARD OF DIRECTORS

Tuesday, January 26, 2021

10:00 a.m.

Due to the public health orders and guidelines in California and in accordance with the Governor's Executive Orders N-25-20 and N-29-20, there will be no location for in-person attendance. The Orange County Power Authority is providing alternatives to in-person attendance for viewing and participating in the meeting. Further details are below.

Note: Any member of the public may provide comments to the Orange County Power Authority Board of Directors on any agenda item or on a matter not appearing on the agenda, but within the jurisdiction of the Board. Please indicate whether your comment is on a specific agenda item or a non-agenda item when requesting to speak. When providing comments to the Board, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the Board as a whole through the Chair. Comments may be provided in the following manner:

Requests to Speak. In-person public attendance will not be provided. Members of the public who have requested to speak will be recognized at the appropriate time during the Zoom meeting and may speak through Zoom or telephonically. To allow the Chair to call on you, please provide the following minimum information with your request to speak: your name (if attending by videoconference) or telephone number (if attending by phone).

Comments shall be limited to three minutes when speaking. If you have anything that you wish to be distributed to the Board, please provide it via comments@ocpower.org, who will distribute the information to the Members.

The public may participate using the following remote options:

ZOOM MEETING

Please click the link below to join the webinar:

Join Zoom Meeting

[CLICK HERE](#)

Meeting ID: 947 2912 3207

Passcode: 784822

Dial-in: 1 669 900 6833 US

Meeting ID: 947 2912 3207

Passcode: 784822

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **CONSENT CALENDAR**

All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Board of Directors, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Board of Directors request specific items be removed from the Consent Calendar.

A. MINUTES FOR JANUARY 12, 2021 BOARD OF DIRECTORS' SPECIAL MEETING

Recommendation: Approve as submitted.

B. AUTHORIZATION OF THE CHIEF EXECUTIVE OFFICER TO SECURE COMMERCIAL GENERAL LIABILITY / ERRORS AND OMISSIONS INSURANCE, AND OTHER INSURANCE, AS NEEDED

Recommendation:

Authorize the Chief Executive Officer to enter into an insurance policy for commercial general liability / errors and omissions, and other insurance, as needed.

C. DESIGNATE AUTHORIZED REPRESENTATIVES TO SIGN CHECKS AND OTHER DISBURSEMENTS

Recommendation:

Adopt Resolution 2021-01: A Resolution of the Board of Directors of the Orange County Power Authority designating authorized representatives to sign checks and other disbursements.

D. ADOPT RESOLUTION APPROVING CHIEF EXECUTIVE OFFICER, OR DESIGNEE, CONTRACT / EXPENSE AUTHORIZATION LIMIT

Recommendations:

1. Delegate authority to Chief Executive Officer, or designee, to execute contracts up to \$25,000 until an Authority Fiscal Year 2020-2021 Budget is adopted, at which time the Board's Procurement and Contract Authority Policies shall apply.
2. Adopt Resolution 2020-02: A Resolution of the Board of Directors of Orange County Power Authority authorizing the Chief Executive Officer, or designee, to execute agreements.

5. REGULAR CALENDAR

The following items call for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined.

A. CITIZEN'S ADVISORY COMMITTEE OVERVIEW

Recommendation:

Receive and file.

B. ADDITION OF NEW MEMBERS TO THE ORANGE COUNTY POWER AUTHORITY

Recommendation:

Receive and file.

C. ADOPTION OF ADMINISTRATIVE POLICIES

Recommendations:

1. Adopt Orange County Power Authority Policy Number 001: Procurement Policy.
2. Adopt Orange County Power Authority Policy Number 002: Reimbursement policy.

D. PROGRAM UPDATE AND TIMELINE

Recommendation:

Receive and file.

6. PUBLIC COMMENTS

Opportunity for members of the public to address the Board on any items not on the agenda but within the jurisdiction of the Board.

7. DIRECTOR COMMENTS

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, request an item to be placed on a future agenda, or report on conferences, events, or activities related to Authority business. There is to be no discussion or action taken on comments made by Board Members unless authorized by law.

8. REPORT BY CHIEF EXECUTIVE OFFICER

Chief Executive Officer may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified, but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.

9. REPORT BY GENERAL COUNSEL

General Counsel may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified, but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.

