



## Legislation Text

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**File #:** 19-1271, **Version:** 1

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Department of Transportation recommending the Board adopt and authorize the Chair to sign Resolution **149-2019** authorizing the Director of Transportation, or designee, to execute agreements for purchase of mitigation credits of up to \$175,000, individually for each agreement, from mitigation and conservation banks for improvements, maintenance, and operations of Capital Improvement Program projects and public facilities allowing for the program implementation process to function more efficiently.

**FUNDING:** N/A

### **DISCUSSION / BACKGROUND**

In accordance with California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), and regulatory agency approval of Capital Improvement Program (CIP) and maintenance projects, the projects may require purchase of mitigation credits in accordance with jurisdictional policies of regulatory agencies such as, but not limited to, California Department of Fish and Wildlife (DFW), U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers (Army Corps).

The Department of Transportation (Transportation) notifies the regulatory agency that a project may substantially affect existing protected sensitive species or habitat resources. After review of the project's description, agencies determine if the project will impact protected sensitive species, riparian habitat, aquatic resources, or oak woodland habitat, and may be mitigated in the form of purchasing credits from an approved mitigation or conservation bank. Once a bank is determined to have the necessary credits to purchase, an agreement is drafted and the purchase amount is calculated based upon the loss of species or habitat.

It has been Transportation's practice to bring every agreement to the Board for approval regardless of the purchase amount. The purchase of these mitigation credits may be as little as \$2,000 or as much as \$251,000. For efficiency, Transportation is requesting a limit of \$175,000 per agreement as the Director of Transportation's (Director) authority since most of these agreements fall below that amount, subject to review and approval by County Counsel. This dollar limit is consistent with Public Contract Code and County policy for the Director's authority on public works contracts. These agreements are typically with the same mitigation or conservation bank and are only with approved banks by the DFW, Army Corps, U.S. Environmental Protection Agency, and other agencies as necessary. If the dollar amount exceeds the authority of the Director, Transportation will bring the agreement to the Board for approval.

### **ALTERNATIVES**

The Board could choose not to adopt the Resolution, thereby requiring Transportation to return to the Board to obtain purchases of mitigation credits each time one is necessary, regardless of the dollar amount. This could ultimately increase project delivery costs and affect Transportation's ability to maintain project schedules.

### **PRIOR BOARD ACTION**

N/A

**OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel has reviewed and approved the Resolution.

**CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

**FINANCIAL IMPACT**

There is no change to Net County Cost associated with this item. The recommended limit on purchasing authority for each agreement is \$175,000. Funding sources for mitigation credit purchases will be based upon the individual project and the approved funding sources at that time.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) The Clerk of the Board will obtain the Chair's signature on the original Resolution.
- 2) The Clerk of the Board will forward one (1) copy of the executed Resolution to Transportation, Fairlane Engineering, attention Matt Smeltzer.

**STRATEGIC PLAN COMPONENT**

Infrastructure, Good Governance

**CONTACT**

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Department of Transportation