



# Board Agenda

Tuesday, Dec. 14, 2021  
LCRA General Office Complex  
Board Room – Hancock Building  
3700 Lake Austin Blvd.  
Austin, TX 78703  
Earliest start time: 2 p.m.

### Items From the Chair

- 1. Comments From the Public ..... 3

### Items From the General Manager

General Manager’s Update

### Consent Items

- 2. Appointment of Directors to GenTex Power Corporation Board ..... 5
- 3. Annual Appointment of Independent Auditor ..... 6
- \*4. Sale of Land in Llano County (Parcel JW-06)..... 7
- 5. Directors’ Attendance at Seminars, Conferences ..... 10
- 6. Minutes of Prior Meeting..... 12

### Action Items

- 7. LCRA Board Policy 301 – Finance ..... 19
- \*8. Approve the LCRA Transmission Contract Revenue Notes Series E Note Purchase Agreement, and Authorize Related Agreements ..... 30
- 9. Contracts and Contract Changes ..... 33
- 10. Amendments to Highland Lakes Dredge and Fill Ordinance ..... 41

**\*This agenda item requires the approval of at least 12 Board members.**

### Executive Session

- 1. Competitive Electric Matters

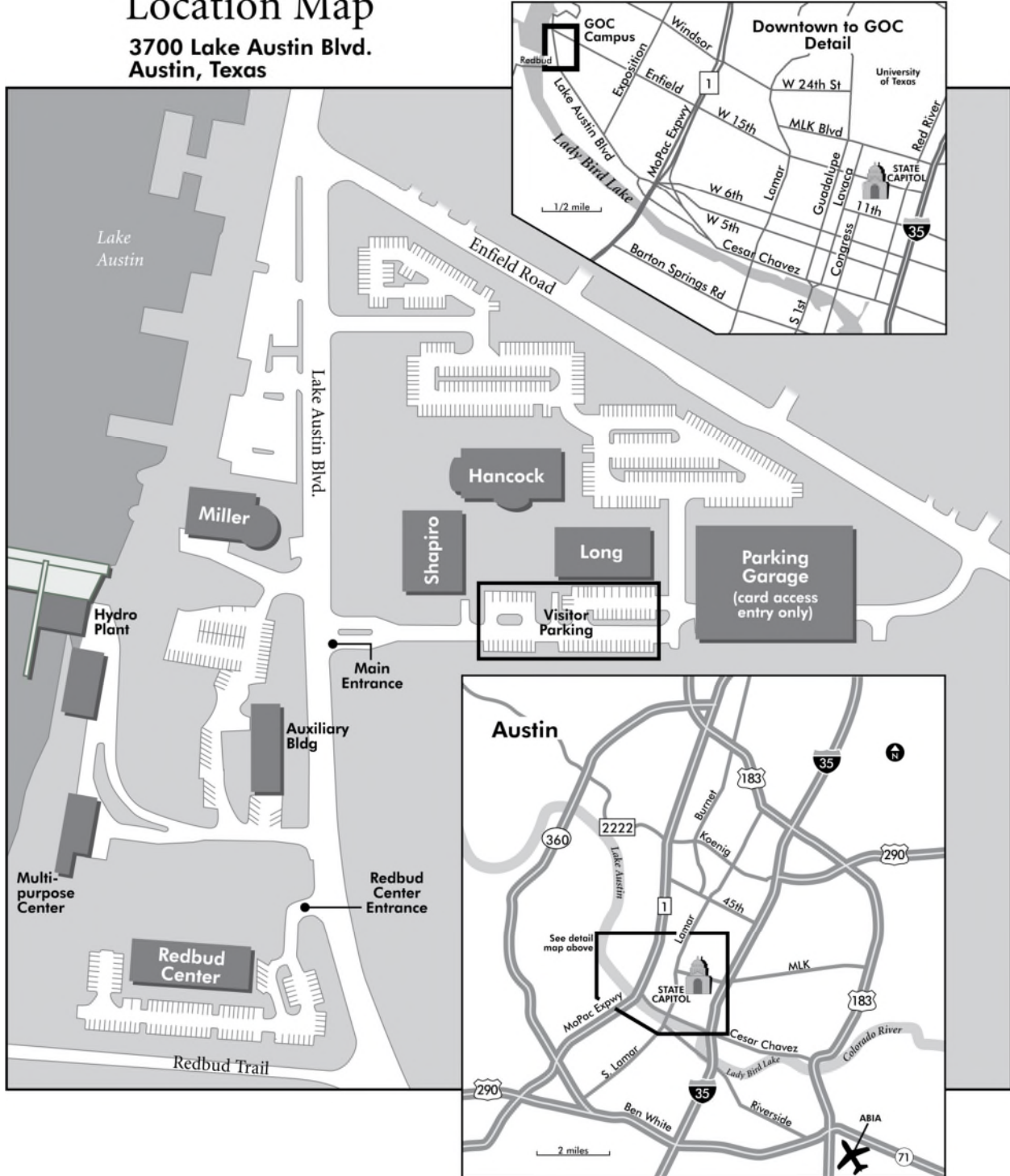
The Board also may go into executive session on any item listed above, pursuant to Chapter 551 of the Texas Government Code, including, but not limited to, sections 551.071, 551.072, 551.074, 551.076, 551.086, 551.089 and 418.183(f) of the Texas Government Code.

### Legal Notice

Legal notices are available on the Texas secretary of state website 72 hours prior to the meeting at the following link: <https://www.sos.texas.gov/open/index.shtml>

# LCRA General Office Complex Location Map

3700 Lake Austin Blvd.  
Austin, Texas



## **FOR DISCUSSION**

# **1. Comments From the Public**

### **Summary**

This part of the meeting is intended for comments from the public on topics under LCRA's jurisdiction but not related to an item on the Board of Directors agenda. No responses or action may be taken by the Board during public comments.

In order to address the Board, a member of the public is required to sign and complete the registration form at the entrance to the meeting room. Please see the Protocols for Public Communication at Board and Committee Meetings as shown in Exhibit A for details.

Any member of the public wishing to comment on an item listed on this agenda will be called to make comments at the appropriate time.

### **Exhibit(s)**

A – Protocols for Public Communication at Board and Committee Meetings

## EXHIBIT A

### **PROTOCOLS FOR PUBLIC COMMUNICATION AT BOARD AND COMMITTEE MEETINGS**

**Approved by the LCRA Board of Directors on Dec. 11, 2018**

- 1. Oral Presentations on Issues Under LCRA's Jurisdiction.** Any person wishing to make an oral presentation at a Board meeting on any matter under LCRA's jurisdiction must complete a registration form that indicates the agenda item or other topic on which they wish to comment, along with the speaker's name, address and other relevant information. Any person making an oral presentation to the Board may distribute related materials to the Board at the meeting.
- 2. Time Allocation.** The presiding officer may limit the length of time for each speaker. Speakers may not trade or donate time to other speakers without permission from the presiding officer, and repetitive testimony shall be minimized.
- 3. Rules of Decorum.** Speakers and members of the audience must avoid disruptive behavior that interferes with the orderly conduct of a public meeting. Placards, banners, and hand-held signs are not allowed in Board or committee meetings, and speakers and members of the audience must avoid personal affronts, profanity, booing, excessive noise, and other disruptive conduct. The presiding officer may direct that anyone who disrupts a meeting be removed from the room.
- 4. Recording.** Any person making an audio or video recording of all or any part of a Board meeting must do so in a manner that is not disruptive to the meeting. During a meeting, members of the public must remain in or behind the public seating area and are not permitted to record from any other area of the meeting room.
- 5. Committee Meetings.** The protocols outlined in 1-4 above also apply to members of the public wishing to address any LCRA Board committee whose membership comprises the entirety of the LCRA Board on matters within the scope of each of those committees.

## FOR ACTION (CONSENT)

# 2. Appointment of Directors to GenTex Power Corporation Board

### **Proposed Motion**

Reappoint Robert “Bobby” Lewis and Michael L. “Mike” Allen, LCRA non-officer directors, to serve on the GenTex Power Corporation Board of Directors for one-year terms expiring Dec. 31, 2022.

### **Board Consideration**

Section 2.01 of the GenTex bylaws requires the LCRA Board of Directors to appoint directors to the GenTex Board.

### **Budget Status and Fiscal Impact**

Approval of this item will have no budgetary or fiscal impact.

### **Summary**

Pursuant to the GenTex bylaws, the GenTex Board is composed of nine directors, including five LCRA directors and four directors representing LCRA’s wholesale electric customers as follows:

- The LCRA Board chair, vice chair and secretary (officers), who automatically serve on the GenTex Board during their terms as officers of the LCRA Board.
- Two LCRA non-officer directors, including one who must be from a county other than the 10 counties in LCRA’s statutory district, who serve one-year terms beginning Jan. 1 of each year.
- Two directors representing electric cooperative customers and two representing municipal customers who serve two-year terms beginning Jan. 1 of odd-numbered years.

The non-officer directors’ terms have expired, although directors continue to serve until successors are appointed. The LCRA Board now needs to appoint or reappoint two LCRA non-officer directors to serve on the GenTex Board. Each appointment is effective immediately.

**FOR ACTION (CONSENT)**

### **3. Annual Appointment of Independent Auditor**

**Proposed Motion**

Appoint Baker Tilly US, LLP, as LCRA's independent auditor to perform the external audits of the fiscal year 2022 financial statements of LCRA and its affiliated corporations.

**Board Consideration**

LCRA Board Policy 221 – Auditors states that the LCRA Board of Directors will evaluate and appoint the independent auditor annually.

**Budget Status and Fiscal Impact**

Audit fees are included in the appropriate fiscal year budgets.

**Summary**

The Audit and Risk Committee at its Nov. 16 meeting received a recommendation from the chief financial officer to appoint Baker Tilly as LCRA's independent auditor to perform external audits of the FY 2022 financial statements of LCRA and its affiliated corporations. The Audit and Risk Committee voted unanimously to recommend the approval of Baker Tilly for the FY 2022 audits.

**FOR ACTION (CONSENT)**

## **4. Sale of Land in Llano County (Parcel JW-06)**

### **Proposed Motion**

Declare an approximately 0.014-acre tract of land, being a portion of LCRA Parcel JW-06 in Llano County, nonessential, and authorize the general manager or his designee to sell the property to the adjoining landowner.

### **Board Consideration**

Section 8503.020(b) of the Texas Special District Local Laws Code requires the approval of at least 12 members of the LCRA Board of Directors to convey any interest in real property. LCRA Board Policy 401 – Land Resources requires at least 12 members of the LCRA Board to declare the land no longer necessary or of beneficial use to the business of LCRA before conveyance. Additionally, Section 8503.020 of the Texas Special District Local Laws Code and LCRA Board Policy 401 require Board approval of the terms of all land sales before conveyance.

### **Budget Status and Fiscal Impact**

The fiscal year 2022 business plan contains the administrative costs associated with the sale of this land. The proceeds of \$36,645 will be credited to the LCRA Strategic Reserve Fund.

### **Summary**

Kelly Kaatz, the adjacent landowner, has agreed to purchase the 0.014-acre encroachment tract, which will permanently resolve the encroachment. The 0.014-acre tract is priced at \$36,645. Staff determined the price based on the Llano County Appraisal District's assessed values of Kaatz's adjacent lot and other nearby waterfront lots.

LCRA staff will complete environmental and cultural resource due diligence assessments in accordance with Board Policy 401.403 – Land Disposition before the sale of the property.

The property will be sold subject to the following reservations and restrictions:

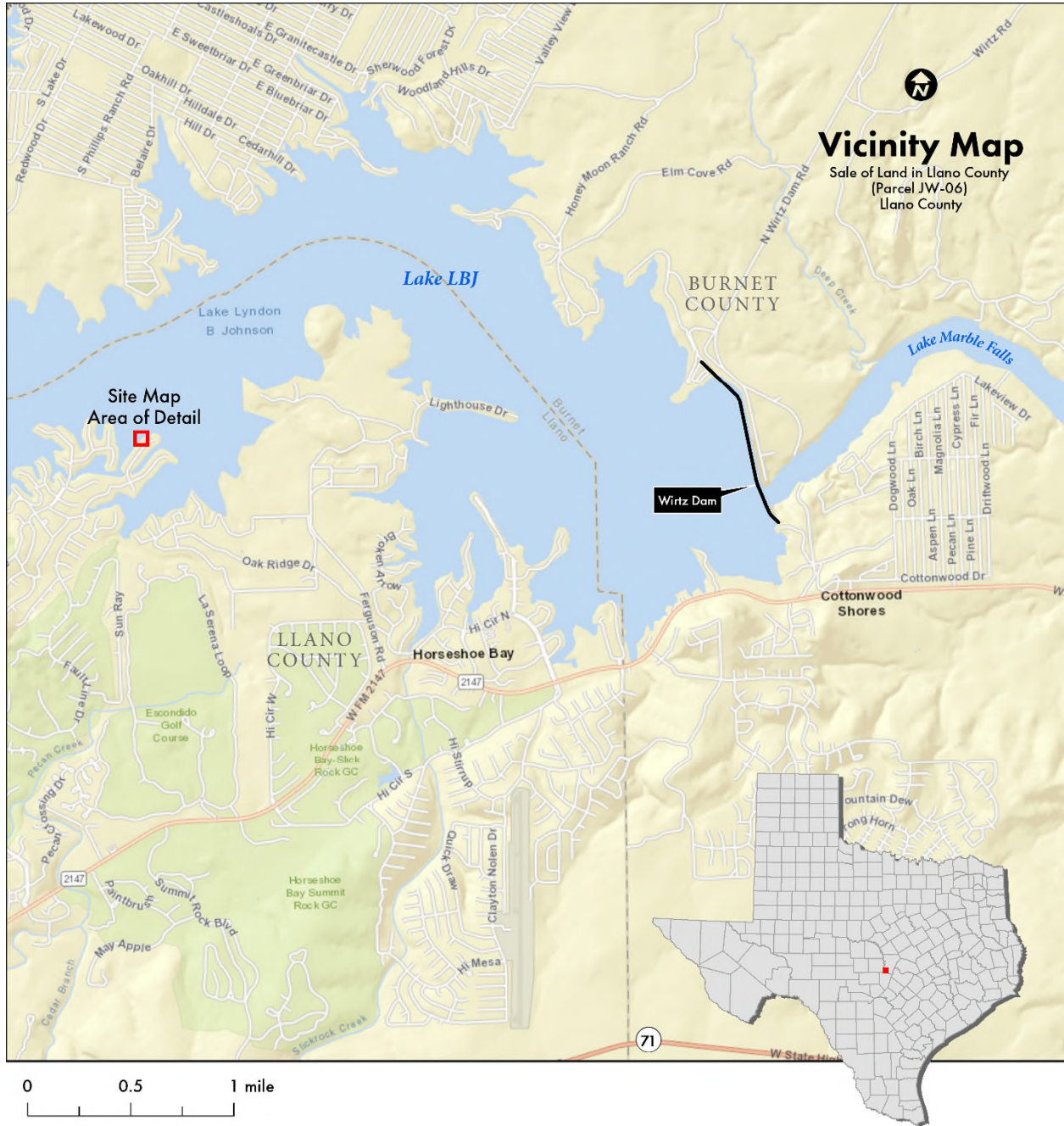
- 1) LCRA will reserve all presently held oil, gas and other mineral rights of every kind or character in, on and under the property, provided that LCRA shall not be permitted to drill or excavate for minerals on the surface of the property.
- 2) LCRA will retain a 20-foot-wide recreation easement abutting the high-water line of Lake LBJ for use by the public as required by Section 8503.023(d) of the Texas Special District Local Laws Code.
- 3) LCRA will retain the right to inundate with water all or any part of the property from time to time without any compensation.

### **Exhibit(s)**

- A – Vicinity Map
- B – Site Map



**EXHIBIT A**





**EXHIBIT B**



**FOR ACTION (CONSENT)**

## **5. Directors' Attendance at Seminars, Conferences**

**Proposed Motion**

Approve directors' attendance at seminars or conferences for calendar year 2022.

**Board Consideration**

LCRA Board Policy 105 – Directors' Fees and Expense Reimbursement and the LCRA bylaws require approval for directors' attendance at seminars and conferences.

**Budget Status and Fiscal Impact**

The budget in the business plan provides for travel to seminars and conferences by members of the Board of Directors.

**Summary**

LCRA Board Policy 105 establishes guidelines for the payment of fees and reimbursement of the expenses directors incur as they carry out their responsibilities as LCRA Board members.

Section 2.08 of the LCRA bylaws provides that per diem and expenses shall be paid to members of the Board who attend association meetings, conventions and conferences directly related to LCRA business, provided such attendance is authorized by prior resolution of the Board.

**Exhibit(s)**

A – 2022 Annual Conferences and Travel for Board Approval

**EXHIBIT A**

**2022 ANNUAL CONFERENCES AND TRAVEL  
FOR BOARD APPROVAL**

Feb. 17-18	Changing Face of Water Law Course, Hyatt Regency Hill Country Resort, San Antonio
March 4-9	National Rural Electric Cooperatives Association PowerXChange, Music City Center, Nashville, Tennessee
March 9-11	Texas Water Conservation Association Annual Convention, Fort Worth
June 15-17	Texas Water Conservation Association Summer Conference, Round Rock
July 31- Aug. 3	Texas Electric Cooperatives Annual Meeting, Gaylord Texan Resort, Grapevine
Oct. 8-11	National Association of Corporate Directors – Global Board Leaders’ Summit, Gaylord National Resort and Convention Center, Washington D.C.
Oct. 20-22	Texas Water Conservation Association Fall Conference, TBD
TBD	Texas Conference for Women
TBD	National Association of Corporate Directors Texas TriCities, Austin-Houston-San Antonio Chapter Meetings

**FOR ACTION (CONSENT)**

## **6. Minutes of Prior Meeting**

**Proposed Motion**

Approve the minutes of the Nov. 17, 2021, meeting.

**Board Consideration**

Section 2.04 of the LCRA bylaws requires the secretary to keep minutes of all meetings of the Board of Directors.