10. ADJOURNMENT

Compliance with the Americans with Disabilities Act

Board of Directors meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may contact 949-263-2612. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Board Documents

Copies of the agenda and agenda packet are available at www.ocpower.org. Late-arriving documents related to a Board meeting item which are distributed to a majority of the Board prior to or during the Board meeting are available for public review as required by law. Late-arriving documents received during the meeting are available for review by making a verbal request to the Board Secretary in the Zoom meeting room.

**ORANGE COUNTY POWER AUTHORITY
BOARD OF DIRECTORS**
City of Irvine Civic Center
Conference and Training Center
1 Civic Center Plaza
Irvine, CA 92606

MINUTES

January 12, 2020

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

The Board minutes are prepared and ordered to correspond to the Board Agenda. Agenda Items can be taken out of order during the meeting.

The Agenda Items were considered in the order presented.

CALL TO ORDER

Chair Carroll called the OCPA Board of Directors meeting to order at 10:10 a.m.

PLEDGE OF ALLEGIANCE

Boardmember Posey led the Pledge of Allegiance.

ROLL CALL

PRESENT: 7 Boardmember Sonne (Buena Park)

Vice Chair Jung (Fullerton)

Boardmember Posey, Huntington Beach (Present 10:10-10:54 a.m.)

Alternate Boardmember Kalmick, Huntington Beach (Present 10:54-11:25 a.m.)

Boardmember Khan (Irvine)

Chair Carroll (Irvine)

Boardmember Voigts (Lake Forest)

*Also Present: Ryan Baron, General Counsel (Best Best and Krieger LLP)
Mark Steuer, Director of Public Works and Transportation (Irvine)
Sona Coffee, Environmental Programs Administrator (Irvine)*

ITEMS TO BE ADDED, WITHDRAWN OR REORDERED ON THE AGENDA

None.

CLOSED SESSION

- 1. PUBLIC EMPLOYMENT**
- 2. CONFERENCE WITH LABOR NEGOTIATORS**

There was no public comment.

REPORT FROM CLOSED SESSION

General Counsel, Ryan Baron, reported on Item one.

ACTION: Motioned by Boardmember Posey, seconded by Boardmember Khan to appoint Brian Probolsky as Chief Executive Officer (CEO) and Antonia Castro-Graham as Chief Operating Officer (COO).

REGULAR CALENDAR

1. APPOINTMENT OF CHIEF EXECUTIVE OFFICER AND CHIEF OPERATING OFFICER AND APPROVAL OF EMPLOYMENT AGREEMENTS

General Counsel, Ryan Baron, described the work experience of Brian Probolsky, CEO, and Antonia Castro-Graham, COO, and provided a description of their employee agreements.

Public Comment

- Kathleen Treseder congratulated Brian Probolsky, CEO, and Antonia Castro-Graham, COO, and requested to schedule a Zoom call with Brian.
- Jose Trinidad Castaneda congratulated Brian Probolsky, CEO, and Antonia Castro-Graham, COO.

ACTION: Motioned by Boardmember Posey, seconded by Boardmember Khan to 1) appoint Chief Executive Officer and Chief Operating Officer and 2) to approve employment agreements for Chief Executive Officer and Chief Operating Officer and delegate authority to executive agreements to Chair and/or Vice Chair.

Vote: 6-0

Yes:	Boardmember Sonne, Vice Chair Jung, Boardmember Posey, Boardmember Khan, Chair Carroll, and Boardmember Voigts
No:	None
Abstained:	None
Absent:	None

2. MINUTES FOR DECEMBER 22, 2020 BOARD OF DIRECTOR'S SPECIAL MEETING

Boardmember Posey (Huntington Beach) left the meeting at 10:54 am; Alternate Boardmember Kalmick (Huntington Beach) was in attendance.

General Counsel, Ryan Baron, announced a correction would be made to the minutes to reflect December 14 as the correct meeting date for the month of December 2021.

There was no discussion or public comment received on the item.

ACTION: Motioned by Boardmember Voigts, seconded by Boardmember Khan to approve the minutes.

Vote: 5-0-1-0

Yes:	Boardmember Sonne, Vice Chair Jung, Boardmember Khan, Chair Carroll, and Boardmember Voigts
No:	None
Abstained:	Alternate Boardmember Kalmick
Absent:	None

3. CHIEF EXECUTIVE OFFICER AND CHIEF OPERATING OFFICER JOB DESCRIPTIONS AND INTERIM ORGANIZATIONAL CHART

General Counsel, Ryan Baron, recommends approval of job description for CEO and COO. A brief overview of both jobs was provided.

