

SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
TITLE 14. NATURAL RESOURCES
DIVISION 16. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
CHAPTER 2. ARCHITECTURAL AND ENGINEERING AUTHORITY

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CERTIFICATION

The foregoing table of contents constitutes the Sacramento-San Joaquin Delta Conservancy's rulemaking file for the subject regulations. The rulemaking file for the subject regulations was completed and closed on July 8, 2025.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Sacramento, California on July 8, 2025.

Signed:

Brenda Lusk

Brenda Lusk
Administration Manager

SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

TITLE 14. NATURAL RESOURCES

**DIVISION 16. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
CHAPTER 2. SELECTION PROCESS FOR PRIVATE ARCHITECTURAL AND
ENGINEERING FIRMS**

NOTICE OF PROPOSED RULEMAKING

Notice published January 3, 2025

The Sacramento-San Joaquin Delta Conservancy (Department) proposes to adopt sections 28302, 28303, 28304, 28305, 28306, 28307, 28308, 28309, 28310, 28311, 28312, 28313, and 28314 of Title 14, Division 16, Chapter 2 of the California Code of Regulations concerning the selection process for private architectural and engineering firms.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person or their authorized representative no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on February 18, 2025, at 5:00pm. Only written comments received by that time will be considered. Please submit written comments to:

Brenda Lusk
Sacramento-San Joaquin Delta Conservancy
1450 Halyard Drive, Suite 6
West Sacramento, CA 95691
(916) 634-3398
Brenda.Lusk@deltaconservancy.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Section 4526, Government Code.

Reference: Sections 4525, 4526, 4526.5, 4527, 4528, 4529, 4529.5, 4529.10, 4529.11, 4529.12, 4529.13, 4529.13, 4529.14, 4529.15, 4529.16, 4529.17, 4529.18, 4529.19, and 4529.20, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Generally, the California Constitution forbids state agencies from contracting for private companies to perform the services that state civil service employees can perform. In response, California voters adopted Proposition 35 in November 2000. Entitled the “Fair Competition and Taxpayer Savings Act,” Proposition 35 added Article XXII to the California Constitution to provide that the State of California and all other governmental entities “shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement.” (Cal. Const., art. XXII, § 1.)

Proposition 35 also added chapter 10.1, commencing with section 4529.10, to the Government Code. “Architectural and engineering services” includes all architectural, landscape architectural, environmental, engineering, land surveying, and construction project management services.” (Gov. Code, § 4529.10.) Proposition 35 also codified the voters’ intent to promote fair competition. (*Id.* at § 4529.12.) State agencies enter contracts with private firms through a competitive process of advertising for the service, selecting the firm determined to be best qualified, and negotiating a contract with that firm. (*Id.* at § 4525 et seq.)

A state agency is required to develop regulations describing the procedures for contracting with private architectural and engineering firms. (Gov. Code, § 4526.) Currently, the Department is unable to contract with private architectural and engineering firms because it has not adopted regulations on this subject.

Effect of the Proposed Rulemaking:

These proposed regulations would create a process for the Department to contract with private architectural and engineering firms.

Anticipated Benefits of the Proposed Regulations:

The purpose and intent of Proposition 35 included “remov[ing] existing restrictions on contracting for architectural and engineering services and [allowing] state, regional and local governments to use qualified private architectural and engineering firms to help deliver transportation, schools, water, seismic retrofit and other infrastructure projects safely, cost effectively and on time;” “encourag[ing] the kind of public/private partnerships necessary to ensure that California taxpayers benefit from the use of private sector experts to deliver transportation, schools, water, seismic retrofit and other infrastructure projects;” “promot[ing]

fair competition so that both public and private sector architects and engineers work smarter, more efficiently and ultimately deliver better value to taxpayers;” “speed[ing] the completion of a multi-billion dollar backlog of highway, bridge, transit and other projects;” “ensur[ing] that contracting for architectural and engineering services occurs through a fair, competitive selection process, free of undue political influence, to obtain the best quality and value for California taxpayers;” and “ensur[ing] that private firms contracting for architectural and engineering services with governmental entities meet established design and construction standards and comply with standard accounting practice and permit financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.” (Initiative Measure (Prop. 35, § 2, approved Nov. 7, 2000, eff. Nov. 8, 2000).)

The specific benefits anticipated by the proposed regulations include: (1) the Department will be able to complete projects in a timely manner by directly contracting with private firms when State civil service staff are not available to perform the necessary work; (2) the Department will be able to make annual announcements based on the general need for architectural and engineering services to assist in its overall mission and may enter into requirements contracts, also commonly known as “on-call” contracts; (3) “on-call” contracts will allow for expeditious and cost-effective contracting for as-needed projects; and (4) business opportunities for private firms to contract with the Department will be increased.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Department’s ability to contract with private architectural and engineering firms.

Forms or Documents Incorporated by Reference:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department’s Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: No fiscal impact on Department spending because the cost of contracting with private architectural and engineering firms will be comparable to current spending with the Department of General Services for architectural and engineering services.

Cost to any local agency or school district which must be reimbursed in accordance with

Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Businesses are not required to apply for contracting opportunities with the Department. These regulations could result in additional income for businesses if they choose to participate in the program and are selected for a project.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: The Department has made an initial determination that that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment (EIA):

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) likely that the proposal will result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by allowing the Department to use qualified private architectural and engineering firms to help deliver projects safely, cost effectively, and on time.

(2) The proposal would benefit worker safety by allowing the Department to contract with private architectural and engineering firms, thereby enabling the Department to resolve and avoid project delays that may otherwise jeopardize worker safety.

(3) The proposal would not benefit the state's environment because it does not change any applicable environmental standards.

Business report requirement: None.

Small business determination: The Department has determined that the proposed action affects small businesses. Small businesses will have more of an opportunity to compete for contracts under these regulations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has been brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that the proposed regulations are the most effective way to contract with private architectural and engineering firms. The regulations do not create any burden because applying to contract with the Department is voluntary. These regulations increase business opportunities for private firms because they will allow the Department to select private firms to complete necessary projects.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Brenda Lusk
Sacramento-San Joaquin Delta Conservancy
1450 Halyard Drive, Suite 6
West Sacramento, CA 95691
(916) 634-3398
Brenda.Lusk@deltaconservancy.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Karen Buhr
Sacramento-San Joaquin Delta Conservancy
1450 Halyard Drive, Suite 6
West Sacramento, CA 95691
(916) 996-8117
Karen.Buhr@deltaconservancy.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at <https://deltaconservancy.ca.gov/public-info/>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department’s website at <https://deltaconservancy.ca.gov/public-info/>. Please refer to the contact information listed above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at <https://deltaconservancy.ca.gov/public-info/>.

SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

TITLE 14. NATURAL RESOURCES

**DIVISION 16. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
CHAPTER 2. SELECTION PROCESS FOR PRIVATE ARCHITECTURAL AND
ENGINEERING FIRMS**

TEXT OF PROPOSED REGULATIONS

§ 28302. Purpose and Scope.

(a) This chapter shall be known as the Sacramento-San Joaquin Delta Conservancy's Selection Process for Private Architectural and Engineering Firms. This chapter establishes the applicable criteria and procedures for procurement, by the Sacramento-San Joaquin Delta Conservancy, of architectural and engineering services.

(b) If the Director determines that the architectural and engineering services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract may be awarded on the basis of bids rather than by following these procedures for requesting qualifications and negotiation.

Note: Authority cited: Section 4526, Government Code. Reference: Sections: 4525, 4526, 4526.5, 4527, 4528, 4529, 4529.5, 4529.10, 4529.11, 4529.12, 4529.13, 4529.13, 4529.14, 4529.15, 4529.16, 4529.17, 4529.18, 4529.19 and 4529.20, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28303. Definitions.

As used in this chapter, the following definitions shall apply:

(a) "Architectural and engineering services" (hereafter "A&E services") shall include architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services as those terms are defined in Government Code section 4525, subdivisions (d), (e), and (f).

(b) "Director" means the Executive Officer of the Sacramento-San Joaquin Delta Conservancy, or the person(s) designated to act on the Director's behalf.

(c) "Department" means the Sacramento-San Joaquin Delta Conservancy.

(d) "Firm" has the meaning set forth for that term in Government Code section 4525, subdivision (a).