**Budget Status and Fiscal Impact**

Approval of this item will have no budgetary or fiscal impact.

**Summary**

Staff presents the minutes of each meeting to the Board for approval.

**Exhibit(s)**

A – Minutes of Nov. 17, 2021, meeting

## **EXHIBIT A**

### Minutes Digest

Nov. 17, 2021

- 21-62 Approval of the appointment of Nancy Eckert Yeary to serve as chair and Matthew L. “Matt” Arthur to serve as a member of the Land and Community Resources Committee.
- 21-63 Appointment of Stephen F. Cooper to serve on the LCRA Retirement Benefits Board of Trustees to complete an unexpired term ending Dec. 31, 2023.
- 21-64 Authorization for the general manager or his designee to grant a 5,029-square-foot access easement to the adjoining owner of the property across an LCRA-owned irrigation canal in the Gulf Coast Agricultural Division in Matagorda County.
- 21-65 Authorization for the general manager or his designee to grant a 0.083-acre access easement to the owner of the adjacent property across an LCRA canal property in the Gulf Coast Agricultural Division in Colorado County.
- 21-66 Authorization for the general manager or his designee to convey to Pedernales Electric Cooperative a permanent transmission line easement, being an approximately 0.147-acre tract, across a portion of LCRA Parcel MW-01 in Burnet County.
- 21-67 Declaration of a 1.95-acre tract of land, being a portion of LCRA Parcel CR-08 in Bastrop County, nonessential, and authorization for the general manager or his designee to do all things reasonably necessary to convey the property to Corix Utilities (Texas), Inc. and make the following findings:
1. There is no feasible and prudent alternative to the conveyance of the property nor change in use of the property; and
  2. The conveyance and change in use of the land includes all reasonable planning to minimize harm to the land, as a public park, that may result from the land’s conveyance and change in use.
- 21-68 Approval of amendments to the Audit and Risk Committee Charter, the amended LCRA Auditing Services Charter, and conforming amendments to LCRA Board Policy 221 – Auditors.
- 21-69 Approval of amendments to the LCRA bylaws.
- 21-70 Approval of the minutes of the Oct. 20, 2021, meeting.

- 21-71 Approval of the Highland Lakes Dredge and Fill Ordinance, conforming changes to the Highland Lakes Watershed Ordinance, and changes to the fee schedules for the ordinances, and repeal of the LCRA Board of Directors' Feb. 24, 2021, moratorium on commercial dredge mining activities and related permit applications. The ordinances, fee schedules and the repeal of the moratorium shall be effective Jan. 1, 2022.
- 21-72 Authorization for the general manager or his designee to negotiate and execute a replacement firm raw water contract with Underground Services Markham, LP., for industrial use for a term of 40 years that expands the contract service area by 1,800 acres while maintaining the contracted quantity of up to 11,621 acre-feet per year.
- 21-73 Authorization for the general manager or his designee to negotiate and execute a replacement standard firm raw water contract with West Travis County Public Utility Agency for municipal use for a term of 40 years that increases the contracted quantity by 4,500 acre-feet per year, for a total of up to 13,500 acre-feet per year; and reduction of the LCRA Board of Directors' reservation of firm water by 4,500 acre-feet per year, from 45,000 acre-feet per year to 40,500 acre-feet per year.

MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF DIRECTORS OF THE  
LOWER COLORADO RIVER AUTHORITY  
Austin, Texas  
Nov. 17, 2021

Pursuant to notice posted in accordance with the Texas Open Meetings Act, the Board of Directors (Board) of the Lower Colorado River Authority (LCRA) convened in a regular meeting at 9:07 a.m. Wednesday, Nov. 17, 2021, in the Board Room of the Hancock Building, at the principal office of LCRA, 3700 Lake Austin Blvd., Austin, Travis County, Texas. The following directors were present, constituting a quorum:

Timothy Timmerman, Chair  
Stephen F. Cooper, Vice Chair  
Michael L. "Mike" Allen  
Matthew L. "Matt" Arthur  
Melissa K. Blanding  
Laura D. Figueroa  
Carol Freeman  
Raymond A. "Ray" Gill Jr.  
Thomas L. "Tom" Kelley  
Robert "Bobby" Lewis  
Thomas Michael Martine  
Margaret D. "Meg" Voelter  
Martha Leigh M. Whitten  
Nancy Eckert Yeary [arrived at 10:22 a.m.]

Absent: Joseph M. "Joe" Crane, Secretary

Chair Timmerman convened the meeting at 9:07 a.m. [Director Matthew L. "Matt" Arthur from Fayette County was attending his first LCRA Board meeting as a Board member. Director Arthur replaced former Director Lori A. Berger on the Board.]

There were no general comments from the public on topics under LCRA's jurisdiction [Agenda Item 1].

21-62 Chair Timmerman presented for consideration a recommendation, described in Agenda Item 2 [attached hereto as Exhibit A], that the Board approve the appointment of Nancy Eckert Yeary to serve as chair and Matthew L. "Matt" Arthur to serve as a member of the Land and Community Resources Committee. Upon motion by Director Martine, seconded by Director Gill, the recommendation was unanimously approved by a vote of 13 to 0.

21-63 Chair Timmerman presented for consideration a recommendation, described in Agenda Item 3 [attached hereto as Exhibit B], that the Board appoint Stephen F. Cooper to serve on the LCRA Retirement Benefits Board of Trustees to



complete an unexpired term ending Dec. 31, 2023. Upon motion by Director Gill, seconded by Director Voelter, the recommendation was unanimously approved by a vote of 13 to 0.

Chair Timmerman announced that he appointed Director Margaret D. “Meg” Voelter to serve as chair of the Community Development Partnership Program Review Committee. Directors Freeman and Kelley also serve as members of the committee. [The appointment does not require Board approval.]

The Board next took action on the consent agenda. Upon motion by Director Gill, seconded by Director Martine, the Board unanimously approved consent items 4, 5, 6, 7, 8, 9 and 10 by a vote of 13 to 0 as follows:

21-64 Authorization for the general manager or his designee to grant a 5,029-square-foot access easement to the adjoining owner of the property across an LCRA-owned irrigation canal in the Gulf Coast Agricultural Division in Matagorda County, as recommended by staff in Consent Item 4 [attached hereto as Exhibit C].

21-65 Authorization for the general manager or his designee to grant a 0.083-acre access easement to the owner of the adjacent property across an LCRA canal property in the Gulf Coast Agricultural Division in Colorado County, as recommended by staff in Consent Item 5 [attached hereto as Exhibit D].

21-66 Authorization for the general manager or his designee to convey to Pedernales Electric Cooperative a permanent transmission line easement, being an approximately 0.147-acre tract, across a portion of LCRA Parcel MW-01 in Burnet County, as recommended by staff in Consent Item 6 [attached hereto as Exhibit E].

21-67 Declaration of a 1.95-acre tract of land, being a portion of LCRA Parcel CR-08 in Bastrop County, nonessential (not necessary or convenient or of beneficial use to the business of LCRA), and authorization for the general manager or his designee to do all things reasonably necessary to convey the property to Corix Utilities (Texas), Inc. and make the following findings, as recommended by staff in Consent Item 7 [attached hereto as Exhibit F]:

1. There is no feasible and prudent alternative to the conveyance of the property nor change in use of the property; and
2. The conveyance and change in use of the land includes all reasonable planning to minimize harm to the land, as a public park, that may result from the land’s conveyance and change in use.

21-68 Approval of amendments to the Audit and Risk Committee Charter, the amended LCRA Auditing Services Charter, and conforming amendments to LCRA Board Policy 221 – Auditors, as recommended by staff in Consent Item 8 [attached hereto as Exhibit G].

21-69 Approval of amendments to the LCRA bylaws, as recommended by staff in Consent Item 9 [attached hereto as Exhibit H].

21-70 Approval of the minutes of the Oct. 20, 2021, meeting [Consent Item 10].

The Board next took up Agenda Item 13 – Consideration of Highland Lakes Dredge and Fill Ordinance, Conforming Changes to Highland Lakes Watershed Ordinance and Fee Schedules, and Repeal of Moratorium on Commercial Dredge and Fill Activities on the Highland Lakes. [Director Yearly joined the meeting during Agenda Item 13.]

The following speakers addressed the Board on Agenda Item 13: Jay Jones; Dorina Hare; Llano County Commissioner Mike Sandoval; Llano County Commissioner Peter Jones; Jim Hale, in support of Save Lake LBJ (Save Lake LBJ); Mark Friesenhahn, a pecan farmer; Laura Patterson, Save Lake LBJ; George Scott, a rancher; John Brewer, a resident of Comanche Rancherias subdivision in Kingsland; Noble Dunson, a resident of Comanche Rancherias subdivision; Harold Sharp, Save Lake LBJ; Barbara Schmidt, Save Lake LBJ; Fermin Ortiz, in support of Save Sandy Creek; Taylor Delz, Save Lake LBJ; Sharon Moore, Save Lake LBJ board member; Cliff Kaplan with the Hill County Alliance; Stewart Whitehead, Save Lake LBJ; and Andy Virdell, Save Lake LBJ.

Director of Strategic Water Initiatives Lauren Graber presented for consideration the staff recommendation, described in Agenda Item 13 [attached hereto as Exhibit I], that the Board approve the Highland Lakes Dredge and Fill Ordinance, conforming changes to the Highland Lakes Watershed Ordinance, and changes to the fee schedules for the ordinances, and repeal the LCRA Board of Directors' Feb. 24, 2021, moratorium on commercial dredge mining activities and related permit applications [The ordinances, fee schedules and the repeal of the moratorium shall be effective Jan. 1, 2022]. Staff responded to various questions from the Board throughout the discussion on Agenda Item 13.

After a short recess, Chair Timmerman declared the meeting to be in executive session at 10:52 a.m., pursuant to sections 418.183(f), 551.071, 551.072, 551.074, 551.076, 551.086 and 551.089 of the Texas Government Code. Executive session ended, and Chair Timmerman declared the meeting to be in public session at 11:16 a.m.

21-71 Upon motion by Director Martine, seconded by Director Lewis, the Board approved the Highland Lakes Dredge and Fill Ordinance, conforming changes to the Highland Lakes Watershed Ordinance, and changes to the fee schedules for the ordinances, and repealed the LCRA Board of Directors' Feb. 24, 2021, moratorium on commercial dredge mining activities and related permit applications [The ordinances, fee schedules and the repeal of the moratorium shall be effective Jan. 1, 2022], as recommended by staff in Agenda Item 13, by a vote of 8 to 6, with Vice Chair Cooper and Directors Figueroa, Freeman, Gill, Kelley and Whitten voting no.

21-72 After a short recess, Vice President of Water Resources Monica Masters presented for consideration a staff recommendation, described in Agenda Item 11 [attached hereto as Exhibit J], that the Board authorize the general manager or his designee to negotiate and execute a replacement firm raw water contract with Underground Services Markham, LP., for industrial use for a term of 40 years that expands the contract service area by 1,800 acres while maintaining the contracted quantity of up to 11,621 acre-feet per year. Upon motion by Director Martine, seconded by Vice Chair Cooper, the recommendation was unanimously approved by a vote of 14 to 0.

21-73 Vice President of Water Resources Monica Masters presented for consideration a staff recommendation, described in Agenda Item 12 [attached hereto as Exhibit K], that the Board authorize the general manager or his designee to negotiate and execute a replacement standard firm raw water contract with West Travis County Public Utility Agency for municipal use for a term of 40 years that increases the contracted quantity by 4,500 acre-feet per year, for a total of up to 13,500 acre-feet per year; and reduce the LCRA Board of Directors' reservation of firm water by 4,500 acre-feet per year, from 45,000 acre-feet per year to 40,500 acre-feet per year. Upon motion by Director Martine, seconded by Director Kelley, the recommendation was unanimously approved by a vote of 14 to 0.

Chair Timmerman declared the meeting to be in executive session at 11:37 a.m., pursuant to sections 418.183(f), 551.071, 551.072, 551.074, 551.076, 551.086 and 551.089 of the Texas Government Code. Executive session ended, and Chair Timmerman declared the meeting to be in public session at 12:29 p.m.

There being no further business to come before the Board, Chair Timmerman adjourned the meeting at 12:29 p.m.

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Joseph M. Crane  
Secretary  
LCRA Board of Directors  
Approved: Dec. 14, 2021

## **FOR ACTION**

# **7. LCRA Board Policy 301 – Finance**

### **Proposed Motion**

Approve amendments to LCRA Board Policy 301 – Finance as attached in Exhibit A.

### **Board Consideration**

Board of Directors approval is required for any changes to LCRA Board policies.

### **Budget Status and Fiscal Impact**

Approval of this item will have no budgetary or fiscal impact.

### **Summary**

Staff recommends amendments to LCRA Board Policy 301 – Finance to make permanent the authority the Board previously granted the general manager and chief executive officer on a temporary basis to approve additional funding for any capital project that exceeds its lifetime budget. The general manager and chief executive officer's authority is limited to those instances in which the additional funding will not cause total capital expenditures to exceed the approved capital plan or materially adversely impact business planning assumptions. The policy change also requires a quarterly report to the Board on all such projects that require additional funding.

The proposed changes to the policy also include several non-substantive cleanup edits.

### **Presenter(s)**

Jim Travis  
Chief Financial Officer

### **Exhibit(s)**

A – Proposed Amendments to LCRA Board Policy 301 – Finance

## EXHIBIT A

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### LCRA BOARD POLICY

#### 301 – FINANCE

~~Dec. 10, 2019~~ Dec, 14, 2021

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#### **301.10 PURPOSE**

This policy provides a framework from which LCRA's financial integrity will be maintained while serving the long-term interests of its customers and other constituencies. LCRA recognizes that maintaining financial integrity is critical to accomplishing its goals and discharging LCRA's primary customer and public service responsibilities. This policy establishes processes to be used by the LCRA Board of Directors (Board) to define the strategic plan for LCRA and to approve specific program goals, objectives and associated budgets.

#### **301.20 DEFINITIONS**

Business Plan – The business plan is the document approved by the Board annually that establishes the Board's goals and priorities. The business plan includes operating and capital budgets as well as projections of LCRA's overall financial performance and capital financing plans. It describes the projects, products and services that support the associated revenues and expenditures over a five-year period.

Debt Service Coverage (Coverage) – Debt service coverage is the ratio of the fiscal year's ending total revenues minus total operating and maintenance expenses (net of depreciation, amortization, and other revenue and expense exclusions resulting from prior period funding), divided by scheduled debt service on all obligations as approved in the business plan.

Equity Ratio (Ratio) – The calculation is the ratio of total equity divided by total assets.

Fixed-Rate Debt – Fixed-rate debt consists of coupon securities that have a scheduled maturity or mandatory sinking fund redemption date. Fixed-rate debt that has been synthetically converted to variable rate debt via a derivative instrument will be classified as variable-rate debt for the term of the derivative instrument.

Long-Term Liabilities – Long-term liabilities are (1) principal amounts on long-term debt instruments, (2) pension liabilities, and (3) amounts owed on long-term obligations.

Operating and Maintenance Expenses – Operating and maintenance expenses consist of all reasonable and necessary costs and expenses incurred in the operation and maintenance of the LCRA system.

Variable-Rate Debt – Variable-rate debt consists of securities on which the interest rate varies over time (a) based on an index or formula such as variable-rate demand notes or auction-rate bonds, or (b) because the securities are sold in the short-term market (with a maturity not exceeding 270 days), such as commercial paper.

### **301.30 FINANCIAL OBJECTIVES**

In seeking to fulfill its customer and public service objectives, LCRA will maintain a high level of financial stability and will not compromise long-term financial integrity to achieve short-term benefits.

The GM/CEO is authorized to engage financial service providers and other related professional service providers if deemed necessary and appropriate by the GM/CEO in consultation with the chief financial officer, considering the expertise and cost of any such service provider. The GM/CEO will provide an annual report to the Board listing all contracts into which LCRA entered pursuant to this paragraph.

**301.301 Debt Service Coverage.** To provide a margin of safety in LCRA's financial affairs, revenue levels will be set to target a debt service coverage ratio of 1.25x on the total debt service for all debt obligations. In the event overall debt service coverage is projected to be below 1.25x for any fiscal year, the Board will promptly implement a plan, to be recommended by staff, which could include rate increases, cost reductions or other means to achieve a debt service coverage ratio of 1.25x.

In the event the actual LCRA system fiscal year debt service coverage ratio exceeds 1.25x, the financial performance of the wholesale power business will be evaluated to determine if the actual wholesale power debt service coverage ratio exceeds 1.25x for the fiscal year. If such excess exists, staff will submit to the Board a plan to provide the existing long-term wholesale electric customers with appropriate credits or other rate relief in an amount equal to the excess, provided that after such credit or rate relief, LCRA will achieve an actual system debt service coverage ratio of 1.25x and be in compliance with any covenant requirement in any bond resolution or policy of LCRA. This policy will be applicable except in periods when funds are needed to provide equity for the generation capital program and meet operating reserve requirements.

Upon completion of the annual audit of fiscal year-end financial statements, the existing long-term wholesale electric customers will be provided an analysis of LCRA's financial performance for that period in order to provide a complete accounting of funds above a 1.25x debt service coverage ratio.

**301.302 Rates and Prices.** LCRA will design rates and prices that are intended to ensure LCRA meets its financial obligations, recover reasonable costs in a timely

fashion, and maintain financial integrity as required by regulatory and contractual requirements. These rates will provide a stable and predictable flow of revenues to maintain appropriate levels of revenue to achieve LCRA's goals. Revenue levels will be evaluated in consideration of, but not limited to, bond ratings, capital funding requirements, current business conditions, economic projections and load-growth assumptions, delays inherent in the regulatory process, and the projected size and frequency of necessary rate adjustments. These revenues will be adequate to cover operating and maintenance expenses, debt service, covenanted debt service reserves, liquidity requirements, and equity funding for the capital program.

Rates and prices for wholesale power services to existing long-term wholesale electric customers will be consistent with contractual commitments regarding rates and prices. Revenue collected from wholesale power rates, with the exception of contributions to the Public Service Fund (PSF), will be used for the benefit of the generation system. Rates and prices for service to other electric customers will be set, at a minimum, to recover the cost of providing the services.