There was no public comment on this item.

ACTION: Motioned by Vice Chair Jung, seconded by Boardmember Sonne to 1) approve Chief Executive Officer and Chief Operating Officer job descriptions and 2) approve interim Authority organizational chart subject to changes proposed by the Chief Executive Officer and approved by the Board of Directions.

Vote: 6-0

Yes:	Boardmember Sonne, Vice Chair Jung, Alternate Boardmember Kalmick, Boardmember Khan, Chair Carroll, and Boardmember Voigts
No:	None
Abstained:	None
Absent:	None

4. ADMINISTRATIVE POLICIES OVERVIEW

Barbara Spoonhour, GDS Associates, presented the item. An overview of administrative policies was provided, including a tentative timeline for policy development.

There was no public comment.

ACTION: Receive and file.

5. IMPLEMENTATION TIMELINE OVERVIEW

Gary Saleba, EES Consulting, highlighted upcoming action items from the implementation plan.

There was no public comment.

ACTION: Receive and file.

6. COOPERATION AND ADMINISTRATIVE SERVICES AGREEMENT WITH CITY OF IRVINE

General Counsel, Ryan Baron, briefly described the Cooperation and Administrative Services Agreement with the City of Irvine.

There was no public comment on this item.

ACTION: Motioned by Alternate Boardmember Kalmick, seconded by Boardmember Voigts to approve Cooperation and Administrative Services Agreement with City of Irvine for City reimbursement of Authority staffing costs.

Vote: 6-0

Yes: Boardmembers Sonne, Vice Chair Jung, Alternate Boardmember Kalmick, Boardmember Khan, Chair Carroll, and Boardmember Voigts

No: None

Abstained: None

Absent: None

PUBLIC COMMENTS

None.

DIRECTOR COMMENTS

Chair Carroll thanked the staff of the City of Irvine for their support as the Board now moves forward as their own entity. He expressed thanks to the City of Irvine Director of Public Works and Transportation, Mark Steuer, for all his efforts in bringing this together. He also extended congratulations to Brian Probolsky, CEO, and Antonia Castro-Graham, COO.

MINUTES – BOARD OF DIRECTORS – ORANGE COUNTY POWER AUTHORITY

REPORT BY ACTING GENERAL COUNSEL

None.

ADJOURNMENT

Chair Carroll adjourned the meeting at 11:25 a.m.

Mike Carroll
Chair
Orange County Power Authority

Brian Probolsky
Secretary
Orange County Power Authority

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 4.B

To: Orange County Power Authority Board of Directors

From: Ryan Baron, General Counsel

Subject: AUTHORIZATION OF THE CHIEF EXECUTIVE OFFICER TO SECURE
COMMERCIAL GENERAL LIABILITY / ERRORS AND OMISSIONS, AND
OTHER INSURANCE, AS NEEDED

Date: January 26, 2021

RECOMMENDATION

Authorize the Chief Executive Officer to enter into an insurance policy for commercial general liability / errors and omissions, and other insurance, as needed.

BACKGROUND

Orange County Power Authority (Authority) is required to obtain Commercial General Liability Insurance. It is recommended the amount of \$2,000,000 per occurrence is secured. In addition, with the hiring of a Chief Executive Officer and Chief Operating Officer, Workers' Compensation Insurance is also required. To cover all basis, it is also recommended that OCPA procure Board Members Errors and Omissions Insurance.

Staff is recommending that the Board of Directors authorize the Chief Executive Officer to obtain the necessary Authority insurance policies.

FISCAL IMPACT

These costs will be included in the Authority's Fiscal Year 2020-2021 Budget.

ATTACHMENT

None.

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 4.C

To: Orange County Power Authority Board of Directors

From: Ryan Baron, General Counsel

Subject: DESIGNATE AUTHORIZED REPRESENTATIVES TO SIGN CHECKS AND OTHER DISBURSEMENTS

Date: January 26, 2021

RECOMMENDATION

1. Adopt Resolution 2021-01: A Resolution of the Board of Directors of the Orange County Power Authority designating authorized representatives to sign checks and other disbursements

BACKGROUND

In order for the Authority to issue payments for services rendered, the Board needs to authorize designated individuals the ability to work with the Authority's banks. The attached Resolution provides that authorization.