(e) “Project” means either a specific planned undertaking, such as the transfer, sale, construction or upgrade of facilities, or a detailed plan or proposal for the types of services that the Department may require in connection with the future transfer, sale, construction, upgrade of facilities, or other specific planned undertaking, when such activities have not yet been identified.

(f) “Small business” means a firm certified as a small business by the Department of General Services pursuant to Government Code section 14839.1.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4525, 4526, 4527 and 4529.10, Government Code.

§ 28304. Annual Notice Requesting Statement of Qualifications and Performance Data.

The Director shall make a statewide announcement of all projects using A&E services on the Department’s website at <https://deltaconservancy.ca.gov/public-info/> and through publications of the respective professional societies. The annual notice shall solicit statement of qualifications and performance data from firms providing A&E services. The notice shall include a description of the projects expected by the Department in the next year, a Department contact, and the date, time, and location for submission of the statement of qualifications. The notice may also identify the criteria upon which the contract award will be made.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

§ 28305. Announcement of Projects.

(a) In addition to the annual notice, the Director shall publish, either electronically or in print, a Request for Qualifications (RFQ) for any proposed project in the State Contracts Register and in the publications of relevant professional societies.

(b) The RFQ shall include a description of the project, submittal requirements and deadlines for a firm’s statement of qualifications, and the criteria upon which the contract award will be made. The RFQ may also provide for the award of multiple contracts if the selection procedure is sufficiently described in the RFQ and the award otherwise complies with the provisions of this chapter.

(c) If the Department requires A&E services for a project with a site or sites that cannot be identified at the time the RFQ is prepared, the RFQ shall specify the type of services that the firm might be expected to complete on an as-needed or on-call basis. RFQs for such “on-call” contracts shall specify with as much detail as possible the anticipated nature of the services required and the expected location where services may be needed.

(d) Failure of a professional publication to publish, or error by a professional publication in publishing an announcement, shall not invalidate that announcement. In such a circumstance, the Director may extend the announcement deadlines to allow further publication of the announcement.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 4527 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28306. Establishment of Criteria.

The Director shall establish criteria for selecting a firm for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of services completed, reliability and continuity of the firm and/or subcontractors, and location. Such factors shall be weighted by the Director according to the nature, complexity, and special requirements of the project.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 4527 and 4529.12, Government Code.

§ 28307. Estimate of Value of A&E Services.

(a) Before any discussion with any firm concerning fees may take place, the Director shall cause an estimate of the value of such A&E services to be prepared. This estimate may be based on such factors as a market survey, comparison with fees paid to other departments' or agencies' contractors for similar services, or comparison with the salaries of comparable positions within the Department, within State service, or within other governmental entities. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. The estimated value shall be held confidential until the award of the contract or abandonment of the procurement for the A&E services.

(b) If at any time the Director determines the Department's estimate to be unrealistic, the Director may direct that the estimate be reevaluated and modified if necessary.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 4528 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28308. Selection of Firm.

(a) After expiration of the period stated in the announcement prescribed in Section 28305, the Director shall evaluate any current statements of qualifications and performance data on file with the Department, together with those that were submitted by other firms regarding the proposed project.

(b) The Director shall conduct discussions with no fewer than three firms regarding the required A&E services.

(c) From the firms with which discussions are held, the Director shall select, in order of preference, based upon the established criteria, no fewer than three firms deemed to be the most highly qualified to provide the services required.

(d) If fewer than three firms submitted statements of qualifications, the Director may discontinue the selection process or extend the selection process for no less than 20 days and provide supplemental notice to attract additional firms.

(e) If less than three firms submit statement of qualifications after an extended selection process, the Director may choose to suspend the process, extend the process or move forward with the firms that submitted qualifications in the order of preference.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 4527 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28309. Negotiation.

(a) The Director shall attempt to negotiate a contract with the most highly qualified firm. In negotiating fees and executing a contract, the Director shall follow the procedure described in Section 6106 of the Public Contract Code (or any successor statute).

(b) If the Director is unable to negotiate a satisfactory contract with the most highly qualified firm at fair and reasonable compensation as determined by the procedure set forth in Section 28307, negotiations shall be terminated. The Director shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The Director shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated.

(c) Should the Director be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, the Director shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

(d) The Director may choose to suspend the process and/or reopen the announcement at any time,

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 4526.5, 4528 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28310. Amendments.

If the Director determines that a change in the contract is necessary during the performance of the A&E services, the parties may, by mutual written agreement, amend any term of the contract, including a reasonable adjustment in the firm's compensation as determined by the procedure set forth in Section 28307.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 4528 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28311. Contracting in Phases.

(a) If the Director determines it is necessary or desirable to have a project performed in phases, it will not be necessary to negotiate the total contract amount or compensation provisions in the initial instance, provided that:

(1) The Director has determined that the selected firm is best qualified to perform the entire project at a fair and reasonable cost; and

(2) The contract states that the Department may, at its option, use that firm to perform other phases of the project and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument.

(b) The procedures established in this chapter with regard to estimates and negotiation shall otherwise be applicable.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4528, Government Code.

§ 28312. Requirements/On-Call Contracts.

If the Request for Qualifications identified the general need for A&E services to assist in the Department's overall mission, the Director may enter into contracts for such services through a requirements contract, commonly known as an "on-call" contract. Requirements contracts will provide a process for the development and execution of task orders for defined as-needed A&E services. Rates for such services shall be specified in a rate schedule to be attached to the original contract provided that rates may be modified and categories of services added by mutual agreement of the parties.

Note: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28313. Prohibited Practices and Conflict of Interest.

(a) Practices that might result in unlawful activity, including rebates, kickbacks, or other unlawful consideration are strictly prohibited. The Department shall require a contract entered into pursuant to this chapter to include a provision in which the firm certifies that the contract was not obtained through rebates, kickbacks, or other unlawful considerations either promised or paid to a Department employee. In addition to any other applicable legal proscriptions, failure to adhere to the certification may be cause for contract termination and recovery of damages under the rights and remedies due the Department under the default provision of the contract.

(b) A Department employee shall not participate in the selection process if the employee has a relationship with a person or business entity seeking a contract which would subject that employee to the prohibition of Government Code section 87100.

(c) Nothing in this chapter shall be construed to abridge the obligation of the Department or the firm to comply with all laws regarding political contributions, conflicts of interest, or unlawful activities.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28314. Small Business Participation.

The Director shall encourage small business firms to become certified through the State Department of General Services and to subscribe to the California State Contracts Register for advertisement notifications. The Director shall provide to all small business firms who have indicated an interest in receiving such, a copy of each Request for Qualifications (RFQ) for projects for which the Director concludes that small business firms could be especially qualified. Small businesses that wish to receive these notifications shall subscribe to the Department's mailing list on the Department's website at <https://deltaconservancy.ca.gov/public-info/>. A failure of the Director to send a copy of an RFQ to any firm shall not operate to invalidate any contract.

Note: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

TITLE 14. NATURAL RESOURCES

DIVISION 16. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

CHAPTER 2. SELECTION PROCESS FOR PRIVATE ARCHITECTURAL AND ENGINEERING FIRMS

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

Generally, the California Constitution forbids state agencies from contracting for private companies to perform the services that state civil service employees can perform. In response, California voters adopted Proposition 35 in November 2000. Entitled the “Fair Competition and Taxpayer Savings Act,” Proposition 35 added Article XXII to the California Constitution to provide that the State of California and all other governmental entities “shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement.” (Cal. Const., art. XXII, § 1.)

If a state agency wants to contract with private architectural and engineering firms, it is required to develop regulations describing the procedures to “assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies.” (Gov. Code, § 4526.) Currently, the Sacramento-San Joaquin Delta Conservancy (Delta Conservancy) is unable to contract with private architectural and engineering firms because it has not adopted regulations on this subject.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The purpose and intent of Proposition 35 included “remov[ing] existing restrictions on contracting for architectural and engineering services and [allowing] state, regional and local governments to use qualified private architectural and engineering firms to help deliver transportation, schools, water, seismic retrofit and other infrastructure projects safely, cost effectively and on time;” “encourag[ing] the kind of public/private partnerships necessary to ensure that California taxpayers benefit from the use of private sector experts to deliver transportation, schools, water, seismic retrofit and other infrastructure projects;” “promot[ing] fair competition so that both public and private sector architects and engineers work smarter, more efficiently and ultimately deliver better value to taxpayers;” “speed[ing] the completion of a multi-billion dollar backlog of highway, bridge, transit and other projects;” “ensur[ing] that contracting for architectural and engineering services occurs through a fair, competitive selection process, free of undue political influence, to obtain the best quality and value for California taxpayers;” and “ensur[ing] that private firms contracting for architectural and engineering services with governmental entities meet established design and construction standards and

comply with standard accounting practice and permit financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.” (Initiative Measure (Prop. 35, § 2, approved Nov. 7, 2000, eff. Nov. 8, 2000).)