Rates and prices for LCRA's raw water services will be based on criteria as specified in LCRA Board Policy 501 – Water Resources.

For other LCRA services for which rates are charged, LCRA may employ other appropriate pricing methods as approved by the GM/CEO.

**301.303 Sources of Financing.** LCRA will use a combination of equity and debt to finance capital additions to the system such that both current and future customers are allocated an equitable portion of the costs. LCRA may borrow for capital projects when it is appropriate to spread the cost of capital assets over their useful lives.

The issuance of debt requires an affirmative vote of three-fourths of the Board. LCRA will not issue debt for working capital items.

Capital market considerations require an equity base to support financing. LCRA will build equity during those periods when major capital projects are not being undertaken by financing capital projects from revenues. In this way, LCRA will build equity sufficient to maintain financial integrity, ensure access to the debt markets and provide for the growing needs of customers.

As appropriate, LCRA will evaluate mechanisms to restructure or refinance debt. LCRA will continually evaluate alternatives to conventional financing to lower the overall cost of capital for ratepayers. Separate system financing also will be considered.

LCRA may structure debt issues such that the average maturity of the debt funding the assets approximates the average life of the assets financed; however, debt issues may be structured with a shorter average maturity if economically justified. LCRA will attempt to maintain a long-term average ~~30% percent~~ equity ratio. At no time will the equity ratio fall below ~~20% percent~~ without specific Board approval in the business plan. Equity



funding of the capital program will be approved in the business plan in compliance with this policy and taking into consideration the extent of contractual obligations of customers to provide the sources of revenue that will support the financing program.

**301.304 Variable-Rate Financing.** LCRA may use variable-rate debt to provide flexibility in its overall capital program and to manage its overall interest rate exposure.

The variable-rate limit is ~~25% percent~~ of total capitalization, long-term debt plus capital employed as presented periodically in LCRA's financial statements.

**301.305 Debt Service Reserves.** LCRA will covenant debt service reserves in the amount of six months of average annual debt service requirements on outstanding debt.

Debt service reserves may be collected through nonfuel rates or met with proceeds from additional debt or through the use of a surety to mitigate rate impacts.

**301.306 Operating Reserves.** LCRA will target three months of average operating and maintenance expense for purposes of operating liquidity and maintain reserves for liquidity of two to three months. Compliance will be evaluated at the end of each fiscal year.

These reserves will be collected through nonfuel rates.

If at any time the level of the operating reserves ~~are~~is projected to fall below the minimum two months established by this policy, the Board will promptly implement a plan, to be recommended by staff, to increase rates, reduce costs or otherwise cause there to be sufficient revenues to replenish the level of operating reserves to such target levels within 12 months.

**301.307 Management Reserves.** The GM/CEO may establish reserves from time to time for management activities.

## **301.40 PLANNING**

**301.401 Business Plan.** LCRA will prepare a business plan to be submitted for Board approval before the start of each fiscal year. The business plan will include the organization's goals and objectives and will describe the projects, products and services that comprise a five-year forecast for:

- Operating and maintenance expenses.
- Capital expenditures.
- Capital funding sources.
- Operating and other reserve requirements.
- Debt service requirements.

This information will be provided in appropriate detail for LCRA's lines of business, and affiliated corporations and for LCRA as a whole.

Adoption of the business plan authorizes the GM/CEO to complete work plans and make associated expenditures within budgets as provided for in accordance with Board policies. The resolution adopting the business plan will establish the capital and operating budgets for the upcoming fiscal year. Such amounts may not be exceeded without Board approval. Approval of the business plan constitutes authorization to proceed with capital projects included in year one of the plan and establishes the projects' respective lifetime budgets. The resolution adopting the business plan also will include guidelines for authorizing capital spending and reporting requirements for business plan results.

If annual expenditures for operations or capital are expected to exceed Board-authorized levels, additional approval from the Board will be required, except as otherwise provided below. Staff will provide sufficient support for the additional funding request and provide analysis for impacts on current and future rates.

For any project not previously authorized by the Board in the capital plan, authority is delegated to the GM/CEO to approve any capital project with a lifetime budget not to exceed \$1.5 million. Such approval by the GM/CEO will meet the official intent requirements set forth in Section 1.150-2 of the IRS Treasury Regulations. This delegation will apply only when such approval does not cause total capital expenditures to exceed the approved capital plan or materially adversely impact business planning assumptions. In such a situation, Board approval will be required. Staff will communicate any GM/CEO-approved projects to the Board on a quarterly basis. If Board approval is required, staff will communicate to the Board the funding source and rate impact of any new project when Board approval is requested. A new project may require an amendment to the existing capital plan or be managed within the previously authorized annual spending limits.

The general manager and chief executive officer may approve additional funding for an approved capital project that is expected to exceed its lifetime budget, so long as such additional funding does not cause total capital expenditures to exceed the approved capital plan or materially adversely impact business planning assumptions. by 10 percent and \$300,000, additional funding approval from the Board will be required. Approval of a new capital plan may reset the project's lifetime budget.

**301.402 Quarterly Business Plan Update.** The GM/CEO will provide quarterly updates that include indicators of year-to-date operational and financial performance, progress toward key goals, general manager and chief executive officer-approved capital project funding, and financial performance projections.

**301.403 Customer Involvement.** LCRA will seek appropriate input from its customers before the Board's approval of the business plan.

### **301.50 AFFILIATED CORPORATIONS**

Each LCRA affiliated corporation will implement a planning process similar to the process used by LCRA. However, each affiliated corporation should use a process appropriate for its level of activity. The business plan of the affiliated corporation submitted for Board approval will include the following components:

- A description of the affiliated corporation's major programs.
- Operating and capital budgets for the upcoming fiscal year.
- A summary of its annual goals and objectives.
- Five-year forecasts of operating and capital budgets.
- A summary of its rate plan, if applicable.

### **301.60 SPECIAL FUNDS**

LCRA will establish a process to transfer a portion of its revenues derived from its various product lines into special funds to be used to support mission-based activities, long-term resource development, and other activities.

The Board may establish special funds with appropriate implementation policies and program guidelines in order to set aside funds for these various special purposes.

In the event LCRA's financial performance from non-electric operations exceeds the budget targets set forth in the business plan, the Board may approve the supplemental transfer of funds to the established special funds. Any funds approved for transfer by the Board will be subject to compliance with LCRA's bond resolutions.

To the extent established special funds, including accumulated interest earnings, are not disbursed for the special purposes described in the separate policy and program guidelines, LCRA may use the funds for any lawful purpose. In the event that LCRA net revenues are insufficient to satisfy bond obligations, the monies from the Public Service Fund (PSF), Infrastructure Reserve Fund, Resource Development Fund, Liability Reduction Fund, Agriculture Reserve Fund or Public Recreation and Conservation Land Acquisition Fund (PRCLA Fund) – with the exception of any loans, grants or gifts comprising a portion of the PRCLA Fund – may be applied to such deficiencies.

**301.601 LCRA Public Service Fund.** The LCRA enabling legislation, as amended, and other applicable state laws provide that LCRA has certain statutory duties in the area of community services. While these service activities produce some revenues, the level of their revenue potential is insufficient to provide LCRA the means of implementing effective service programs. LCRA will maintain the PSF to support those activities. The LCRA enabling legislation contemplates the use of revenues derived from LCRA's wholesale power, transmission and water operations for service activities as described in the business plan. Wholesale power, transmission and water rate tariffs will include, as an element of the cost of service, revenue transfers to community service activities.

The amount available to annually fund service activities through the PSF and the Resource Development Fund will equal a total of ~~5% percent~~ of budgeted gross revenues of the LCRA transmission activities, accomplished through LCRA Transmission Services Corporation or LCRA's unregulated transmission product line, with the specific allocation of such funds between the two funds to be established by the Board in the LCRA business plan. Amounts available to fund service activities through the PSF from LCRA's raw water business activities will be ~~3% percent~~. Three percent of budgeted gross revenues of GenTex 1, the portion of Lost Pines 1 Power Project that is owned by GenTex Power Corporation and from which electricity is sold to LCRA and wholesale customers, also will be available to fund PSF-supported activities. Hydroelectric activity does not contribute to the PSF because it is a component of electric generation rates and covered through the electric generation customer's contribution, described below.

Wholesale power customers will pay as a portion of the operation and maintenance component of the electric rates an amount established under the terms of wholesale power customer agreements, or as otherwise agreed by the parties. Such payments will be for the benefit of the PSF and will be used for the purposes described in this section.

**301.602 Flood Recovery and Disaster Fund.** LCRA will maintain a Flood Recovery and Disaster Fund (FRD Fund) of up to \$500,000 to aid in the response to a natural flood disaster that causes structural, environmental or navigational damage or creates a hazard to public health and safety along the Highland Lakes and Colorado River within LCRA's 10-county statutory district. LCRA intends the fund to be used to assist cities, counties and local communities in restoring essential services, mitigating public health hazards and ensuring public safety. LCRA expects that LCRA's assistance using this fund will be in support of the affected communities' self-help response to the disaster. Unless otherwise approved by the Board, expenditures from this fund for any single flood event will be limited to \$200,000 and will not extend past the expiration date of a state disaster declaration.

The types of activities that qualify under the FRD Fund are related to public health and safety and may include some or all of the following activities:

- (1) Inspection of septic systems.
- (2) Water quality assessments.
- (3) Emergency repair of water and wastewater treatment plants.
- (4) Removal of major navigational hazards within LCRA lakes and the Colorado River.
- (5) Use of heavy equipment to clear roadways and shorelines of major flood debris.
- (6) Assistance of LCRA personnel in public safety activities.

The following types of activities do not qualify under the FRD Fund:

- (1) The repair or improvement of private property.
- (2) The repair or improvement of LCRA facilities except those facilities that are for public use and enjoyment.

As monies in the FRD ~~F~~fund are used for eligible expenditures, the Board may approve additional transfers to replenish the fund.

**301.603 Agricultural Water Conservation Fund.** Section 8503.029, Texas Special District Local Laws Code ~~(Section 8503.029)~~, requires that a separate charge of at least 10% ~~percent~~ of LCRA's applicable water rates be applied for any new surface water transfers to the Brazos River watershed in Williamson County. LCRA may use money from this fund only for the development of water resources or other water use strategies to replace or offset the amount of surface water to be transferred to Williamson County. The water development or water use strategies must take into consideration the surface water and groundwater needs of the affected Colorado River basin users and will benefit the water service areas of LCRA's irrigation operations. The Board may deposit other monies within its discretion in the Agricultural Water Conservation Fund.

The staff will consult, as required by Section 8503.029, with an advisory committee representing agricultural irrigation interests before using money from the Agricultural Water Conservation Fund. The Board must approve all expenditures from the Agricultural Water Conservation Fund, but will not consider using the funds to buy out the production of a second crop.

On or before the April Board meeting of each year, the general manager will submit to the Board a report summarizing activities related to the implementation of Section 8503.029, including management and use of the Agricultural Water Conservation Fund, the sufficiency of the separate charge to implement the requirements of Section 8503.029, and updated projections of anticipated water demands for customers subject to the requirements of Section 8503.029.

**301.604 Infrastructure Reserve Fund.** LCRA will maintain a fund in which the Board may set aside proceeds from above-budget performance from water, park and strategic services activities. Availability of these funds, if any, will be determined after completion of the annual financial audit. Additionally, PSF monies not identified for a specific purpose during the preparation of the annual business plan also may be set aside in this fund. The Board may use these funds at its discretion for purposes of improving existing or developing new infrastructure or any other lawful purpose. The Board must approve all expenditures from the Infrastructure Reserve Fund. The Infrastructure Reserve Fund is part of the revenue fund and accounted for separately.

**301.605 Resource Development Fund.** LCRA will maintain a fund to specifically support investment in and payment of debt service on borrowings that have been used to construct long-term capital assets that (i) provide for the development of water supply resources for the Colorado River basin, or (ii) otherwise support LCRA's mission activities. The deposit of monies into this fund will be pursuant to Board action authorizing a one-time transfer of funds or creating a program that creates periodic transfers from sources described in this policy. The Board must approve all expenditures from the

Resource Development Fund. The Resource Development Fund is part of the revenue fund and accounted for separately.

**301.606 Public Recreation and Conservation Land Acquisition Fund.** LCRA has established a Public Recreation and Conservation Land Acquisition Fund (PRCLA Fund) to be used for non-utility land acquisition and/or the development of any project included in LCRA's Public Services or Enterprise Capital Improvement Plan. The PRCLA Fund is part of the revenue fund and accounted for separately.

LCRA intends to maintain a minimum balance in the PRCLA Fund of at least \$1 million. If the PRCLA Fund is drawn down below this level, the Board may direct staff to replenish it with an equal or greater amount from the approved sources within a reasonable time frame. At any time that it is anticipated that an expenditure will draw the balance below the \$1 million level, the source of funds, the process and the time period for replenishing the PRCLA Fund will be subject to approval by the Board.

The Board must approve all expenditures from the PRCLA Fund. The monies for the PRCLA Fund may come from the following sources:

- Proceeds from the sale of nonessential non-utility lands.
- Loans, grants or gifts allocated to the acquisition of non-utility lands.
- Revenues resulting from LCRA's agreements with the private sector for managing and operating park, recreation and natural science projects.
- Other sources as approved by the Board.

**301.607 Community Assistance Fund.** A Community Assistance Fund will be established to provide money for LCRA's Community Development Partnership Program (CDPP). The LCRA PSF will be the source of funds for the Community Assistance Fund. The Community Assistance Fund is part of the revenue fund and is accounted for separately.

The CDPP ~~program~~ operates as a grants program, and LCRA intends the CDPP ~~program~~ to support communities and economic growth by contributing to education, transportation, public safety, recreation, health care, training, community planning or employment efforts in LCRA's service area. Specific program guidelines governing the process, criteria and procedures for disbursements made from the Community Assistance Fund and PSF will be approved by the Board.

**301.608 Liability Reduction Fund.** LCRA will establish a fund specifically for the reduction of long-term liabilities. The purpose of this fund is to reduce LCRA's long-term cost structure by paying for liabilities when appropriate and funds are available. The Board will approve the source of funds for the Liability Reduction Fund and the disbursements from the Liability Reduction Fund.



The Liability Reduction Fund is part of the revenue fund and accounted for separately. Interest income attributable to the Liability Reduction Fund may be deposited into the fund periodically and no less frequently than once per fiscal year.

**301.609 Agriculture Reserve Fund.** LCRA will establish a fund specifically to be used for mitigating rate shock to customers. The monies for the Agriculture Reserve Fund may come from any source approved by the Board. The Board must approve all expenditures from the Agriculture Reserve Fund. The Agriculture Reserve Fund is part of the revenue fund and accounted for separately.

### **301.70 RESPONSIBILITIES**

An annual report will be submitted to the Board on the activities of the Flood Recovery and Disaster Fund and the Agricultural Water Conservation Fund. It is the responsibility of the GM/CEO, chief financial officer and the Board to review this policy statement periodically and make recommendations for necessary revisions to ensure that LCRA maintains a high level of financial integrity.

### **301.80 AUTHORITY**

LCRA enabling legislation, Chapter 8503, Texas Special District Local Laws Code  
Texas Water Code, Chapter 152  
Public Funds Investment Act, Chapter 2256, Texas Government Code  
IRS Treasury Regulations, Section 1.150-2

**EFFECTIVE:** March 1984. Amended December 1988; Dec. 13, 1990; Aug. 20, 1992; March 19, 1998; Feb. 24, 1999; Aug. 18, 1999; Oct. 20, 1999; June 21, 2000; Dec. 13, 2000; Dec. 17, 2003; Nov. 17, 2004; Dec. 13, 2006; June 3, 2009; March 31, 2010; Dec. 15, 2010; May 16, 2012; and May 21, 2014. Amended and combined with Board Policy 304 Sept. 21, 2016. Amended April 18, 2018; ~~and~~ Dec. 10, 2019; and Dec. 14, 2021.



**FOR ACTION**

**8. Approve the LCRA Transmission Contract Revenue Notes Series E Note Purchase Agreement, and Authorize Related Agreements**

**Proposed Motion**

Adopt the Thirty-eighth Supplemental Resolution to the Controlling Resolution establishing the LCRA Transmission Contract Revenue Financing Program (Controlling Resolution) to authorize the extension and amendment of the note purchase agreement among LCRA, LCRA Transmission Services Corporation (LCRA TSC) and U.S. Bank National Association (U.S. Bank) (Series E NP Agreement) for the LCRA Transmission Contract Revenue Notes, Series E (Series E Notes), and authorize the general manager or his designee to negotiate and execute all related documents setting forth the terms and conditions governing the issuance of the debt directly to U.S. Bank in an amount up to \$100 million for the Series E Notes.

**Board Consideration**

A supplemental resolution to the existing Controlling Resolution requires Board of Directors approval. The Series E NP Agreement complies with the covenants of the LCRA Controlling Resolution, the Thirty-first Supplement to the Controlling Resolution that authorized up to \$100 million for the Series E Notes, and LCRA Board Policy 301 – Finance. Section 8503.004(p) of the Texas Special District Local Laws Code (LCRA Act) authorizes the Board to issue debt under certain conditions, including the requirement that 12 Board members must approve this action.

**Budget Status and Fiscal Impact**

Staff anticipates the renewal of the \$100 million credit facility will result in cost savings because the agreement will reflect current market rates. The Series E NP Agreement will remove Libor as the borrowing index and extend the facility for three more years, among other amendments. This facility will allow LCRA to issue private bank debt on behalf of LCRA TSC to finance the construction of facilities and delay the issuance of long-term bonds, which have higher interest rates in the current market. Staff anticipates LCRA TSC will experience lower debt service costs until long-term bonds are issued.

**Summary**

Staff recommends the Board approve the adoption of the Thirty-eighth Supplemental Resolution authorizing the general manager or his designee to negotiate and execute the Series E NP Agreement and other related documents.