Staff is recommending that the Board of Directors' authorize the below individuals to act on the Authority's behalf and to authorize the Authority's depository institutions to honor checks written on Authority accounts when executed by any two of the following authorized representatives. For payments not issued from Authority check stock where a signature is not applicable (such as wires or ACH bill pay) at least two of the following authorized representatives will document their approval of the invoice or bill prior to payment:

Brian S. Probolsky, Chief Executive Officer
Antonia Castro-Graham, Chief Operating Officer
Michael Maher, Acting Treasurer

FISCAL IMPACT

None.

ATTACHMENT

1. Resolution 2021-01: A Resolution of the Board of Directors of the Orange County Power Authority designating authorized representatives to sign checks and other disbursements.

RESOLUTION NO. 2021-01

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ORANGE COUNTY POWER AUTHORITY
DESIGNATING AUTHORIZED REPRESENTATIVES TO SIGN
CHECKS AND OTHER DISBURSEMENTS**

A. The Orange County Power Authority (“Authority”) is a joint powers authority formed pursuant to the Joint Exercise of Powers Act, Government Code § 6500 *et seq.*, Public Utilities Code § 366.2, and a Joint Powers Agreement effective on November 20, 2020 (“JPA Agreement”).

B. Authority has adopted a Procurement Policy providing administrative procurement practices and a Delegated Contract Authority Policy concerning execution of contracts and related documents, as each may be amended from time to time.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Orange County Power Authority as follows:

Section 1. Authority’s depository institutions are instructed to honor checks written on Authority accounts when executed by any two of the following authorized representatives. For payments not issued from Authority check stock where a signature is not applicable (such as wires or ACH bill pay) at least two of the following authorized representatives will document their approval of the invoice or bill prior to payment:

Brian S. Probolsky, Chief Executive Officer
Antonia Castro-Graham, Chief Operating Officer
Michael Maher, Acting Treasurer

Section 2. Notwithstanding the above, for checks in the amount of less than \$50,000, Authority’s depository institutions are instructed to honor checks written on Authority accounts when executed by Brian S. Probolsky, Chief Executive Officer.

Section 3. No checks are to be prepared or executed without compliance with applicable Authority policies and procedures and appropriate support documentation for the expense (*e.g.*, purchase order, packing slip, or invoice).

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Orange County Power Authority held on January 26, 2021.

Chair
Orange County Power Authority

Secretary
Orange County Power Authority

Approved as to form:

Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 4.D

To: Orange County Power Authority Board of Directors

From: Ryan Baron, General Counsel

Subject: ADOPT RESOLUTION APPROVING CHIEF EXECUTIVE OFFICER, OR
DESIGNEE, CONTRACT / EXPENSE AUTHORIZATION LIMIT

Date: January 26, 2021

RECOMMENDATIONS

1. Delegate authority to Chief Executive Officer, or designee, to execute contracts up to \$25,000 until an Authority Fiscal Year 2020-2021 Budget is adopted, at which time the Board's Procurement and Contract Authority Policies shall apply.
2. Adopt Resolution 2020-02: A Resolution of the Board of Directors of Orange County Power Authority authorizing the Chief Executive Officer, or his designee, to execute agreements.

BACKGROUND

It is anticipated that Orange County Power Authority (Authority) will incur several start-up expenses and contracts within a short period of time in order to meet a 2022 program launch and support timely operations thereafter. This includes the purchase of goods and services including but not limited to office equipment, office space, insurance services, legal services, and other administrative expenses, which is outlined in the non-energy related purchasing policy.

The proposed Chief Executive Officer, or designee, spending authorization and related requirements are consistent with those of several operational CCA programs.

Staff is recommending that the spending limit be \$25,000 until an Authority Fiscal Year 2020-2021 Budget is adopted, at which time the Board's Procurement and Contract Authority Policies will apply.

FISCAL IMPACT

None.

ATTACHMENT

1. Resolution 2021-02: A Resolution of the Board of Directors of Orange County Power Authority authorizing the Chief Executive Officer, or his designee, to execute agreements.

RESOLUTION NO: 2021-02

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ORANGE COUNTY POWER AUTHORITY AUTHORIZING THE CHIEF
EXECUTIVE OFFICER, OR DESIGNEE, TO EXECUTE AGREEMENTS**

A. On January 12, 2021, the Policy Board of Directors appointed a Chief Executive Officer (“CEO”) pursuant to Section 3.4 of the Orange County Power Authority Joint Powers Agreement (“Joint Powers Agreement”). The CEO shall be responsible for the day to day operation and management of Authority and its community choice aggregation (CCA) Program.