The specific benefits anticipated by the proposed regulations include: (1) the Delta Conservancy will be able to complete projects in a timely manner by directly contracting with private firms when State civil service staff are not available to perform the necessary work; (2) the Delta Conservancy will be able to make annual announcements based on the general need for architectural and engineering services to assist in its overall mission and may enter into requirements contracts, also commonly known as “on-call” contracts; (3) “on-call” contracts will allow for expeditious and cost-effective contracting for as-needed projects; and (4) business opportunities for private firms to contract with the Delta Conservancy will be increased.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

§ 28302. Purpose and Scope.

(a) In accordance with Government Code section 4526, the Delta Conservancy has established regulations allowing it to contract with private architectural and engineering firms. The purpose of this section is to describe the scope of the chapter. This is necessary to inform the regulated community that the chapter establishes applicable criteria and procedures for the Delta Conservancy to procure architectural and engineering services.

(b) The language explaining that a contract may be awarded on the basis of bids rather than by following these procedures is a statement of the law contained in Government Code section 4529. Including this statutory exclusion in the regulations is necessary for clarity so that all procedures are in one place.

§ 28303. Definitions.

This section defines six key terms that are used in the proposed regulations. The definitions are necessary to avoid any confusion that might result if these terms were not defined and to ensure uniform application throughout the regulations.

(a) Architectural and engineering (A&E) services: This definition is necessary to define the type of contracting services that fall under the “architectural and engineering services” umbrella as used in the regulations.

(b) Director: This definition is necessary to specify who in the Delta Conservancy has authority to make certain determinations related to the A&E contracting process.

(c) Department: This definition is necessary to clarify that the term “Department” refers to the Sacramento-San Joaquin Delta Conservancy (Delta Conservancy).

(d) Firm: This definition is necessary to delineate the type of entity that is considered a “firm” for purpose of these regulations.

(e) Project: This definition is necessary to establish that the contract can be awarded for a specific planned undertaking or an expected undertaking required in the future.

(f) Small business: These procedures must assure maximum participation of small business firms. (Gov. Code, § 4526.) This definition is necessary to delineate the type of entity that is considered a “small business.”

§ 28304. Annual Announcements for Statement of Qualifications and Performance Data.

This section explains that the Director will publish an annual notice describing anticipated projects and soliciting statement of qualifications from firms providing A&E services. This section is necessary to inform firms how they can learn of and be considered for proposed A&E contracting opportunities. Government Code section 4527 requires the Delta Conservancy to encourage firms to submit annually a statement of qualifications and performance data. Including this statutory requirement in the regulations is necessary for clarity so that all procedures are in one place.

§ 28305. Announcement of Projects.

(a), (b), and (c) These subdivisions explain how the Delta Conservancy will publish advertised A&E contracts. These subdivisions are necessary to inform firms how they can learn of proposed A&E contracting opportunities, including “on call” contracts. They also ensure that these services are engaged on the basis of demonstrated competence and qualifications. Government Code section 4527 requires the Delta Conservancy to make a statewide announcement of all projects requiring A&E services. Including this statutory requirement in the regulations is necessary for clarity so that all procedures are in one place.

(d) This subdivision explains that an announcement is not made invalid if a professional publication fails to publish or makes an error in publishing that announcement. In such a circumstance, the Director may extend the announcement deadlines to allow further publication of the announcement. This subdivision is necessary because the Delta Conservancy should be given the discretion to continue contract negotiations with a qualified firm at fair and responsible compensation without having to postpone any projects that must be completed.

§ 28306. Establishment of Criteria.

This section explains that the Delta Conservancy has a standard practice of identifying criteria to be used in analyzing responses to A&E contract solicitations on a project-by-project basis. Requiring the Delta Conservancy to provide this information is necessary to help firms prepare their responses on a particular project. The criteria examples help ensure that these services are engaged on the basis of demonstrated competence and qualifications.

§ 28307. Estimate of Value of Services.

(a) This subdivision explains how the Delta Conservancy prepares an estimate of the value of such services to serve as a guide in determining fair and reasonable compensation for the services rendered. This estimate of value of service information is necessary in order to have a basis for determining the reasonableness of responses to A&E contract solicitations. The confidential nature of the information is also a valuable part of the process to ensure competition.

(b) This subdivision further explains that the Delta Conservancy has the right to reevaluate the estimate value of services. This is necessary because the Delta Conservancy's original estimate may be too high or too low. Modifying the estimate ensures that the services are performed and at fair and reasonable price to the public agency.

§ 28308. Selection of Firm.

(a) This subdivision explains that the Delta Conservancy will review statements of qualifications. Government Code section 4527 requires the Delta Conservancy to evaluate current statements of qualifications and performance data on file with the Delta Conservancy, together with those that may be submitted by other firms regarding the proposed project. Including this statutory requirement in the regulations is necessary for clarity so that all procedures are in one place.

(b) and (c) These subdivisions explain that the Delta Conservancy will select, based on the established criteria, no fewer than three firms to discuss the required services. This section is necessary to ensure that these services are engaged on the basis of demonstrated competence and qualifications. Government Code section 4527 requires the Delta Conservancy to conduct discussions with no fewer than three firms. Including this statutory requirement in the regulations is necessary for clarity so that all procedures are in one place.

(d) This subdivision further explains that if fewer than three firms submitted statements of qualifications, the Director may discontinue the selection process, extend the selection process and provide supplemental notice to attract additional firms, or continue the selection process with the submissions received. This is necessary because the Delta Conservancy may need to extend the selection process if no qualified firm applied. However, as long as one qualified firm applied,

the Delta Conservancy should be able to continue contract negotiations without having to postpone any projects that must be completed.

§ 28309. Negotiation.

(a), (b), and (c) These subdivisions explain that the Delta Conservancy will attempt to negotiate a contract with the most highly qualified firm at fair and reasonable compensation. Government Code sections 4526.5 and 4528 require the Delta Conservancy to follow these procedures when negotiating a contract. Including these statutory requirements in the regulations is necessary for clarity so that all procedures are in one place.

(d) This section further explains that the Delta Conservancy may, at any point, reopen previously terminated negotiations with a firm. This is necessary because the parties' positions may change after negotiations are terminated. The Delta Conservancy should be given the opportunity to continue contract negotiations with a qualified firm at fair and responsible compensation without having to postpone any projects that must be completed.

§ 28310. Amendments.

This section explains that the parties may, by mutual written agreement, amend any term of the contract. This section is necessary because contract amendments may be appropriate based on facts learned after the contract is entered.

§ 28311. Contracting in Phases.

(a) This subdivision explains that the Delta Conservancy may contract in phases without negotiating the total contract price. This subdivision is necessary because it gives the Delta Conservancy flexibility to obtain the best contract for a given situation. The subdivision requires the firm to accept a fair and reasonable price for subsequent phases of work so that the services are performed and at fair and reasonable price to the public agency.

(b) This subdivision explains that the procedures established with regard to estimates and negotiation (Sections 28307 and 28309, respectively) apply when the Delta Conservancy contracts in phases. This is necessary so that a contract is entered into with a qualified firm at fair and responsible compensation.

§ 28312. Requirements/On-Call Contracts.

This section explains that the Delta Conservancy may enter into contracts for such services through a requirements contract, commonly known as an "on-call" contract. This is necessary

because the Delta Conservancy may require A&E services for a project with a site or sites that cannot be identified at the time the request for qualifications is prepared. On-call contracts allow the Delta Conservancy to have private firms perform work on an as-needed or on-call basis. This flexibility is necessary so that projects are completed quickly when the need arises.

This section further provides for a rate schedule so that the services are performed and at fair and reasonable price to the public agency.