LCRA, as the conduit issuer for LCRA TSC, through amendments to the debt programs and bank credit facilities, currently has authorized LCRA TSC to borrow from a \$150 million tax-exempt commercial paper program with JPMorgan and State Street

Bank, a \$200 million private placement Series C Notes with Bank of America, and a \$100 million private placement Series E Notes with U.S. Bank.

Staff now seeks to extend the \$100 million Series E Notes program with U.S. Bank. Each Series E Notes are issued will have a one-year maturity.

The note purchases by U.S. Bank allow LCRA TSC to fund project costs in a similar manner to the existing commercial paper programs. However, the direct purchase facilities with the bank provide an alternative structure that eliminates marketing and remarketing risk that can occur with a public commercial paper program. The private debt facilities do not require public credit ratings to be issued and maintained. The credit facilities allow LCRA TSC to choose the variable interest rate and period to effectively manage the debt.

The Series E Notes are issued on parity with LCRA TSC contract revenue bonds and notes pursuant to the LCRA Controlling Resolution and in compliance with the variable debt limitations in LCRA TSC Board Policy T301 – Finance (25% of the total long-term debt and total equity of LCRA TSC).

Supplements to the restated Transmission Contract Revenue Debt Installment Payment Agreement between LCRA and LCRA TSC, dated March 1, 2003, secures the Series E Notes by obligating LCRA TSC to make all payments related to the notes. The notes may be refunded into long-term debt when the conditions are advantageous to LCRA TSC.

**Presenter(s)**

Jim Travis

Chief Financial Officer

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**RESOLUTION NO. 21-\_\_**

**THIRTY-EIGHTH SUPPLEMENTAL RESOLUTION TO THE CONTROLLING RESOLUTION AUTHORIZING AN AMENDMENT AND EXTENSION TO THE NOTE PURCHASE AGREEMENT RELATING TO THE LOWER COLORADO RIVER AUTHORITY TRANSMISSION CONTRACT REVENUE REVOLVING NOTES (LCRA TRANSMISSION SERVICES CORPORATION PROJECT), SERIES E**

**WHEREAS**, the Lower Colorado River Authority ("LCRA") is a governmental agency, and body corporate and politic of the State of Texas, being a conservation and reclamation district created and functioning under Article XVI, Section 59, of the Texas Constitution, pursuant to the provisions of Chapter 8503, Texas Special District Local Laws Code, as amended; and

**WHEREAS**, at the request of the LCRA Transmission Services Corporation (the "Corporation"), on February 19, 2003, the LCRA Board adopted an amended and restated "Controlling Resolution Establishing the Lower Colorado River Authority Transmission Contract Revenue Financing Program and Authorizing the Transmission Contract Revenue Debt Installment Payment Agreement with the LCRA Transmission Services Corporation," as amended on January 19, 2005 (the "Controlling Resolution"); and

**WHEREAS**, LCRA authorized the issuance of its Transmission Contract Revenue Revolving Notes (LCRA Transmission Services Corporation Project), Series E (the "Notes") authorized by the Resolution No. 20-28 adopted by the Board on May 20, 2020 (the "Thirty-First Supplement"); and

**WHEREAS**, the capitalized terms used in this resolution and not otherwise defined shall have the meanings given in the Controlling Resolution and the Thirty-First Supplement; and

**WHEREAS**, in connection with the issuance of the Notes, LCRA has previously entered into a Note Purchase Agreement, dated as of June 1, 2020, among LCRA, the Corporation, U.S. Bank National Association (the "Original Agreement"); and

**WHEREAS**, the Board finds and determines to enter into an amendment to the Original Agreement in the form of an amended and restated agreement (the "Amended Agreement") to (i) extend the term of the Original Agreement, (ii) amend the interest rate provisions applicable to the Notes, (iii) updating pricing provisions and (iv) make certain other amendments; and

**WHEREAS**, the Board further finds and determines that all terms and conditions for the for the authorization and delivery of the Amended Agreement as Transmission Contract Debt have been or can be met and satisfied; and

**WHEREAS**, such agreement is authorized pursuant to the Acts and other applicable laws.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF LOWER COLORADO RIVER AUTHORITY THAT:**

**Section 1.** The Amended Agreement, in substantially the form attached hereto as Exhibit A, is hereby approved and the General Manager, the Chief Financial Officer, the Treasurer or the General Counsel of LCRA is hereby authorized to complete, modify and execute the Amendment as necessary.

**Section 2.** The Amended Agreement (including the obligations of LCRA thereunder) is declared to be Transmission Contract Debt under the Controlling Resolution.

**Section 3.** The authorization, execution and delivery of the Amended Agreement and other undertakings and certifications that may be required to effect the issuance of the Notes by LCRA based upon the relevant financing documents are hereby approved.

**Section 4.** The Board hereby authorizes the disbursement of a fee of \$9,500 to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of the proceedings related to the Amended Agreement, as required by Section 1202.004, Texas Government Code, as amended. The appropriate member of LCRA's staff is hereby instructed to take the necessary measures to make this payment.

**Section 4.** Each of the General Manager, the Chief Financial Officer, the Treasurer or the General Counsel of LCRA is hereby authorized to execute any other document or certificates as may be necessary to consummate the transactions contemplated by this Thirty-Eighth Supplement.

## FOR ACTION

# 9. Contracts and Contract Changes

### Proposed Motion

Authorize the general manager or his designee to negotiate and execute the following contracts as shown in the attached exhibit.

### Board Consideration

LCRA Board Policy 308 – Purchasing Contracts establishes requirements for contracts for the purchase of goods, services, construction and software. LCRA has two types of contracts, master and one-time.

- Master contract: Establishes the terms and conditions under which LCRA may purchase goods and/or services during a fixed period of time to fulfill its business plan. These purchases are budgeted in the capital and operations and maintenance budgets. Master contracts are not commitments to expend funds. Rather, purchase orders placed against these master contracts are commitments to spend.
- One-time contract: A contract for the purchase of a definite quantity of goods or services under a single scope of work either during a fixed period of time or for an indefinite period of time until the goods have been delivered or services have been completed. These contracts normally include commitments to expend funds.

### Budget Status and Fiscal Impact

All contracts and contract changes recommended for Board approval are for budgeted items contained in the operations and capital budgets.

### Summary

Supplier (Contract Number)	Contract Type	Approval Amount	Contract Description
<b>New Contracts</b>			
Pritchard Industries SW, doing business as PBS of Texas (5942)	Master	\$8 million	Janitorial services
<b>Contract Changes</b>			
Morgan Brooks Resources, Inc (4937), Coates Field Service Inc. (4938), Universal Field Services, Inc (4939), Electrical Consultants, Inc. (4945), Contract Land Staff (4946), O. R. Colan Associates LLC (4947), Percheron Professional Services, LLC (4948), TRC	Master	\$30.84 million	Real estate services

<b>Supplier (Contract Number)</b>	<b>Contract Type</b>	<b>Approval Amount</b>	<b>Contract Description</b>
Solutions, Inc. (4949), Volkert, Inc. (4950)			
CWC Right of Way, Inc. (4760) and Paloma Blanca Enterprises Inc. (4761)	Master	\$35 million	Vegetation management

**Presenter(s)**

Jim Travis  
Chief Financial Officer

**Exhibit(s)**

- A – New Contracts
- B – Contract Administration



**EXHIBIT A**

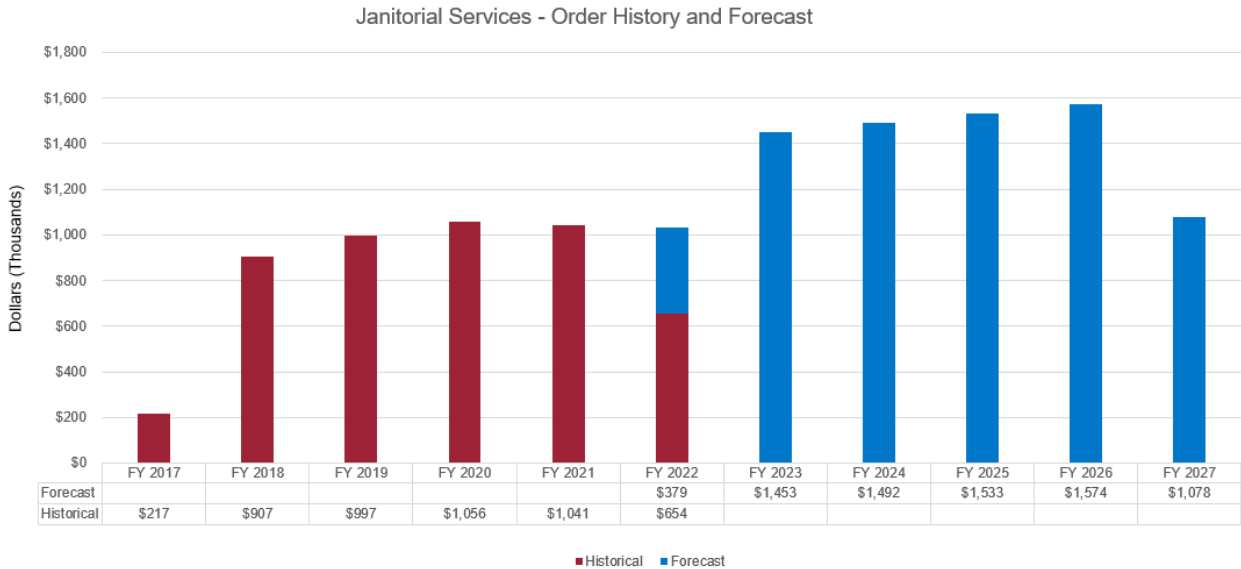
**New Contracts**

New contracts that require Board approval under Board Policy 308 are noted in Exhibit A.

**Contract No.** 5942  
**Supplier:** Pritchard Industries SW, doing business as PBS of Texas  
**Contract Amount:** Not to exceed \$8 million  
**Contract Length:** One-year contract with four additional, optional one-year terms  
**Description:** This master contract is for the procurement of janitorial services.

**Background:**

- LCRA uses janitorial services contracts to clean 62 buildings at 14 sites for a total of 800,000 square feet across LCRA.
- LCRA also may engage the supplier for additional services such as window cleaning, disinfecting facilities with electrostatic spraying or pressure washing.
- The janitorial services spending forecast is higher than historical spending due to increased labor and material rates.
- The forecast spending includes a 3% annual inflation rate and 10% contingency for ad-hoc work, scope additions or higher-than-anticipated inflation spread evenly over the five-year term.



**Actions:**

- Staff recommends awarding this contract based on a fully competitive process.
- Staff evaluated six proposals.
- Staff evaluated suppliers based on experience, capabilities and price.
- The contract award amount is not to exceed \$8 million.
- Based upon the evaluation and subsequent negotiations, staff recommends Pritchard Industries SW, doing business as PBS of Texas, as the supplier for this category.

## **EXHIBIT B**

### **Contract Administration**

Contract changes that require Board approval under Board Policy 308 are noted in Exhibit B.

- A *Change Order* is a change to the statement of work, specifications or schedule of the contract.
- An *Amendment* is a change to a contract that affects other terms and conditions of the contract.
- An *Increase in Estimate* is a request to spend more funds than previously were estimated to be spent through a given contract. The contract is not changed; only the internal estimate of the amount to be spent with the supplier.

<b>Contract Nos.</b>	<b>4937, 4938, 4939, 4945, 4946, 4947, 4948, 4949, 4950</b>
<b>Supplier:</b>	Morgan Brooks Resources, Inc, Coates Field Service Inc., Universal Field Services, Inc, Electrical Consultants, Inc., Contract Land Staff, O. R. Colan Associates LLC, Percheron Professional Services, LLC, TRC Solutions, Inc., Volkert, Inc.
<b>Contract Amount:</b>	Not to exceed \$30.84 million in the aggregate
<b>Description:</b>	These are amendments to existing master contracts for the procurement of real estate services.

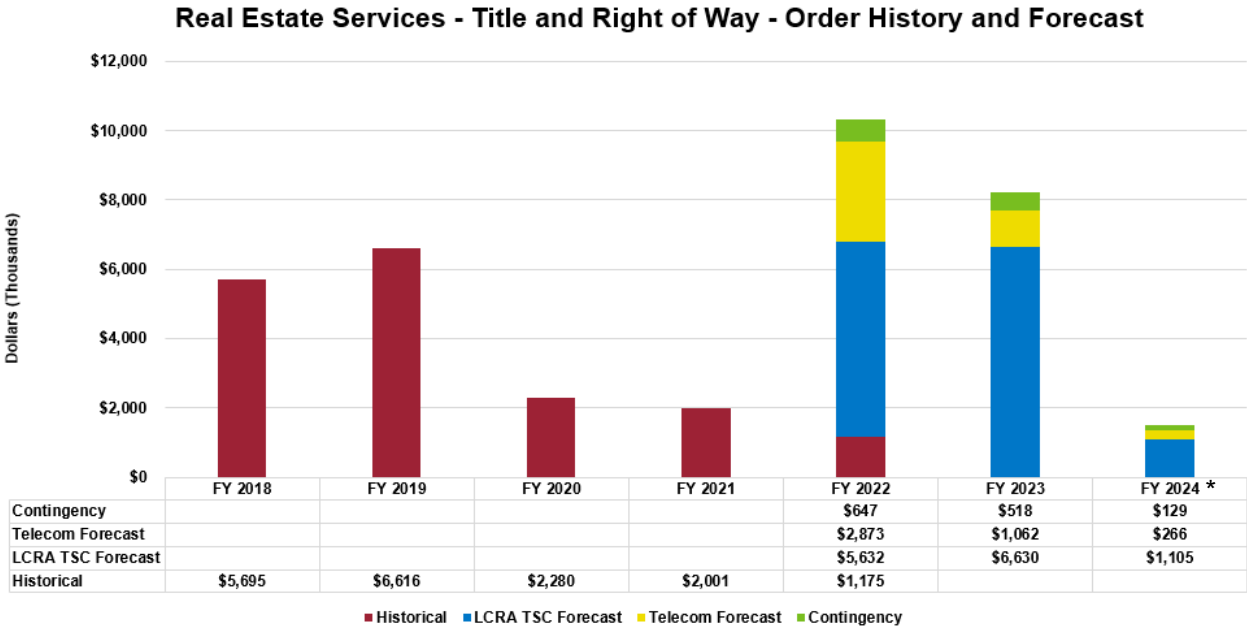
### **Background:**

- In August 2018, the Board of Directors approved master aggregate contracts with Morgan Brooks Resources, Inc, Coates Field Service Inc., Universal Field Services, Inc, Electrical Consultants, Inc., Contract Land Staff, O. R. Colan Associates LLC, Percheron Professional Services, LLC, TRC Solutions, Inc., and Volkert, Inc., to perform title research and right of way acquisition services.
- When the Board approved the original contracts in August 2018, the aggregate contract value was limited to \$13.2 million. This amount was intended to cover five years of LCRA spending based on the real estate requirements at the time. As a result of increased real estate acquisitions above original projections, LCRA in May 2021 added \$2.64 million to the aggregate contract value via an administrative increase, which did not require Board approval per LCRA Board Policy 308.
- Since Board approval of these aggregate contracts in fiscal year 2019, two significant operational changes have occurred: LCRA Transmission Services Corporation's five-year capital plan almost doubled in size to \$2.1 billion in FY 2022, and the Telecommunications Strategic Services team identified about 80 transmission lines throughout LCRA's service territory that LCRA could use to expand rural broadband in Texas. Senate Bill 632 authorizes LCRA to provide fiber capacity or facilities to enable broadband service connectivity.
- To meet these operational changes, LCRA may need to acquire up to 1,050 parcels through the lives of these contracts.
- Between FY 2016 and FY 2021, easement acquisitions have grown eight-fold to meet the growing needs of the LCRA TSC capital plan.

- Staff is requesting an additional \$15 million in aggregate purchasing authority for these contracts. This request was calculated based on historical cost trends and is expected to serve acquisition activities needed through August 2023, when these contracts will expire and the services will be re-sourced.

**Contract History:**

Original Contract (August 2018 – Board Approval)	\$13,200,000
Administrative Increase in Estimate	\$2,640,000
Requested Increase in Estimate (December 2021 – Board Approval)	\$15,000,000
<b>Total</b>	<b><u>\$30,840,000</u></b>



\*Data for FY 2024 includes only two months rather than the full 12-month period.

**Contract No.** 4760 and 4761  
**Supplier:** CWC Right of Way, Inc. and Paloma Blanca Enterprises Inc.  
**Contract Amount:** Not to exceed \$35 million in the aggregate  
**Description:** These are amendments to existing master contracts for the procurement of vegetation management and right-of-way maintenance.