B. The Board anticipates that in the coming months, Authority will be entering into a variety of contracts for goods and services and desires to give the CEO, or designee a spending limit of \$25,000 until an Authority Fiscal Year 2020-2021 Budget is adopted, at which time the Board’s adopted Procurement and Contract Authority Policies shall apply, with the following limitations:

1. Expenditures shall be consistent with Authority’s adopted budget; and
2. All agreements shall be approved as to form by Authority legal counsel; and
3. All agreements shall be reported to the Board at the next regularly scheduled meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Orange County Power Authority as follows:

1. The Board of Directors has determined that the recitals herein are true and correct.
2. This Resolution shall be effective immediately after its adoption by the Board of Directors.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Orange County Power Authority held on January 26, 2021.

Chair
Orange County Power Authority

Secretary
Orange County Power Authority

Approved as to form:

Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.A

To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: CITIZEN’S ADVISORY COMMITTEE UPDATE

Date: January 26, 2021

RECOMMENDATION

Receive and file.

BACKGROUND

On January 12, 2021, the Orange County Power Authority (Authority) Board of Directors requested that staff return to the next meeting with an overview / information on creating a Citizen’s Advisory Committee (CAC) to ensure that adequate public outreach is occurring in the member jurisdictions.

Staff is researching what existing Community Choice Aggregation Programs (CCAs), as well as, surrounding municipal utilities are doing so that staff can bring back a recommendation to the Board on how to best engage the community.

Since the Authority will not launch until the Spring 2022, staff does not want to rush to bring this item before the Board and will be conducting a thorough analysis to ensure it makes a strong recommendation for the Board to act upon in the coming months.

FISCAL IMPACT

None.

ATTACHMENT

None.

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.B

To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: ADDITION OF NEW MEMBERS TO THE ORANGE COUNTY POWER AUTHORITY

Date: January 26, 2021

RECOMMENDATION

Receive and file.

BACKGROUND

There are a number of jurisdictions that are interested in joining the Orange County Power Authority (Authority) and have been inquiring about the process to join.

Staff is working on a Policy to bring to the Board at the April 2021 Board meeting. The Authority would not begin servicing load to any new jurisdictional members' residents and businesses until 2023. Staff is proposing the following timeline to bring a Policy back to the Board for consideration.

March 2021:	Presentation to OCPA Board with timeline, associated costs, data needs, and other items for the Board to consider.
April 2021:	Present Draft Policy for Board member's comment.
May 2021:	Present Finalize Policy.
June 2021:	Notify interested jurisdictions of OCPA's Membership Policy.

FISCAL IMPACT

None.

ATTACHMENT

None.

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.C

To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: ADOPTION OF ADMINISTRATIVE POLICIES

Date: January 26, 2021

RECOMMENDATIONS

1. Adopt Orange County Power Authority Policy Number 001: Procurement Policy.
2. Adopt Orange County Power Authority Policy Number 002: Reimbursement policy.

BACKGROUND

On January 12, 2021, staff presented a listing of Administrative Policies that will be coming before the Board of Directors for adoption. Staff is bringing forward the following policies for the Director's consideration and adoption.

1. **Procurement Policy:** This policy establishes a non-energy competitive solicitation and procurement practices that facilitate efficient business operations, offer fair compensation, transparency, accountability, and provide local workforce opportunities within a framework of high quality, competitive offerings whenever practical. This policy shall not apply to any energy procurements or transactions, which will be covered under the Energy Risk Management Policy.
2. **Delegated Contract Authority Policy:** This Policy establishes administrative contracting procedures that facilitate efficient business operations for the Authority.

FISCAL IMPACT

None.

ATTACHMENTS

1. Orange County Power Authority Policy Number 001: Procurement Policy.
2. Orange County Power Authority Policy Number 002: Delegated Contract Authority Policy.

**Orange County Power Authority
Policy Number 001: Procurement Policy**

Purpose

It is in the interest of the Orange County Power Authority (“Authority”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

Policy

1. Procurement of Professional Services

The Authority may contract for professional services, including, but not limited to, consultant, legal, or design services, in its sole discretion. The Authority shall procure professional services in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. The Authority shall endeavor to secure the highest quality professional services available and is not required to award a contract for services to the lowest proposer.