§ 28313. Prohibited Practices and Conflict of Interest.

This section explains that all parties are required to comply with all laws regarding political contributions, conflicts of interest, and unlawful activities. This is required by Government Code sections 4526 and 4529.12. Including these statutory requirements in the regulations is necessary for clarity so that all procedures are in one place.

§ 28314. Small Business Participation.

This section explains how the Delta Conservancy will encourage small businesses to apply for contracting opportunities with the Delta Conservancy. Government Code section 4526 requires the Delta Conservancy to adopt, by regulation, procedures that assure maximum participation of small business firms. These procedures are necessary because they will increase opportunities for small businesses to apply for contracting opportunities.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Sacramento-San Joaquin Delta Conservancy (Delta Conservancy) concludes:

(1) It is unlikely that the proposal would create or eliminate jobs within the state because they do not affect the number of architectural and engineering projects within the Delta Conservancy. The regulations simply create an alternative so that the Delta Conservancy can contract with private architectural and engineering firms. Most of the projects we implement are small, require specific expertise and are one-off. They would not support an FTE.

(2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state for the reason identified above.

(3) It is likely that the proposal would result in the expansion of businesses currently doing business within the state because for the reason identified above.

The Delta Conservancy also concludes that:

- (1) The proposal would not benefit the health and welfare of California residents because it does not change any applicable health and welfare standards.
- (2) The proposal would benefit worker safety by allowing the Delta Conservancy to contract with private architectural and engineering firms, thereby enabling the Delta Conservancy to resolve and avoid project delays that may otherwise jeopardize worker safety.
- (3) The proposal would not benefit the state's environment because it does not change any applicable environmental standards.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

The Delta Conservancy did not rely on any technical, theoretical, or empirical studies, reports or similar documents in proposing these regulations.

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Delta Conservancy has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations increase business opportunities for existing private firms because they will allow the Delta Conservancy to select private firms to complete necessary projects.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Delta Conservancy determines that these proposed regulations do not adversely affect small businesses.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Delta Conservancy finds that no alternatives were presented to, or considered by, the Delta Conservancy that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations. These regulations do not impose any burden on affected private persons.

Rather, they create an opportunity for private architectural and engineering firms to apply for Delta Conservancy contracts.

Performance Standard as Alternative:

The proposed regulations do not mandate the use of specific technologies or equipment. The proposed regulations do not impose any mandates on any firm. Seeking contracting opportunities with the Delta Conservancy is voluntary. However, firms that wish to contract with the Delta Conservancy must comply with procedures created by these regulations.

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CHAPTER 2. ARCHITECTURAL AND ENGINEERING AUTHORITY

UPDATED INFORMATIVE DIGEST

There were modifications in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

- Chapter 1. Conflict of Interest Code, Appendix A Designation Positions, and Appendix B Disclosure Categories were added to the Text of Proposed Regulations.
- Under Notes, Authority cited, the Public Resources Code, Section 32336 and 32344 were added.
- In Section 28309. Negotiation. Subsection (d) The Director may choose to suspend the process and/or reopen the announcement at any time was removed.

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FINAL STATEMENT OF REASONS

UPDATE ON INITIAL STATEMENT OF REASONS

The Sacramento-San Joaquin Delta Conservancy (Delta Conservancy or Department) did not receive any comments to its proposed regulations. The Department will clarify its Initial Statement of Reasons:

- The necessity statement of Section 28308 (d) also covers Section 28308 (e).
- The Economic Impact Statement: Regulation is beneficial for Californians health and welfare now stated in the NOPA.
- These regulations do not conflict with or duplicate the CFR.
- On May 9, 2025, the Department went out on a 15-Day Period to remove section 28309 (d) as a subsidence change to make the regulations clearer. The 15-Day Period ended on May 27, 2025. No comments were received.
- The board approved the regulations on May 28, 2025.

CORRECTIONS AND NON-SUBSTANTIAL EDITS

- Chapter 1. Conflict of Interest Code, Appendix A Designation Positions, and Appendix B Disclosure Categories were added to the Text of Proposed Regulations.
- Under Notes, Authority cited, the Public Resources Code, Section 32336 and 32344 were added.
- In Section 28309. Negotiation. Subsection (d) The Director may choose to suspend the process and/or reopen the announcement at any time was removed.

SUMMARY OF COMMENTS AND DEPARTMENT RESPONSES

The Department did not receive any written comments during the 45-day and 15-day comment period.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATIONS

In accordance with Government Code section 111346.9, subdivision (a)(4), the Department notes that no alternatives were brought to its attention and has determined that no alternative it considered, or that it otherwise identified, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private

persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

These regulations do not impose any burden on affected private persons. Rather, they create an opportunity for private architectural and engineering firms to apply for Department contracts.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

The Department determines that these proposed regulations do not adversely affect small businesses. These procedures assure maximum participation of small business firms in compliance with Government Code section 4526.

DOCUMENTS INCORPORATED BY REFERENCE

None.

NON-DUPLICATION

Some of the regulations may repeat or rephrase in whole or in part a state or federal statute or regulation. This was necessary to satisfy the clarity standard set forth in Government Code section 11349.1, subdivision (a)(3).

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STATEMENT OF MAILING NOTICE

The Sacramento-San Joaquin Delta Conservancy has complied with the provisions of Government Code section 11346.4, subdivision (a)(1) through (4), regarding the mailing of the notice of proposed regulatory action. The compliance occurred on January 3, 2025, over 45 days prior to the close of the public comment period.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Sac-San Joaquin Delta Conservancy	CONTACT PERSON Karen Buhr	EMAIL ADDRESS Karen.Buhr@deltaconservancy.c	TELEPHONE NUMBER 916-996-8117
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Selection Process for Private Architectural and Engineering Firms			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The **Sac-San Joaquin Delta Conservancy** estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
☐ Between \$10 and \$25 million
☐ Between \$25 and \$50 million
☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: **Unknown**

Describe the types of businesses (Include nonprofits): **Architectural and engineering firms that choose to bid on state contracts**

Enter the number or percentage of total businesses impacted that are small businesses: **Unknown**

4. Enter the number of businesses that will be created: **0** eliminated: **0**

Explain: **These regulations are not expected to create or eliminate any businesses.**

5. Indicate the geographic extent of impacts: ☒ Statewide
☐ Local or regional (List areas):

6. Enter the number of jobs created: **0** and eliminated: **0**

Describe the types of jobs or occupations impacted: **These regulations are not expected to create or eliminate any jobs or occupations.**

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly:

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

B. ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: N/A
- b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: N/A
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: N/A
- d. Describe other economic costs that may occur: None.
2. If multiple industries are impacted, enter the share of total costs for each industry: There are no costs imposed on businesses or individuals. Businesses are not required to apply for contracting opportunities with the department.
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ N/A
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☒ NO
Explain the need for State regulation given the existence or absence of Federal regulations: The California Constitution requires a state agency to promulgate regulations in order to contract with private architectural and engineering firms.
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: These regulations allow the department to contract with private architectural and engineering firms, thereby enabling the department to resolve and avoid project delays that may otherwise jeopardize worker safety.
2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: The benefits of contracting are listed in the "Fair Competition and Taxpayer Savings Act" (Proposition 35)
3. What are the total statewide benefits from this regulation over its lifetime? \$ unquantifiable
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: These regulations increase business opportunities for private firms because they will allow the department to select private firms to complete necessary projects.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No alternatives were considered as Government Code section 4526 requires the department to promulgate regulations if it wants to contract with private architectural and engineering firms.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ unquantifiable Cost: \$ 0
Alternative 1: Benefit: \$ N/A Cost: \$ N/A
Alternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NO

Explain: These regulations prescribe procedures for awarding architectural and engineering contracts to ensure a fare and equitable process and to ensure public funds are not misspent.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☒ NO

***If YES, complete E2. and E3
If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO

If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: N/A

The incentive for innovation in products, materials or processes: N/A

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: The regulations allow the department to resolve and avoid project delays that may otherwise jeopardize worker safety.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

It is anticipated that State agencies will:

- ☐ a. Absorb these additional costs within their existing budgets and resources.
- ☐ b. Increase the currently authorized budget level for the _____ Fiscal Year _____

- ☐ 2. Savings in the current State Fiscal Year. (Approximate)

- ☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

- ☐ 4. Other. Explain _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

- ☐ 2. Savings in the current State Fiscal Year. (Approximate)

- ☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

- ☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

 Campbell Ingram

DATE _____

12/19/2024

The _____ agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

 Bryan Cash

DATE _____

12/19/2024

Signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE _____

**SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
1450 HALYARD DRIVE, SUITE 6
WEST SACRAMENTO, CA 95691**

**TITLE 14, CALIFORNIA CODE OF REGULATIONS
ADOPTION OF ARCHITECTURAL AND ENGINEERING AUTHORITY**

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of title 1 of the California Code of Regulations, the Sacramento-San Joaquin Delta Conservancy (Delta Conservancy) hereby provides notice of changes made to proposed regulation sections 28302-28314. The text of the regulation with proposed modifications is attached to this notice.