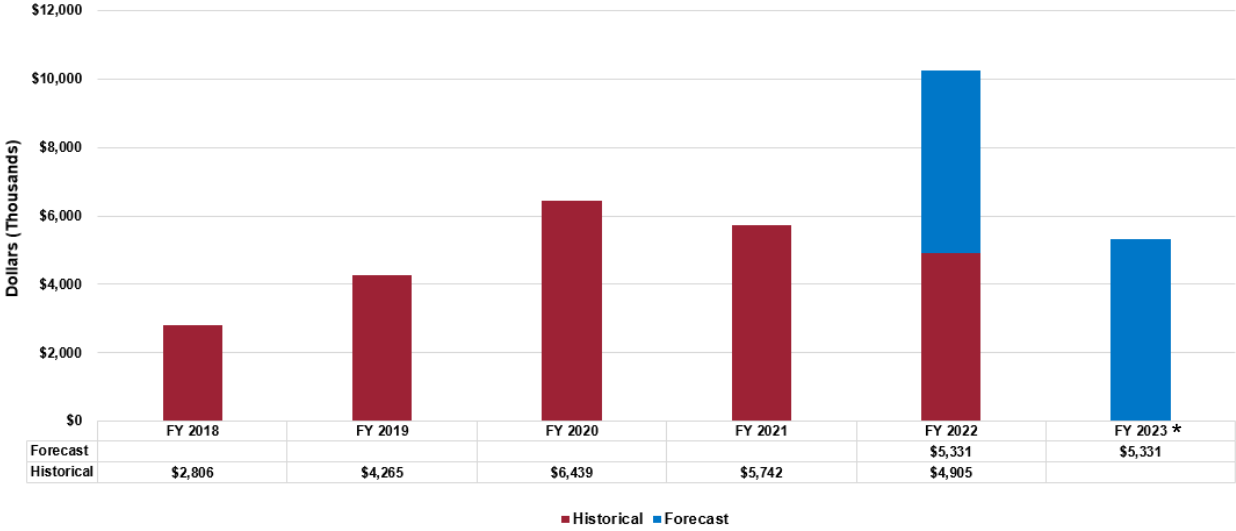
**Background:**

- In January 2018, the Board of Directors approved master aggregate contracts with CWC Right of Way, Inc., and Paloma Blanca Enterprises Inc. to perform transmission line vegetation management and right-of-way maintenance. This includes trimming brush, clearing and shredding vegetation, roadwork, and installing erosion controls.
- When the Board approved the original contracts in January 2018, the aggregate contract value was limited to \$23 million. This amount was intended to cover five years of LCRA spending based on the transmission line vegetation management requirements at the time.
- Since Board approval of these aggregate contracts, the LCRA Transmission Services Corporation’s capital plan has increased significantly, requiring additional erosion controls and stabilization of construction entrances and creek crossings. LCRA TSC also has changed the right-of-way restoration methods to increase the use of hydroseeding – the process of spreading a mixture that includes seed over bare ground to grow grass and prevent soil erosion.
- Staff is requesting an additional \$12 million in aggregate purchasing authority for these contracts. This is expected to serve vegetation management needs through January 2023, when these contracts will expire and the services will be re-sourced.

**Contract History:**

Original Contract (January 2018 – Board Approval)	\$23,000,000
Requested Increase in Estimate (December 2021 – Board Approval)	\$12,000,000
Total	<u>\$35,000,000</u>

### Vegetation Management - Order History and Forecast



\*Data for FY 2023 includes only seven months rather than the full 12-month period.

## **FOR ACTION**

# **10. Amendments to Highland Lakes Dredge and Fill Ordinance**

### **Proposed Motion**

Amend the Highland Lakes Dredge and Fill Ordinance to limit the scope of Tier III Commercial Dredge and Fill Activities based on considerations related to navigation, critical infrastructure, public safety and water supply needs. The amended ordinance would become effective Jan. 1, 2022.

### **Board Consideration**

LCRA Board Policy 102 – Authority and Responsibilities and sections 8503.004(q) and (u) of the Texas Special District Local Laws Code authorize LCRA to provide for the study, correcting and control of both artificial and natural pollution of groundwater and surface water of the Colorado River and its tributaries within LCRA's boundaries and to regulate the use of the surface of the Highland Lakes.

### **Board Status and Fiscal Impact**

The proposed amendments to the Highland Lakes Dredge and Fill Ordinance (HLDO) would not have any appreciable change in costs to LCRA.

### **Summary**

On Nov. 17, 2021, the LCRA Board of Directors adopted the HLDO as proposed by staff and after consideration of public comments. The HLDO incorporates the requirements and standards for smaller, more typical dredge and fill projects, that previously were regulated by LCRA under the Highland Lakes Watershed Ordinance (HLWO) and includes new rules related to large dredge and fill operations, including commercial operations (defined in the HLDO as "Tier III Dredge and Fill Activities"). The Board adopted the HLDO with an effective date of Jan. 1, 2022.

After further consideration, staff is proposing limited amendments to those provisions of the HLDO related to Tier III Dredge and Fill Activities. Specifically, staff proposes to amend the HLDO to authorize the general manager to designate specific zones within the Highland Lakes within which Tier III Dredge and Fill Activities could occur based on the need to address navigation, critical infrastructure, public safety and water supply. The general manager could revise or terminate these designations from time to time as conditions change. The definition of "Tier III Dredge and Fill Activity" would be revised to clarify that such activities could occur only within the designated zones. Tier III Dredge and Fill Activities also would have to comply with all substantive and procedural requirements of the HLDO adopted by the Board on Nov. 17, 2021, including standards to help maintain the safety of the public and to reduce impacts of dredge and fill activities on such things as water quality, invasive species, navigation, water supply, water safety and critical infrastructure. The requirements for application processing, including public notice and hearing, permit issuance, and enforcement, remain unchanged with these recommendations. Staff recommends minor conforming changes to reflect the inclusion of the requirement for designated zones for Tier III Dredge and Fill Activities.

The proposed amendments reasonably fulfill LCRA's obligations and authorities granted to it pursuant to LCRA's Enabling Act, specifically Texas Special District Local Laws Code Chapter 8503; Texas Water Code chapters 7, 26 and 51; Texas Parks and Wildlife Code Chapter 31; and other applicable law. The proposed amendments further help protect and maintain the quality of the water in lakes Buchanan, Inks, LBJ, Marble Falls and Travis (Highland Lakes) and to ensure that appropriate measures are taken to mitigate the potential water quality impacts of activities that are within LCRA's jurisdiction to regulate. Staff believes the proposed amendments also will help reduce potential impacts of Tier III activities on lake users and lakeside residents while allowing such activities to proceed in support of LCRA's core responsibilities to help ensure water safety and navigability, operation of critical infrastructure, and protection and preservation of the region's water supply in the Highland Lakes.

**Presenter(s)**

John B. Hofmann  
Executive Vice President, Water

Lauren Graber  
Director, Strategic Water Initiatives

**Exhibit(s)**

A – Proposed Amendments to the Highland Lakes Dredge and Fill Ordinance



**DRAFT**

**HIGHLAND LAKES  
DREDGE AND FILL ORDINANCE**

**Effective Date: Jan. 1, 2022**

# HIGHLAND LAKES DREDGE AND FILL ORDINANCE

## TABLE OF CONTENTS

Section 1.	TITLE AND SCOPE.....	1
Section 2.	AUTHORITY .....	1
Section 3.	DEFINITIONS .....	1
Section 4.	PERMIT DETERMINATION .....	4
4.1	Exempt Activities.....	4
4.2	Written Notification – Tier I Dredge and Fill Activities .....	5
4.3	Permit Required –Tier II and Tier III Dredge and Fill Activities.....	6
Section 5.	STANDARDS .....	6
5.1	Standards for Tier I Dredge and Fill Activities .....	6
(a)	Property Ownership or Control .....	6
(b)	Water Quality Protection.....	6
(c)	Land Reclamation and Limits on New Structures .....	7
(d)	Navigability, Water Flow and Safety .....	7
(e)	Shoreline Stabilization and Slope Stability.....	7
(f)	Invasive Species.....	7
(g)	Other Requirements .....	8
5.2	Standards for Tier II Dredge and Fill Activities .....	8
(a)	Tier I Standards .....	8
(b)	Turbidity Management and Monitoring .....	8
(c)	Emergency Operations Plan.....	9
5.3	Standards for Tier III Commercial Dredge and Fill Activities.....	9
(a)	Tier I and Tier II Standards .....	9
(b)	Commercial Dredge and Fill Zone .....	9
(c)	Setback Requirements .....	9
(d)	Public Safety Plan.....	10
(e)	Additional Turbidity Management .....	10
(f)	Removal of Native Materials.....	10
(g)	Authorized Storage .....	10
(h)	Contaminant Release .....	10
(i)	Spill Prevention Plan.....	11
(j)	Discharges.....	11
(k)	Unforeseen or Cumulative Impacts.....	11
Section 6.	APPLICATION PROCESSING .....	12
6.1	Permit Process.....	12
(a)	Pre-Application Planning Meeting.....	12
(b)	Content and Preparation of Permit Applications .....	12
(c)	Application Fees .....	13
(d)	Application Review .....	13
(e)	Notice of Receipt of Administratively Complete Application and Intent to Obtain Permit .....	15
(f)	Notice of Draft Permit .....	16

(g)	Comments .....	17
(h)	Public Meetings for Tier II and Tier III Permit Applications and Draft Permit .....	17
(i)	Notice and Public Meetings for Multiple LCRA Permits .....	18
(j)	Financial Security for Tier II and Tier III Permits .....	18
(k)	Insurance for Tier III Permits.....	18
(l)	Permit Decision.....	19
6.2	Duration of Authorization or Permit .....	19
6.3	Permit Renewal.....	19
6.4	Amendment.....	20
(a)	Major Amendments.....	20
(b)	Minor Amendments.....	20
(c)	LCRA Staff-Initiated Amendments .....	20
(d)	Minor Field Adjustments .....	21
6.5	Termination .....	21
Section 7.	PERMITS.....	21
7.1	Standard Permit Terms and Conditions .....	21
7.2	Additional Permit Conditions .....	23
Section 8.	RIGHT OF ENTRY AND INSPECTION .....	23
8.1	Right of Entry .....	23
8.2	Inspection Fees.....	23
Section 9.	ENFORCEMENT .....	24
9.1	Violations .....	24
9.2	Notice of Violation/Stop-Work Order .....	24
9.3	Permit Revocation.....	24
9.4	Appeal by Permittee.....	25
9.5	Penalty.....	25
9.6	Other Remedies and Injunction.....	25
Section 10.	VARIANCES.....	25
10.1	Variance.....	25
10.2	Requests for Variance.....	25
Section 11.	APPEALS OF PERMIT DECISIONS .....	25
11.1	Requesting an Appeal.....	25
11.2	Filing of Appeal .....	26
11.3	Notice of Appeal.....	26
11.4	Form of Appeal .....	26
11.5	Validity of Appeal .....	26
11.6	Determination of Validity of Appeal .....	27
(a)	Commencement of Permit Activities and Construction .....	27
(b)	Staff Review.....	27
(c)	General Manager Review .....	28
(d)	General Manager's Decision Final.....	28
(e)	Effect of Pending Appeal on Permit Expiration .....	28
(f)	Valid Appeal and Notification .....	28
11.7	Mediation Required Prior to Hearing of Valid Appeal.....	28
11.8	Responses to Valid Appeals .....	29

(a)	Staff Response to Valid Appeal .....	29
(b)	Applicant Response to Valid Appeal.....	29
(c)	Appellant Response to Valid Appeal.....	29
(d)	Valid Appeal Forwarded to Water Operations Committee Chair.....	29
11.9	Water Operations Committee Consideration of Valid Appeal.....	29
(a)	Forum .....	29
(b)	Scheduling of Hearing .....	30
(c)	Written Information Provided .....	30
(d)	Open Hearing .....	30
(e)	Participants.....	30
(f)	Alignment of Parties.....	30
(g)	Procedure .....	31
(h)	Water Operations Committee Deliberation .....	32
(i)	Water Operations Committee Recommendation .....	32
(j)	Procedures May Be Altered as Justice Requires.....	32
11.10	Board Consideration of Water Operations Committee Recommendation .....	32
11.11	Ex Parte Communications.....	33
(a)	Prohibition.....	33
(b)	Effect of Violation.....	33
Section 12.	SAVINGS CLAUSE; AMENDMENT; EFFECTIVE DATE; REVIEW .....	33
12.1	Savings Clause .....	33
12.2	Amendment of the Ordinance, LCRA Technical Manual or Fee Schedule .....	33
12.3	Effective Date.....	33
12.4	Review .....	34

## **Section 1. TITLE AND SCOPE**

This Ordinance shall be known and may be cited as the Highland Lakes Dredge and Fill Ordinance (“the Ordinance” or “HLDO”). This Ordinance shall apply to Dredge and Fill activities below and along the stated Regulated Pool Elevations of the Highland Lakes.

## **Section 2. AUTHORITY**

This Ordinance is promulgated under the authority of the LCRA Enabling Act, specifically Texas Special District Local Laws Code Chapter 8503; Texas Water Code Chapters 7, 26, and 51; Texas Parks and Wildlife Code Chapter 31; and other applicable law.

## **Section 3. DEFINITIONS**

**Affected Person:** Any Person who has a personal, justiciable interest and whose legal rights, duties or privileges may be adversely affected by impacts that are regulated under this Ordinance from any proposed Project for which a Permit is required under this Ordinance.

**Applicant:** A Person (or their duly authorized designee) who applies for a Permit under this Ordinance or submits written notification under Section 4.2 of this Ordinance.

**Authorization:** Any Dredge or Fill activity authorized by LCRA pursuant to this Ordinance that is not a Tier II or III Permit.

**Best Management Practices (BMPs):** Those practices, including but not limited to those described in LCRA’s Technical Manual, that effectively manage, control, prevent, or reduce the discharge of Pollutants into surface water in the state.

**Board:** The LCRA Board of Directors.

**Commercial Dredge and Fill:** Dredge or Fill activity that:

- 1) has as its primary purpose the resale of Dredged Material; or
- 2) involves any Dredging or Fill:
  - a) that will:
    - i) remove 500 or more cubic yards of dredge material, or
    - ii) occur over more than 3 surface acres, or
    - iii) occur along more than 1,500 feet of linear shoreline; and
  - b) will occur more than 30 calendar days per year or over the course of several years, regardless of the number of days of operation per year.

**Contaminated Dredge Material:** Dredge material which has been chemically, physically, or biologically altered by man-made or man-induced contaminants, which include, but are not limited

to, solid waste, and hazardous waste as those terms are defined by 30 Tex. Admin. Code Chapter 335; pollutants as defined by Texas Water Code Chapter 26.001; and Hazardous Substances as defined by Tex. Health and Safety Code, section 361.003.

**Critical Infrastructure:** Includes all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation or as defined in Chapter 418, Government Code.

**Disturb:** The modification of the land, shoreline, or lakebed by activities, such as clearing, grading and Dredging.

**Dredge or Dredging:** The removal of material from or the removal of structures such as piers, bulkheads, foundations or other similar manmade structures affixed to land located below the stated Regulated Pool Elevations of the Highland Lakes. Activities that may involve Dredging include, but are not limited to, constructing, or maintaining improvements including Shoreline Stabilization, boat ramps, boat slip or canal Excavation, or other similar construction along the shoreline or below the Regulated Pool Elevation of the Highland Lakes. The removal of flood debris or other trash that is not embedded in or otherwise affixed to land below the stated Regulated Pool Elevations of the Highland Lakes is excluded from this definition.

**Dredged Material:** Includes any material intentionally and incidentally Disturbed through Dredging, including that earthen material that is commonly found in submerged areas or along the shoreline, including dirt, soil, rock, clay, silt gravel, sand, rock, or other similar substance, as well as materials removed coincident with Dredging of such natural materials, such as trash, tree limbs, or other similar items.

**Erosion:** The detachment and movement of soil, sediment or rock fragments by wind, water, ice or gravity.

**Excavation:** The removal of earthen material, rock, soil, or similar material to create a depression below the original topography.

**Fill:** Any material, structure, wall, rip-rap or revetment below the Regulated Pool Elevations of the lake, including any material deposited or placed on the lake bed or along the shoreline that extends above the Regulated Pool Elevation.

**Highland Lakes:** Includes Lake Buchanan, Inks Lake, Lake LBJ, Lake Marble Falls and Lake Travis on the Colorado River within the Lower Colorado River Authority District.

**Holiday:** New Year's Eve, New Year's Day, MLK Day, Presidents Day, Memorial Day, Juneteenth, the observance of Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Eve, Christmas Day, and the day after Christmas Day.

**Landowner:** Any Person holding legal or equitable title to or having a fee simple ownership interest in land.

**LCRA:** Lower Colorado River Authority

**LCRA General Counsel:** The General Counsel of the LCRA or their designee.

**LCRA General Manager:** The General Manager of the LCRA or their designee.

**Normal Business Hours:** Any weekday beginning 30 minutes after sunrise and ending 30 minutes before sunset but excluding any Holiday or any Friday or Monday preceding or following a Holiday that falls on a Saturday or Sunday.

**Ordinance:** Dredge and Fill Ordinance.

**Permit:** An authorization issued by LCRA in accordance with the procedures prescribed in this Ordinance resulting from Dredge or Fill activities.

**Permit Amendment:** A revision to a Permit issued by LCRA after an application for such amendment has been received and reviewed, and the expansion, or modification plans have been found to be in compliance with this Ordinance.

**Permittee:** A Person authorized to undertake Dredge or Fill activities pursuant to a Permit granted according to the provisions of this Ordinance.

**Person:** Any individual, organization, trust, partnership, firm, association, public or private corporation, Political Subdivision, or any other legal entity.

**Political Subdivision:** A city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution and any other political subdivision of the state.

**Pollutant:** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into any water in the state.

**Project:** Dredge or Fill activities that are subject to the Ordinance.

**Project Limits:** The specific boundaries encompassing the area to be dredged or filled as described within a Permit application.

**Regulated Pool Elevation:** For each of the Highland Lakes, this term means:

Lakes Travis: 681 feet above mean sea level (feet msl)

Lake Marble Falls: 738 feet msl

Lake LBJ: 825 feet msl

Inks Lake: 888 feet msl

Lake Buchanan: 1,020 feet msl

**Required Environmental or Safety Plan:** Includes any required Turbidity Management and Monitoring Plan, Emergency Operations Plan, Sediment Screening Plan, Contaminant Response Plan, Spill Prevention Plan, Public Safety Plan, or any other plan required by the Standards in this Ordinance.

**Shoreline Stabilization:** The construction of structures such as revetment, rip-rap, retaining walls, or bulkheads as defined in the LCRA Technical Manual and any approved innovative practices constructed to stabilize the shoreline of a body of water.

**Single Project:** A Dredge or Fill activity occurring on one or more contiguous parcels of land owned or controlled by the same Landowner.

**Tier I Dredge and Fill Activity:** Except for Commercial Dredge and Fill Activity, a Single Project or combination of Single Projects that meet the conditions set forth in Section 4.2.

**Tier II Dredge and Fill Activity:** Dredge or Fill Activity that is not a Commercial Dredge and Fill Activity, and is either:

- (1) any Single Project or combination of Single Projects that together will Dredge 500 or more cubic yards of material or Disturb 500 or more linear feet of shoreline, or
- (2) any Utility Dredge and Fill Activity that will Dredge 500 or more cubic yards of material or Disturb 500 or more linear feet of shoreline, regardless of duration or surface area.