2. Procurement of General Services

The Authority may contract for general services, including, but not limited to, cleaning or maintenance services, in its sole discretion. Authority shall procure general services in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. Although the Authority shall not be required to award to the lowest proposer, Authority staff shall seek to procure general services at the lowest costs.

3. Procurement of Supplies

The Authority shall procure supplies in compliance with the Competitive Procurement Requirements in Section 5 of this Policy. Although the Authority shall not be required to award to the lowest proposer, Authority staff shall seek to purchase supplies at the lowest costs. The Authority is encouraged to jointly procure supplies with other governmental agencies to obtain the lowest cost when possible. In the event one or more Authority employees are designated as purchasing agents, those individuals shall be included in Authority’s Conflict of Interest Code as persons who must file an annual statement of economic interest.

4. Procurement of Public Works Projects

Authority shall comply with California Public Contract Code § 20160 *et seq.* and other applicable laws and regulations when procuring public projects in excess of \$5,000. For purposes of this section, a “public project” shall have the same meaning as defined in Public Contract Code § 20160, and includes, among other things, projects for the erection, improvement, painting, or repair of public buildings and works.

5. Competitive Procurement Requirements

- a. Formal Bidding. Authority shall issue a request for proposals (RFP), a request for qualifications (RFQ), or similar competitive instrument for the purchase of goods or services in excess of \$125,000 in any given contract year or term. Proposals

shall be evaluated in accordance with Section 7 of this Policy. These contracts are subject to Board approval before final execution.

b. Informal Bidding Procedures.

- i. For contracts valued between \$50,000 and \$124,999.99, staff shall solicit informal written proposals from at least three providers, if feasible. An informal written proposal consists of a written proposal that includes the provider's name, address, phone number, professional license number (if applicable), the work to be performed, and the amount of the proposal. A written proposal may be in an electronic format.
- ii. For contracts valued between \$10,000 and \$49,999.99, staff shall solicit informal verbal proposals from at least three providers. Staff shall note the three verbal proposals by including the provider's name, address, phone number, and amount of the verbal proposal in Authority's records.
- iii. For contracts valued at less than \$10,000, no formal or informal proposals shall be required, but Authority staff is directed to seek the lowest cost supplies and the highest quality services available.
- iv. The Chief Executive Officer ("CEO"), in his or her discretion, may direct that Authority solicit competitive procurements through the formal bidding process for contracts under \$125,000.

c. General Provisions. The provisions below shall apply to all methods of procurement described above.

- i. When procuring goods and services utilizing state or federal funds (e.g., grant or loan funds), Authority shall comply with all state or federal project requirements in securing any goods or services necessary. If there is conflict between the foregoing, the more restrictive requirements shall apply.
- ii. Authority shall not be required to award a contract to purchase goods or services from the lowest responsible bidder, unless required by California law.
- iii. No Authority officer or employee shall split purchases into more than one purchase in order to avoid the Competitive Procurement Requirements in this Policy.
- iv. No Authority officer or employee shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended to reward or be an inducement for conducting business, placing orders with, or otherwise using the officer's or employee's position to secure a contract with Authority.

d. Exceptions to Competitive Procurement Requirements.

- i. Based on the unique facts or circumstances described below and a written justification retained in Authority's records, the CEO, after consultation with the General Counsel, may waive one or more purchasing procedures in this Policy and/or use sole source procurement if the CEO determines that the best interests of Authority are served; provided, however, that such method is not in violation of applicable law or policy.

- ii. Sole source purchasing is authorized when the goods or services contemplated are capable of being supplied or performed by a sole provider, such as the holder of an exclusive patent or franchise, for purchase of unique or innovative goods or services including but not limited to computer software and technology, or for purchases of goods or services when there is a demonstrated need for compatibility with an existing item or service. Sole source procurement may also be utilized when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of Authority to utilize sole source procurement. The following factors shall not apply to sole source procurements and shall not be included in the sole source justification: personal preference for product or vendor; cost, vendor performance, or local service (this may be considered an award factor in competitive procurements); features that exceed the minimum requirements for the goods or services; explanation of the actual need and basic use for the equipment, unless the information relates to a request for unique factors.
- iii. No competitive procurement shall be required for goods or services valued at less than \$10,000 in any one contract term or contract year.
- iv. No competitive procurement shall be required to rent or lease equipment.
- v. Competitive procurement shall not be required when the contract, goods or services will be provided by another governmental agency. Authority can rely on the competitive procurement process provided by another governmental agency, provided that such agency's procurement is in compliance with California law.
- vi. In the event of an emergency, the CEO may suspend the normal purchasing and procurement requirements for goods and services related to abatement of the impacts or effects of the emergency.