The Delta Conservancy will accept written comments on the proposed changes from May 12, 2025 to May 27, 2025. Written comments may be submitted by mail to:

Sacramento-San Joaquin Delta Conservancy
Attention: Brenda Lusk
1450 Halyard Drive, Suite 6
West Sacramento, CA 95691

Comments may also be submitted by email at brenda.lusk@deltaconservancy.ca.gov.

All written comments received by May 27, 2025, which pertain to the indicated changes will be reviewed by the Delta Conservancy and will be summarized and responded to in the Final Statement of Reasons. Please limit your comments to the modifications to the text.

SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
TITLE 14. NATURAL RESOURCES
DIVISION 16. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
CHAPTER 2. ARCHITECTURAL AND ENGINEERING AUTHORITY

15-DAY PERIOD TEXT OF PROPOSED REGULATIONS

CHAPTER 1. CONFLICT OF INTEREST CODE

§ 28301. Sacramento-San Joaquin Delta Conservancy Conflict-of-Interest Code.

[No changes to text]

Appendix A Designation Positions

[No changes to text]

Appendix B Disclosure Categories

[No changes to text]

CHAPTER 2. ARCHITECTURAL AND ENGINEERING AUTHORITY

§ 28302. Purpose and Scope.

(a) This chapter shall be known as the Sacramento-San Joaquin Delta Conservancy's Selection Process for Private Architectural and Engineering Firms. This chapter establishes the applicable criteria and procedures for procurement, by the Sacramento-San Joaquin Delta Conservancy, of architectural and engineering services.

(b) If the Director determines that the architectural and engineering services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract may be awarded on the basis of bids rather than by following these procedures for requesting qualifications and negotiation.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections: 4525, 4526, 4526.5, 4527, 4528, 4529, 4529.5, 4529.10, 4529.11, 4529.12, 4529.13, ~~4529.13~~, 4529.14, 4529.15, 4529.16, 4529.17, 4529.18, 4529.19 and 4529.20, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28303. Definitions.

As used in this chapter, the following definitions shall apply:

- (a) “Architectural and engineering services” (hereafter “A&E services”) shall include architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services as those terms are defined in Government Code section 4525, subdivisions (d), (e), and (f).
- (b) “Director” means the Executive Officer of the Sacramento-San Joaquin Delta Conservancy, or the person(s) designated to act on the Director’s behalf.
- (c) “Department” means the Sacramento-San Joaquin Delta Conservancy.
- (d) “Firm” has the meaning set forth for that term in Government Code section 4525, subdivision (a).
- (e) “Project” means either a specific planned undertaking, such as the transfer, sale, construction or upgrade of facilities, or a detailed plan or proposal for the types of services that the Department may require in connection with the future transfer, sale, construction, upgrade of facilities, or other specific planned undertaking, when such activities have not yet been identified.
- (f) “Small business” means a firm certified as a small business by the Department of General Services pursuant to Government Code section 14839.1.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4525, 4526, 4527 and 4529.10, Government Code.

§ 28304. Annual Notice Requesting Statement of Qualifications and Performance Data.

The Director shall make a statewide announcement of all projects using A&E services on the Department’s website at [Delta Conservancy – Welcome \(ca.gov\)](http://DeltaConservancy-Welcome.ca.gov) and through publications of the respective professional societies. The annual notice shall solicit statement of qualifications and performance data from firms providing A&E services. The notice shall include a description of the projects expected by the Department in the next year, a Department contact, and the date,

time, and location for submission of the statement of qualifications. The notice may also identify the criteria upon which the contract award will be made.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526 and 4527, Government Code.

§ 28305. Announcement of Projects.

(a) In addition to the annual notice, the Director shall publish, either electronically or in print, a Request for Qualifications (RFQ) for any proposed project in the State Contracts Register and in the publications of relevant professional societies.

(b) The RFQ shall include a description of the project, submittal requirements and deadlines for a firm's statement of qualifications, and the criteria upon which the contract award will be made. The RFQ may also provide for the award of multiple contracts if the selection procedure is sufficiently described in the RFQ and the award otherwise complies with the provisions of this chapter.

(c) If the Department requires A&E services for a project with a site or sites that cannot be identified at the time the RFQ is prepared, the RFQ shall specify the type of services that the firm might be expected to complete on an as-needed or on-call basis. RFQs for such "on-call" contracts shall specify with as much detail as possible the anticipated nature of the services required and the expected location where services may be needed.

(d) Failure of a professional publication to publish, or error by a professional publication in publishing an announcement, shall not invalidate that announcement. In such a circumstance, the Director may extend the announcement deadlines to allow further publication of the announcement.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526, 4527 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28306. Establishment of Criteria.

The Director shall establish criteria for selecting a firm for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of services completed, reliability and continuity of the firm and/or subcontractors, and location. Such factors shall be weighted by the Director according to the nature, complexity, and special requirements of the project.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526, 4527 and 4529.12, Government Code.

§ 28307. Estimate of Value of A&E Services.

(a) Before any discussion with any firm concerning fees may take place, the Director shall cause an estimate of the value of such A&E services to be prepared. This estimate may be based on such factors as a market survey, comparison with fees paid to other departments' or agencies' contractors for similar services, or comparison with the salaries of comparable positions within the Department, within State service, or within other governmental entities. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. The estimated value shall be held confidential until the award of the contract or abandonment of the procurement for the A&E services.

(b) If at any time the Director determines the Department's estimate to be unrealistic, the Director may direct that the estimate be reevaluated and modified if necessary.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526, 4528 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28308. Selection of Firm.

(a) After expiration of the period stated in the announcement prescribed in Section 28305, the Director shall evaluate any current statements of qualifications and performance data on file with

the Department, together with those that were submitted by other firms regarding the proposed project.

(b) The Director shall conduct discussions with no fewer than three firms regarding the required A&E services.

(c) From the firms with which discussions are held, the Director shall select, in order of preference, based upon the established criteria, no fewer than three firms deemed to be the most highly qualified to provide the services required.

(d) If fewer than three firms submitted statements of qualifications, the Director may discontinue the selection process or extend the selection process for no less than 20 days and provide supplemental notice to attract additional firms.

(e) If less than three firms submit statement of qualifications after an extended selection process, the Director may choose to suspend the process, extend the process or move forward with the firms that submitted qualifications in the order of preference.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526, 4527 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28309. Negotiation.

(a) The Director shall attempt to negotiate a contract with the most highly qualified firm. In negotiating fees and executing a contract, the Director shall follow the procedure described in Section 6106 of the Public Contract Code (or any successor statute).

(b) If the Director is unable to negotiate a satisfactory contract with the most highly qualified firm at fair and reasonable compensation as determined by the procedure set forth in Section 28307, negotiations shall be terminated. The Director shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The Director shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated.

(c) Should the Director be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, the Director shall select additional firms in order of

their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

~~(d) The Director may choose to suspend the process and/or reopen the announcement at any time.~~

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526, 4526.5, 4528 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28310. Amendments.

If the Director determines that a change in the contract is necessary during the performance of the A&E services, the parties may, by mutual written agreement, amend any term of the contract, including a reasonable adjustment in the firm's compensation as determined by the procedure set forth in Section 28307.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526, 4528 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28311. Contracting in Phases.

(a) If the Director determines it is necessary or desirable to have a project performed in phases, it will not be necessary to negotiate the total contract amount or compensation provisions in the initial instance, provided that:

- (1) The Director has determined that the selected firm is best qualified to perform the entire project at a fair and reasonable cost; and
- (2) The contract states that the Department may, at its option, use that firm to perform other phases of the project and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument.