**Tier III Dredge and Fill Activity:** Any Commercial Dredge and Fill Activity that is located within a zone or zones designated by the LCRA General Manager.

**Utility:** A Person that owns or operates, for compensation, facilities or equipment for producing, generating, transmitting, selling or furnishing services including electricity, petroleum products, water, natural gas, sewer service, cable, broadband, or telephone services. A private water intake used for domestic or livestock purposes is not a Utility.

**Utility Dredge and Fill Activity:** A Dredge or Fill activity related to the construction and maintenance or repair of Critical Infrastructure or a Utility's facilities or equipment.

**Water Operations Committee:** The Water Operations Committee of the LCRA Board of Directors or any subsequent Board committee established and designated by the LCRA Board to consider appeals pursuant to this Ordinance.

## **Section 4. PERMIT DETERMINATION**

### **4.1 Exempt Activities**

The following are exempt from the provisions of this Ordinance and are not required to file an application for or obtain a Permit pursuant to this Ordinance:

- (1) Dredge and Fill activities within a Political Subdivision that has adopted and maintains in effect LCRA's Ordinance and enters into an inter-local agreement with LCRA; or
- (2) Dredge and Fill activities within a Political Subdivision that has adopted an ordinance that LCRA determines is consistent and as protective as LCRA's Ordinance and the Political Subdivision enters into an inter-local agreement with LCRA.



## 4.2 Written Notification – Tier I Dredge and Fill Activities

A Person who wishes to conduct Dredge and Fill activities within the area subject to the jurisdiction of this Ordinance shall be allowed to conduct such activities **without obtaining a Permit** if:

(i) The activity is a Single Project or combination of Single Projects authorized and implemented in accordance with LCRA's Army Corps of Engineers Lakewide Permit, or

(ii) The activity is:

(1) A Single Project or combination of Single Projects that will Dredge less than 500 cubic yards of material or Disturb less than 500 linear feet of shoreline, and

(2) The Person conducting the activity provides written notification to LCRA on a form prescribed by LCRA prior to commencing the activity, including all information required by this Ordinance to demonstrate that the Dredge or Fill activity falls within the provisions of this subsection and complies with Dredge and Fill Standards found in Section 5.1. A single written notification encompassing a combination of eligible Single Projects may be submitted. Such notification must be signed by the Landowner(s) of all properties encompassed by the combination of Single Projects. Applicants are encouraged to use the checklist provided by LCRA in completing the required form that identifies all material required to demonstrate compliance with this Ordinance, or

(3) The activity is being conducted by a Utility to make an emergency repair of Utility infrastructure and the Utility provides written notice to LCRA within 24 hours of commencing the activity describing the nature of the Emergency and the scope and method of the repair. LCRA may require further information to determine compliance with the applicable Standards set forth in Sections 5.1 and 5.2 of this Ordinance. For purposes of this subsection, "Emergency" means any unplanned malfunction or failure of essential utility infrastructure including, but not limited to, electrical power distribution, water and waste disposal, natural gas, broadband or communications.

The purpose of this Section is to authorize lower impact Dredge and Fill activities with little, if any, delay or paperwork. Upon review of written notification submitted under this section, LCRA may inform the Person(s) submitting the notification that a Permit is required or may issue conditional approval requiring specific measures to be implemented that LCRA determines are necessary to ensure the activity qualifies as a Tier I activity and will comply with the Standards set forth in Section 5.1.

### **4.3 Permit Required –Tier II and Tier III Dredge and Fill Activities**

Any Person who wishes to conduct Tier II or Tier III Dredge and Fill Activities must obtain a Permit under this Ordinance.

## **Section 5. STANDARDS**

Dredge and Fill activities are subject to the Standards in this Ordinance as set forth below and, where applicable, the conditions imposed under an LCRA Lakewide Permit issued pursuant to the U.S. Army Corps of Engineers Programmatic General Permit. Additional guidance on how to achieve these Standards is provided in the LCRA Technical Manual.

### **5.1 Standards for Tier I Dredge and Fill Activities**

A Person engaged in a Tier I Dredge and Fill Activity must comply with the Standards set forth below.

#### **(a) Property Ownership or Control**

The Person who will be performing the Dredge and Fill activities must demonstrate sufficient ownership or control of the land, including submerged land, within the Project Limits to allow the activities to occur in compliance with this Ordinance. For purposes of this Ordinance, “sufficient ownership or control” includes that all legal challenges to the control or ownership of that land have been finally resolved.

#### **(b) Water Quality Protection**

- (i) Dredge or Fill activities shall not result in an unauthorized discharge of Pollutants into waters in the state.
- (ii) Other than as necessary to ensure compliance with this Ordinance, Dredged Material must be removed from the lake and placed permanently above the Regulated Pool Elevation of the lake in a manner that will prevent material from re-entering the lake through runoff.
- (iii) Dredge or Fill activities in submerged conditions must employ techniques to manage turbidity, such as coffer dams or turbidity curtains.
- (iv) No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or authorized to be discharged must be free from toxic pollutants in toxic amounts.

- (v) Dredged Material obtained from areas near marine service stations or boat refinishing or repair operations must be disposed of at disposal sites approved for this type of material in accordance with all applicable local, state, and federal laws and regulations.

**(c) Land Reclamation and Limits on New Structures**

- (i) No reclamation of land including land lost to natural Erosion processes or flood events is allowed.
- (ii) New structures may not exceed 1 cubic yard of fill per linear feet of shoreline, except as allowed under a separate authorization by the Army Corps of Engineers.

**(d) Navigability, Water Flow and Safety**

- (i) Work must not interfere with others' reasonable access to or use of the lakes.
- (ii) Shoreline Stabilization systems must not present a hazard to navigation. Shoreline Stabilization systems must follow the existing shoreline, be limited to the minimum required to stabilize the shoreline, and must not exceed the length of the property owner's waterfront property line unless authorized.
- (iii) Dredged areas must be maintained as not to allow water to become isolated from the remainder of the lake or otherwise impede the normal movement of water.

**(e) Shoreline Stabilization and Slope Stability**

Shoreline Stabilization systems must be designed and constructed in accordance with best engineering practices to protect the structure from potential failure mechanisms, including Erosion, slump, sliding, structural failure, wave overtopping, and flanking Erosion. No material shall be placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas). Dredged or Filled areas must be gradually sloped downward from the shoreline to blend the newly Dredged or Filled area into the existing channel bottom contour. Dredged or Filled areas must be contoured and reinforced as necessary to prevent any irregular surfaces or cuts that might collapse or erode.

**(f) Invasive Species**

In addition to applicable regulations and requirements, including 31 TAC §57.113(g), prior to placing any barge equipment, vessels, or other equipment on the lake and upon removal from the lake, the Person conducting the Dredge or Fill Activity must drain all water from their barge equipment,

vessels, and any on-board receptacles, including live wells, bilges, motors, and any other receptacles or water-intake systems coming in contact with public waters.

**(g) Other Requirements**

- (i) No Dredge or Fill activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent shoreline stabilization.
- (ii) When possible, Dredge or Fill activities should be performed in dry conditions during a scheduled lake lowering or other low water level conditions.
- (iii) All applicable permits and authorizations for the proposed operations must be applied for and obtained. This includes, but is not limited to, any applicable LCRA permits, including permits and authorizations required pursuant to the Highland Lakes Marina Ordinance, Highland Lakes Watershed Ordinance (HLWO) and On-Site Sewage Facilities program, real estate agreements, or water supply contracts, and any applicable Texas Commission on Environmental Quality (TCEQ), Army Corps of Engineers, and Texas Parks and Wildlife Department permits or authorizations. The Permits, authorizations, and contracts required pursuant to LCRA's programs and regulations shall be obtained in the order determined by LCRA.
- (iv) Dredge and Fill activities shall comply with all applicable local, state, and federal statutes and regulations, including any applicable local government orders and decisions from courts with applicable jurisdiction.

**5.2 Standards for Tier II Dredge and Fill Activities**

A Person engaged in a Tier II Dredge and Fill Activity must comply with the Standards set forth below.

**(a) Tier I Standards**

Demonstrate compliance with all Standards set forth in Section 5.1 of this Ordinance.

**(b) Turbidity Management and Monitoring**

Implement measures to reduce turbidity and conduct turbidity monitoring to demonstrate that operations will not cause turbidity levels to exceed daily background levels by more than 20 Nephelometric Turbidity Units (NTUs) at any test location.

Develop and implement an LCRA-approved Turbidity Monitoring Plan that sets forth methods for establishing daily turbidity background levels in the area to be dredged, methods for regular turbidity measurements that demonstrate compliance with these turbidity limits, methods for turbidity management, provides for the retention of all turbidity data collected during operations for the duration of the Permit, the submittal of the collected turbidity data to LCRA, requires immediate notification to LCRA of any exceedance, and implementation of corrective measures or other adjustments to its dredging operations that will be implemented to reduce turbidity to no greater than 20 NTUs over background levels within the Project Limits and adjacent measurement locations, which could include temporary cessation of operations or other response as required by LCRA. Equipment used in turbidity monitoring must be maintained according to the manufacturer's specifications.

**(c) Emergency Operations Plan**

Develop and implement an LCRA-approved emergency operations plan and provide documentation demonstrating coordination and compliance with applicable public safety and emergency operations requirements of entities with applicable jurisdiction. The plan shall include details on how the Permittee will respond to emergency conditions, including, but not limited to, operational emergencies, a significant rise in lake level, how weather conditions and LCRA hydro/flood operations will be monitored, and how personnel and equipment will be removed from the lake.

**5.3 Standards for Tier III Commercial Dredge and Fill Activities**

A Person engaged in a Tier III Dredge and Fill Activity must comply with the Standards set forth below.

**(a) Tier I and Tier II Standards**

Demonstrate compliance with all Standards set forth in Sections 5.1 and 5.2 of this Ordinance.

**(b) Commercial Dredge and Fill Zone**

Tier III Dredge and Fill Activities may occur only within zones within the Highland Lakes as designated by the LCRA General Manager. The General Manager shall make this designation based on the need to address navigation, critical infrastructure, public safety, and water supply, and may revise or terminate such designations from time to time.

**(b)(c) Setback Requirements**

- (i) Tier III Commercial Dredge and Fill Activities shall not be located within: (a) 200 feet of Critical Infrastructure, including, but not limited to, dams, or (b) within 1,000 feet of all Utility infrastructure located under the Regulated Pool Elevation.

- (ii) The application shall include information identifying the locations of all Utility infrastructure, public water system intakes, and critical infrastructure within and extending 1,000 feet beyond the Project Limits and to demonstrate compliance with all required buffers, including required distances of operation from Utilities, public water system intakes, and critical infrastructure.
- (iii) Setback requirements may be satisfied by submittal of written releases obtained from owners of Critical Infrastructure or Utility infrastructure located under the Regulated Pool Elevation.

#### **(e)(d) Public Safety Plan**

Develop and implement an LCRA-approved Public Safety Plan that will describe how the Dredge and Fill activity will achieve compliance with Section 5.1(d)(i) and otherwise ensure public safety, including plans for placement of buoys, signage, lighting, hours of operation, and other measures as determined on a case-by-base in consultation with LCRA.

#### **(e)(e) Additional Turbidity Management**

Install and maintain silt curtains around active dredging operations unless other methods are otherwise shown to achieve the turbidity limits set forth in Section 5.2(b).

#### **(e)(f) Removal of Native Materials**

Dredging may not remove native soils from below the original lakebed. Dredge and fill activities are required to comply with all applicable local, state, and federal statutes and regulations. This would include regulations and ordinances adopted by federal, state, and local governments pertaining to the identification and protection of areas with historical or cultural artifacts and any restrictions for removal of those artifacts. LCRA shall also honor any orders issued by a court of applicable jurisdiction.

#### **(f)(g) Authorized Storage**

Dredging shall not result in increasing storage within the lake beyond the volume LCRA is authorized to store under its water rights.

#### **(g)(h) Contaminant Release**

- (i) Sediment Screening Plan

Develop and implement an LCRA-approved Sediment Screening Plan to demonstrate that the proposed Dredge and Fill activity will not release Pollutants found in the Dredge Material in concentrations that exceed the TCEQ's Ecological Screening Benchmarks. The plan shall

provide for screening of at least two sediment samples for each lake where proposed Dredging will occur plus one additional sample for every 25,000 cubic yards of Dredged Material proposed for removal from each lake, and shall screen sediments using EPA Methods E8081, 7471, and 6020.

(ii) Contaminant Response Plan

Develop and implement an LCRA-approved Contaminant Response Plan for responding to and reducing the risk associated with Contaminated Dredge Material encountered within the lake or sediment during Dredge operations that was not identified prior to commencing Dredging. The Contaminant Response Plan shall require: (1) immediate cessation of operations; (2) notification to LCRA and TCEQ as soon as possible but not more than 24 hours after encountering the Contaminated Dredge Material; (3) removal and disposal of the Contaminated Dredge Material in accordance with applicable TCEQ rules; and (4) if applicable, remediation of the area. Dredging may only resume upon receipt of written authorization from LCRA and TCEQ.

~~(h)~~(i) **Spill Prevention Plan**

Develop and implement an LCRA-approved Spill Prevention Plan that includes steps to prevent spills, a spill response process that includes assessment of risk, confinement, stoppage of all activities that are the source of the spill, the evaluation of the spill and cleanup implementation. The Spill Prevention Plan shall require notification of a spill or leak to LCRA, TCEQ and any public water system within the Project Limits as soon as possible, but not more than 24 hours after the spill or leak occurs.

~~(j)~~(i) **Discharges**

Tier III Commercial Dredge and Fill Activities shall comply with all applicable discharge restrictions in 30 Texas Administrative Code, Chapter 311, as amended.

~~(j)~~(k) **Unforeseen or Cumulative Impacts**

On a case-by-case basis, LCRA staff may require demonstration that the proposed activity will not cause any other negative impacts, including cumulative impacts associated with other dredging operations in the vicinity of the Project, to the water quality beyond regulated standards, or threaten public safety, including, but not limited to, navigation, water safety, water supply, or other condition of the Highland Lakes in a manner that is not specifically addressed by another standard set forth herein and which is within the LCRA's authority to regulate.

## Section 6. APPLICATION PROCESSING

### 6.1 Permit Process

#### (a) Pre-Application Planning Meeting

A meeting attended by the Applicant and LCRA is required prior to applying for a permit for Dredge and Fill activities that require a Permit under Section 4.3.

#### (b) Content and Preparation of Permit Applications

(i) Permit applications shall be prepared in accordance with this Ordinance. Additional guidance in preparing the application may found in the current LCRA Technical Manual posted on [www.lcra.org](http://www.lcra.org).

(ii) Permit Applications must include:

(1) An application form prescribed by LCRA.

(2) Required fees.

(3) A description of the Project, including:

a. The purpose of the proposed Dredge and Fill activity.

b. The anticipated duration of the proposed Dredge and Fill activity.

c. A detailed map of the Project Limits that specifically identifies:

1. The boundaries of the Project Limits.

2. Each parcel of land within the Project Limits, including the identity of the landowner.

3. The location of any Utility infrastructure, public water system intakes, or other Critical Infrastructure located within the Project Limits or within 1,000 feet of the Project Limits.

4. The location of any proposed facilities that will be constructed (i.e., retaining walls, boat slips, etc.).

5. The specific areas that will be Dredged or Filled.

6. Tier III applications, the boundaries of the zone or zones designated by the General Manager pursuant to Section 5.3(b) relative to the boundaries of the Project Limits.

d. An estimate of surface area within the Project Limits and the linear feet of shoreline included within the Project Limits.



- e. A description of the type and quantity (in cubic yards) of Dredged Material or Fill to be removed from or added to the Project Limits.
- f. The results of any sediment screening that has been performed consistent with Section 5.3(h)(i)5-3(g)(i).
- g. Specifications, drawings or detailed descriptions of the means and methods, including Best Management Practices, that will be used to conduct the proposed Dredge and Fill activity in compliance with the required Standards.

(4) A list of all other required permits, authorizations or approvals required for the Project, including copies of any final permits, authorizations or approvals, and a summary of the status and anticipated date of any required permit, authorization, or approval that has not yet been secured.

(5) A list identifying all Landowners located within the Project Limits or within 500 feet of the Project Limits and any written waivers or agreements between the Applicant and such Landowners.

(6) A list identifying all Utility infrastructure, public water system intakes, or other critical infrastructure located within the Project Limits or within 1,000 feet of the Project Limits and any written waivers or agreements between the Applicant and the owner(s) of such infrastructure or intakes.

(7) Any Required Environmental or Safety Plan.

(8) A cost estimate for installation and maintenance of turbidity controls, Shoreline Stabilization, and remediation or restoration required by the Ordinance.

**(c) Application Fees**

The application fees are described in the fee schedule approved by the LCRA Board. The LCRA Board may amend the fee schedule from time to time in accordance with Section 12.2 of this Ordinance. The fee schedule is on [www.lcra.org](http://www.lcra.org).

**(d) Application Review**

**(i) Application Acceptance and Commencement of Administrative Review**

A Permit application shall be considered filed on the date it is stamped received by LCRA staff at the LCRA General Office Complex on Lake Austin Boulevard in Austin, Texas, or if filed electronically, on the date LCRA acknowledges receipt of the application. LCRA staff

shall not accept for filing any application that has not been signed and accompanied by the appropriate application fee or before a planning meeting has taken place, if required.

(ii) Administratively Incomplete Applications

Upon receipt of an application, LCRA shall conduct an administrative review of the application to determine if the required information has been submitted. An administrative review is not a technical or substantive review of the information submitted in an application. If the application is determined to be administratively incomplete, LCRA staff shall notify the Applicant in writing within 10 calendar days after the date the application is received. The Applicant shall submit additional information within 30 calendar days after the date of the letter notifying the Applicant of the deficiencies. If the Applicant does not submit the required additional information within 30 calendar days, the application may be returned to the Applicant and will be considered withdrawn. LCRA will refund the application fees in accordance with the refund document posted on [www.lcra.org](http://www.lcra.org).