6. Signing Authority:

Authority's CEO and designated staff are authorized to execute contracts and related documents in accordance with Authority's Delegated Contract Authority Policy.

7. RFP/RFQ Issuance and Proposal Evaluation

- a. Proposals received through formal bidding procedures shall be subject to a set of criteria and a scoring system, reviewed and evaluated by relevant Authority staff and an evaluation committee selected by the CEO or, at the discretion of the Board, members of a designated Board committee. Proposals received shall be evaluated based on competency to perform the scope of work, best fit, price competitiveness, compliance with subsections i (Orange County Preference) and ii (Other Preferences) below, and other additional criteria added pursuant to any Authority workforce policy. The preferences below may not apply to procurements conducted jointly with other public agencies, and shall not apply when prohibited by state or federal statutes or regulations that require award to the lowest responsible bidder.
- b. Authority is committed to the highest standards of responsible behavior and integrity in all of its business relationships. Authority will consider a company's

business practices, environmental record, and commitment to fair employment practices and compensation in its procurement decisions.

8. Nondiscrimination Contract Clause

Each Authority contract and subcontract shall contain a nondiscrimination clause that reads substantially as follows:

Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities.

9. Procurement of Power and Energy Attributes

Authority must secure sufficient power resources and energy attributes to serve its customers, comply with State law, and meet Authority's and its member agencies' goals. Authority may adopt a Risk Management Policy authorizing certain Authority staff to enter into power purchase agreements and other agreements to secure power and energy attributes, provided that such agreements are in substantially the same form as the Board-approved master power purchase agreements, and that all transactions and agreements are in strict compliance with Authority's Risk Management Policy.

10. Review and Approval as to Form by General Counsel

All Authority agreements must be approved as to the form and content by the General Counsel, or designee, prior to signature by any authorized individual.

Orange County Power Authority
Policy Number 002: Delegated Contract Authority Policy

Purpose

It is in the interest of Orange County Power Authority (“Authority”) to establish administrative contracting procedures that facilitate efficient business operations for the Authority.

Policy

1. The Chief Executive Officer (“CEO”) is authorized as follows without prior Board approval:
 - a. To execute contracts of up to \$125,000 for goods and services; provided, however, that all new contracts in excess of \$50,000 shall be reported at the next regular Board meeting. This authorization does not include power supply or wholesale energy services. The Authority shall comply with all legal requirements applicable to the award of the contract, if any.
 - b. To increase the aggregate contract price of Board-approved non-energy contracts by no more than 10% of the original contract price over the life of the contract.
 - c. To delegate signature authority for purchases of goods or services to other Authority senior staff members up to the amount of \$50,000. Such delegation shall be memorialized in a written instrument signed by the CEO and maintained by the Authority.
2. Prior to signing any contracts requiring the expenditure of money, the individual signing shall ensure: (1) that all contract expenses have been budgeted for in the current Authority budget; (2) that adequate funds have been appropriated by the Board; (3) that such funds are unexpended, unencumbered, and sufficient to pay the expenses of the contract, and (4) that the contract has been reviewed and approved as to form and content by the General Counsel or his/her designee.
3. For any contracts, whether Board-approved or executed under delegated authority, the CEO is further authorized to exercise all rights and powers specified under the contract as belonging to the Authority, including, but not limited to, changes in original scope, authorization of subcontractors, amendments (provided that the amendment shall be consistent with the limits in this Policy), assignment, insurance, termination, and to perform other acts related to the delivery of non-energy goods and services under the contract.

Exception: For scope changes to Board-approved contracts, any core programmatic changes of more than 25% of the original scope shall be approved by the Board.

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.D

To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: PROGRAM UPDATE AND TIMELINE

Date: January 26, 2021

RECOMMENDATION

Receive and file.

BACKGROUND

Staff will provide a verbal update on implementation milestones and activities related to Orange County Power Authority's implementation.

FISCAL IMPACT

None.

ATTACHMENT

None.