(b) The procedures established in this chapter with regard to estimates and negotiation shall otherwise be applicable.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526 and 4528, Government Code.

§ 28312. Requirements/On-Call Contracts.

If the Request for Qualifications identified the general need for A&E services to assist in the Department's overall mission, the Director may enter into contracts for such services through a requirements contract, commonly known as an "on-call" contract. Requirements contracts will provide a process for the development and execution of task orders for defined as-needed A&E services. Rates for such services shall be specified in a rate schedule to be attached to the original contract provided that rates may be modified and categories of services added by mutual agreement of the parties.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Section 4526, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28313. Prohibited Practices and Conflict of Interest.

(a) Practices that might result in unlawful activity, including rebates, kickbacks, or other unlawful consideration are strictly prohibited. The Department shall require a contract entered into pursuant to this chapter to include a provision in which the firm certifies that the contract was not obtained through rebates, kickbacks, or other unlawful considerations either promised or paid to a Department employee. In addition to any other applicable legal proscriptions, failure to adhere to the certification may be cause for contract termination and recovery of damages under the rights and remedies due the Department under the default provision of the contract.

(b) A Department employee shall not participate in the selection process if the employee has a relationship with a person or business entity seeking a contract which would subject that employee to the prohibition of Government Code section 87100.

(c) Nothing in this chapter shall be construed to abridge the obligation of the Department or the firm to comply with all laws regarding political contributions, conflicts of interest, or unlawful activities.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Sections 4526 and 4529.12, Government Code; and Article XXII, Sections 1 and 2, California Constitution.

§ 28314. Small Business Participation.

The Director shall encourage small business firms to become certified through the State Department of General Services and to subscribe to the California State Contracts Register for advertisement notifications. The Director shall provide to all small business firms who have indicated an interest in receiving such, a copy of each Request for Qualifications (RFQ) for projects for which the Director concludes that small business firms could be especially qualified. Small businesses that wish to receive these notifications shall subscribe to the Department's mailing list on the Department's website at [Delta Conservancy – Welcome \(ca.gov\)](#). A failure of the Director to send a copy of an RFQ to any firm shall not operate to invalidate any contract.

Note: Authority cited: Section 32336, Public Resources Code; Section 4526, Government Code.
Reference: Section 32344, Public Resources Code; Section 4526, Government Code.

SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
TITLE 14. NATURAL RESOURCES
DIVISION 16. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY
CHAPTER 2. ARCHITECTURAL AND ENGINEERING AUTHORITY

STATEMENT OF MAILING NOTICE

On May 12, 2025, the Sacramento San-Joaquin Delta Conservancy mailed the modified text of the regulation with a notice of the public comment period to those person specified in subsections (a)(1) through (4) of Section 44 of Title 1 of the California Code of Regulations. The public comment period for the modified text was from May 12, 2025, to May 27, 2025.



SACRAMENTO - SAN JOAQUIN

DELTA CONSERVANCY

A California State Agency

BOARD MEETING AGENDA

May 28, 2025, 9:00 a.m. – 1:00 p.m.

Delta Conservancy Conference Room

1450 Halyard Drive, Suite 6, West Sacramento, CA 95691

This meeting will be conducted in a hybrid format. To maximize transparency and public access, members of the public can choose to participate either via Microsoft Teams or in person at the location listed above. After the business meeting concludes at approximately 11:00 a.m., there will be an in-person-only opportunity to visit two Delta Conservancy-funded projects. Site tour information including maps and directions is included below. The site tours should be completed by 2:00 p.m.

Board Members will be participating remotely from the following publicly accessible locations, where members of the public may join and participate:

- 44 N San Joaquin St Ste 627, Stockton, CA 95202
- 190 East 4th St. Pittsburg, CA 94565

Join via Microsoft Teams

[Click here to join the meeting](#)

Meeting ID: 243 603 535 406 0

Passcode: JB9nZ6vv

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 916-573-2034,,122286028#](#) United States, Sacramento

Phone Conference ID: 122 286 028#

[Find a local number](#) | [Reset PIN](#)

Questions and public comment can be addressed to contact@deltaconservancy.ca.gov prior to, and during the meeting.

1. **Call to Order**
2. **Welcome, Pledge of Allegiance, Roll Call, and Introductions**
3. **Public Comment** (New Business)
4. **Consent Calendar** (Action Item)
 - Approval of January 22, 2025 Board Meeting Summary and Action Items (Attachment)
5. **Executive Officer's Report**, Campbell Ingram
 - Program Update (Attachment)
 - Budget and Expenditure Report (Attachment)
6. **Ecosystem Restoration and Climate Adaptation Grant Program Update**, Anjali Shakya (Attachment)
7. **Community Enhancement Grant Program Update**, Maya Garrett (Attachment)

8. **Consideration of California Environmental Quality Act Lead Agency Exemption Declaration and Award of Community Enhancement Grant Program Funds for Land Acquisition for Darrahville Property in Stockton in Support of the Delta Aquatic Center**, Maya Garrett (Attachments) (Action Items)
9. **Consideration of Amendment to Budget and Term of Delta Drought Response Pilot Program Agreement for the Micrometeorological Measurements and Water Budget Calculation to Evaluate Conservation Practices in the Annual Delta Crops Project**, Dr. Rachel Wigginton (Attachments) (Action Item)
10. **Consideration of Updates to the Delta Conservancy's Modifications and Amendments Process**, Dr. Sarah Lesmeister (Attachments) (Action Item)
11. **Proposed Regulation for Architectural and Engineering Authority**, Brenda Lusk (Attachment) (Action Item)
12. **California Department of Water Resources Multibenefit Restoration Program Update**, Charlotte Biggs
13. **Delta Stewardship Council Update**, Amanda Bohl
14. **Delta Protection Commission Update**, Dan Ray
15. **Delta Conveyance Update**, Carrie Buckman
16. **Public Comment**
17. **ADJOURN**
 - To view the members of the Delta Conservancy Board, please visit <http://deltaconservancy.ca.gov/delta-conservancy-board>.
 - Attachments and additional information are on the Delta Conservancy's website at: <http://www.deltaconservancy.ca.gov>.
 - If you need reasonable accommodation due to a disability, or require printed copies of meeting materials, please contact us at least five (5) days prior to the meeting date at (916) 375-2084 or contact@deltaconservancy.ca.gov. This contact information may also be used for questions.
 - Public comments are generally limited to three (3) minutes but may be more or less at the discretion of the Board Chair.
 - The Board may consider the agenda items listed above in a different order at the Delta Conservancy Board meeting, pursuant to the determination of the Board Chair. All items appearing on this agenda, whether listed expressly for action, may be deliberated upon and subject to action at the discretion of the Delta Conservancy Board.