(iii) Technical Review

After LCRA determines an application administratively complete, LCRA shall begin a technical review of the Permit application for a period of time not to exceed 30 calendar days for a Tier II Permit and not to exceed 60 calendar days for a Tier III Permit. Unless subsequent technical review is needed pursuant to Section 6.1(d)(iv), application fees may be refunded in accordance with the refund document posted on [www.lcra.org](http://www.lcra.org) if LCRA does not meet the above review times. If the Applicant unilaterally provides additional information, requests a variance, or revises the application within the technical review period, the technical review shall be extended for 30 calendar days.

(iv) Subsequent Technical Reviews

If more information is needed to complete the technical review or if LCRA determines the application does not meet the required standards, an Applicant shall have 30 calendar days to submit additional information or revise the application from the date of receipt of a written information request from LCRA. If the Applicant provides the additional information or revises the application within the 30-calendar day period, the technical review shall be extended for no more than 30 calendar days. In the absence of an approved written request for extension pursuant to Section 6.1(d)(v), if the Applicant does not provide the additional information within the 30-calendar day period, the application is considered withdrawn and LCRA may return the application and all or part of the fees to the Applicant. The Applicant must resubmit a new application with the appropriate fees.

(v) Extension of Time to Provide Requested Information or Abatement Due to Pending Permits

An Applicant may request an extension of time to provide the information requested by staff during the administrative or technical review. Requests for extensions shall be in writing and explain in detail the need for additional time. Such requests shall be approved in writing by LCRA, which approval shall not be unreasonably withheld. With the exception of requests for extensions due to delays resulting from permits and authorizations from other regulatory entities, in no event shall the cumulative amount of time granted to an Applicant exceed six months from the date the application for a Permit was filed. Technical review may be abated by staff or at an Applicant's request based on delays resulting from processing of the Applicant's other permits. Such abatement must be requested or re-evaluated every six months but shall not exceed a cumulative period of three years, unless supported by good cause. If an extension or abatement expires without action, the application is considered withdrawn and the Applicant must submit a new application with the appropriate fees. The LCRA General Manager will determine if good cause exists.

**(e) Notice of Receipt of Administratively Complete Application and Intent to Obtain Permit**

(i) Posted Notice

Except for applications to conduct Utility Dredge and Fill Activities, an Applicant shall post Notice of the Receipt of Administratively Complete Application and Intent to Obtain Permit in an LCRA-approved location and LCRA-prescribed format.

(ii) Website Notice

LCRA shall post the Notice of Receipt of Administratively Complete Application and Intent to Obtain Permit on its website, subject to copyright and trademark protections, and any other applicable exceptions in the Public Information Act.

(iii) Newspaper Notice of Tier III Receipt of Administratively Complete Application and Intent to Obtain Permit

(1) Applicants shall publish, at their expense, the Notice of the Receipt of Administratively Complete Application and Intent to Obtain Permit in a form prescribed by LCRA. Publication shall be in a newspaper of general circulation in each county or counties where the Dredge and Fill activity will occur.

(2) The Applicant shall provide LCRA with an affidavit of publication from the publisher within five business days of publication.

(iv) Mailed Notice

Notice of the Receipt of Administratively Complete Application and Intent to Obtain Permit, in a form prescribed by LCRA, shall be mailed as set forth below.

(1) Tier II Permit Applications

Except for applications to conduct Utility Dredge and Fill Activities, all Applicants for a Tier II Permit shall mail, by first class mail and at their expense, the Notice of Receipt of Administratively Complete Application and Intent to Obtain Permit to Persons who own property located within 500 feet of the Project Limits. The names and addresses of the property owners to receive notice shall be determined by the Applicant based upon records from the appropriate County Tax Appraisal District or other reliable documentation of ownership submitted as part of a complete application.

(2) Tier III Permit Applications

In addition to the mailed notice required by Section 6.1(e)(iv)(1), Applicants for a Tier III Commercial Dredge and Fill Permit also shall mail notice to officials, including: (1) each mayor and/or city manager, county judge, and county commissioner of the municipalities and county (or counties) where the proposed Dredge or Fill activity is located; and (2) TCEQ, Army Corps of Engineers, Texas Parks and Wildlife Department, and any other regulatory entity, as determined by LCRA.

**(f) Notice of Draft Permit**

(i) A Notice of a Draft Permit will not be issued until LCRA has completed the technical review. The technical review will not be completed until LCRA receives documentation demonstrating that the Applicant has all other necessary approvals, authorizations or permits for the Project from other applicable entities.

(ii) Website Notice

For Tier II and Tier III applications, LCRA shall post the staff's proposed Draft Permit associated with an application after it has completed its technical review and the deadline by which written comments must be postmarked.

(iii) Newspaper Notice of Tier III Draft Permit

(1) For Tier III applications, Applicants shall publish, at their expense, the Notice of Draft Permit in a form prescribed by LCRA. Publication shall be in a newspaper of general circulation in each county or counties where the Dredge and Fill activity will occur.

(2) LCRA shall prescribe the form and content of the notice.

(3) The notice shall provide the deadline by which written comments must be postmarked.

(4) The Applicant shall provide LCRA with an affidavit of publication from the publisher within five business days of publication.

(5) If action on the application is delayed by more than six months from the date of mailed and published notice pursuant to Section 6.1(d)(v) or the Applicant substantively amends the application, the Applicant shall re-publish notice in accordance with this Section.

(iv) Mailed Notice

For Tier III applications, Notice of Draft Permit shall be mailed in the same manner as required for mailed notice of the Notice of the Receipt of Administratively Complete Application and Intent to Obtain Permit pursuant to Section 6.1(e)(iv) and shall include the deadline by which written comments must be postmarked.

**(g) Comments**

Written comments concerning the application and the Tier II and Tier III draft permits may be made by any Person.

- (i) The Notice of Draft Permit shall state the date by which written comments must be submitted to LCRA. To be considered timely, comments must be submitted or postmarked by the date stated in the Notice of Draft Permit.
- (ii) Written comments must identify the specific standard(s) in this Ordinance that the proposed Dredge and Fill activity will or will not meet.

**(h) Public Meetings for Tier II and Tier III Permit Applications and Draft Permit**

- (i) LCRA may hold a formal public meeting to consider a Tier II or Tier III application and draft permit after expiration of the public comment period and upon the request of the Applicant or if LCRA determines that there is substantial public interest. For purposes of this subsection, “substantial public interest” is demonstrated if a request for a public meeting is filed by: a local governmental entity with jurisdiction where the proposed Dredge and Fill activity would occur; or a substantial percentage of property owners, or businesses with an affected interest. The request must be made in writing and received by LCRA within 10 calendar days after the close of the public comment period described in Section 6.1(g). The request must include:

- (1) The name, mailing address and phone number of the Person making the request;

(2) a brief description of the interest of the Person making the request, or of Persons represented by the Person making the request; and

(3) identification of the specific standard(s) that the Tier II or Tier III Dredge and Fill Activity will or will not meet.

(ii) If LCRA decides to hold a public meeting in accordance with Section 6.1(h)(i), all Persons who have submitted timely written comments or a written request for a public meeting shall be advised of the date, time and place of the public meeting and invited to attend. The public meeting shall occur within 60 calendar days, subject to meeting location availability.

(iii) If a public meeting is held, the comment period shall be extended until the public meeting is concluded.

**(i) Notice and Public Meetings for Multiple LCRA Permits**

If an Applicant requires other permits from LCRA for the Project that also provide for or require public notice, public comment or public meetings, LCRA may, at its discretion, modify the above notice and comment procedures to allow for a combined notice, comment, and public meeting process.

**(j) Financial Security for Tier II and Tier III Permits**

Approval of a Permit application is contingent upon the establishment of financial security acceptable to LCRA in an amount that provides for the installation and maintenance of turbidity control, Shoreline Stabilization and remediation, in accordance with the Permit and any other provision of this Ordinance. The amount shall not be less than 100% of the cost as estimated by the professional engineer who seals the application materials as approved by LCRA. The financial security shall be released after the completion of Permit requirements including final inspection and release by LCRA.

**(k) Insurance for Tier III Permits**

Approval of a Tier III Permit application is contingent upon:

(i) Obtaining comprehensive general or public liability insurance providing a minimum coverage of \$1,000,000 per person/per occurrence bodily injury and \$1,000,000 property damage or \$1,000,000 combined single limit.

(ii) Filing a certificate of insurance with LCRA as evidence of the required coverage before Dredging activities may commence and prior to the expiration of any certificate on file. This

certificate shall state that LCRA will be given a minimum of 60 calendar days advance notice of cancellation or material change in coverage.

- (iii) Any required insurance shall be purchased from an insurance company licensed in Texas or a surplus lines carrier on the list of eligible surplus lines carriers maintained by the Texas State Board of Insurance. The insurance company shall be rated at least A Class - VIII by the A.M. Best Company. Insurance companies not rated by the A. M. Best Company may be required to submit audited financial statements for LCRA's consideration and approval.
- (iv) LCRA shall be named as an additional insured in any insurance policy required by this Section.

### **(I) Permit Decision**

After the close of public comment, LCRA staff will consider all timely public comments and either issue a Permit after the Applicant has demonstrated compliance with the requirements of this Ordinance or deny a Permit application if the Applicant is unable to demonstrate compliance with the requirements of this Ordinance. A Permit will not be issued until LCRA receives documentation demonstrating that the Applicant has all other necessary approvals, authorizations or permits for the Project from other applicable entities.

### **6.2 Duration of Authorization or Permit**

- (1) Tier I Authorizations and Tier II Permits shall have a one-year term, except that Tier II Permits for Utility Dredge and Fill Activities shall be issued for a term of up to three years.
- (2) Tier III Permits may be issued for a term of up to three years.

### **6.3 Permit Renewal**

- (i) A Permittee with an effective Permit shall file an application for a Permit renewal at least 90 calendar days before the expiration of the effective Permit. Upon a timely receipt of an administratively complete application, the Permit shall continue in full force and effect during the LCRA staff review of the renewal application.
- (ii) If staff determines that the Permittee is in substantial compliance with the Permit and the Permittee does not seek any Major Amendments to its Permit, as described in Section 6.4(a)(ii):
  - (1) Tier II Permits may be renewed annually.

(2) Tier III Permits may be renewed for no more than two years (for a maximum term of five years) subject to demonstrating compliance with any applicable standards or permit terms and conditions in the Ordinance in effect at the time of renewal. A Permittee who wishes to continue operations within the same Project Limits beyond the renewal term must file a new application that is subject to public notice and comment.

(iii) Permits renewed under this section are not subject to the public notice and comment or appeal process set forth in this Ordinance.

## **6.4 Amendment**

### **(a) Major Amendments**

- (i) A Major Amendment requires a Permit Amendment and shall be filed consistent with the Permit application requirements of this Ordinance. The application for amendment shall clearly identify the items sought to be amended and the reasons therefore.
- (ii) For purposes of this section, a Major Amendment includes: a change in term, condition or provisions of a Permit, including any significant operational or siting modification to a Dredge or Fill activity authorized by LCRA or the BMPs approved and incorporated in the Permit or Authorization.

### **(b) Minor Amendments**

Permittees seeking minor amendments are not subject to the requirements for Permit Amendments in Section 6.4(a). For the purposes of this subsection, a minor amendment includes, but is not limited to, an amendment that:

- (i) would improve or maintain the protectiveness of the Permit conditions; or
- (ii) would not cause or relax a standard or criterion that may result in a potential deterioration of water quality, navigation, and public safety on the lakes.

### **(c) LCRA Staff-Initiated Amendments**

- (i) Staff may initiate an amendment to a Tier III Permit if staff determines such amendment is required to address a change in the laws under which LCRA has issued the Permit.
- (ii) Staff shall provide the Permittee with written notice of the determination stating the grounds for such amendment and provide a copy of a proposed draft amendment.



(iii) An amendment under this section shall become effective no earlier than the 15th calendar day after notice is provided under this section.

(iv) The Permittee may appeal an amendment made under this section pursuant to the appeal provision in Section 9.4 of this Ordinance.

**(d) Minor Field Adjustments**

No Permit Amendment is required for minor field adjustments of BMPs.

**6.5 Termination**

Unless operations are delayed due to other regulatory agencies, a Permit shall automatically terminate if the Permittee has not commenced Dredge or Fill activities within one year from the date of issuance of the Permit. Pursuant to Section 9.3, a Permit or Authorization may be terminated by revocation upon violation of a condition to the Permit. Upon termination of a Permit or Authorization, LCRA may call on the irrevocable letter of credit or other financial security to provide permanent stabilization within the Project Limits.

**Section 7. PERMITS**

**7.1 Standard Permit Terms and Conditions**

A Permit shall contain, at a minimum, provisions requiring the Permittee to agree to the standard terms and conditions as set forth below.

- (1) Comply with all applicable sections of this Ordinance and conditions of the Permit.
- (2) Notify LCRA in advance of commencing any Dredge or Fill activities authorized by a Permit.
- (3) Obtain a Permit Amendment from LCRA prior to seeking a change as described in Section 6.4 above, including the modification of the dredging operation method or the BMPs approved and incorporated in the Permit. However, no Permit Amendment is required for minor field adjustments of BMPs.
- (4) Install, inspect, maintain and repair all applicable BMPs identified in the approved Permit to ensure compliance with this Ordinance, including all applicable Standards and any other applicable regulations.
- (5) Allow LCRA to access any property, equipment, or other facilities owned or controlled by the Permittee within the Project Limits for the purpose of inspecting compliance with the Permit, or for performing any work necessary to bring the Project into compliance with the Permit.
- (6) Keep a copy of the Permit and all plans at a location designated by LCRA.

- (7) Promptly notify LCRA in writing of any change in the name, address or telephone number of the Permittee and any persons designated by the Permittee for ensuring compliance with Permit.
- (8) Shall not commence activities authorized under a Permit until all appeals, if any, filed pursuant to this Ordinance, are resolved.
- (9) Indemnify and hold LCRA harmless from any and all claims, demands, damages, actions, costs and charges to which LCRA may become subject and which LCRA may have to pay by reason of injury to any Person or property, or loss of life or property resulting from, or in any way connected with, the Permittee's acts or negligence under this Permit.
- (10) Acknowledge that the elevations of the Highland lakes and the flow in the Colorado River and its tributaries vary as a result of natural hydrologic events or LCRA's operations of its dams on the Colorado River. The Permittee further understands that these conditions can change dramatically and suddenly with little notice. LCRA reserves the right to operate its dams and associated appurtenances and to use LCRA property or property on which LCRA has flowage or inundation easements for any legal purpose that it sees fit in the operation and maintenance of its dams and reservoirs and makes no guarantee that the level of any lake operated and maintained by it will be retained at any specific lake level for any particular time. LCRA further reserves the right and privilege to inundate with water at any time and as many times as LCRA may see fit all or any areas and Permittee's facilities and equipment within the Project Limits that are subject to a flowage or inundation easement, without any liability on the part of LCRA to Permittee for making such use of said property, or any part thereof.
- (11) No work is authorized that is not directly addressed in the Permit application submitted to and approved by LCRA.
- (12) Nothing in this Permit is intended to amend or alter any legal rights or benefits previously granted to or vested in LCRA.
- (13) Perform all activities and comply with any other applicable LCRA, federal, state and local laws and regulations.
- (14) Maintain any required insurance and a letter of credit or other LCRA-approved financial assurances in the amount equal to the cost for installation of turbidity controls or any other BMPs after LCRA approves the cost estimate. Failure to maintain required financial security and insurance shall be cause for termination of a Permit.
- (15) For Tier III Permits, Permittee shall conduct activities authorized by the Permit only during Normal Business Hours.

## **7.2 Additional Permit Conditions**

LCRA may include additional Permit terms and conditions as necessary to achieve compliance with the Ordinance, as set forth below.

- (1) Permittee shall meet with LCRA staff prior to commencing permitted or authorized activities for the purpose of reviewing permit conditions, verification of BMP installation, and coordination with other LCRA regulatory departments, prior to commencing any permitted or authorized activities. LCRA Staff must provide approval prior to commencing the permitted or authorized activities.
- (2) Permittee shall implement any Required Environmental or Safety Plan and provide such verbal and written notifications and retain all records required by such plan(s).
- (3) Unless otherwise specifically addressed by a Required Environmental or Safety Plan, Permittee shall promptly verbally notify LCRA of any spills or leaks, Contaminated Dredge Material, monitoring exceedances, assessments, evaluations, and any corrective actions taken to achieve and maintain compliance with the Standards or other conditions of the permit. Permittee shall provide a written follow-up notification within five calendar days.
- (4) As required by LCRA, Permittee shall maintain buoys and other markers that clearly delineates the area within the Project Limits where permitted or authorized activities are occurring.
- (5) Such other Permit conditions as LCRA determines may be required as necessary to achieve compliance with the Ordinance.

## **Section 8. RIGHT OF ENTRY AND INSPECTION**

### **8.1 Right of Entry**

Any Person, or successors or assigns, who has filed a Permit application or Tier I notification, received a Permit or Authorization under this Ordinance, or is otherwise subject to the provisions of this Ordinance, shall allow LCRA entry within the Project Limits for the purposes of inspection and monitoring. LCRA employees and agents are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions related to water quality and administration of this Ordinance.

### **8.2 Inspection Fees**

Inspection fees shall be as described in the fee schedule approved by the Board and posted on LCRA's website. The Board may amend the fee schedule from time to time in accordance with Section 12.2 of this Ordinance. LCRA may charge a reinspection fee, as authorized by the Board, when a project is out of compliance with any of the Standards of Section 5 to recover LCRA costs for returning to any location within the Project Limits to determine if compliance has been achieved.

## **Section 9. ENFORCEMENT**

### **9.1 Violations**

It is unlawful under this Ordinance for any Person:

- (1) to commence or undertake any activities regulated by this Ordinance, or to cause, suffer, or allow another to commence or undertake activities regulated by this Ordinance without first obtaining a valid Permit or Authorization pursuant to Section 4 from LCRA;
- (2) to conduct activities regulated by this Ordinance after a stop-work order has been issued in accordance with this Ordinance;
- (3) to fail to pay an inspection or reinspection fee as required by this Ordinance;
- (4) to fail to maintain any required BMPs in accordance with a Permit or Authorization issued pursuant to this Ordinance
- (5) to otherwise commence activities regulated by this Ordinance in a manner that violates any provision of this Ordinance; or
- (6) to fail to comply with any term or condition of an approved Permit or Authorization.

### **9.2 Notice of Violation/Stop-Work Order**

If, at any time, LCRA determines that activities regulated by this Ordinance have occurred or are occurring without full compliance with this Ordinance, LCRA may issue a notice of violation. The notice of violation will be in writing and, where a Permit or Authorization has been issued, shall be posted at the location within the Project Limits designated in the Permit or Authorization for posting such notices. The notice of violation will specify the deficiencies that cause the activities regulated by this Ordinance to be out of compliance. If the activity regulated by this Ordinance is occurring within an unpermitted location, or if no location is designated in the Permit or Authorization or maintained for the posting of notices, the notice shall be prominently posted in a visible location on equipment or facilities being used by the Person to conduct the activities regulated by this Ordinance. The notice of violation may include a stop-work order. The stop-work order will direct that no further activities regulated by this Ordinance shall take place until the Person or Permittee comes into full and complete compliance with this Ordinance. Immediately upon posting a stop-work order, a Person without a currently valid Permit shall cease all activities regulated by this Ordinance and take all corrective actions required by LCRA.

### **9.3 Permit Revocation**

Any Person that has been issued a notice of violation or stop-work order shall have 10 calendar days from the date that the notice of violation or stop-work order is posted to comply with the terms and conditions of the Permit or Authorization and this Ordinance. If the Permittee has appealed the notice of violation or stop-work order and the LCRA General Manager does not decide the appeal in the Permittee's favor, the Permittee shall have 10 calendar days from the date of the LCRA General

Manager's decision to comply with the terms and conditions of the Permit or Authorization. If a Permittee fails to comply within this period, LCRA may revoke the Permit or Authorization.

#### **9.4 Appeal by Permittee**

A Permittee may appeal the issuance of a notice of violation or stop-work order to the LCRA General Manager by submitting, in writing, a concise statement of any reason or reasons that the notice of violation or stop-work order should not have been issued. An appeal of the notice of violation or stop-work order must be received in the office of the LCRA General Manager within 10 calendar days from the date that the notice of violation or stop-work order is posted. The LCRA General Manager may decide the appeal based upon the reasons stated in the appeal or may request additional information from the staff or appellant.

#### **9.5 Penalty**

Any Person violating provisions of this Ordinance shall be subject to a civil penalty of not more than \$10,000 for each violation. Each calendar day a violation exists shall constitute a separate violation.

#### **9.6 Other Remedies and Injunction**

Compliance with the provisions of this Ordinance may also be enforced through any, and all, other remedies at law or in equity including enforcement by injunction.

### **Section 10. VARIANCES**

#### **10.1 Variance**

LCRA staff shall have the discretion to grant a variance to the provisions of this Ordinance on a case-by-case basis. A variance will not be granted if it significantly impacts water quality, public safety, or adjacent properties. The cost of compliance with this Ordinance shall not be justification for a variance.

#### **10.2 Requests for Variance**

A request for a variance shall be made prior to public notice commencing and shall be reviewed and processed in accordance with all of the procedures contained in this Ordinance, including those related to application processing, Permit issuance and appeals. Receipt of a variance request may result in an extension of the technical review period.

### **Section 11. APPEALS OF PERMIT DECISIONS**

#### **11.1 Requesting an Appeal**

An Applicant or an Affected Person may appeal a decision by LCRA staff regarding the granting, denial, or revocation of a Permit under this Ordinance in accordance with the requirements of Section 11.

## **11.2 Filing of Appeal**

An Applicant or Affected Person must file a request for appeal within 15 calendar days after the date of the action on the Permit. The request for appeal shall be filed with the LCRA General Counsel in accordance with the procedures outlined in Section 11. The request for an appeal must be in writing and contain a concise statement of the reasons for the appeal and cite the specific Standards that the Permit did or did not meet.

## **11.3 Notice of Appeal**

Notwithstanding Section 11.7, the LCRA General Counsel shall send written notice of receipt of any request(s) for appeal to the Board, LCRA staff, the Applicant and any Persons filing a request for appeal, within three business days after the expiration of the date for filing request for appeals. Such notice shall identify the parties, generally describe and summarize the issues raised by the appeal and advise the prohibition against ex parte contacts.

Once an appeal has been filed, the LCRA General Counsel shall not participate in any substantive discussions or correspondence regarding LCRA staff's legal position on the appeal. LCRA General Counsel shall advise the Board on matters related to the appeal. Until the appeal has been withdrawn or has resulted in a Board action as described in Section 11.10, LCRA General Counsel shall designate one or more attorneys in their office who shall represent LCRA staff regarding the appeal.

## **11.4 Form of Appeal**

A request for appeal must be in writing, timely filed, submitted as an original and two copies, and shall not exceed 20 pages in length, including exhibits or attachments. The request for appeal shall include the following information:

- (1) Name and address of the Person(s) filing the request for appeal;
- (2) Name of the Applicant, if different than Section 11.4(1);
- (3) A concise statement of how the Person filing the appeal is affected by the issuance, denial or revocation of the Permit, or by one or more of the terms or conditions of the Permit;
- (4) If appealing a recommendation for Permit approval, which specific Standards in Section 5 are not being met; and
- (5) Information required by Section 11.5.

## **11.5 Validity of Appeal.**

For an appeal to be valid, the request for appeal must meet all the following criteria:

- (1) Be filed in accordance with Section 11;
- (2) Demonstrate that the Applicant or Affected Person requesting the appeal provided written comments to staff in accordance with Section 6.1(g) or provided comments during a public

meeting held pursuant to Section 6.1(h). If the Applicant or Affected Person did not provide written comments in accordance with Section 6.1(g) or provided comments during a public meeting held pursuant to Section 6.1(h), the Applicant or Affected Person must provide a compelling reason why their request for appeal should be considered;

- (3) If appealing a recommendation for Permit approval, only raise matters or issues that were presented in writing pursuant to Section 6.1(g) or provided comments during a public meeting held pursuant to Section 6.1(h), or as part of the Permit application;
- (4) For appeals filed by Affected Persons, allege the failure of specific Standards in Section 5 or as further required by the Permit;
- (5) Provide credible evidence in support of the allegations raised by the request for appeal;
- (6) Demonstrate how such allegations, if taken as true, would change the terms and conditions of the Permit or would affect the issuance of the Permit; and
- (7) Demonstrate that such allegations are related to a matter that LCRA has jurisdiction to consider. For example, LCRA may not consider increase in vehicle traffic, noise, incompatibility of land uses, or questions of property rights, property ownership or easement rights.

## **11.6 Determination of Validity of Appeal**

### **(a) Commencement of Permit Activities and Construction**

Once an appeal has been filed, all activities regulated by this Ordinance must cease until the appeal is resolved.

### **(b) Staff Review**

- (i) Within 15 calendar days after the expiration of the date for filing requests for appeal, LCRA staff shall evaluate the request for appeal to determine if such request meets the requirements of Sections 11.1, 11.2 and 11.4.
- (ii) If the appeal does not meet the requirements of Sections 11.1, 11.2 and 11.4, staff shall return the request for appeal and the staff's Permit decision will become final.
- (iii) If the request for appeal meets the requirements of Sections 11.1, 11.2 and 11.4, staff shall forward the Permit and the application, together with such requests for appeal and the staff's statement as to the elements of such request for appeal, to the LCRA General Manager for consideration of the validity of the request for appeal.

**(c) General Manager Review**

The LCRA General Manager shall determine the validity or invalidity of the request for appeal within 15 calendar days from receipt of the information provided pursuant to Section 11.6(b)(iii).

**(d) General Manager's Decision Final**

The LCRA General Manager's determination of the validity or invalidity shall be final. Upon a determination that a request for appeal is invalid, the staff's Permit decision shall become final.

**(e) Effect of Pending Appeal on Permit Expiration**

The expiration date stated in the Permit issued after an appeal shall be based on the date the appeal is resolved.

**(f) Valid Appeal and Notification**

If the LCRA General Manager decides that the appeal is valid, the LCRA General Counsel shall immediately provide written notice of the LCRA General Manager's decision to staff and send such notice by first class mail to all Persons filing a request for appeal and the Applicant. Any notice regarding valid appeals shall include information regarding the mediation requirements in Section 11.7.

**11.7 Mediation Required Prior to Hearing of Valid Appeal**

- (i) Within 30 calendar days of the LCRA General Manager's decision that an appeal is valid, the Person(s) with a valid request for appeal ("Appellant(s)"), Applicant, and LCRA staff shall complete mediation of the disputed issues.
- (ii) Mediation shall be conducted by a mediator selected by agreement of the parties, or if the parties fail to agree, by a mediator selected by the LCRA General Counsel.
- (iii) Costs of mediation shall be shared equally among all the parties to the mediation, including LCRA.
- (iv) The mediator shall submit a written report, including a recommendation on the alignment of parties, informing the LCRA General Counsel of the result of the mediation within five calendar days after completing the mediation.
- (v) If the mediation does not result in the withdrawal of an appeal, further consideration of any unresolved appeal shall proceed under Sections 11.8 and 11.9. Any party that fails to participate in the required mediation or fails to pay its share of required costs of mediation is precluded from further participation as a party in any appeal of the staff's Permit decision.



## **11.8 Responses to Valid Appeals**

### **(a) Staff Response to Valid Appeal**

Staff shall prepare a written response to the appeal within 10 calendar days after the receipt of the mediator's report required under Section 11.7. Any response shall not exceed 20 pages in length, including exhibits and attachments, and shall be submitted to the LCRA General Counsel and mailed by certified mail, return-receipt requested, to the Applicant and all Appellants.

### **(b) Applicant Response to Valid Appeal**

The Applicant, if not the Appellant, may submit a written response to the appeal to the LCRA General Counsel within 10 calendar days after the receipt of the mediator's report required under Section 11.7. Any response shall not exceed 20 pages, including exhibits and attachments, and shall be mailed by certified mail, return-receipt requested, to all Appellants.

### **(c) Appellant Response to Valid Appeal**

The Appellant(s) may submit a written response to the appeal to the LCRA General Counsel, including any proposed alignment of the parties, within 20 calendar days after the receipt of the mediator's report required under Section 11.7. Any response to the Applicant and LCRA staff shall not exceed 20 pages including exhibits and attachments and shall be mailed by certified mail, return-receipt requested.

### **(d) Valid Appeal Forwarded to Water Operations Committee Chair**

Upon expiration of the deadline for the Applicant to submit a response pursuant to Section 11.8(b), the LCRA General Counsel shall forward to the Water Operations Committee chair a copy of the Permit, all valid appeals, the staff response and Applicant's response, if any.

## **11.9 Water Operations Committee Consideration of Valid Appeal**

### **(a) Forum**

Taking into consideration the complexity of the issues, the number of appellants, and the need to develop an adequate evidentiary record, the Water Operations Committee chair shall determine the most appropriate forum for consideration of an appeal.

The Water Operations Committee chair may:

- (i) consider all of the written information forwarded by the LCRA General Counsel and direct staff to issue the Permit;

- (ii) forward the appeal to the Water Operations Committee with a recommendation that the committee consider all the written information submitted and allow each party to the proceeding an allotment of time to present oral arguments; or
- (iii) forward the appeal to the Water Operations Committee with a recommendation that the committee consider the appeal using another method agreed to by all of the parties.

**(b) Scheduling of Hearing**

Upon the direction of the Water Operations Committee chair, as specified in Section 11.9(a)(i), a hearing before the Water Operations Committee may be held to consider a valid appeal. Such hearing should be scheduled no later than 45 calendar days after receipt of the required mediation report or the next meeting of the Water Operations Committee, whichever occurs later.

**(c) Written Information Provided**

No later than 15 calendar days prior to the date scheduled for the hearing, the LCRA General Counsel shall forward to the members of the Water Operations Committee the following materials:

- (i) All written information received from Appellants relative to a valid appeal and in accordance with this entire Section 11;
- (ii) The staff's response prepared in accordance with Section 11.8(a);
- (iii) The Applicant's response submitted pursuant to Section 11.8(b), if any; and
- (iv) The Appellants' response to the staff and Applicant's responses pursuant to Section 11.8(c).

**(d) Open Hearing**

The hearing shall be open to the public.

**(e) Participants**

Only the Applicant/Permittee, LCRA staff, the Appellant(s), or any of their designated representatives, shall be entitled to participate in the hearing.

**(f) Alignment of Parties**

Subject to the approval of the LCRA General Counsel, the parties shall establish their own alignments. In cases where parties fail to establish alignments, the LCRA General Counsel shall align parties (other than staff) according to their positions in support of, or opposed to, staff's Permit

decision. Except for an Applicant appealing a condition in a Permit, those Appellants opposed only to specific parts of the staff's Permit decision shall be aligned with those Appellants generally opposed to the staff's Permit decision. An Applicant appealing a condition in a Permit shall be separately aligned from other Appellants, if any, opposed to the staff's Permit decision. Each of the aligned parties shall designate a spokesperson to speak on their behalf. If any of the aligned parties cannot agree to a spokesperson, the LCRA General Counsel shall designate one.

**(g) Procedure**

The hearing process is as follows:

(i) Staff Summary

The Water Operations Committee shall convene in open session and shall receive a presentation by staff not to exceed 15 minutes which summarizes the position of each party to the appeal, including the staff's position. The staff summary shall be based upon all written information validly received from Appellants in accordance with Section 11, the application and the information contained in the Applicant's or Permittee's file.

(ii) Oral Argument

If oral arguments are requested by the Water Operations Committee chair pursuant to Section 11.9(a)(ii):

(1) The parties in opposition to the staff's Permit decision, as aligned by the LCRA General Counsel, will follow and will be collectively allowed a total of 20 minutes to make their argument(s).

(2) The parties in support of the staff's Permit decision, as aligned by LCRA General Counsel, will follow and will collectively have a total of 20 minutes to make their argument(s).

(3) Staff shall have 15 minutes to rebut the presentation of the parties aligned in opposition to the staff's Permit decision.

(4) Each group of aligned parties shall have five minutes to summarize their respective positions.

(iii) Presentation of Additional Evidence

If approved by the Water Operations Committee chair, any party may offer as part of their presentation additional evidence in the form of written information or documentation, if the

information has been provided to all other parties at least seven calendar days in advance of the hearing date.

(iv) Questions by the Committee

The Water Operations Committee may ask questions of any party or Person that has registered with the LCRA General Counsel and is a member or representative of a valid party to the appeal at any time during the proceeding.

**(h) Water Operations Committee Deliberation**

The Water Operations Committee shall deliberate in open session, taking into consideration the presentations of staff and the parties, if any, and all written materials submitted to the committee as a valid part of the appeal process. Notwithstanding the foregoing, the Water Operations Committee may confer with the LCRA General Counsel in Executive Session for the purpose of receiving legal advice concerning the appeal.

**(i) Water Operations Committee Recommendation**

The Water Operations Committee shall make a recommendation based on written information provided to the committee prior to the hearing, documents contained in the application file, and any other evidence or information submitted at the hearing, if recommended by the chair to be considered by the Water Operations Committee.

The Water Operations Committee may recommend:

- (1) Issuance of the Permit;
- (2) Denial of the Permit; or
- (3) Modification of the Permit.

**(j) Procedures May Be Altered as Justice Requires**

The Water Operations Committee may alter the procedures, including the hearing process, set forth in Section 11.9, if necessary, to develop an adequate record, to afford full opportunity for public participation or comment by the Applicant or staff, or if in the public interest.

**11.10 Board Consideration of Water Operations Committee Recommendation**

The Water Operations Committee's recommendation shall be forwarded to the full LCRA Board for consideration within 45 calendar days of the committee's recommendation. The Board shall consider the Water Operations Committee's recommendation and may, at its discretion, ask questions of the parties. Parties may not make additional arguments or comments to the Board without the permission of the Board. The Board may take the following action:

- (1) Affirm the Water Operations Committee's recommendation;

- (2) Reject the Water Operations Committee's recommendation; or
- (3) Modify the Water Operations Committee's decision.

### **11.11 Ex Parte Communications**

#### **(a) Prohibition**

Any communication by an Applicant/Permittee, party requesting an appeal or their representatives, or LCRA staff member with the Water Operations Committee or other member(s) of the LCRA Board on the merits of any pending appeal or decision affecting a Permit or Permit Amendment from the date of the Permit or Permit Amendment is issued by staff until the date the appeal is decided in accordance with Section 11, other than at a hearing or in a public meeting of the Committee or the Board, is strictly prohibited. Notwithstanding the foregoing, the LCRA General Counsel may consult with the Board or any of its members regarding the appeal.

#### **(b) Effect of Violation**

Any Person who violates this provision may be subject to sanctions, which may include:

- (1) Return of the application if the violation is from the Applicant or their representative;
- (2) Return of all or a portion of the application fee if the violation is from LCRA staff; or
- (3) Automatic rejection of the appeal if the violation is from a Person requesting an appeal or a Person otherwise opposed to the application.

## **Section 12. SAVINGS CLAUSE; AMENDMENT; EFFECTIVE DATE; REVIEW**

### **12.1 Savings Clause**

If any word, clause, sentence, process or provision of this Ordinance or the application thereof to any Person or circumstance shall be held to be invalid, the remainder of the Ordinance to that Person or circumstance and the application of such provision to other Persons or circumstances, shall not be affected thereby.

### **12.2 Amendment of the Ordinance, LCRA Technical Manual or Fee Schedule**

The Board may amend this Ordinance and/or the fee schedule from time to time after notice and reasonable opportunity for public review. The LCRA Technical Manual may be periodically amended by the LCRA General Manager.

### **12.3 Effective Date**

This Ordinance is effective as of Jan. 1, 2022.

**12.4 Review**

This Ordinance shall be reviewed for its effectiveness for protecting the quality of water in the Highland Lakes and its tributaries in accordance with Board policies in effect at the time.

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