Site Tour Information

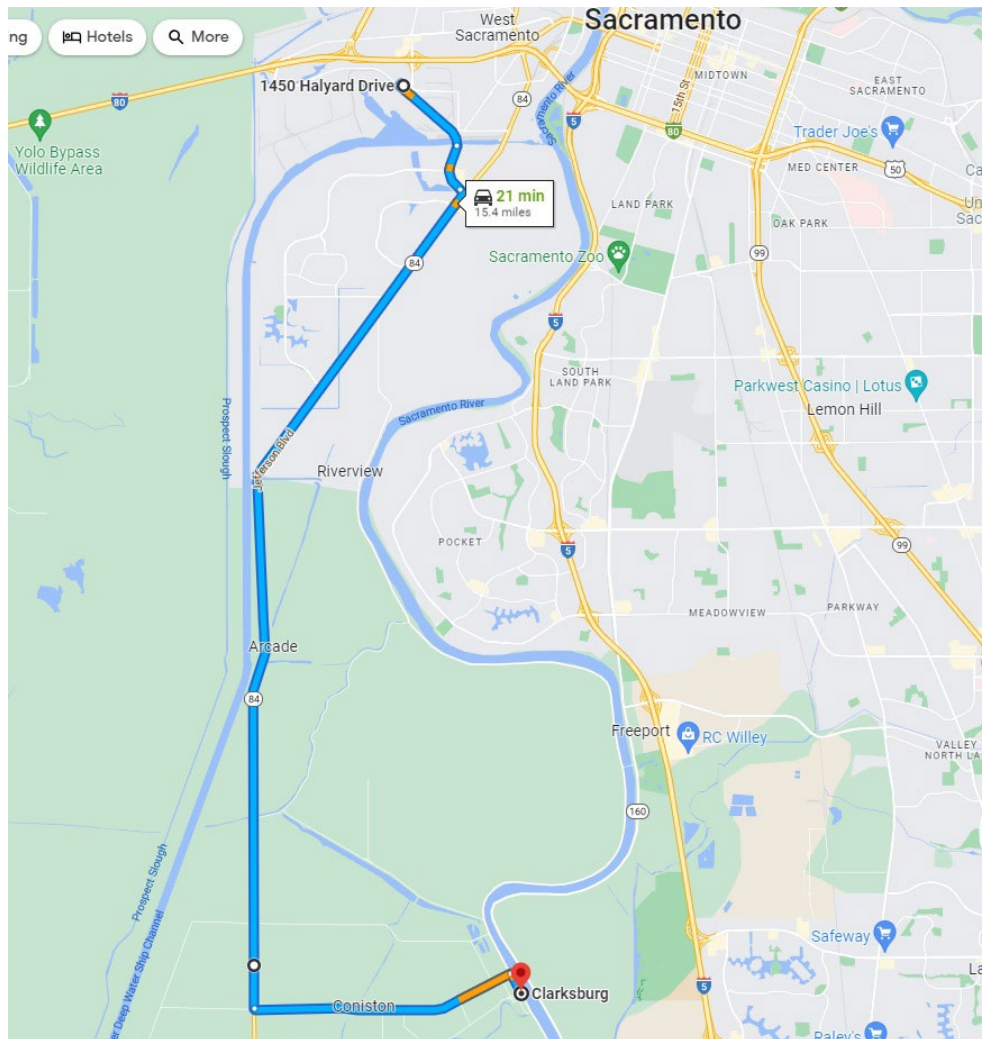
Please prepare for being outdoors, including wearing layers, comfortable shoes, and sun protection, and bringing water. Lunch is not included, but there are several restaurants in Isleton.

Site #1: Clarksburg

Tour and presentation of the Land Acquisition and Building Restoration of the 1883 Clarksburg Schoolhouse and Creation of a Delta Welcome Center Projects. Both projects were funded through the Delta Conservancy's Community Enhancement Program.

Directions from the Delta Conservancy office to the 1883 Clarksburg Schoolhouse, located at the corner of South River Road and Netherlands Avenue:

1. Exit the Delta Conservancy parking lot by taking a right onto Halyard Drive
2. Take an immediate left onto Industrial Boulevard
3. Industrial becomes Lake Washington Boulevard
4. Turn right onto CA-84/South Jefferson Boulevard – stay on Jefferson for approximately 10 miles
5. Turn left on Clarksburg Road – stay on Clarksburg Road for 3 miles
6. Clarksburg Road dead ends into South River Road
7. Take a right onto South River Road and the Clarksburg Schoolhouse is on the corner of South River Road and Netherlands Avenue (at the stop sign)

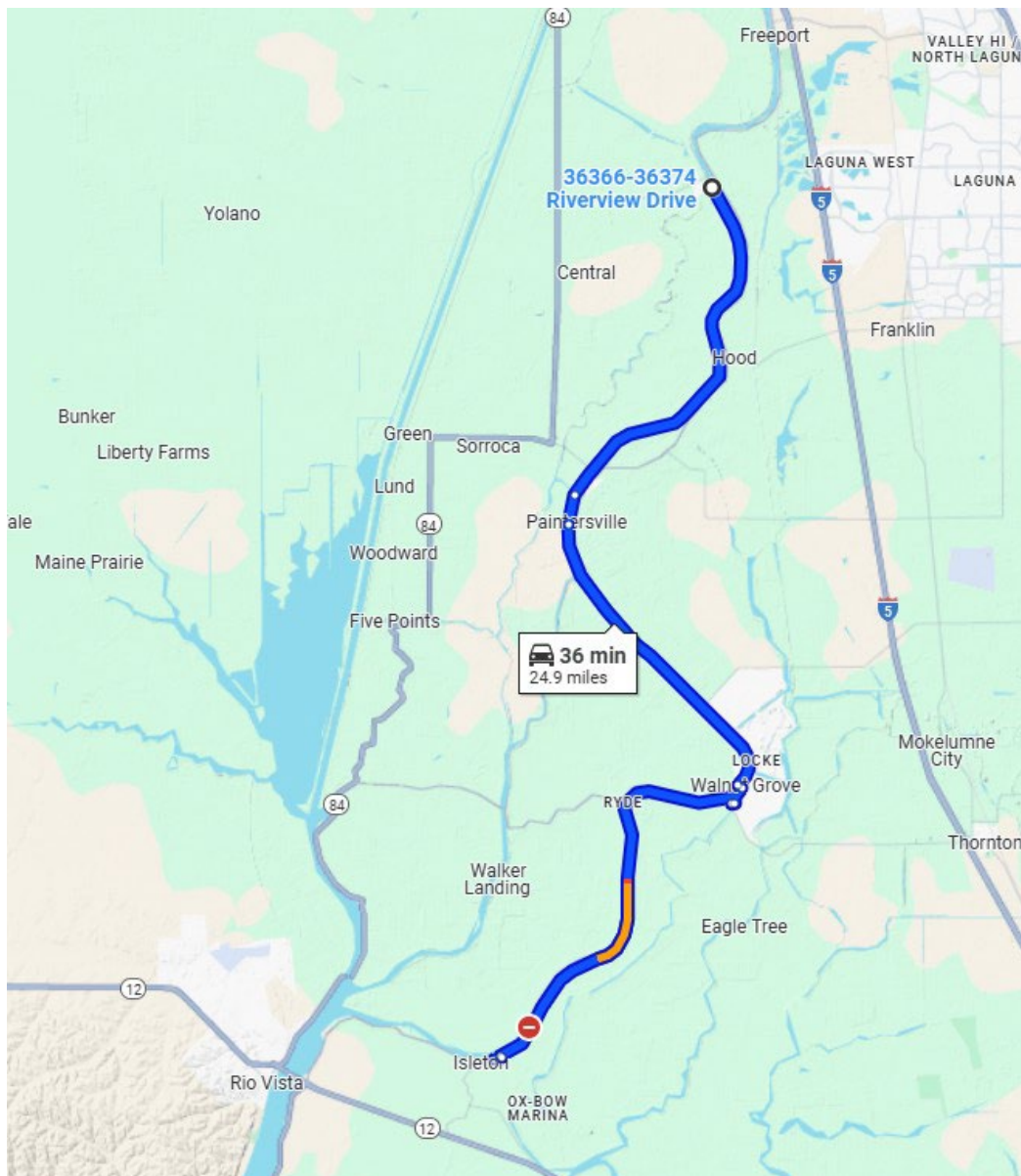


Site #2: Isleton

Tour and presentation of the Asian American Heritage Park and Isleton Museum Projects. Both projects were funded through the Delta Conservancy's Community Enhancement Program.

Directions from the 1883 Clarksburg Schoolhouse to 27 Main St, Isleton, CA 95641:

1. Take South River Road/CA-160 South for approximately 15 miles
2. Take a left and cross the Sacramento River using the Walnut Grove Bridge
3. Take a right onto River Road and then a right onto the Georgiana Slough Bridge/Isleton Road
4. Take a right at the end of the bridge and continue on Isleton Road for approximately 8 miles until you reach H Street in Isleton
5. Take a left onto H Street and your first right on Main Street – the park and museum will be on your right at 27 Main Street





Proposed Regulation for Architectural and Engineering Authority Staff Report

This report presents for Board consideration proposed regulatory text for Architectural and Engineering (A&E) Authority.

RECOMMENDATION

Staff recommend Board approval of the proposed regulation as modified in the notice for the 15-day public comment period.

DESCRIPTION

The Delta Conservancy is currently going through the rulemaking process to obtain the authority to contract with A&E firms. This authority will enable the Conservancy to have A&E firms on call to support projects requiring their specialized expertise.

In February, staff completed the initial 45-day public comment period. Following the review of the rulemaking package, the California Office of Administrative Law (OAL) provided additional guidance to ensure full compliance with notification and procedural requirements. In compliance with OAL guidance, staff shared the proposed regulation with the Secretary of California Natural Resources and small businesses, distributed the notice to the Conservancy listserv (900 contacts), and made minute modifications to the proposed regulatory text. OAL also requested that the Board formally approve the proposed regulation. As a result, staff were required to conduct a 15-day public comment period to allow time for review and feedback on the modifications. The 15-day period ran from May 12 to May 27, 2025.

To view the modifications to the text of the proposed regulation in the 15-Day Notice of Modifications, please visit: [Delta Conservancy Architectural and Engineering Contracting page](#).

SUGGESTED MOTION LANGUAGE

Move that the Board approve the following:

- Text of Proposed Regulations, as presented in the notice of the 15-day public comment period, to adopt sections 28302-28314 of Title 14, Division 16, Chapter 2 of the California Code of Regulations concerning the selection process for private architectural and engineering firms as presented in this item.
- Authorize the Executive Officer to submit the regulations to OAL and make any necessary non-substantive or technical changes to adopt the regulations.
- Any summary or response to comments received during the written comment period.

Meeting Date: May 28, 2025

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Agenda Item: 11

Attachment: 1

CONTACT

Brenda Lusk, Administration Manager
Sacramento-San Joaquin Delta Conservancy

Brenda.Lusk@deltaconservancy.ca.gov

(916) 634-3398



May 28, 2025 Board Meeting Summary and Action Items
1450 Halyard Drive, Suite 6, West Sacramento, CA 95691

Video and audio of the meeting are available here:

<https://youtu.be/Go5pnmwlv3g?si=obs4KbQuXgRfDYpO>

AGENDA ITEMS

Agenda Item 1 – Call to Order

Meeting called to order at 9:03 a.m. by Chair Hume.

Agenda Item 2 – Welcome, Pledge of Allegiance, Roll Call, and Introductions

After roll call, agenda items were heard by the Board in the order indicated below.

Board Members Present:

- Pat Hume
- Leo Winternitz – arrived at 9:13 a.m. after consent calendar vote
- Sonny Dhaliwal – teleconference
- Sheila Allen
- Michele Perrault
- Gloria Sandoval
- Sandi Matsumoto

Ex-Officio Members Present:

- Assemblymember Lori Wilson – teleconference
- Nicole Cuellar-Nelson (for Senator Christopher Cabaldon)

Liaison Advisors and Counsel Present:

- Todd Plain
- Steve Chappell
- Jim Waters – teleconference
- Marge Kolar
- Holly Heyser (for Daniel Ray)
- Jessica Bonitz (Counsel)

Agenda Item 3 – Public Comment

None

Agenda Item 4 – Consent Calendar

Motion: Board Member Perrault moved, seconded by Board Member Matsumoto, that the Board approve the following:

- January 22, 2025 Board Meeting Summary and Action Items

A roll call vote was taken. The motion passed unanimously with six ayes.

Agenda Item 5 – Executive Officer’s Report

The Executive Officer briefly highlighted several items in the staff report. The May revision to the Governor’s fiscal year 2025-26 budget was released on May 14, 2025, and the Conservancy’s total appropriation was updated to \$6.61 million with the addition of \$4 million in local assistance funding for Proposition 4.

Agenda Item 6 – Ecosystem Restoration and Climate Adaption Grant Program Update

Conservancy staff highlighted items from the staff report. As of May 20, 2025, there are 14 active projects and 25 closed projects. The format for the staff reports for Agenda Items 6 and 7 was updated due to the Lean Six Sigma Board packet preparation project. Previously included project updates and maps are available on the Conservancy’s website at [Delta Conservancy Project Table Updates](#). Staff demonstrated where the information could be found and how to manipulate the tables. Additionally, updates for the Nutria Eradication project (P1-1813) are included in this agenda item rather than in the Executive Officer’s report.

Agenda Item 7 – Community Enhancement Grant Programs Update

Conservancy staff highlighted items from the staff report. As of May 15, 2025, there are 11 active projects, two approved projects, four closed projects, and one working proposal. Proposition 68 funding was fully allocated with the approval of Agenda Item 8. An overview of the Clean Vessel Act program will be presented in July.

Agenda Item 8 – Consideration of California Environmental Quality Act Lead Agency Exemption Declaration and Award of Community Enhancement Grant Program Funds for Land Acquisition for Darrahville Property in Stockton in Support of the Delta Aquatic Center

Conservancy staff highlighted the project for consideration. The purpose of this grant is to fund the acquisition of 22 acres of privately owned land in Stockton, California, which will be developed into a public park for the benefit of the local community. Two motions were required. The Board agreed to take roll call for the motions simultaneously.

Motion: Supervisor Hume moved, seconded by Board Member Sandoval, that the Board adopt Resolution 2025-01, which recognizes the Land Acquisition for Darrahville Property in Stockton is statutorily exempt from environmental review as outlined in Assembly Bill 782, enacted as Chapter 181 of the Statutes of 2019 (Public Resources Code Section 21080.28).

Motion: Supervisor Hume moved, seconded by Board Member Sandoval, that the Board award funding up to \$2,170,499 to the San Joaquin Community Foundation from the Proposition 68 Community and Economic Enhancement Grant Program for the Land Acquisition for Darrahville Property in Stockton.

A roll call vote was taken. The motion passed unanimously with seven ayes.

Agenda Item 9 – Consideration of Amendment to Budget and Term of Delta Drought Response Pilot Program Agreement for the Micrometeorological Measurements and Water Budget Calculation to Evaluate Conservation Practices in the Annual Delta Crops Project

Conservancy staff highlighted the project for consideration. The purpose of this amendment is to extend data collection to three full water years and allow time for completion of all project deliverables after the 2025/2026 water year, which ends on September 30, 2026.

Motion: Board Member Winternitz moved, seconded by Supervisor Allen, that the Board approve a budget increase of up to \$300,000 and a term extension of 14 months to The Regents of the University of California, Davis for the Micrometeorological Measurements and Water Budget Calculation to Evaluate Conservation Practices in the Annual Delta Crops Project to extend data collection.

A roll call vote was taken. The motion passed unanimously with seven ayes.

Agenda Item 10 – Consideration of Updates to the Delta Conservancy’s Modifications and Amendments Process

Conservancy staff presented updates to the modifications and amendments process for grants awarded by the Conservancy for Board consideration.

Motion: Board Member Perrault moved, seconded by Board Member Matsumoto, that the Board approve the updates to the Delta Conservancy Grant Modifications and Amendments Process as presented in this agenda item.

A roll call vote was taken. The motion passed unanimously with seven ayes.

Agenda Item 11 – Proposed Regulation for Architectural and Engineering Authority

Conservancy staff presented the Proposed Regulation for Architectural and Engineering Authority for Board consideration. No comments were received during the 15-day public comment period.

Motion: Supervisor Allen moved, seconded by Board Member Perrault, that the Board approve the following:

- Text of Proposed Regulations, as presented in the notice of the 15-day public comment period, to adopt sections 28302-28314 of Title 14, Division 16, Chapter 2 of the California Code of Regulations concerning the selection process for private architectural and engineering firms as presented in this item.
- Authorize the Executive Officer to submit the regulations to OAL and make any necessary non-substantive or technical changes to adopt the regulations.

A roll call vote was taken. The motion passed unanimously with seven ayes.

Agenda Item 12 – California Department of Water Resources Multibenefit Restoration Program Update

Charlotte Biggs, Assistant Deputy Director at the California Department of Water Resources, presented an update.

Agenda Item 13 – Delta Stewardship Council Update

Amanda Bohl, Special Assistant for Planning and Science at the Delta Stewardship Council, presented an update.

Agenda Item 14 – Delta Protection Commission Update

Holly Heyser, Information Officer at the Delta Protection Commission, presented an update.

Agenda Item 15 – Delta Conveyance Update

Janet Barbieri, Consultant to the California Department of Water Resources managing the Communication Program for the Delta Conveyance Project, presented an update.

Agenda Item 16 – Public Comment

- None

Agenda Item 17 – ADJOURN

BOARD DIRECTIVES TO STAFF

- None

MEETING ADJOURNED by Chair Hume at 10:35 a.m.

CONTACT

Jessica Adel

Administration Supervisor

Jessica.Adel@deltaconservancy.ca.gov

(916) 606-4730